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Cross Reference

This instrument burdens certain real estate located in Hamilton County, state of Indiana. The **last deeds** conveying the burdened real estate were recorded in the Office of the Recorder of Hamilton County as Instrument Numbers 200500036404 and 200500036404. The **Common Services Easements and Restrictions for Grandin Hall** to which the burden real estate is subject, as amended from time to time, was originally recorded in the office of the Recorder of Hamilton County as instrument number 200500060486 on the 14th day of September, 2005. ("Common Services Easements and Restrictions").

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRANDIN HALL

THIS DECLARATION (hereinafter called "the Declaration" or "this Declaration"), is made this 1st day of December, 2005, by The Estridge Development Company, Inc. (hereinafter called "Declarant"). Capitalized terms not otherwise defined in this Declaration shall have the meanings ascribed to them under Article I of this Declaration.

WITNESSETH:

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

WHEREAS, Declarant is in the process of creating on the Real Estate a residential community to be commonly known as GRANDIN HALL; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in the Development, including, without limitation, the technological infrastructure and devices, and Communication Services and Utility Services available to and within the Development; 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 the common facilities located on the Property, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, performing certain maintenance, and repairs as hereinafter provided, and promoting the health, safety and welfare of the owners of the Property, and all parts thereof, and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a non-profit corporation under the name "**GRANDIN HALL HOMEOWNERS ASSOCIATION, INC.** ", or a similar name, as such agency for the purpose of exercising such functions;

WHEREAS, Declarant desires to subject the Development to certain easements and access restrictions to facilitate the obtaining and availability of enhanced technological capabilities, including, without limitation, those easement and access restrictions set forth on the Common Services Easements and Restrictions and Non-Exclusive License Agreement recorded prior hereto.

NOW, THEREFORE, Declarant hereby declares that the Property 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 Property, and are established and agreed upon for the purpose of enhancing and

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protecting the value, desirability and attractiveness of the Property as a whole and of each of the Lots situated therein, and which shall run with the Property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I
DEFINITIONS

Section 1. The following words, when used in this Declaration or any supplemental declaration (unless the context shall prohibit), shall have the following meanings:

A. **"Access Entity"** shall mean and refer to Centennial Access Properties, LLC, an Indiana limited liability company formed by Declarant.

B. **"Applicable Date"** shall mean the "Applicable Date" as defined and determined in accordance with Section 3B of Article III hereof.

C. **"Association"** shall mean **GRANDIN HALL HOMEOWNERS ASSOCIATION, INC.** ", an Indiana non profit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns.

D. **"Board" or "Board of Directors"** shall mean the board of directors of the Association.

E. **"Cable Television Services"** shall mean and refer to the one-way transmission to users of video programming or other programming services provided through any Facilities related to such services, together with such user interaction, if any, which is required for the selection or use of the video programming or other programming services.

F. **"Common Area"** shall mean (i) those portions, if any, of the Property shown upon any recorded subdivision plat of the Property, or any part thereof (including the initial Plat, which are not Lots (reserving, however, unto Declarant the right to re-plat any of such areas as part of one (1) or more Lots, or otherwise convey or encumber such Property to or in favor of a third party provider of E-commerce Transaction Services), other than portions thereof (such as streets) which are dedicated to the public, whether such plat is heretofore or hereafter recorded, including all improvements and structures constructed or to be constructed thereon, and (ii) such portions of the Property (if any) as are hereafter declared to be "Common Area" by an instrument executed and recorded by Declarant, whether or not such areas comprise part or all of a lot or lots shown upon any recorded subdivision plat of the Property; provided, however, that all parts of the Property, including, without limitation, the Common Area, shall be subject to the Common Services Easements and Restrictions and the Non-Exclusive License Agreement recorded prior hereto.

G. **"Common Area Uses"** shall include recreational uses including, without limitation jogging, walking, team sports, swimming, tennis, basketball, of the common areas and shall also include Facilities installed or directed to be installed and maintained by the Declarant and for its successors, assigns or devisees; provided, however, recreational uses shall not interfere with the Facilities or impair the use of the Facilities.

H. **"Common Services"** shall mean and refer to any Communication Services and Utility Services.

I. **"Common Services Easements and Restrictions"** shall mean and refer to the Common Services Easements and Restrictions made and entered into by and between the Developer and the Access Entity, and recorded in the Office of the Recorder of HAMILTON County as Instrument Number 200500060486 on the 14th day of September, 2005, hereby specifically made a part hereof and incorporated herein.

J. **"Communication Services"** shall mean and refer to Cable Television Services, Community Technology Services, E-commerce Transaction Services, Internet Bandwidth Access Services, Community Intranet Services, Telephone Services, Video On Demand Services, Security Monitoring Services, any other cable or Telephone Services, any other communication, utility or common functional services together with the Facilities related to such services; provided, however, that the term or phrase "Communication Services" shall not include Excluded Devices.

K. **"Community Intranet Services"** shall mean and refer to the private communications network within the Development that uses substantially the same or similar software that is utilized on the public internet, but that is primarily for use within the Development.

L. **"Community Technology Services"** shall mean and refer to the construction, sale, installation, leasing, licensing, modification, supplementation, maintenance, repair, reconstruction or removal of any device (including, without limitation, any hardware or software device) principally used by individual users for Communication Services.

M. **"Cable Television Services"** shall mean and refer to the one-way transmission to users of video programming or other programming services provided through any Facilities related to such services, together with such user interaction, if any, which is required for the selection or use of the video programming or other programming services.

N. **"Declarant"** shall mean Estridge Development Company, Inc., and Indiana corporation, and any successors and assigns of Declarant who it designates in one or more written recorded instruments to have the rights of Declarant hereunder; including, without limitation, (i) any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of (or by acceptance of a deed in lieu of foreclosure of), a mortgage executed by Declarant; provided, however, that any such mortgagee so acquiring title by virtue of foreclosure against (or acceptance of a deed in lieu of foreclosure from) the Declarant shall not be deemed to have assumed any prior obligations or liabilities of the Declarant hereunder, or (ii) the Access Entity to the extent applicable under the Common Services Easements and Restrictions.

O. **"Development"** shall mean the improvement to the Property as designated on the Initial Plat.

P. **"Development Period"** shall mean the period of time beginning with the date of execution of this Declaration and ending with the date the Declarant is no longer the owner of any part of the Property.

Q. **"E-commerce Transaction Services"** shall mean and refer to transactions conducted over the internet or through internet access, comprising the sale, lease, license, offer or delivery of property, goods, services or information, whether or not for consideration; provided, however, the term or phrase "E-commerce Transactions Services" shall not include Internet Bandwidth Access Services.

R. **"Excluded Devices"** shall mean and refer to any Community Intranet Services device, Security Monitoring Services device, or any other Communication Services device, or Utility Services device, which satisfies both of the following described characteristics:

(a) The device is nonpermanent. By way of example and not limitation, any device which is affixed to real estate is a permanent device. A nonpermanent device must not, at any time, be affixed to real estate within the Combined Easement Area either by, for example and not limitation, submersion into the ground, screws, bolts, glue or wiring.

(b) Use of the device must occur primarily outside of the In Gross Easement Area, with use within the In Gross Easement Area being incidental or sporadic.

For example, mobile cellular telephones, pagers, car alarms and portable computer peripherals, which are used primarily outside of the In Gross Easement Area, will generally constitute Excluded Devices. A satellite dish or other means of receiving the transfer of wireless technology shall constitute an Excluded Device if, and only if, installed, operated and maintained in full compliance with the standards and rules promulgated by the Architectural Review Board. Wireless signals, of any nature, which are not received by any Owners, or on behalf of any Owners or at the request of any Owner(s), within the In Gross Easement Area, shall constitute Excluded Devices.

S. **"Facility" or "Facilities"** shall mean and refer to the construction, installation, modification, alteration, supplementation, repair, reconstruction or replacement of any and all necessary or desirable hardware or equipment of any type used to provide or otherwise make available any Common Services including, without limitation, cable, wire, fiber, main, pipe, boxes, conduit, manhole, transformers, pumps, amplifiers, dishes, antennae, microwave, satellite, pedestal, equipment enclosures, poles, wireless communication technology, or any other hardware or equipment of any type necessary or desirable to transfer or provide any Common Services, including, without limitation, communication, video, data, e-commerce, internet, intranet, security systems, communication utility services, information systems, cable television, as well as any other Communication Services or uses for which such hardware or equipment may be used, and further including, without limitation, electricity, water, waste water, gas and any other Utility Services for which such services may be used.

T. **"In Gross Easement"** shall mean the In Gross Easement created for the exclusive use of the Grantor (as that term is defined in the Common Services Easements and Restrictions) pursuant to Section 2.01 of the Common Services Easements and Restrictions.

U. **"Internet Bandwidth Access Services"** shall mean and refer to any service that enables users to access content, information, electronic mail or other services offered over the internet, and may also include access to proprietary content, information and other services as part of a package of services offered to users and any Facilities related to such service; provided, however, that the term or phrase "Internet Bandwidth Access Services" shall not include E-commerce Transaction Services, and Telephone Services.

V. **"Intranet Network"** shall mean and refer to, but shall not be limited to, the system of communication and technological devices, hardware, programs, wiring and connections which link, or are available for linking, any or all of the Owners(s), one to the other, and providing for community information, access to goods and services, and other general information over the internet within the Development.

W. **"Home"** shall mean a residential housing unit designed or intended for use as living quarters for one family or housekeeping unit.

X. **"Initial Plat"** shall mean the subdivision plat(s) and plans of the Real Estate.

Y. **"Lot"** shall mean and refer to any and each plot of land included in the Property (with the exception of Common Area) designed and intended for use as a building site for a Home, and identified as a lot on any recorded subdivision plat of the Property or any part thereof (including the initial Plat)

Z. **"Members"** shall mean any person or entity holding membership in the Association as provided in Article III hereof

AA. **"Mortgage"**, shall mean any mortgage or other security instrument by which a Lot or any part thereof or any structure thereon is encumbered

BB. **"Mortgagee"** shall mean any person or entity named as the Mortgagee under any such Mortgage or any successors or assigns to the interest of such person or entity under such Mortgage prior to acquisition of the fee simple title to the property encumbered by such Mortgage

CC. **"Owner"** shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

DD. **"Person"** whether appearing in upper case or lower case form, shall mean an individual, firm, corporation, partnership, limited liability company, limited partnership, limited liability partnership, association, trust, governmental or municipal body or other legal entity, or any combination thereof.

EE. **"Property"** shall mean and refer to the Real Estate.

FF. **"Real Estate"** shall mean the parcel or parcels of real estate in HAMILTON County, Indiana, described in **Exhibit "A"** attached to and incorporated in this Declaration.

GG. **"Security Monitoring Services"** shall mean and refer to the provision of systems, hardwares, devices and wiring within the residences, commercial structures (if any) and the Development which enable the monitoring for security purposes of such residences, commercial structures (if any) and Development; provided, however, that the term or phrase "Security Monitoring Services" expressly contemplates that a Common Service Provider may enter into a third party contract (*e.g.*, a monitoring contract) with a security monitoring company.

HH. **"Security Systems"** shall refer to the systems, hardware devices and wiring within the residences and Development which enable the monitoring for security purposes of such residences of the Development.

II. **Telephone Services (local)**. The term or phrase "Telephone Services (local)" shall mean and refer to service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or comparable service provided through a system of switches, transmission equipment or any other

Facilities (or any combination thereof) by which a user can originate and terminate a telecommunications service.

JJ. **Telephone Services (long distance)**. The term or phrase "Telephone Services (long distance)" shall mean and refer to telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with users for exchange service and any Facilities related to such services.

KK. **"Telephone Services"** shall collectively mean Telephone Services (local) and Telephone Services (long distance).

LL. **"Utility Easements"** shall refer to any easement areas dedicated for the purpose of providing sewer, water, gas, Telephone Services or electric services provided to the residences and commercial structures (if any) within the Development together with any Facilities related to such services; provided, however, that the term or phrase "Utility Easements" shall not mean or refer to or include any "Cable Television Services."

MM. **"Utility Services"** shall mean and refer to any of the services using the Utility Easements.

NN. **"Video On Demand Services"** shall mean and refer to the service of providing video programming to users over networks on an on demand, or interactive, point to point basis and any Facilities related to such services; provided, however the term or phrase "Video On Demand Services" shall not include services providing video programming prescheduled by the programming provider, such as cable television services.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings ascribed to them in such provision.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Declaration. Declarant hereby expressly declares that the Property shall be held, transferred, sold, conveyed and occupied subject to, any other liens and encumbrances which may exist, all the terms, covenants, conditions, restrictions and provisions of, by way of example and not limitation, this Declaration, the Common Services Easements and Restrictions and the Non-Exclusive License Agreement. As of the date of execution of this Declaration, the Property consists solely of the Real Estate. The Owner of any Lot at any time subject to this Declaration, 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 accept such deed, execute such contract and undertake such occupancy subject to all of the terms, covenants, conditions, restrictions and provisions of this Declaration, the Common Services Easements and Restrictions and the Non-Exclusive License Agreement. By acceptance of such deed, execution of such contract or undertaking such occupancy, each Owner acknowledges the rights and powers of Declarant, the Access Entity and of the Association with respect to or under this Declaration, the Common Services Easements and Restrictions and the Non-Exclusive License Agreement and, for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Access Entity, the Association, and the Owners and subsequent Owners of each of the Lots affected by this Declaration, to keep, observe, perform and comply with the terms and provisions of this Declaration.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership. Every Owner of a Lot, except as herein provided to the contrary, shall be entitled and required to be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be a member. An Owner of more than one Lot shall be entitled to, and there shall be required, one membership for each such lot. Each such membership shall be appurtenant to the Lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the title of that Lot. Except as herein otherwise expressly provided, no person or entity other than an Owner or Declarant may be a member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of title to a Lot.

Section 2. Transfer. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of the record title of a Lot and then only to such transferee, by assignment, intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of each Owner, upon becoming entitled to membership, to so notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a member, in its sole discretion. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the transferee of title of such Lot, the Association may issue a new membership to the transferee, and thereupon the old membership outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 3. Voting. The Association shall have two (2) classes of voting membership, as follows:

A. **Class A.** Class A members shall be all Owners of Lots, with the exception of the Declarant prior to termination of Class B membership, and shall be entitled to one (1) vote for each lot owned 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 person holds title to any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one Vote be cast with respect to any one Lot. There can be no split vote. Prior to or at the time of any meeting at which a vote is to be taken, each co-owner or other person entitled to a vote at such meeting shall file with the Secretary of the Association the name of the voting co-Owner or other person entitled to a vote at such meeting, unless such co-Owner or other person has filed a general voting authority with the Secretary applicable to all votes until rescinded.

B. **Class B.** Class B members shall be the Declarant and all successors and assigns of the Declarant designated by the Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled, on all matters requiring a vote of the membership of the Association, to five (5) votes for each Lot owned by them or it and five (5) votes for each single numbered parcel of land shown upon and identified as a Lot on any recorded plat of the Real Estate. The Class B membership shall cease and terminate upon the first to occur of (a) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association; (b) one hundred twenty (120) days after ninety five percent (95%) of the Lots in the Property have been conveyed to Owners other than Declarant; (c) six (6)

years after the date of recording of the first conveyance of a Lot to an Owner other than Declarant; (the applicable date being herein referred to as the "Applicable Date"). Declarant shall each be entitled to one (1) Class A membership for each Lot of which it is the Owner on or after the termination of the Class B membership.

Section 4. Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

Section 5. Board of Directors. Following the Applicable Date, the Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Until the Applicable Date, the Board shall consist of three (3) persons designated by Declarant pursuant to the Articles of Incorporation, as long as it shall own one or more lots.

ARTICLE IV
PROPERTY RIGHTS

Section 1. General Provisions.

A. All easements described in this Declaration are permanent easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the Owner and the Mortgagee from time to time of any Lots and the Owner and mortgagee, if any, from time to time of the Common Area, and their respective heirs, successors, personal representatives or assigns.

B. The covenants and restrictions contained in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to this Declaration, their respective personal representatives, heirs, successors and assigns, for an initial term commencing on the date this Declaration is recorded and ending January 1, 2018, after which time the covenants and restrictions shall be automatically renewed for successive periods of ten (10) years each, as the same may be amended or modified as herein permitted and provided.

Section 2. Right of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area limited, however, to and for the Common Area Uses. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to pass reasonable rules, with respect to the Common Area, for the health, comfort, safety and welfare of persons using the same which rules shall not exclude or limit the activities allowed in the Common Areas as provided for herein;

B. The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations;

C. The right of the Association to levy assessments as provided in this Declaration;

D. The Declarant's General Easement set forth in Article XVI;

E. The rights of the Association and Declarant reserved under this Article IV or elsewhere in this Declaration; and

F. Any of the other rights of the Declarant and any and all of its designees, successors or assigns under the Declarant's Reserved Easements (as described in Article IV, Section 3 hereof) or this Declaration.

This Section 2 may not be amended without the written consent of Declarant during the time that Declarant owns any property subject to this Declaration.

Section 3. Declarant's Reserved Easement. Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any property in the Development, including, without limitation, utilities and technology infrastructure and Facilities, for the benefit of Declarant and its designees, successors and assigns over, under, in, and on the Development, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment and otherwise dealing with the Development and any other property now owned or which may in the future be owned by Declarant (collectively, "Declarant's Reserved Easements"). The Declarant's Reserved Easements shall constitute a burden on the title to all or any portion of the Development and specifically includes, without limitation:

(vii) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, and in all or any portion of the Development; and, the right to tie into any portion of the Development with driveways, parking areas, Streets, the Drainage System and walkways; and, the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over all or any portion of the Development;

(viii) the right to construct, install, replace, relocate, maintain, repair, use and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient or incidental to the construction and sale by Declarant of residences in all or any portion of the Development or in any portion of the Additional Land;

(ix) the right to maintain a sales and marketing office for the Development within the Common Area without cost to Declarant until Declarant no longer owns any Lots in the Development; and,

(x) the Declarant's General Easement as described in Article XVI, Section 2.A hereof.

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property within the Development, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery

of a quitclaim deed or other assignment of rights from or by Declarant releasing such right, privilege, or easement by express reference thereto with respect to all or any portion of the Development. Declarant may grant to a builder of Lots within the Development similar rights as granted to Declarant under (ii) and (iii) above.

This Section 3 may not be amended without the advance written consent of Declarant as long as Declarant owns one or more Lots.

Section 4. Association's Rights and Obligations

A. The Association shall have the obligation to manage, repair, maintain, improve and operate the Common Area and to perform all additional obligations described in this Declaration; provided, however, the Association shall be under no obligation and shall not manage, repair, maintain, improve and operate any Facilities situated in the Common Area..

B. The Association shall have the right to mortgage all or any portion of the Common Area, excluding any Facilities on, over or under the Common Area, for the purpose of securing a loan of money to be used for any of the purposes specified in subsection 3 A. herein above, provided that the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners under this Declaration, and provided, further, that the mortgagee shall have received the prior written approval specified herein below.

C. The Association shall not have the right to dedicate or transfer all or any part of the Common Area to any governmental subdivision or public agency or utility, or to grant permits, licenses, or easements over the Common Area except for granting the Town or municipality the Street right-of-way (R/W) shown on the plats and plans and demarcated as being 50' across; provided, however, that any such dedication be fully consistent with Article XVI, Section 2.B(iii). The Access Entity may enter into agreements on behalf of the Members for the providing of services and utilities to the property and/or the members including without limitation security monitoring services, intranet services, internet services, phone (local and long distance), cable television and other services as may be available within governmental subdivision or public agency or utility from time to time; provided, however, if the Access Entity fails to provide any of the services provided in this Section 4.C, the Association may enter into agreements on behalf of the Members for the provision of said services and utilities.

D. The Property shall be subject to easements of record on the date the various portions thereof become subject to this Declaration, and to any easements in the Common Area, which may be granted by Declarant prior to the Applicable Date.

E. Anything herein apparently to the contrary notwithstanding, except as otherwise expressly herein provided, no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or other common property or any part thereof shall be effective unless it shall have received the prior written approval specified herein below. However, the Common Area may not be developed in any manner with housing or otherwise. The only improvements which may be erected on any Common Area may only be those facilities which benefit the use of the Common Area by the Owners or which are necessary for the operation of the utilities and technological infrastructure and devices installed by Declarant or directed to be installed by Declarant.

Section 5. Declarant's Rights. Declarant shall have the same rights as any other Owner as to Lots owned by it from time to time, except as otherwise specified herein. In addition, until the last single

numbered parcel of land shown upon, and identified as a Lot on any recorded plat(s) of the Real Estate (whether heretofore or hereafter recorded), including, without limitation, the Initial Plat is conveyed to an Owner other than Declarant, or until the Applicable Date (whichever event shall first occur), Declarant shall have the right and easement over the Common Area for the completion of improvements and making repairs to improvements (whether on the Common Area, or upon unsold Lots, or upon other portions of the Real Estate, and the right to maintain signs upon the Common Area and any other portions of the Property other than Lots owned by an Owner other than Declarant) for the purpose of marketing homes, and to invite and escort the public thereon for such purpose.

Section 6. Non-Dedication to Public Uses. Nothing contained in this Declaration or in any subdivision plat of any part of the Property shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to the public or to or for any public use or purpose whatsoever, all of such Common Area being reserved to the Owners and the Association as provided in this Declaration, but subject, however, to the rights of the Association and the Declarant to thereafter dedicate portions of such Common Area to the public or to or for public uses or purposes but only to the extent, and upon all of the conditions, set forth in this Declaration.

Section 7. Easement for Unintentional Encroachment. Notwithstanding any other provisions contained herein, in the event that any Home or any improvement to any Home encroaches upon any part of the Common Area, as a result of construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, then a perpetual easement appurtenant to such encroaching Home shall exist for the continuance of any such encroachment on the Common Area.

Section 8. Title to Common Area. Declarant hereby covenants that it shall convey and transfer the Common Area included in and constituting a part of the Real Estate to the Association prior to Declarant's resignation as a Class B member. The Common Area so conveyed by Declarant to the Association shall, at the time of such conveyance, be subject to all easements, covenants, conditions, limitations and restrictions then of record, including, without limitation, the Common Services Easements and Restrictions and the Non-Exclusive License Agreement, but shall be free and clear of all liens and financial encumbrances other than the lien of the then current non-delinquent installment of real estate taxes and assessments and subsequent installments thereof which shall thereafter be paid when due by the Association.

ARTICLE V
ASSESSMENTS

Section 1. Personal Obligations. Each Owner of a Lot, by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed therein, shall be and is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, which shall be payable in regular installments, for the payment or provision of all expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Area and all other expenses incurred or to be incurred by the Association for or in connection with the performance by the Association of its duties, obligations and responsibilities under this Declaration, which expenses may include, but shall not be limited to, the expenses and costs of liability insurance for the Common Area and any other common property; snow removal, and trash removal (if provided by the Association); street lighting (if provided by the Association); and an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area and any other property that must be maintained, repaired or replaced on a periodic basis and which the Association may be obligated to maintain, and (b)

special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any assessments authorized herein, together with interest, costs and reasonable attorneys' fees, shall be a continuing lien from the first day of January (for annual assessments) and from the date the first installment is payable (for special assessments) against the Lot assessed. Such annual assessments shall be due and payable in a lump sum in advance of such twelve month periods or if the Association so allows, in twelve (12) equal monthly installments on the first day of each and every month or, if so determined by the Association, in such other periodic installments as may be specified by the Association. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date said assessment became due and payable. Said personal obligation of an Owner shall not pass to his successors in title or interest unless expressly assumed by them or unless, prior to such transfer, a written notice of the lien for such assessments shall have been recorded in the office of the Recorder of HAMILTON County, Indiana. No Owner shall escape liability for the assessments which fell due while he was the Owner by reason of non-use of the Common Area or non-use, transfer or abandonment of his Lot or Home.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Property, to construct, manage, improve, maintain, repair and administer the Common Area and Amenities contracting for services for the benefit of the Owners, and for payment of any other costs and expenses incurred by the Association in connection with the performance of its duties, obligations and responsibilities hereunder. An adequate reserve fund shall be maintained for working capital and for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area, Amenities and any other property that must be replaced on a periodic basis. Such reserve fund shall be maintained out of the regular annual assessments.

Section 3. Intranet and Security Monitoring Assessments. In order to promote the communication welfare and safety within the community, Declarant is installing or causing to be installed an Intranet Network and a security system within the community. The Association shall contract for these services and shall collect from each member and or Owner at the same time regular assessments are collected an amount which is attributable to the operation of the community intranet and security monitoring for the members.

Section 4. Annual Assessments. From and after the Effective Date, the maximum annual assessments may be increased each year not more than ten percent (10%) above the maximum assessments permitted for the previous year, on a cumulative basis, without a vote of membership. From and after the Effective Date, the maximum annual assessments may be increased by more than ten percent (10%) above the maximum assessments permitted for the previous year by a vote of two thirds (2/3) of the total votes of the Members who are voting in person or by proxy, at a meeting called for this purpose. The Board of Directors may fix the annual assessments at any amount not in excess of the maximum permitted hereby.

Section 5. Special Assessments In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, or maintenance of the Common Area, Amenities or other such property/improvements for which the Association is responsible, provided that any such assessment shall have the assent of not less than two thirds (2/3) of the total votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 6. Reserve Fund Contribution. Each time a Lot is transferred, conveyed or otherwise changes ownership, a Reserve Fund contribution from the incoming owner in the amount of $100.00 is required and shall be collected at the time the ownership is transferred. After the Applicable Date, the Reserve Fund Contribution may be changed only upon approval of two-thirds (2/3) of the members. Such contributions shall be deposited in an account separate from the operating funds of the Association and shall be allocated to cover periodic or extraordinary expense of the community, as determined at the discretion of the Board of Directors.

Section 7. Notice and Quorum. Written notice of any meeting of Members called for the purpose of taking any action authorized under Article V, Sections 3 or 4, shall be sent to all Members not less than ten (10) days or more than sixty (60) days in advance of the meeting. At the opening of such meeting, the presence in person or by proxy of Members entitled to cast sixty percent (60%) of the total votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at any subsequent meeting shall be one half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots. Annual assessments shall be collected in a lump sum or, if the Association so chooses, on a monthly basis (or other periodic basis, if and as determined by the Board) and special assessments shall be collected as the Board determines.

Section 9. Commencement of Initial Annual Assessments. The annual assessments provided for herein shall commence as to each Lot subjected to this Declaration on the first day of the month following the month of recording of the instrument by which such Lot is conveyed to an Owner who will occupy the single family home constructed upon such lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year for which such assessment is imposed.

Section 10. Commencement of Annual Assessments By November 1st of each year the Board shall fix the amount of annual assessments against each Lot for the following calendar year and shall send written notice thereof to each Owner. The due date for payment of annual assessments shall be as set by the Board. At the time the Board fixes the amount of annual assessments it shall adopt a budget for the following calendar year and cause a copy of such budget in reasonable detail to be famished to each Owner.

Section 11. Proof of Payment Upon written demand of an Owner or Mortgagee, at any time and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid annual or special assessments levied against such Owner's or Mortgagee's Lot. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.

Section 12. Non-Payment of Assessments. Any assessments which are not paid when due shall be deemed delinquent. If an assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate of eighteen percent (18%) per annum and shall become a continuing lien in favor of the Association on the Lot against which assessed and the improvements thereon, and the Association may bring an action at law or in equity against the person personally obligated to pay the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in such

action, and the Association may also enforce and foreclose any lien it has or which may exist for its benefit.

Section 13. Recording and Enforcement of Liens. To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same and a description of the Lot. Such a notice shall be signed by an officer of the Association and it or a notice of lien or adverse claim thereof may be recorded in the office of the Recorder of HAMILTON County, Indiana. No notice of lien shall be recorded until there is a delinquency in payment of the assessment for thirty (30) days. Upon such a delinquency for thirty (30) days, the Association shall proceed promptly to enforce the lien or, in its discretion, to sue the person personally liable to pay the lien for the delinquency. Such lien shall be enforced by action in the same manner in which mortgages on real property may be foreclosed in Indiana. In any such foreclosure, the person personally obligated to pay the lien shall be required to pay all costs of foreclosure including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The person personally obligated to pay the lien shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the foreclosed interest in the Lot as the Owner thereof. The Association shall, upon written request, report to any Mortgagee of a Lot any assessments remaining unpaid for longer than thirty (30) days after the same shall have become due; provided, however, that such Mortgagee first shall have furnished to the Association written notice of the Mortgage under which it claims and its notice address.

Section 14. Assignment. The Association may assign the lien rights provided herein to any provider of Intranet or Security Monitoring Services, so long as the services are provided for the benefit of the Owners.

Section 15. Subordination of Lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage ("First Mortgage") and to tax liens and liens for special assessments in favor of any taxing and assessing unit of government. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or remedies provided in a First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to charges which were payable prior to such sale or transfer. No such sale or transfer shall relieve a Lot from liability for any assessments thereafter becoming payable or from the lien thereof or shall relieve the person personally obligated to pay the same or from personal liability for assessments payable prior to such sale or transfer or acquisition. Any delinquent assessments, the lien for which is extinguished by reason of this provision, may be reallocated and assessed to all Lots as a common expense.

Section 16. Limitations on Assessments Owed by Declarant. Notwithstanding anything to the contrary contained herein, neither Declarant nor Estridge Custom Homes shall be obligated to pay, as to any and all Lots owned by them from time to time, any assessments (whether regular annual assessments or special assessments) payable hereunder by Owners.

ARTICLE VI
ARCHITECTURAL CONTROLS

Section 1. The Architectural Review Board. An Architectural Review Board ("Architectural Review Board") consisting of two (2) or more persons shall be appointed by the Declarant. Following the end of the Development Period, the Architectural Review Board shall be appointed by the Board of Directors.

Section 2 Purpose. The Architectural Review Board shall regulate the external design, appearance, use, location, and maintenance of the Property 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. Except as otherwise expressly provided in this Declaration, no improvements, alterations, repairs, change of colors, excavations, changes in grade, planting, or other work that in any way alters any Lot or the exterior of the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board of a Lot Development Plan therefore. Prior to the commencement by any Owner other than Declarant of (i) construction, erection or alteration of any Home, building, fence, wall, swimming pool, tennis court, patio or other structure on a Lot, or (ii) any plantings on a Lot, a Lot Development Plan with respect thereto shall be submitted to the Architectural Review Board, and no building, fence, wall, Home or other structure shall be commenced, erected, maintained, improved, altered, made or done, or any plantings made, by any person other than Declarant without the prior written approval of the Architectural Review Board of a Lot Development Plan relating to such construction, erection, alteration or plantings. Such approval shall be in addition to, and not in lieu of, all approvals, consents, permits and/or variances required by law from governmental authorities having jurisdiction over the community, and no Owner shall undertake any construction activity within the Development unless all legal requirements have been satisfied. Each Owner shall complete all improvements to a Lot strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. As used in this Section (3), "plantings" does not include flowers, bushes, shrubs or other plants having a height of less than eighteen (18) inches.

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing a Lot Development Plan within sixty (60) days after notice of such Plan has been duly filed with the Architectural Review Board in accordance with procedures established by Declarant, or, if Declarant is no longer a Class B member, the Board of Directors, approval will be deemed denied. A decision of the Architectural Review Board (including a denial resulting from the failure of the Architectural Review Board to act on the Plan within the specified period) may be appealed to the Board of Directors, which may reverse or modify such decision (including approval of a Lot Development Plan deemed denied by the failure of the Architectural Review Board to act on such Plan within the specified period) by a two thirds vote of the Directors then serving.

Section 5. Guidelines and Standards. The Architectural Review Board shall have the power to establish and modify from time to time such written architectural and landscaping design guidelines and standards as it may deem appropriate to achieve the purpose set forth in Section 2 to the extent that such design guidelines and standards are not in conflict with the specific provisions of the Declaration. Any such guidelines or standards may be appealed to the Board of Directors which may terminate or modify such guideline or standard by a two-thirds (2/3) vote of the Directors then serving.

Section 6. Application of Guidelines and Standards. The Architectural Review Board shall apply the guidelines and standards established pursuant to Section 5 in a fair, uniform and reasonable manner consistent with the discretion inherent in the design review process. In--disapproving any Lot

Development Plan, the Architectural Review Board shall furnish the applicant with specific reasons for such disapproval and may suggest modifications in such plan which would render the plan acceptable to the Architectural Review Board if resubmitted.

Section 7. Exercise of Discretion. Declarant intends that the members of the Architectural Review Board exercise discretion in the performance of their duties consistent with the provisions of Section 6, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceedings challenging a determination by the Architectural Review Board and in any action initiated to enforce this Declaration in which an abuse of discretion by the Architectural Review Board is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Architectural Review Board, could only conclude that such determination constituted an abuse of discretion.

ARTICLE VII
OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Area. The Association, subject to the rights and obligations of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area, Streets (except as otherwise provided for by virtue of the dedication of the Streets in accordance with Article XVI, Section 2.B(iii)), Amenities and all improvements (if any) thereon (including equipment related thereto), and shall keep the same in good order and repair. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots) shall include, but not be limited to, the maintenance and repair of the Common Area, Streets (except as otherwise provided for by virtue of the dedication of the Streets in accordance with Article XVI, Section 2.B(iii)), Amenities, and all other improvements or material located within or used in connection with the Common Area, except for the maintenance of the Intranet Network and any other Utility Services installed in the Common Area and dedicated rights-of-way by Declarant or provided by Declarant. The Association shall maintain the fences installed by the Declarant as well as the landscaping fronting, which shall include walls and signage installed by the Declarant in either the Common Area or the Landscape Easement.

Section 2. Services. The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration or any proceedings or controversy in which the Board determines it is necessary or advisable to have professional advice. The Association may arrange with others to furnish trash collection and other common services to each Lot. Any agreement for professional management of the Property, must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice and by either party for cause upon thirty (30) days or less written notice and shall have a maximum contract term of one (1) year, but may be renewable by agreement of the parties for successive one-year terms.

Section 3. Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a

Lot, provided that an Owner may delegate his right of enjoyment of such personal property (if any) to any resident of his Lot. A transfer of title to a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Lot.

Section 4. Hazard and Liability Insurance for Common Property. The Association shall procure extended coverage insurance on the Common Area, reconstruction of such insurable Common Areas and other common property, including insured improvements. The cost of such insurance shall be assessed as provided in Article V above. Holders of First Mortgages ("First Mortgagees") on Homes, jointly or singly, may pay overdue premiums on hazard insurance policies, or may secure new hazard insurance coverage on the lapse of a policy, for the Common Area and other common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. The Association is authorized to enter into an agreement in favor of all First Mortgagees of Homes establishing entitlement to such reimbursement.

ARTICLE VIII
OWNERS' MAINTENANCE

Section 1. Upkeep and Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his Home and all other areas, features or parts of his Lot to the extent not otherwise maintained by the Association.

ARTICLE IX
COMMUNITY INTRANET SERVICES, SECURITY MONITORING SERVICES AND UTILITIES

Section 1. Community Intranet Services. Declarant may provide or cause to be provided Community Intranet Services and Security Monitoring Services within the Development for the use and benefit of the Owners and Members thereof. Declarant or Declarant's designee, successor or assign shall be the provider of Community Intranet Services and Security Monitoring Services within the Development in accordance with such terms and conditions as may be agreed upon by the Declarant and the provider.

Section 2. Security Monitoring Services. The Security Monitoring Services, if provided, shall include both the systems within the residences along with the Common Areas and other areas of the Development. Declarant or Declarant's designee, successor or assign shall be the provider of such Security Monitoring Services and monitoring thereof within the Development in accordance with such terms and conditions as may be agreed upon by the Declarant and the provider.

Section 3. Maintenance. Declarant or Declarant's designee, successor or assign will maintain the Facilities necessary to provide the Community Intranet Services and Security Monitoring Services within the Development which may include maintenance to all hardware, software, wiring, connections, devices and other components necessary for the operation of the Intranet and Security Monitoring Services in accordance with such terms and conditions as may be agreed upon by the Declarant and the provider.

Section 4. Easement. Declarant or Declarant's designee, successor or assign will gain access and subject the Development to restrictions pursuant to the Declarant's Reserved Easements as described in Article IV, Section 3 over all of the lots, common areas, other easements, rights-of-way and the Development for maintenance and upkeep of the Community Intranet Services and Security Monitoring Services and the Facilities necessary for such services. Such easements shall run with the land and be binding upon the Association and the heirs, successors and assigns of the individual Owners and Members.

Section 5. Assessments. The Association may assess the Owners and Members as previously in Article V, Section 3 provided for Community Intranet Services and Security Monitoring Services.

Section 6. Other Communication and Utility Services. Declarant, or Declarant's designee, successor or assigns, may provide other Communication Services and Utility Services to the residences and the Development including, without limitation, local and long distance Telephone Service, Cable Television, gas, electric and water.

ARTICLE X
GENERAL RESTRICTIONS, OBLIGATIONS AND RIGHTS APPLICABLE TO PROPERTY

Section 1. Home and Lot Restrictions. No more than one Home shall be erected or maintained on each Lot. No Home shall be used for purposes other than as a single-family residence, nor shall any trade or business of any kind be carried on within a Home or upon a Lot, nor shall any Lot or any part thereof be leased, sublet, assigned or suffered to be used for transient occupancy, provided that none of the following activities shall be considered a violation of this covenant:

A. The maintenance of model Homes and business and sales offices by Declarant or their designated Builders during the construction and sale periods.

B. The maintenance of offices by the Association or its designated manager for purposes of managing of the Property.

C. Lease, rental or use of a Home for purposes consistent with this Section.

D. The use of a Home by an Owner for incidental office purposes to the extent permitted by applicable zoning ordinances.

Section 2. Building Set-back Lines and Easements. Building set-back lines and easements are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front, rear or side lot line (as the case may be) of said Lot. No building or structures may be placed inside of Easements.

Section 3. Garages. No garage shall be erected on any Lot which is not permanently attached to the Home, and no unenclosed storage area shall be erected. No enclosed storage area shall be erected on any Lot which is not permanently attached to the Home.

Section 4. Outbuildings. No trailers, shacks, mini barns, play houses/forts, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot, except that used by a

builder during the construction of a Home, which temporary construction structures shall be promptly removed upon completion of construction of the Home.

Section 5. Driveways. Each driveway on a Lot shall be of concrete or asphalt material.

Section 6. Swimming Pools. No above-ground swimming pools shall be permitted. No in-ground pool shall be installed without the prior approval of the Committee.

Section 7. Solar Heat Panels. No solar heat panels shall be permitted in the Property.

Section 8. Access. All Lots shall be accessed from the interior streets of the Property.

Section 9. Fences, Yard Ornaments, & Exterior Painting. There shall be no fences, yard ornaments or exterior painting conducted without the prior approval of the Committee. No chain link or metal fences with the exception of wrought iron are allowed, except around the swimming pool, athletic facilities and other amenity areas. No outdoor pet enclosures of any kind except for "invisible fences" (underground, electronic or otherwise) shall be permitted without the prior approval of the Committee.

Section 10. Basketball Goals and Playground Equipment. There shall be no basketball goals or playground equipment installed without the prior approval of the Committee.

Section 11. Trash. No Lot shall be used or maintained as a dumping ground for trash. No trash or leaves shall be burned upon a lot. Rubbish, garbage or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon.

Section 12. Tanks. No gas or oil storage tanks may be permanently used in connection with any Lot.

Section 13. Obstruction. There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area without the prior written consent of the Association except construction materials and equipment during the construction period or except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Common Area except upon the prior written consent of the Association. It shall be the duty of every Owner of every Lot on which any part of an open storm drainage ditch or is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair.

Section 14. Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Lot or in any Home or on or in any Common Area or any part thereof which would increase the rate of insurance on the Property or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Lot or in any Home or on or in any Common Area or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Area or any part thereof or of the exterior of the Property and buildings thereon shall be committed by any Owner or any invitee or tenant of any Owner and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees or tenants, to the Association and other Owners. No noxious, destructive or offensive activity shall be allowed in any Homes, on any Lots or in

the Common Area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to or disturb the peace, comfort and serenity of any other Owner or any other person at any time lawfully residing on the Property.

Section 15. Animals. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or on any Lot, except that household pets may be kept on Lots, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purposes; provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property subject to these restrictions upon three days' written notice from the Board, and provided further, that upon written request of twenty-five percent (25%) of the voting power of the Association, the Board of Directors shall have the authority to, and shall order the removal of, any pet.

Section 16. Storage. Outside storage of any items, including but without limiting the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment, woodpiles, yard and garden tools and equipment and trash and garbage containers, shall not be allowed unless approved by the Architectural Review Board. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious or illegal weed or other natural substance, and the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of residents is prohibited. Usual household trash and garbage shall be regularly collected and may not be kept outside. -Notwithstanding the foregoing, no boats, snowmobiles, recreational vehicles, trailers, camping vehicles, buses, mobile homes, tractor/trailers, trucks, motorcycles, mini-bikes, mopeds, unlicensed or inoperable vehicles, or any other vehicles of any description other than normal passenger automobiles (including station wagons and small trucks such as pickups, sport utility vehicles and vans) shall at any time be stored or parked on any Lot outside of a garage, or on any street within the Property, or on any part of the Common Area, either permanently or temporarily. No vehicles of any type shall be stored/parked on the street overnight.

Section 17. Signs. No signs of any kind (other than designations, in such styles and materials as the Association shall by rule or regulation approve, of street addresses and names of occupants) shall be displayed to the public view on any Lot, except that a "For Sale" or "For Lease" sign may be displayed on a Lot which is being offered for sale or lease provided that it is in such form, style and location as the Board may require, and except that Declarant shall be permitted to erect and maintain upon the Property such signs as it deems appropriate to advertise the development during the construction and sale periods.

Section 18. Satellite Dish. A satellite dish or other means of receiving the transfer of wireless technology shall be allowed on the Property if, and only if, installed, operated and maintained in full compliance with the standards and rules promulgated by the Architectural Review Board.

Section 19. Rentals. Any lease between an Owner and a lessee shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing. No Home or Lot may be leased for a period of less than 90 days. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease his Home.

Section 20. Rules and Regulations. The Board may adopt, and may amend, modify, rescind and cancel, such other rules and regulations from time to time governing the use and enjoyment of the

Property, including the Common Area, as the Board in its sole discretion deems appropriate or necessary which rules shall not limit the ability of the Members to use each and every Common Area.

Section 21. Accessory Outbuilding Prohibited. No accessory outbuildings shall be erected on any Lot or Lots.

Section 22. Occupancy or Residential Use of Partially Completed Home Prohibited. No Home shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the Home shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

Section 23. Other Restrictions. The Property shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Property, including, without limitation, the Common Services Easements and Restrictions and the Non-Exclusive License Agreement, all of which are incorporated herein by reference.

Section 24. Upkeep and Maintenance. It shall be responsibility of each owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition of his Home and Lot. Each Owner shall be responsible for the upkeep and maintenance of his Home and all other areas, features or parts of his Lot and any area between the sidewalk and any public street adjacent to the Owner's lot to the extent not otherwise maintained by the Association.

Section 25. Right to Perform Certain Maintenance. In the event that the Owner of any Lot in the Property shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of this Declaration, Declarant shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements thereon, if any, conform to the requirements of this Declaration. The cost e to Declarant shall be collected in a reasonable manner from Owner. Declarant or its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder. Upon the Applicable Date, the Association shall succeed to and be vested with the rights of the Declarant as provided for in this Section.

Section 26. Development and Sale Period. Nothing contained in this Article IX shall be construed or interpreted to restrict the activities of Declarant in connection with the development of the Property and sale of Lots. Declarant shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities upon any portion of the Property at any time owned or leased by Declarant, as in the sole opinion of Declarant may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

Section 27. Mailboxes. Each Home shall be provided by the home builder at the time each Home is constructed. All mailboxes shall be of the same design. No mailboxes shall be installed or replaced without the prior approval of the Committee.

Section 28. Clotheslines. Outdoor clotheslines are prohibited.

Section 29. Drilling and Exploration. No mailboxes oil drilling, oil development operations or refining, quarrying, or mining operation of any kind shall permitted upon or within the

Real Estate, nor shall oil wells, tanks, tunnels, mineral excavations, nor shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

ARTICLE XI
RIGHTS FOR THE PROTECTION OF FIRST MORTGAGEES

Section 1. Precedence. The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. Notice of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a First Mortgage on a Lot or Home and the address of such party (a holder of a First Mortgage on a Lot or Home who has so requested such notice shall be referred to herein as an "eligible mortgage holder" and an insurer or governmental guarantor of a First Mortgage on a Lot or Home who has so requested such notice shall be referred to herein as an "eligible insurer or guarantor"), any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(A) Any condemnation loss or any casualty loss which affects a material portion of the project or any lot or Home on which there is a First Mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(B) Any delinquency in the payment of assessments or charges owed, or any other default in the performance of any obligation under the Declaration, By-Laws or Articles of Incorporation by an Owner of a Lot or Home subject to a First Mortgage held, insured, or guaranteed by such holder or insurer or guarantor, which remains uncured for a period of 60 days;

(C) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(D) Any proposed action which would require the consent of a specified percentage of mortgage holders as specified in this Article; and

(E) Any default in the performance by the Owner of any obligation under the Declaration or By-Laws which is not cured within sixty (60) days.

Section 3. No Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his Lot or Home will not be subject to any right of first refusal or any similar restriction in favor of the Association or other Owners.

Section 4. Liability for Unpaid Assessments. Any First Mortgagee who obtains title to or comes into possession of a Lot pursuant to the remedies provided in its First Mortgage or by foreclosure of the First Mortgage or by deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale in connection with any such First Mortgage shall not be liable for the unpaid assessments of the Lot which were payable prior to the acquisition of title to or possession of such Lot by the First Mortgagee.

Section 5. Certain Amendments. In addition to other requirements set forth herein, unless at least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of the First Mortgagees of the Lots or their assigns (based upon one vote for each First Mortgage owned), and at

least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of the Owners (other than any sponsor, developer, or builder, including the Declarant of the Lots (based upon one vote for each Lot owned) have given their prior written approval, neither the Association nor the Owner shall be entitled to:

(A) Terminate the legal status of the project (except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation);

(B) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed such a transfer,

(C) Use hazard insurance proceeds for losses to any Common Area or other common property for other than the repair, replacement or reconstruction of such common property;

(D) Add or amend any material provisions of this Declaration which establish, provide for, govern or regulate any of the following:

(1) voting;
(2) assessments, assessment liens or subordination of such liens;
(3) reserves for maintenance, repair and replacement of the Common Area (or exterior maintenance of Homes if applicable);
(4) insurance or Fidelity Bonds;
(5) rights to use of the Common Area;
(6) responsibility for maintenance and repair of the several portions of the project;
(7) boundaries of any Lot;
(8) the interests in the general Common Area;
(9) leasing of Lots or Homes;
(10) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Lot or Home;
(11) any provisions which are for the express benefit of First Mortgage holders, eligible mortgage holders or eligible insurers or guarantors of First Mortgages on Lots, except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation or with respect to a reallocation of interests in the Common Area which might occur pursuant to any plan of expansion or phased development contained in this Declaration; or

(E) By act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof pertaining to the architectural design or the exterior appearance of Home(s).

For purposes of this Section, an addition or amendment to such documents shall not be considered material if it is made (I) for the purpose of correcting clerical, typographical or technical errors, (II) for clarification only, (III) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or

any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (IV) to induce any of the agencies or entities mentioned or referred to in subsection III herein above to make, purchase, sell, insure or guarantee First Mortgages covering Lots and Home(s), or (V) to bring such documents into compliance with any statutory requirements, and any such addition or amendment to such documents which is so considered not to be material may be made by Declarant acting alone and without the consent, approval or joinder of the Owners, the Association, any First Mortgagees, any other mortgagees or any other person.

An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within 30 days shall be deemed to have approved such request.

Section 6. Examination of Books and Records. First Mortgagees and holders, insurers and guarantors of First Mortgages shall have the right to examine the books and records of the Association, as set forth more fully in the By-Laws.

Section 7. Payment of Taxes and Insurance. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area or other common property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area or other common progeny, and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 8. Designation of Representative. Any holder of a First Mortgage on a Lot or Home may designate a representative to attend meetings of members, but no such representative shall have any voting privileges unless such voting privileges have been granted to the holder of such First Mortgage by the Owner of the Lot involved.

Section 9. Distribution of Insurance Proceeds and Condemnation Awards. No provision of this Declaration or the By-Laws shall be construed as giving to the Owner or to any other party priority over any rights of First Mortgagees of Lots pursuant to their First Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area or other common property.

ARTICLE XII
INSURANCE

Section 1. Maintenance of Insurance. Commencing not later than the time of the first conveyance of a Lot to an Owner other than Declarant, the Association shall maintain, to the extent reasonably available, the following insurance, all of which shall be issued by insurance carriers meeting at least the minimum requirements of, and shall otherwise comply with the requirements of the agencies and entities mentioned or referred to herein, to-wit

(A) Master or blanket type of policy of fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage (if appropriate), debris removal, cost of demolition, malicious mischief, windstorm and water damage) insuring the Common Area (including all of the fixtures installed therein). Said policy shall afford, as a minimum, protection against the following:

(1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement,

(2) all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

The name of the insured under such policies must be set forth therein substantially as follows:

"Grandin Hall Homeowners Association, Inc. for the use and benefit of the individual Owners".

The policies may also be issued in the name of an authorized representative of the Association, including any insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or insurance Trustee), as a trustee for each Owner and each such Owner's First Mortgagee. Each Owner and each such Owner's First Mortgagee, if any, shall be beneficiaries of the policy with respect to the Common Area equally with each other Lot. Policies must provide for the recognition of any insurance Trust Agreement.

If reasonably available, such policies shall include:

(1) Agreed Amount Endorsement (or like endorsement);

(2) Inflation Guard Endorsement;

(3) Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement) if the project is subject to a construction code provision which would become operative and require changes to undamaged portions of the improvements, thereby imposing significant costs in the event of partial destruction of the project by an insured peril;

(4) Steam Boiler Coverage (if applicable) for loss or damage resulting from steam boiler equipment accidents in an amount not less than $50,000 per accident per location; and

(5) All such policies must provide for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Owner has other insurance covering the same loss.

(B) Worker's Compensation, occupational disease and like insurance (if the Association has eligible employees);

(C) Comprehensive public liability insurance in such amounts and with such coverage as the Board of Directors shall from time to time determine, but at least:

(1) covering events occurring anywhere on the Common Area (and public and private ways) or arising out of or in connection with the use, ownership or maintenance of the Common Area;

(2) covering, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Area, and legal liability arising out of lawsuits related to employment contracts of the Association, and such other coverages as are customarily covered with respect to projects similar in construction, location, and use;

(3) insuring each officer and member of the Board of Directors, the managing agent and each Owner and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an Owner for the negligent act of another Owner, occupant or the Association; and

(4) in amounts generally required by private institutional investors for projects similar in construction, location and use. (However, such coverage shall be for at least $1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence).

(D) Such other insurance as the Board of Directors may determine.

(E) All such policies must provide that they may not be changed or substantially modified by any party without at least 10 days' prior written notice to the Association and to each holder of a First Mortgage which is listed as a scheduled holder of a First Mortgage in the insurance policy.

Section 2. Owners' Individual Policies. Each Owner should carry, and shall be responsible for carrying, insurance for his own benefit insuring his personal liability, his Lot, his Home, and other personal progeny, and fixtures, furniture, furnishings, and other personal property, and fixtures and other property supplied or installed by him or a previous Owner or tenant.

Section 3. Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any Trustee with whom the Association may enter into any insurance Trust Agreement or any successor to such Trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Any insurance Trustee must be a corporation or association organized or authorized to do business under the laws of the State of Indiana, and authorized and permitted by its charter documents and by state law to conduct a trust business.

Section 4 Insurance Premiums. Insurance premiums for any blanket property insurance coverage, and the other insurance coverages purchased by the Association, shall be common expenses to be paid by assessments levied by the Association, and such assessments shall be held in a separate escrow account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

ARTICLE XIII
EMINENT DOMAIN

Section 1. Representation. The Association shall represent the Owners in any condemnation proceedings and in any negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area, or part thereof, and by acceptance of a deed for his, her or its Lot, each Owner appoints the Association as such Owner's agent and attorney-fact for such purposes. In the event of a taking or acquisition of part or all of the Common Area by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or other trustee (such as a bank or title insurance company appointed as such by the Association), for the use and benefit of the Owners and their Mortgagees as their interests may appear.

Section 2. Reconstructions. In the event of a partial taking of the Common Area (or conveyance in lieu thereof) the Association shall promptly cause the remaining portions of the Common Area to be restored functionally and aesthetically to reasonably the same condition as before the taking, using so much of the proceeds of such taking for such purpose as shall be reasonably necessary. In the event of a total taking of the Common Area (or conveyance in lieu thereof), and the project is terminated by the election herein above required, the proceeds shall be allocated equally among each Lot, payable jointly to the Owners and mortgage holders thereof.

ARTICLE XIV
GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions and of the provisions contained in the Articles of Incorporation and By-Laws of the Association may be by any proceeding at law or in equity instituted by the Association or by any Owner against any person (including the Association) violating or attempting to violate any covenant or restriction, either to restrain violation, to compel compliance, or to recover damages, and against the land, to enforce any lien created by these covenants; and, failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Attorneys' fees and costs of any such actions to restrain violation or to recover damages as determined by the court shall be assessable against and payable by any persons violating the terms contained herein. Not action taken under this Section shall interfere with the rights of the Declarant, the Access Entity, its successors, assigns and devisees to enforce a violation of these Declarations under Article XVII.

Section 2. Mergers. Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties in one scheme. No such merger or consolidation, however, shall affect any revocation, change or additions to the covenants established by this Declaration within the Property, except as herein above provided.

Section 3. Severability. Invalidation of any one or more of these covenants or restrictions by legislation, judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Notices. Any notice required to be sent to any Member of the Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid,

to the last known address of such Member appearing on the records of the Association at the time of such mailing.

Section 5. Headings: Interpretation. All headings in the Declaration are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Declaration. The singular shall include the plural, and the masculine gender shall include the feminine and neuter, and *vice versa,* as the context requires. The introduction paragraph and recitals set forth above shall form a part of this Declaration. The term "including" or terms of similar import, shall mean "including, without limitation" of its equivalent whenever used herein, and shall not limit the generality of any description preceding such term. Reference to any agreement, document or instrument means such agreement, document or instrument, as amended, supplemented or modified and in effect from time to time in accordance with the terms thereof. The term "or" is not exclusive. Terms such as "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Declaration as a whole, and not to any particular article, section, paragraph or provision.

Section 6. Construction. In the event of an apparent conflict between this Declaration and the By-Laws, the provisions of this Declaration shall govern.

Section 7. Complete Agreement. This Declaration, the schedules and exhibits hereto, together with all other agreements, documents, releases, schedules, exhibits and other writings incorporated into this Declaration shall constitute the complete and exclusive statement of agreement among the parties with respect to their subject matter.

Section 8. Obligation of Good Faith. The parties shall, in the performance of all obligations under this Declaration be obligated to act in good faith with one another in the performance of their duties hereunder; provided, however, that this provision shall not be construed to limit or lessen any higher duties which may exist between the parties by contract, operation of law or otherwise, to the extent any such higher duties may exist.

ARTICLE XV
AMENDMENT

Except as hereinafter provided, this Declaration may be amended during the initial term provided above by an instrument signed by not less than seventy-five percent (75%) of the Owners and thereafter by an instrument signed by not less than sixty percent (60%) of the Owners. Certain amendments also require additional approval as specified in this Declaration.

The foregoing notwithstanding, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval, as the case may be, so long as Declarant owns a Lot or Lots. The foregoing notwithstanding, this Declaration may also be amended by Declarant at any time prior to the Applicable Date if it has an ownership interest in the Property.

ARTICLE XVI
PARTS OF THE PROPERTY

Section 1. Granting of Permits, Licenses and Easements. The Association is granted the authority to grant permits, licenses and easements over the Common Areas for roads, access and other purposes necessary for the proper operation of the Development as provided herein; provided, however,

that the Association and each Owner shall be prohibited from granting permits, licenses and easements over any Lot, Common Area, or any other portion of the Development for any Community Intranet Services, Security Monitoring Services, Communication Services or Utility Services without the prior written consent of the Access Entity, Declarant, or the designees, successors or assigns thereof, which may be granted or withheld in their sole discretion. In no event shall the Association or an Owner impair or limit the Development's Common Services Easements and Restrictions (as defined in Article XVI, Section 2.A hereof) or the operations of the Community Intranet Services, Security Monitoring Services, any other Communication Services or Utility Services derived thereof.

The Declarant shall retain and reserve and is hereby granted the authority to grant permanent easements for the use and enjoyment of the Common Area or portions thereof to any Owners, their families, tenants, guests, and homeowner associations and members of such homeowner associations of real estate adjacent or contiguous to the Property (collectively the "Adjacent Owners") and to provide for the cost of maintenance and operation thereof including payments of joint assessments by such Adjacent Owners upon terms and conditions the Declarant deems appropriate ("Adjacent Owners Easement and Maintenance Agreement").

Section 2. Reservation of Rights to the Use of the Property.

A. Access Entity Communication Services and Utility Easements. The Declarant has granted to the Access Entity the Common Services Easements and Restrictions, incorporated herein by this reference ("Common Services Easements and Restrictions"). The Access Entity has an exclusive perpetual easement over, above, across, upon, along, in, through, and under the Development (i) for the purposes of owning, installing, maintaining, repairing, replacing, relocating, improving, expanding and otherwise servicing the Facilities of any type bringing the Community Intranet Services, Security Monitoring Services, any other Communication Services and any Utility Services to each Lot and any improvements on the Common Area, (ii) to provide access, ingress and egress to, from, over, above, upon, along, in, through and under the Development, and (iii) to make improvements to and within the Development to provide for the rendering of public and quasi-public services to the Development (collectively referred to as the "Declarant's General Easement"). The easements, rights and privileges conveyed to the Access Entity under the Common Services Easements and Restrictions is transferable by the Access Entity to any Person solely at the option and benefit of the Access Entity, its designees, successors or assigns without notice to or consent of the Association, the Owners or any other Person. The Access Entity may at any time and from time to time grant similar or lesser easements, rights, or privileges to other Persons. By way of example, but not in limitation of the generality of the foregoing, the Access Entity, and others to whom Access Entity may grant such similar or lesser easements, rights, or privileges, may so use any portion of the Development to supply telecommunication services to each Home and to permit public and quasi-public vehicles, including, without limitation, police, fire, and other emergency vehicles, trash and garbage collections, post office vehicles, and privately-owner delivery vehicles, and their personnel to enter upon and use the drives and streets, and the Common Area, of the Development in the performance of their duties. The Declarant's General Easement shall be for exclusive benefit the Access Entity, its designees, successor or assigns and may not be impaired, limited or transferred, sold or granted to any Person by the Association or the Owners.

B. Plat Easement Areas. In addition to such other easements created in this Declaration or in a supplemental declaration, and as may be created by the Declarant pursuant to other written instruments recorded in the Office of the Recorder of HAMILTON County, Indiana, the Property shall be subject to drainage easements, sanitary sewer easements, utility easements, and dedicated streets, either separately or in any combination thereof, granted by the Declarant in this Declaration or by private

easements. The plat legends for the location of private easements and dedicated streets merely show the location of the areas for such private easements and dedicated streets on the plats for the Development. Such areas are reserved for the use of Declarant, the Association, the Owners, private utilities, and public, quasi-public and governmental agencies, respectively, as follows:

(i) Drainage Easements. The Drainage Easements are hereby granted and created for the limited purposes of providing paths and courses for area and local storm drainage, either over land or in an adequate underground conduit, to serve the needs of the Development and adjoining ground and/or public drainage systems, and it shall be the Association's responsibility to maintain the drainage across the Common Area in the Development. The areas of the Drainage Easements are marked, either separately or in combination, on the Plat. Said areas are subject to construction or reconstruction solely to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage on the Property, by Declarant and by the Association; provided, however, such private easement shall not confer in any way any obligation to perform such construction or reconstruction upon the Declarant or the Association. Under no circumstances shall said private easement be blocked in any manner by the construction or reconstruction of any improvement. The Owner of any Lot subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on the Lot free from obstructions so that the surface water drainage will be unimpeded. The Drainage Easement is created and reserved (i) for the use of Declarant during the Development Period (as such term is defined in this Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Property and adjoining property and (ii) for the use of the Association and for access to and maintenance, repair, and replacement of such drainage system. Drainage swales, (ditches) located within Drainage Easements shall not be altered, dug out, filled in, tiled in or otherwise changed without the written consent of the HAMILTON County Drainage Board or any other governmental authority having jurisdiction over drainage on the Property ("Drainage Board"). Owners must maintain these swales as sodded grass ways or other non-eroding surfaces. Owners violating the Drainage Easement will be subject to action by the Drainage Board which may include the Drainage Board restoring such swale to the proper state which cost shall be the responsibility of the Owner. There is a part of the Property on the Plat marked "Common Area." The Common Area shall be used (i) for storm water retention drainage purpose; (ii) for the aesthetic and visual enjoyment of the Owners of Lots and (iii) following the end of the Development Period, for such purposes allowed herein.

(ii) Sewer Easement. The Sewer Easements are granted and created for the exclusive use of the sewer utility having jurisdiction over the sanitary waste disposal system of said town, city and/or county designated to serve the Development for the sole purpose of installation and maintenance of sewers that are part of said system. The areas of the Sewer Easements are marked, either separately or in combination, on the Plat. Each Owner of a Lot must connect with any public sanitary sewer available. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant, its designees, successors or assigns; provided, however, such easements shall be subject to and include, without limitation, Common Services Easements and Restrictions (as described in Article XVI, Section 2.A hereof).

(iii) Dedicated Streets. The dedicated rights-of-way (denoted "R/W" on the plats and plans as a "Drive", "Place", "Court" or "Street" with a "R/W", being demarcated as being 50' across (hereinafter referred to as the "Dedicated Streets") as shown on the Plats and Plans shall be subject to a limited dedication to the public for only roadway purposes by specific notation on the Plat or by separate instrument. Any Dedicated Streets shall be subject to, without limitation, the following: (i) The Declarant's Reserved Easements (as described in Article IV, Section 3 hereof), (ii) The Common Services Easements and Restrictions as described in Article XVI, Section 2.A, and (iii) The Non-Exclusive

License Agreement recorded as instrument number 200300128068 in the Office of the Recorder of HAMILTON County, Indiana. Without limiting the foregoing, no Communication Services or Utility Services shall be allowed to be installed in, over or under the Dedicated Streets without the prior written consent of the Access Entity, the Declarant, or its/their designees, successors or assigns which may be granted in their sole and complete discretion.

(iv) Utility Easements. Utility Easements shall be granted and created by separate private utility easements granted and conveyed to each private or public utility selected by the Declarant in its sole and complete discretion. The areas of Utility Easements are marked, either separately or in combination, on the Plat. The Utility Easement areas are created for the exclusive use of the Declarant, its designees, successors or assigns, for the installation and maintenance of Communication Services and Utility Services as the Declarant may deem necessary for the development of its sole and complete discretion.

(v) Subordination and Limitation. The easements referenced in this Article XVI, Section 2.B shall be subordinate and subject to, without limitation, the Common Services Easement and Restrictions (as described in Article XVI, Section 2.A hereof).

ARTICLE XVII
ENFORCEMENT

Section 1. Remedies. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Declarant and Association, any person or entity having any right title or interest in the Real Estate (or any part thereof), or any Person having any right, title or interest in a Lot which is now or hereafter made subject to the Declaration, and all persons or entities claiming under them, against the Person violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and reasonable attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Declarant nor the Association shall be liable for damages of any kind to any Person for failing to enforce the provisions of this Declaration.

IN WITNESS WHEREOF, as of the Effective Date.

Estridge Development Company, Inc.

By: _____
Craig Kunkle, Director of Operations

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State this 1 day of December, 2005, personally appeared **CRAIG KUNKLE, DIRECTOR OF OPERATIONS** of the Grantor who acknowledges the execution of the foregoing instrument and consent on behalf of such entity and by its authority for the purposes set forth therein.

My Commission Expires: 12-17-2006

Donna Aronson
Notary Public

Marion
My County of Residence:

Donna Aronson
Printed

DONNA ARONSON
Res. of Marion County
Comm. Expires : 12/17/2006

ACCESS ENTITY CONSENT

THE ACCESS ENTITY HEREBY CONSENTS TO THIS AMENDMENT TO DECLARATION.

CENTENNIAL ACCESS PROPERTIES, LLC

By: _____
Michael J. Keller, Manager

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, a Notary Public in and for said County and State this 1 day of December, 2005, personally appeared **MICHAEL J. KELLER, MANAGER OF THE ACCESS ENTITY,** who acknowledges the execution of the foregoing instrument and consent on behalf of such entity and by its authority for the purposes set forth therein.

My Commission Expires: 12-17-2006

_____
My County of Residence: Marion

_____
Notary Public
Donna Aronson
Printed

THIS INSTRUMENT PREPARED BY:

Nick Bacon
Clay Terrace South
14300 Clay Terrace Blvd., Suite 200
Carmel, Indiana 46032

NOTARY PUBLIC SEAL INDIANA
DONNA ARONSON
Res. of Marion County
Comm. Expires : 12/17/2006

EXHIBIT A

Legal Description:

Tract 1:

A part of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, more particularly described as follows: Beginning Two Hundred Fifty-five (255) feet West of the Northeast corner of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, running thence South Three Hundred Fifty (350) feet to an iron stake; thence West Four Hundred Thirty-six (436.0) feet to an iron stake; thence North Three Hundred Fifty (350) feet to the North line of said Northwest Quarter; thence East Four Hundred Thirty-six (436.0) feet to the place of beginning, containing 3.50 acres, more or less.

EXCEPT: Beginning 511 feet West of the Northeast corner of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, and on the North line thereof, thence South parallel with the East line of said Quarter Section 350 feet; thence West parallel with the North line of said Quarter Section 180 feet, thence North parallel with the East line of said Quarter Section 350 feet to the North line thereof; thence East on and along aforesaid North line 180 feet to the place of beginning, containing in said exception, 1.45 acres, more or less.

ALSO EXCEPT: A part of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "A", described as follows: Beginning at a point on the north line of said section North 89 degrees 43 minutes 14 seconds West 77.724 meters (255.0 feet) from the northeast corner of said quarter section, which point of beginning is the northeast corner of the grantors' land; thence South 0 degrees 12 minutes 32 seconds East 15.001 meters (49.22 feet) along the east line of the grantors' land; thence parallel with the north line of said section North 89 degrees 43 minutes 14 seconds West 78.029 meters (256.00 feet) to the west line of the grantors' land; thence North 0 degrees 12 minutes 32 seconds West 15.001 meters (49.22 feet) along said west line to the north line of said section; thence South 89 degrees 43 minutes 14 seconds East 78.029 meters (256.00 feet) along said north line to the point of beginning and containing 0.1170 hectares (0.289 acres), more or less.

Tract 2:

A part of the Northeast Quarter of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, in Hamilton County, Indiana, and being more particularly described as follows:

Beginning at a point which is West 255.00 feet and South 00 degrees 21 minutes 42 seconds East, 350.00 feet to the northeast corner of said Quarter Quarter; thence South 00 degrees 21 minutes 42 seconds East and parallel with the east line of said Quarter Quarter Section a distance of 970.00 feet to a point; thence west and parallel with the north line of said Quarter Quarter a distance of 225.00 feet to a point; thence North 00 degrees 21 minutes 42 seconds West a distance of 970.00 feet to a point; thence east and parallel with the north line of said Quarter Quarter a distance of 225.00 feet to a point, said point being the place of beginning.

Tract 3:

Part of the North Half of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being more particularly described as follows:

Beginning at a point on the North line of said half-quarter Section being 120.00 feet from the Northeast corner thereof thence South, parallel with the East line of said half-quarter section, 50.00 feet; thence East, parallel with said North line, 5.00 feet; thence South parallel with said East line, 262.93 feet; thence West, parallel with said North line, 140.00 feet; thence North parallel with said East line, 312.93 feet to said North line; thence East along said North line 135.00 feet to the place of beginning.

EXCEPT: A part of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being that part of grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit"A", described as follows: Beginning at a point on the north line of said section North 89 degrees 43 minutes 14 seconds West 36.576 meters (120.00 feet) from the northeast corner of said quarter section, which point of beginning is the northeast corner of the grantors' land; thence South 0 degrees 12 minutes 32 seconds East 15.001 meters (49.22 feet) along the east line of the grantors' land; thence parallel with the north line of said section North 89 degrees 43 minutes 14 seconds West 41.148 meters (135.00 feet) to the west line of the grantors' land; thence North 0 degrees 12 minutes 32 seconds West 15.001 meters (49.22 feet) along said west line to the north line of said section; thence South 89 degrees 43 minutes 14 seconds East 41.148 meters (135.00 feet) along said north line to the point of beginning and containing 0.0617 hectares (0.153 acres), more or less.

Tract 4:

Part of the North Half of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at the Northeast corner of said half-quarter section; thence South along the East line of said half-quarter section 1320 feet to the Southeast corner thereof; thence West along the South line of said half-quarter section 255.00 feet; thence North, parallel with said east line, 1007.07 feet to a point 312.93 feet South of the North line of said half-quarter section; thence East, parallel with said north line 140.00 feet; thence North parallel with said east line, 262.93 feet; thence West, parallel with said north line, 5.00 feet; thence North, parallel with said east line, 50.00 feet to said north line; thence East along said north line 120.00 feet to the point of beginning and containing 6.73 acres, more or less.

EXCEPT: A part of the Northwest Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being that part of grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "A", described as follows: Beginning at the northeast corner of said quarter section; thence South 0 degrees 12 minutes 32 seconds East 15.001 meters (49.22 feet) along the east line of said quarter section to point "195" designated on said plat; thence parallel with the north line of said section North 89 degrees 43 minutes 14 seconds West 36.576 meters (120.00 feet) to the west line of the grantors' land; thence North 0 degrees 12 minutes 32 seconds West 15.001 meters (49.22 feet) along said west line to the north line of said section; thence South 89 degrees 43 minutes 14 seconds East 36.576 meters (120.00 feet) along said north line to the point of beginning and containing 0.0549 hectares (0.136 acres), more or less.

Tract 5:

Part of the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Northwest Corner of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana; hence South 00 degrees 11 minutes 29 seconds West (assumed bearing) 320.00 feet along the West line of said Northeast Quarter to the Point of Beginning of the following described real estate, said point being marked with a 5/8 inch diameter rebar with a yellow cap

stamped :WEIHE ENGR LS 0012"-("capped rebar"); thence continue South 00 degrees 11 minutes 29 seconds West 1000.83 feet along said West line to a "capped rebar", said point being on the North line of Woodfield Subdivision-Section Four; thence South 89 degrees 33 minutes 24 seconds East 130.57 feet along the North line of said Woodfield Subdivision and the same being the South line of said quarter quarter section to a "capped rebar"; thence North 00 degrees 11 minutes 29 seconds East 1000.89 feet parallel with said West line to a "capped rebar"; thence North 89 degrees 35 minutes 01 seconds West 130.57 feet parallel with the North line of said Northeast Quarter to the Point of Beginning. Containing 3.000 acres, more or less.

Tract 6:

Part of the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Northwest Corner of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana; thence South 89 degrees 35 minutes 01 seconds East (Assumed Bearing) 272.25 feet along the North line of said quarter section to the Point of Beginning of the following described real estate; thence South 00 degrees 11 minutes 29 seconds Wes 320.00 feet parallel with the West line of said Northeast Quarter to a 5/8 inch diameter rebar with a yellow cap marked (WEIHE ENGR LS 0012"-("capped rebar"); thence North 89 degrees 35 minutes 01 seconds West 141.68 feet parallel with the North line of said quarter section to a "capped rebar"; thence South 00 degrees 11 minutes 29 seconds West 1000.89 feet parallel with the West line of said quarter section to a "capped rebar" on the north line of Woodfield Subdivision-Section Four; thence South 89 degrees 33 minutes 24 seconds East 1211.01 feet along the North lines of Woodfield Subdivision-Section Four and Five the same being the South line of said quarter quarter to the center of the Northeast Quarter of said Section 21, said point being marked with a "capped rebar"; thence North 00 degrees 11 minutes 25 seconds East 1321.46 feet along the East line of the West Half of said quarter quarter to the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section; thence North 89 degrees 35 minutes 01 seconds West 1069.30 feet along the North line of said quarter quarter to the Point of Beginning. Containing 35.688 acres, more or less.

EXCEPT: A part of the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being that part of the grantor's land lying

within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "A", described as follows: Beginning at a point on the north line of said section South 89 degrees 43 minutes 03 seconds East 82.982 meters (272.25 feet) from the northwest corner of said quarter section, which point of beginning is the northwest corner of the grantor's land; thence South 89 degrees 43 minutes 03 seconds East 325.942 meters (1,069.36 feet (1,069.30 feet by Instrument 9609648253)) along the north line of said section to the northeast corner of said quarter-quarter section; thence South 0 degrees 04 minutes 25 seconds East 14.500 meters (47.57 feet) along the east line of said quarter-quarter section to point "254" designated on said plat; thence South 87 degrees 00 minutes 55 seconds West 61.420 meters (201.52 feet) to point "253" designated on said plat; thence North 84 degrees 00 minutes 25 seconds West 20.100 meters (65.94 feet) to point "252" designated on said plat; thence parallel with the north line of said section North 89 degrees 43 minutes 03 seconds West 244.575 meters (802.41 feet) to point "251" designated on said plat on the west line of the grantor's land; thence North 0 degrees 12 minutes 32 seconds West 16.001 meters (52.50 feet) along said west line to the point of beginning and containing 0.5250 hectares (1.297 acres), more or less.

Tract 7:

Part of the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Northwest Corner of the Northeast Quarter of Section 21, Township 18 North, Range 4 East of the Second Principal Meridian in Clay Township of Hamilton County, Indiana; thence South 89 degrees 35 minutes 01 seconds East (Assumed Bearing) 272.25 feet along the North line of said quarter; thence South 00 degrees 11 minutes 29 seconds West 320.00 feet parallel with the West line of said Northeast Quarter to a 5/8 inch diameter rebar with a yellow cap marked "WEIHE ENGR LS 0012"-(capped rebar"); thence North 89 degrees 35 minutes 01 seconds West 272.25 feet parallel with the North line of said quarter section to a "capped rebar" on the West line of said Northeast Quarter; thence North 00 degrees 11 minutes 29 seconds East 320.00 feet to the Beginning. Containing 2.000 acres, more or less.

EXCEPT: A part of the Northwest Quarter of the Northeast Quarter of Section 21, Township 18 North, Range 4 East, Hamilton County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "A", described as follows: Beginning at the northwest corner of said quarter section; thence

South 89 degrees 43 minutes 03 seconds East 82.982 meters (272.25 feet) along the north line of said section to the northeast corner of the grantor's land; thence South 0 degrees 12 minutes 32 seconds East 15.001 meters (49.22 feet) along the east line of the grantor's land to point "246" designated on said plat; thence parallel with the north line of said section North 89 degrees 43 minutes 03 seconds West 82.982 meters (272.25 feet) to point "196" designated on said plat on the west line of said quarter section; thence North 0 degrees 12 minutes 32 seconds West 15.001 meters (49.22 feet) along said west line to the point of beginning and containing 0.1245 hectares (0.308 acres), more or less.

NOTE: The acreage shown above is included for descriptive purposes only. The policies, when issued, should not be construed as to insuring the amount of acreage included therein.

End of Legal Description

FIRST AMERICAN