DECLARATION OF HORIZONTAL PROPERTY REGIME
HOLIDAY PINES TWO, PHASE 2
HORIZONTAL PROPERTY REGIME

THIS DECLARATION, made this 14th day of Aug., 2003, by the "Declarant", Pines Development Group, Inc., an Indiana corporation.

WITNESSETH:

A. Whereas Declarant is the owner in fee simple of the following described real estate, located in Hendricks County, Indiana, to-wit:

See Exhibit "A"

B. Whereas Declarant is the owner in fee simple of certain real estate within the above described real estate described as Section 1, Phase 2, Holiday Pines Two Horizontal Property Regime, and more particularly described as follows:

See Exhibit "B"

C. Whereas, Declarant, by execution of this Declaration creates a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. The following definitions shall apply throughout this Declaration:

(a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Section 1 through 31, as amended. The Act is incorporated herein by reference.

(b) "Additional Sections" means the real estate referred to in paragraph 16, which may in part or in whole from time to time be annexed to and included within "the regime" as provided in paragraph 16, all of which will be a part of the proposed tract.

(c) "Association" means the incorporated association of Co-Owners of "the Regime", more particularly described in paragraph 13.

(d) "Board of Managers" means the governing body of the Association elected by the Co-Owners in accordance with the By-Laws. The term "Board of Managers", as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.

(e) "Building", if and when used, shall mean and be the same as "Dwelling Unit".
(f) "By-Laws" mean the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.

(g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.

(h) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas, except as otherwise expressly provided in this Declaration or the By-Laws, and all sums lawfully assessed against the owners by the association or as declared by the act, this declaration or the by-laws.

(i) "Co-Owners" means the Owners of all the Dwelling Units.

(j) "Declarant" means the Owner of the real estate described at the time of the filing of this Declaration, its successors and assigns to its interest herein, other than those persons who purchase Dwelling Units by deed from the Declarant, unless the conveyance indicated an intent that grantee become the Declarant.

(k) "Dwelling Unit" means one of the individual units constituting "the Regime", each individual unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.

(l) "Formula" means the method set forth in paragraph 8 of this Declaration for computing the Percentage Interest applicable to each Dwelling Unit.

(m) "The Regime" means the name by which the Property and Horizontal Property regime shall be known.

(n) "Limited Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration.

(o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to the Dwelling Unit.

(p) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the common areas and limited areas appertaining to each dwelling unit as determined in accordance with paragraphs 8 and 17 of this declaration.

(q) "Percentage Vote" means an Owner's percentage vote and is the relationship of his vote to the total eligible votes expressed as a percentage as determined in accord with paragraph 8 and 16 of this Declaration.
(t) "Section" means a part of the tract upon which dwelling units are constructed and annexed to "the regime" as provided in paragraph 16. Each particular section shall be identified by an Arabic numeral designation corresponding to the order of annexation.

(s) "Plants" means a plat showing the location of the building, the elevations, the dwelling units within the building, Arabic identification numbers for each dwelling unit and the outside dimensions for each building, duly certified, all of which is incorporated herein by reference. "Plants" also shall include the supplemental plans which shall be prepared, verified and filed with each supplemental declaration, depicting the location of the buildings, the dwelling units within the buildings, Arabic identification numbers for each dwelling unit and the outside dimensions for buildings, which are constructed on the sections of the tract when and if annexed to and made a part of "the regime".

(t) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of "the Regime".

(u) "Tract" means the total real estate described in paragraph A above.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Dwelling Units. Holiday Pines Two, Phase 2, consists of 56 units. To be built on land described by the plat (Recorded 8-24-2002, P.C.S., S1, E7, pg. 2A & 8)

The dwelling units in the additional section or sections, when annexed, shall be identified numerically, the exact number of dwelling units to be identified and referred to in the supplemental declaration and supplemental plans annexing such section or sections to "the regime".

4. Identification of the Dwelling Unit. Each Dwelling Unit is also identified by an Arabic number on the Plans, same referring to the individual Dwelling Unit.

The legal description for each Dwelling Unit shall consist of the Arabic number designation of the particular Dwelling Unit along with the Arabic number designation of the building containing the Dwelling Unit.
5. **Further Description of Dwelling Units.**

(a) Boundaries: The dimensions required to determine the boundaries of each dwelling Unit shall be shown on the Plans and will include all the space bounded by the bottom of the concrete Garage floor and any covered porch slab, and the top of the floor joists to the bottom of all ceiling joists including garage and covered porch ceiling joists in a horizontal plane and the inside surfaces of all perimeter stud walls extended to include any covered porch in a vertical plane. In the event any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside the actual boundary line of the Dwelling Unit, but within the appropriate areas of the Dwelling Unit.

(b) Appurtenances: Each Dwelling Unit shall consist of all space within the Boundaries thereof and all portions of the structure thereof situated, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designated and intended for common use. All fixtures, equipment and appliances intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, even if they are located partly or completely outside the boundaries of said Dwelling Unit. Those may include but are not limited to air conditioner condensing units.

6. **Common Area and Facilities.** Common areas mean and include (1) the Tract, (2) the yards, planting areas, and drainage areas, (3) central electricity, gas, and sanitary sewer mains, (4) exterior lighting fixtures and electrical service, except where separately metered to a particular Dwelling Unit, (5) all facilities and appurtenances located outside of the boundary lines of the Dwelling Units, except those areas and facilities expressly defined as being part of the Dwelling Unit as described in paragraph 5(b).

7. **Limited Common Area and Facilities.** Limited Areas and those Dwellings for which the use thereof is limited are as follows:

(a) Front Porch. The Front Porch through which access to a Dwelling Unit is obtained is limited to the use of the Dwelling Unit or Dwelling Units served by such entranceway.

(b) Driveways. The driveways, walkways, and similar areas used for access to particular individual Dwelling Units serving such Dwelling Units are limited to the use of the Dwelling Unit so served.
(c) Back Yard. A ten-foot area of even width parallel to and across the back of each unit shall serve as a limited common area for the use of that unit owner.

8. **Ownership of Common Areas, Percentage Interest, and Percentage Vote.** Each Owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Owners equal to his Dwelling Unit's Percentage Interest. Each Dwelling Unit's Percentage Interest in the Common Areas and Limited Areas shall be determined in accord with the Formula set forth in paragraph 16 of this Declaration.

If the regime consists only of Section One, each dwelling unit's percentage interest shall be that as each unit bears to all units in the section. As sections are annexed, as permitted and contemplated by paragraph 16 of this declaration, upon execution of the applicable supplemental declaration, the percentage interest of each dwelling unit in the section or sections which are a part of the regime prior to such annexation shall automatically reduce in accord with the formula. The owners of dwelling units in the section or sections which are a part of the regime prior to such annexation shall be granted and receive a percentage interest in the common area of such section of the additional tract being annexed, the precise percentage interest to be determined according to the formula and designated in the supplemental declaration.

Each Owner shall have an equal vote on any matter upon which the Co-Owners are entitled to vote. Each Owner is entitled to one vote. A multiple Owner, meaning an Owner of more than one Unit, is entitled to multiple votes, that is one vote for each Unit owned.

The Percentage Interest appertaining to each Dwelling Unit as determined by paragraph 16 also shall be the Percentage Vote allocable to the Owner thereof in all matters with respect to the Regime and the Association upon which the Co-Owners are entitled to vote, but not limited to, the election of the Board of Managers.

9. **Encroachments and Easements for Common Areas.** If, by reason of the location, construction settling, or shifting of a Dwelling Unit, a Common Area or Limited Area now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use, and enjoyment of such Common Areas or Limited Areas.

Each owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities.

10. **Real Estate Taxes.** Real Estate taxes are to be separately taxed to each Dwelling Unit as provided in the act. In the event that for any year real estate taxes are not assessed and taxed on the Tract, or a part thereof, as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share will be determined as follows:
With respect to the real estate taxes assessed against the land, the amount of such
taxes shall be a sum equal to that Owner’s Percentage Interest multiplied by the
total real estate taxes assessed against the land. Declarant will pay for the taxes
on the real estate until annexed.

With respect to the real estate taxes assessed against the improvements, the
respective Owners will be fully obligated to pay the amounts assessed against the
same.

All other taxes assessed against the real estate or improvements shall be
calculated by the same formula as set forth in (a) above and paid for according to
each Co-Owner’s Percentage Interest.

11. **Utilities.** Each Owner shall pay for his own utilities, which are separately
metered. Utilities which are not separately metered shall be treated as and be paid as part
of the Common Expenses.

12. **Easement for Utilities and Public and Quasi-Public Vehicles.** All public
and quasi-public vehicles, including, but not limited to, police, fire, and other emergency
vehicles, trash and garbage collection, post office vehicles and privately owned delivery
vehicles, shall have the right to enter upon the streets, Common Areas, and Limited Areas
of “the Regime” in performance of their duties. An easement is also granted for all areas
of “the Regime” including privately owned units, to all utilities and their agents for
 ingress, egress, installation, replacement, repairing, and maintaining of such utilities,
including but not limited to, water, sewers, gas, telephones, and electricity on the
property; provided, however, nothing herein shall permit the installation of sewers,
electric lines, water lines, or other utilities, except as initially designed and approved by
Declarant or as thereafter may be approved by the Board of Managers. By virtue of this
easement, the electric and telephone utilities are expressly permitted to erect and maintain
the necessary equipment on the Property and to affix and maintain electric and telephone
wires, circuits and conduits on, above, across and under the roofs and exterior walls of
the Buildings.

13. **Association of Owners.** In order to provide for the maintenance, repair,
replacement, administration and operation of the Property and in compliance with the
provisions of the Act, there is hereby created an association of the Co-Owners of the
 Dwelling Units in “the Regime” to be known as the Holiday Pines Condominiums Two,
Phase 2, Co-Owners Association, Inc. Each Owner shall be a member of the Association,
but membership shall terminate when such person ceases to be an Owner, and such
membership will be transferred to the new Owner.

The Association shall elect a Board of Managers annually in accordance with and
as prescribed by the By-Laws. The Co-Owners shall be entitled to cast their Percentage
Vote for the election of the Board of Managers.
The Board of Managers shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the property.

14. **Maintenance, Decoration, Repairs and Replacements.** The Co-Owners' Association shall be responsible for the maintenance, repairs, decoration and replacement of the exterior of each Dwelling Unit except the glass portions and doors and garage doors. The Board of Managers reserve the exclusive right to determine the outside decor of each Dwelling Unit inclusive, but not exclusive of, color and paint, and all decor appurtenant to the aesthetics of each individual unit. Exclusive of those aesthetics that are visible from the outside of the Dwelling Units, each Owner shall control and reserve the right of decoration of his or her Dwelling Unit on the inside. Each Owner shall repair any defect occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, Common Areas, or Limited Areas. Maintenance, repairs, and replacements and upkeep of the Common Areas shall be furnished by the Association as part of the Common Expenses.

The Board of Managers shall adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, including the appointment of committees to oversee same.

The Board of Managers or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into the Common Areas and Limited Areas appurtenant to the Dwelling Units to replace, repair, and maintain same.

15. **Alterations, Additions, and Improvements.** No Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alterations to his respective Dwelling Unit or within the boundaries thereof which would adversely affect the safety or structural portion of the Dwelling Unit.

16. **Expansion by Sections.** Declarant anticipates that it will construct additional dwelling units on additional sections by expansion within the tract, all or part of which may be expanded in the manner hereinafter set forth, and subject to the provisions of the act. The general plan of development shall not exceed 56 units total. A time limit, not exceeding seven (7) years, shall be the limit where additional sections may be added.

At any time prior to January 1, 2010, Declarant, at his option, may, but is not obligated to cause all or part of the additional section or sections within the tract to be expanded, subject to the following conditions:

(a) Another section or sections may be annexed if the dwelling units to be constructed in such section or sections have been completed to such an extent that the units' location may be accurately set and the supplemental
plans to be filed with the supplemental declaration are completed and certified
to by the engineer or architect as fully and accurately depicting the layout,
location, and dimensions of the dwelling units. Declarant shall reserve the
right to determine the developmental standards of each section.

(b) The dwelling units on any section to be annexed shall be constructed
with labor and material of comparable quality to the dwelling units
previously constructed although not necessarily of similar type floor plan,
design or exterior.

(c) Declarant, or its assign, shall be the sole owner of the fee simple title
to the section or sections to be annexed.

Declarant expressly reserves the right not to annex any or all of the tract in
sections after Section One. No owner shall acquire any rights whatsoever in the tract
except as to those sections which are annexed to and made a part of the horizontal
property regime. After each section is annexed, those co-owners owning dwelling units
in the section or sections being turned over shall then incur and pay all common expenses
attendant with that section or sections according to the formula and their respective
percentage interest. Units under construction, models, and unsold units and the common
areas associated with such units shall not be assessed and shall be maintained by the
Declarant until sold.

17. **Percentage Interest.** The Owner of each Dwelling Unit shall have the
same Percentage Interest and Percentage Vote as all other Owners and there shall be no
differentiation based upon the size of such Dwelling Unit. Each Owner shall be equal as
to the Percentage Interest and Percentage Vote.

The percentage interest appurtenant to each unit shall be computed and, upon the
annexation of an additional section or sections, same shall be recomputed dividing among
the then-existing dwelling unit owners an equal share to the extent that the total shares at
all times equal 100%. The percentage interest and percentage vote shall be expressed as
a fraction if necessary when the number of units is not evenly divisible into 100 so that
the total interest and vote equals 100% at all times.

As each section is developed, Declarant shall record a supplemental declaration
annexing and adding such section to this declaration and making it a part of "the regime".
Declarant reserves the right to annex additional sections thereof that are not necessarily in
numerical order shown on the plans. Such supplemental declaration shall contain the
following:

(a) A description of the real estate to be annexed;

(b) A description of the dwelling units described in a manner consistent
with this declaration;
(c) The percentage interest of all dwelling units upon annexation, computed in accordance with the formula.

Each owner, by acceptance of a deed to a dwelling unit, acknowledges, consents, and agrees that the following rights and conditions shall be applicable upon the recording of each supplemental declaration:

(a) The section described in each supplemental declaration shall be governed in all applicable respects by the provisions of this declaration.

(b) The percentage interest applicable to each dwelling unit shall be automatically reallocated in accordance with the schedule set forth in such supplemental declaration, which shall be based upon the formula. On recording of each supplemental declaration, the amount by which the percentage interest of a dwelling unit is reduced thereby shall be deemed to release and divest that amount from such dwelling unit owner and revert to the Declarant, its successors and assigns.

(c) Each deed, mortgage, or other instrument affecting a dwelling unit shall be deemed given subject to the limitation that the percentage interest appurtenant to each dwelling unit shall be, upon the recording of each supplemental declaration, altered in accordance with the supplemental declaration based upon the formula.

(d) The percentage interest in the common areas and limited areas appurtenant to each dwelling unit shall be deemed to include any additional common areas and limited areas annexed hereto by a supplemental declaration, which supplemental declaration shall grant and convey to the owners the appropriate percentage interest, and each deed, mortgage, or other instrument affecting a dwelling unit shall be deemed to include such additional common areas and limited areas, and the ownership of any dwelling unit and lien of any mortgage shall automatically include and attach to such additional common area and limited area upon recording of such supplemental declaration.

(e) The recording of a supplemental declaration shall not alter the amount of the lien for common expenses assessed to a dwelling unit in a section already a part of the regime prior to such recording. The lien for the prorata share of common expenses for the sections annexed upon such recording shall be assessed and paid as provided in the by-laws.

(f) Each owner agrees for himself and all those claiming under him, including mortgagees, that this declaration and each supplemental declaration is and shall be deemed to be in accordance with the act, and for the purpose of this declaration and act, any changes in percentage interest as set forth in any supplemental declaration which is in accordance with
the formula expressed herein, shall be deemed to be made by agreement of all owners.

(g) Each owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the sections in the tract in accordance with the provisions and intent of this paragraph 17.

(h) Each owner, by acceptance of a deed to a dwelling unit, shall thereby appoint Declarant or its nominee as such owner's attorney-in-fact for the purpose of reallocating from time to time the percentage interest appurtenant to such owner's dwelling unit in accordance with the provisions of this paragraph 16, and, to the extent required by law to carry out the intent of this paragraph 16, on behalf of such owner to consent to or vote in favor of the amendment of this declaration, as well as to do all things as contained in such agreement allowing Declarant to act as attorney-in-fact, which agreement for a power of attorney and power of attorney are incorporated herein by reference. The appointment of Declarant or its nominee as such attorney-in-fact and the granting of such special power to Declarant or its nominee shall be deemed to be coupled with an interest in the common areas, and shall be irrevocable and binding upon the heirs, successors and assigns of such owner, but shall expire when all of the additional tract has been annexed, Declarant turns the project over to the co-owners, or on January 1, 2010 or 6 months after the last unit is sold whichever first occurs.

In the event Declarant does not elect to annex additional sections within the tract or any part thereof, as permitted by this paragraph 16, Declarant shall file a supplemental declaration which shall permanently remove that part of the tract that has not been annexed from any right to be made a part of "the regime", provided, however, any section for which a supplemental declaration has not been filed by January 1, 2010, shall automatically be removed from the possibility of becoming a part of "the regime" in the manner provided in this declaration. Upon the filing of such supplemental declaration removing a part of the additional tract from the possibility of becoming a part of "the regime" in accordance with this declaration, the percentage interest designed in the declaration or supplemental declaration last filed shall not be altered without the consent of all owners.

18. Easements to and From Additional Sections. In the event all or any part of the additional sections of the tract are not annexed, Declarant reserves unto itself, its successors and assigns, for the use and benefit of that part of the tract not annexed, the right and easement to enter upon the streets and common areas to provide ingress and egress to the additional sections. It is the purpose and intent of the easements herein granted or reserved to provide free and unrestricted use and access across the roadway and sidewalks for the owners and residents of the additional sections, their guests, invitees, and all public and quasi-public vehicles.
The easements granted and reserved in this paragraph 18 shall be easements and covenants running with the land and accruing to the benefit of the additional sections.

19. **Insurance.**

(a) The Co-Owners, through the association of Co-Owners, shall provide insurance that shall:

1) Provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the owners do not elect to restore pursuant to paragraph 18 below; and,

2) Contain a "replacement cost endorsement". Such insurance coverage shall be for the benefit of each owner and the association and, if applicable, the owner's mortgagee. The proceeds shall be payable to the association who shall hold such proceeds as trustee for the individual owners and mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this paragraph 17 and paragraph 18 of the declaration, as applicable, and any surety bond or bonds obtained by the Board covering the officers of "the Regime" as provided in the By-Laws shall specifically include protections for any insurance proceeds so received.

Such insurance shall inure to the benefit of each individual owner, the association, the Board of Managers, and any managing agent or company acting on behalf of the association, as their interests may appear. The Owners, as well as the Lessees, if any, shall be able to recover losses insured where applicable.

Each Owner shall have the right to purchase additional insurance he may deem necessary, and each Owner shall be solely responsible for loss or damage to the contents of his owner dwelling unit, however caused, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and his personal property stored elsewhere on the property. Each owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk including, but not limited to, living expenses.

(b) The Co-Owners through the association of Co-Owners shall purchase and pay for as part of the common Expenses, a master casualty policy affording fire and extended coverage insurance in an amount equal to the full replacement costs of the improvements that in whole, or in part, comprise the Common Areas and facilities. The Co-Owners through the Association of Co-Owners shall also purchase and pay for as part of the Common Expenses a master liability policy in an amount required by the By-Laws or Declaration as revised from time to time by a decision of the Board of Managers of the association, which policy shall cover the association of Co-Owners, the executive body, if any, the managing agent, if any, all persons acting or who may come to act as agents or employees of
any of the foregoing with respect to the condominiums, all condominium unit owners and all other persons entitled to occupy any unit or other portions of the condominium. Such other policies as may be required may be obtained and paid for as part of the common expenses and in amounts as determined by the Board of Managers, by the Co-Owners through the association, including, without limitation, workmen’s compensation insurance, liability insurance on motor vehicles owned by the association, specialized policies covering lands or improvements on which the association has or shares ownership or other rights, and officers’ and managers’ liability policies.

(c) When any policy of insurance has been obtained by or on behalf of the association of Co-Owners, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Co-Owner or Mortgagee whose interest may be affected thereby by the officer required to send notices of meetings of the association of Co-Owners.

20. **Disaster, Casualty and Restoration.**

(a) In case of fire or any other casualty or disaster, other than complete destruction of all buildings containing the condominium units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements.

(b) In the event of complete destruction of all of the buildings containing condominium units, the building(s) shall not be reconstructed, except as otherwise provided, and the insurance proceeds, if any, shall be divided among the Co-Owner(s) proportioned according to the fair market value of all other condominiums and the property considered as to be removed from the condominium under section 28 of the Act unless by vote of two-thirds (2/3) of all of the Co-Owners a decision is made to rebuild the buildings, in which case the insurance proceeds shall be applied and any excess of construction costs over insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the buildings.

(c) A determination of total destruction of the buildings containing condominium units shall be determined by a vote of two-thirds (2/3) of all Co-Owners at a special meeting of the association of Co-Owners called for that purpose.

(d) Where the improvements are not insured or where the insurance proceeds are not sufficient to cover the cost of repair or reconstruction and the property is not to be removed from the horizontal property regime, the Co-Owners shall contribute the balance of any such costs in the percentage by which a condominium unit owner owns an undivided interest in the Common Areas and facilities as expressed in the Declaration. Such amount shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided in Section 24 of the Act.
(e) If, pursuant to (a), (b) and (c) above, it is not determined by the Co-Owners to rebuild after a casualty or disaster has occurred, then in that event:

1) The property shall be deemed to be owned in common by the condominium unit owners;

2) The undivided interest in the property owned in common which shall appertain to each condominium unit owner shall be the percentage of undivided interest previously owned by such owner in the Common Areas and facilities;

3) Any liens affecting any of the condominium units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the condominium unit owner in property; and

4) The property shall be subject to an action for partition at the suit of any condominium unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the condominium unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the condominium unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each condominium unit owner.

21. **Sale of Dwelling by Declarant.** For the purpose of maintaining the residential character of the Regime, and for the protection of the Co-Owners, Declarant specifically reserves the mode and method of the original sale of each Unit until the last unit in the Regime is sold.

22. **Membership in the Co-Owners Association.** The Tract is subject to the covenants and restrictions contained herein. For the purpose of this Declaration, upon the recording of this Declaration, all the rights and obligations accruing to a Dwelling Unit shall include, but not be limited to, the obligation to pay the monthly assessments as provided in such Declaration, which monthly assessments are a lien on each Dwelling Unit, and the necessity and right to become a member of the Co-Owners Association, and to have a vote for each Dwelling Unit owned, pursuant to the formula heretofore set out.

23. **Covenants and Restrictions.** The covenants and restrictions applicable to the use and enjoyment of the Dwelling Units are set forth in the Code of By-Laws of the Co-Owners Association. These Covenants and Restrictions are for the mutual benefit and protection of the present Owners and shall run with the land and inure to the benefit of and be enforceable by the Owner, Co-Owners or by the Association. Present Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions, but there shall be no right to reversion or forfeiture of title resulting from such violation.
24. **Amendment of Declaration.** Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) **Notice.** Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered. The amendments to declaration dealing with the additional sections and reassignment of percentage interest in the respective sections, however, are not subject to the conditions of this section and may be adopted by the Board of Managers without notice.

The restrictions and prohibitions against amendments are further qualified by any right or grant given to the Declarant by virtue of the Agreement of Power of Attorney and Power of Attorney executed by the respective Owners in favor of the Declarant or its assigns, which Agreement and Power of Attorney are again incorporated herein by reference.

(b) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Managers or the Owners of at least a majority of the Percentage Vote.

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

(d) **Adoption.** Any proposed amendment to this Declaration must be approved by a vote of not less than a majority of the Percentage Vote.

(e) **Amendments.** No amendment to this Declaration shall be adopted which changes:

1) The Percentage Interest with respect to any Dwelling Unit or the applicable share of an Owner's Liability for the Common Expense without approval of all of the Co-Owners, except as otherwise provided relating to annexation;

2) The provisions of paragraph 16 of this Declaration except by the Declarant in the manner provided therein;

3) The provisions of paragraph 17 of this Declaration without the consent of the Declarant.

(f) **Recording.** Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.
25. **Acceptance and Ratification.** All present and future Owners, Mortgagees, tenants, and occupants of the Dwelling Unit shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any dwelling unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length with in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy, or control a Dwelling Unit or Dwelling Units, or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the Rules and Regulations applicable thereto as each may be amended from time to time.

26. **Rights of Mortgage Purchasers.** In the event Federal Home Loan Mortgage Corp., or other purchaser of a mortgage of any property in this Regime should request or require it, the Declarant or Board of Managers may fully satisfy such requirements and the right to act for and on behalf of such Co-Owners with regard to same is hereby conferred, among other things in the Agreement for Power of Attorney and Power of Attorney executed herewith by each Co-Owner.

27. **Negligence.** Each Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Dwelling Unit or its appurtenances or of the common Areas or Limited Areas.

28. **Reservation of Rights.** Declarant reserves the right to amend this Declaration without consent of the respective Owners until six (6) months after the last Dwelling Unit is sold, the project is turned over to the Co-Owners Association, or January 1, 2008, whichever occurs first. In the event there is an annexation or annexations of an additional section or sections, the same rule will apply to amendments and supplements to this declaration as pertains to each individual section. Declarant also reserves the right to determine the mode and method of sale of the Dwelling Units until the last such unit is sold.

29. **Costs and Attorneys' Fees.** In a proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the
Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

30. **Waiver.** No owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas or limited areas or by abandonment of his dwelling unit. Nor does the association waive the right to place a lien on the dwelling unit and foreclose same by failing to do so when payment is not timely made of the common expenses by the owner when due.

31. **Severability Clause.** The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or affect the rest of this Declaration or the attached By-Laws.

32. **Plans.** The Plans, as described in paragraph 1(s) of this Declaration, are incorporated into this Declaration by reference and have been filed in the Office of the Recorder of Hendricks County, Indiana, in Book , Page , as of , , and amended plans as may, from time to time, be so filed pursuant to this declaration, are also incorporated into this declaration.

33. **Drainage and Sewer Easements.** Declarant hereby reserves the open areas of the Tract as an undefined Drainage and Sewer Easement (D. & S. Easement). In doing so, it is the intention of Declarant to provide the needed flexibility to itself to properly install and allow to be maintained all sewer and drainage services, to the dwelling units constructed. The D. & S. Easement shall include all common areas. No other improvements or permanent structures (excluding walkways, pavement or driveways and fences) shall be placed within the D. & S. Easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of Declarant (while he develops the tract) and the Association to provide for and maintain appropriate drainage.

34. **Additional Easement Rights.** Declarant further reserves unto itself an easement and the full right, title and authority to relocate, alter or otherwise change the location of any drainage, utility, and sewer easement and to grant such further easements and licenses and right-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within the Tract or any portion of the Tract.

Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other easement Plat or amendment to the Plat recorded in the Office of the Recorder of Hendricks County, Indiana and any Owner of any Dwelling Unit shall take title subject to the rights and easements reserved herein; provided, however, the rights reserved in this Section shall
not be exercised in a manner which unreasonably and adversely affects any building or portion thereof or which unreasonably restricts the rights of ingress and egress to any Dwelling Unit. The rights and easements reserved by Declarant in this Section shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate one (1) year after Declarant shall have conveyed the last dwelling unit within the property or on January 1, 2016, whichever first occurs.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

PINES DEVELOPMENT GROUP, INC.

BY: William J. Roach, President

STATE OF INDIANA )
SS:
COUNTY OF HENDRICKS )

Before me, a Notary Public in and for said County and State, personally appeared Barry E. Roach, President of Pines Development Group, Inc., who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Ownership.

Witness my hand and seal this 14th day of August, 2003.

My commission expires: 5-5-11

(Signature)

Printed: Barry L.

County of Resi

THIS INSTRUMENT PREPARED BY: CHARLES E. HOSTETTER, ATTORNEY AT LAW
HOSTETTER & O'HARA
515 NORTH GREEN STREET, SUITE 2
BROWNSBURG, IN 46112
LAND DESCRIPTION
(Holiday Pines Two, Phase 2)

Part of the Southeast Quarter of the Northwest Quarter of Section 24, Township 16 North, Range 1 East of the Second Principal Meridian, Hendricks County, Indiana, described as follows:

Considering the East line of said Northwest Quarter as bearing South 00 degrees 09 minutes 29 seconds West with all bearings contained herein being relative thereto.

Commencing at a railroad spike with punch found per county ties marking the Northeast corner of said Northwest Quarter; thence South 00 degrees 09 minutes 29 seconds West along the east line of said Northwest Quarter 1334.35 feet to the Northeast corner of the Southeast Quarter of said Northwest Quarter and the POINT OF BEGINNING; thence continue South 00 degrees 09 minutes 29 seconds West along said east line 786.68 feet to the northeast corner of Holiday Pines Two, Phase 1A as per plat thereof recorded in Plat Cabinet 5, Slide 16, Page 1 in the Office of the Recorder of said county; thence North 89 degrees 50 minutes 31 seconds West along the north line of said plat 120.00 feet; thence North 00 degrees 09 minutes 29 seconds East along said north line 41.44 feet; thence North 89 degrees 50 minutes 31 seconds West along said north line 160.00 feet to the east line of Holiday Pines Two, Phase 1 as per plat thereof recorded in Plat Cabinet 4, Slide 84, Pages 2A & 2B in the said county records (the following four (4) courses being along the northerly line of said plat); 1) thence North 00 degrees 09 minutes 29 seconds East 170.02 feet; 2) thence North 89 degrees 39 minutes 10 seconds West 886.74 feet; 3) thence North 89 degrees 27 minutes 51 seconds West 50.00 feet; 4) thence North 89 degrees 55 minutes 16 seconds West 120.00 feet to the west line of the Southeast Quarter of said Northwest Quarter; thence North 00 degrees 04 minutes 44 seconds East along said west line 576.54 feet to the northwest corner of said Southeast Quarter-Quarter; thence South 89 degrees 39 minutes 10 seconds East along the north line thereof 1337.54 feet to the POINT OF BEGINNING, containing 18.890 acres, more or less.
LAND DESCRIPTION
Holiday Pines Two, Phase 2
Horizontal Property Regime, Section 1

That portion of Block "J", Holiday Pines Two, Phase 2, the Plat of which is recorded as Instrument No. 200300032927 in Plat Cabinet 5, Slide 87, Pages 2A & 2B in the Office of the Recorder of Hendricks County, Indiana, described as follows:

Beginning at the eastermost northerly corner of said Block "J", said point being the southeasterly point of curvature of Curve 7 of said Plat, said curve being a tangent curve to the left having a radius of 15.00 feet and a central angle of 89 degrees 48 minutes 40 seconds; thence northerly, northwesterly, and westerly along the arc of said curve and northeasterly line of said Block "J" 23.51 feet; thence North 89 degrees 39 minutes 10 seconds West along the northing line of said Block 100.22 feet; thence South 00 degrees 20 minutes 50 seconds West 105.53 feet; thence South 89 degrees 50 minutes 31 seconds East 113.32 feet to the east line of said Block; thence North 00 degrees 09 minutes 29 seconds East along said east line 90.20 feet to the POINT OF BEGINNING, and containing 12,102 square feet, more or less.

The above-described parcel contains Unit 197
SEVENTEENTH SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS OF HORIZONTAL PROPERTY OWNERSHIP
HOLIDAY PINES TWO, PHASE TWO, HORIZONTAL PROPERTY REGIME

This Seventeenth Supplemental Declaration, made this 14th day of
March, 2005, by Pines Development Group, Inc., an Indiana
Corporation ("Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following
described real estate located in Hendricks County, Indiana, to-wit:

See "Attachment A" for legal description

(hereinafter referred to as "Holiday Pines Two, Phase Two, Horizontal Property Regime
Section Eighteen".)

B. On the 11th day of September, 2003, Declarant executed a Declaration of
Horizontal Property Ownership, Holiday Pines Two, Phase Two Horizontal Property
Regime, which Declaration was recorded in the office of the Recorder of Hendricks
County, Indiana on the 17th day of September, 2003, as Instrument No.

 incorporate the Declaration by reference are the Articles of Incorporation and Code
of By-Laws of Holiday Pines Two, Phase Two Co-Owners Association, Inc. The
Declaration, the Articles of Incorporation, and By-Laws of Holiday Pines Two, Phase
Two, Co-Owners Association, Inc. are incorporated herein by reference and all the terms
and definitions as described therein are hereby adopted and shall have the same meaning
in this Supplemental Declaration.

C. Holiday Pines Two Horizontal Property Regime, Phase Two, Section
Eighteen, is part of the tract described in Paragraph A and Paragraph 16 of the
Declaration. Paragraph 16 of the Declaration provides that all or part of the tract may be
annexed to Holiday Pines Two Horizontal Property Regime, Phase Two, incorporated
into the Declaration, and the Owners thereof become members of Holiday Pines Two,
Phase Two, Co-Owners Association, Inc. in accordance with the conditions in Paragraphs
16 and 17 of the Declaration and the filing of the Supplemental Declaration by Declarant.
All conditions relating to the annexation of Holiday Pines Two, Phase Two, Horizontal
Property Regime, Section Eighteen, to the tract of Holiday Pines Two, Phase Two,
Horizontal Property Regime have been met and Declarant, by execution of this
Supplemental Declaration, hereby incorporates Holiday Pines Two, Phase Two
Horizontal Property Regime, Section Eighteen, into the Declaration and as annexed to
Holiday Pines Two, Phase Two, Horizontal Property Regime.
NOW THEREFORE, Declarant makes this Supplemental Declaration as follows:

1. **Declaration.** Declarant hereby declares that Holiday Pines Two, Phase Two, Section Eighteen, and other appurtenant easements, dwelling units, buildings, improvements and property of every kind and nature whatsoever, real, personal or mixed located thereon, is hereby annexed to Holiday Pines Two, Phase Two Horizontal Property Regime and made part of the Declaration as if such originally had been included in the Declaration, and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and provisions of the Declaration, the Articles, the By-Laws and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. Holiday Pines Two, Phase Two, Horizontal Property Regime, Section Eighteen, hereafter and for all purposes shall be included in the definition of Tract as defined in Paragraph 1(u) of the Declaration.

2. **Description of Holiday Pines Two, Phase Two, Horizontal Property Regime, Section Eighteen.** Holiday Pines Two, Phase Two, Horizontal Property Regime, Section Eighteen, consists of two (2) buildings, Building 190 with one unit included in the building numbered unit 190, and Building 135, with one unit included in the building numbered unit 135, together with the Common Area as designated on the Plat. The Common Area and the size of the unit is as designated on the Plat.

3. **Percentage Interest.** The Owner of each dwelling unit, including the owners of Section One, Section Two, Section Three, Section Four, Section Five, Section Six, Section Seven, Section Eight, Section Nine, Section Ten, Section Eleven, Section Twelve, Section Thirteen, Section Fourteen, Section Fifteen, Section Sixteen, Section Seventeen and Section Eighteen in Phase Two, annexed by this Supplement, shall each have a percentage interest in the Common Areas and Limited Areas and a corresponding percentage vote of 3.47%.

4. **Acceptance and Ratification.** The acceptance of a deed of conveyance or the act of occupancy of a Dwelling Unit shall constitute an agreement that the provisions of this Supplemental Declaration, the Declaration, the By-Laws, the Articles and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by each Owner, tenant or occupant and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit as if those provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

5. **Supplemental Plat.** The plat of Section Eighteen of Holiday Pines Two, Phase Two, Horizontal Property Regime, has been recorded in the office of the Recorder of Hendricks County, Indiana on the day of ____________________, 2005, and is incorporated herein by reference.
EXECUTED the day and year hereinabove written.

PINES DEVELOPMENT GROUP, INC.

BY: William J. Roach, President

STATE OF INDIANA

COUNTY OF HENDRICKS

Before me a Notary Public in and for said County and State, personally appeared William J. Roach, an officer of Roach Enterprises, Inc., who acknowledged the execution of the above and foregoing Seventeenth Supplemental Declaration of Covenants and Restrictions for Holiday Pines Two, Phase Two, Section Eighteen, Horizontal Property Ownership, of and on behalf of said Corporation.

Witness my hand and Notarial Seal this 16th day of January, 2005.

My Commission Expires: 7-2-2010

County of Residence: Hendricks

Notary Public

Carol M. Decker

Printed Name of Notary Public

This Instrument prepared by
Charles E. Hostetter
HOSTETTER & O'HARA
515 North Green Street, Suite 200
Brownsburg, IN 46112
(317) 832-2422

dt/0504-holiday.pines.seventeenth.supplemental

3
LAND DESCRIPTION
Holiday Pines Two, Phase 2
Horizontal Property Regime, Section 18

That portion of Block "J", Holiday Pines Two, Phase 2, the Plat of which is recorded as Instrument No. 20030032927 in Plat Cabinet 5, Slide 87, Pages 2A & 2B in the Office of the Recorder of Hendricks County, Indiana, described as follows:

Commencing at the southwest corner of said Block "J"; thence South 89 degrees 39 minutes 10 seconds East along the south line thereof 271.70 feet to the southeast corner of the land platted around Unit 189 of Holiday Pines Two, Phase 2, Horizontal Property Regime, Section 16 per Instrument No. 2005-6218 as recorded in Plat Cabinet 6, Slide 38, Pages 2ABC in said County Records and the POINT OF BEGINNING; thence North 00 degrees 20 minutes 50 seconds East along the east line thereof 117.46 feet to the north line of said block; thence South 89 degrees 39 minutes 10 seconds East along said line 80.54 feet; thence South 00 degrees 20 minutes 50 seconds West 117.46 feet to the south line of said block; thence North 89 degrees 39 minutes 10 seconds West along said line 80.54 feet to the POINT OF BEGINNING, containing 9,460 square feet, more or less.

The above-described parcel contains Unit 190

Also, that portion of Block "K", Holiday Pines Two, Phase 2, the Plat of which is recorded as Instrument No. 20030032927 in Plat Cabinet 5, Slide 87, Pages 2A & 2B in the Office of the Recorder of Hendricks County, Indiana, described as follows:

Commencing at the northwesterly point of curvature of Curve 9 of said plat; thence North 89 degrees 39 minutes 10 seconds West along the north line of said Block "K" 248.48 feet to the POINT OF BEGINNING; thence continue North 89 degrees 39 minutes 10 seconds West along said north line 75.05 feet; thence South 00 degrees 04 minutes 44 seconds West 116.07 feet to the north line of the land platted around Unit 179 of Holiday Pines Two, Phase 2, Horizontal Property Regime, Section 11 per Instrument No. 2004-29665 as recorded in Plat Cabinet 5, Slide 194, Pages 1ABC in said County Records; thence South 89 degrees 39 minutes 10 seconds East along said North line and its easterly extension 75.05 feet; thence North 00 degrees 04 minutes 44 seconds East 116.07 feet to the POINT OF BEGINNING, containing 8,712 square feet, more or less.

The above-described parcel contains Unit 135
AMENDED AND RESTATED
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP
AND BY-LAWS OF THE
HOLIDAY PINES TWO, PHASE 2
HORIZONTAL PROPERTY REGIME
(ALSO KNOWN AS HOLIDAY PINES III)

This Amended and Restated Declaration and By-Laws was made as of the date set forth below.

WITNESS THAT the following facts are true:

The Holiday Pines Two, Phase 2 Horizontal Property Regime located in Hendricks County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act, now codified at Indiana Code Section 32-25-1-1 et seq., as amended, and pursuant to a certain "Declaration of Horizontal Property Ownership, Holiday Pines II, Phase 2 Horizontal Property Regime" recorded in the Office of the Recorder of Hendricks County, Indiana, on August 21, 2003, as Instrument No. 2003-36206; and

Said Declaration established an expandable horizontal property regime; and

The developer of Holiday Pines Two, Phase 2 filed a Code of By-Laws applicable to Holiday Pines Two, Phase 2 with the Office of the Recorder of Hendricks County, Indiana, on August 21, 2003, as Instrument No. 2003-36207, said By-Laws being applicable to the Holiday Pines Two, Phase 2 Horizontal Property Regime and the Holiday Pines Two, Phase 2, Condominiums Co-Owners' Association, Inc., an Indiana nonprofit corporation (hereafter, the "Association"); and

The developer of Holiday Pines Two, Phase 2, annexed Additional Sections of property to the Holiday Pines Two, Phase 2 Horizontal Property Regime upon the recording of amendments and/or Supplemental Declarations, together with Plats and Floor Plans, with the Office of the Recorder of Hendricks County, Indiana, whereby a total of fifty-six (56) Dwelling Units were established, together with Common Areas and Limited Areas; and

Originally, the name of the Association was Holiday Pines Two, Phase 2, Condominiums Co-Owners Association, Inc. As of October 4, 2006, the legal name of the Association
was changed to Holiday Pines III, Inc. See Section 9.01 below for more information on the reason for the change of name; and

Paragraph 24 of the Declaration enables the same to be amended upon approval by a vote of not less than a majority of the Percentage Vote; and

Section 7.01 of the By-Laws enables the same to be amended by a vote of not less than fifty-one percent (51%) of the vote of the Co-Owners in a duly constituted meeting called for such purpose; and

The Board of Directors of the Association and the Owners of desire to amend certain provisions of the Declaration and the By-Laws and to restate the provisions of the same into this single document for the convenience of the Owners such that this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws of The Holiday Pines Two, Phase 2, Horizontal Property Regime a/k/a Holiday Pines III in no way nullifies the original Declaration and the original By-Laws or the effective date of the original Declaration and the original By-Laws. However, upon the date of recording of this Amended and Restated Declaration with the Hendricks County Recorder's Office, the original Declaration and the original By-Laws shall no longer be in effect and shall be replaced by the following; and

The original Declaration contained various exhibits, as did the various Supplemental Declarations that were recorded as additional sections were annexed and added to the Horizontal Property Regime. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to these original documents as they were filed with the Hendricks County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the original documents that may remain relevant, all other provisions of the original Declaration and the original By-Laws are hereby modified in their entirety, and superseded by this Amended and Restated Declaration; and

The requisite number of Owners have approved this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws at the annual meeting of the Association held on September 10, 2012; and

Each of the Owners within the Holiday Pines Two, Phase 2 Horizontal Property Regime a/k/a Holiday Pines III located in Hendricks County, Indiana shall automatically and mandatorily be Members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Dwelling Units, covenant and agree to be bound by the conditions, restrictions, inherited in a Horizontal Property Regime upon the tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and terms and conditions of this Amended and Restated Declaration, the Articles of Incorporation, the rules and regulations of the Association and of the provisions hereof; and
All of the Owners, future Owners, tenants, or any other person who might now or hereafter use or occupy a Dwelling Unit or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in this Amended and Restated Declaration and By-Laws, the Articles of Incorporation, the Indiana Horizontal Property Act, and the Indiana Nonprofit Corporation Act of 1991, all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided.

NOW, THEREFORE, the Amended and Restated Declaration of Horizontal Property Ownership and By-Laws for Holiday Pines Two, Phase 2 a/k/a Holiday Pines III, is as follows:

**Article 1**

**Definitions**

Section 1.01. Definitions. The following definitions shall apply throughout this Declaration:

(a) "Act" means the Horizontal Property Act of the State of Indiana, now codified at Indiana Code §§ 32-25-1-1 through 32-25-9-2, as amended. The Act is incorporated herein by reference. The Act is the enabling statute by which Indiana condominiums are established.

(b) "Association" means the incorporated association of Co-Owners of "the Regime", more particularly described in Section 9.01. Originally, the name of the Association was Holiday Pines Two, Phase 2, Condominiums Co-Owners Association, Inc. As of October 4, 2006, the legal name of the Association was changed to Holiday Pines III, Inc. See Section 9.01 for further information on the change of name.

(c) "Board of Directors" means the governing body of the Association elected by the Co-Owners in accordance with this Declaration.

(d) "Building", if and when used, shall mean and be the same as "Dwelling Unit".

(e) "By-Laws" mean the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. Articles 17 through 22 of this Declaration constitute the By-Laws of the Association.

(f) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in Section 5.01 of this Declaration.

(g) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas, except as otherwise expressly provided in this
Declaration or the By-Laws, and all sums lawfully assessed against the owners by
the association or as declared by the act, this declaration or the by-laws.

(h) "Co-Owners" means the Owners of all the Dwelling Units.

(i) "Dwelling Unit" means one of the individual units constituting "the Regime", each individual unit being more particularly described and identified on the Plans and in Articles 3 and 4 of this Declaration.

(j) "The Regime" means the name by which the Property and Horizontal Property Regime shall be known.

(k) "Limited Areas" means the limited common areas and facilities as defined in Section 5.02 of this Declaration.

(l) "Mortgagee" means the holder of a first mortgage lien on a Dwelling Unit.

(m) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owes the fee simple title to the Dwelling Unit.

(n) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the common areas and limited areas appertaining to each dwelling unit as determined in accordance with Section 6.01 of this Declaration.

(o) "Percentage Vote" means an Owner's percentage vote and is the relationship of his vote to the total eligible votes expressed as a percentage as determined in accord with Section 6.01 of this Declaration.

(p) "Plans" means a plat showing the location of the building, the elevations, the dwelling units within the building, Arabic identification numbers for each Dwelling Unit and the outside dimensions for each building, duly certified, all of which is incorporated herein by reference.

(q) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of "the Regime".

(r) "Tract" means the total real estate described in Exhibit A that was attached to the Original Declaration.
Article 2  
Declaration

Section 2.01. Declaration. The Property is a Horizontal Property Regime in accordance with the provisions of the Act. Each of the Owners within the development shall automatically and mandatorily be members of the Association and entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their deeds, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the articles of incorporation and regulations of the Association and of the provisions hereof. Each Owner shall pay to the Association equal regular assessments, which assessments are necessary to provide for maintenance and repair of the Common Areas and Limited Areas, together with necessary insurance, reserve fund for replacements, maintenance, and for any other necessary function for such maintenance and operation of the Regime.

Article 3  
Description and Identification of Dwelling Units

Section 3.01. Description of Dwelling Units. Holiday Pines III, Inc. consists of 56 units as shown on the amended plat and the Plans.

Section 3.02. Identification of the Dwelling Unit. Each Dwelling Unit is also identified by an Arabic number on the Plans, same referring to the individual Dwelling Unit. The legal description for each Dwelling Unit shall consist of the Arabic number designation of the particular Dwelling Unit along with the Arabic number designation of the building containing the Dwelling Unit.

Article 4  
Further Description of Dwelling Units

Section 4.01. Boundaries. The dimensions required to determine the boundaries of each Dwelling Unit shall be shown on the Plans and will include all the space bounded by the bottom of the concrete garage floor and any covered porch slab, and the top of the floor joists to the bottom of all ceiling joists including garage and covered porch ceiling joists in a horizontal plane and the inside surfaces of all perimeter stud walls extended to include any covered porch in a vertical plane. In the event any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside the actual boundary line of the Dwelling Unit, but within the appropriate areas of the Dwelling Unit.
Section 4.02. Appurtenances: Each Dwelling Unit shall consist of all space within the Boundaries thereof and all portions of the structure thereof situated, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designated and intended for common use. All fixtures, equipment and appliances intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, even if they are located partly or completely outside the boundaries of said Dwelling Unit. Those may include but are not limited to air conditioner condensing units.

Article 5
Common Area and Limited Common Area

Section 5.01. Common Area and Facilities. Common areas mean and include (1) the Tract, (2) the yards, planting areas, and drainage areas, (3) central electricity, gas, and sanitary sewer mains, (4) exterior lighting fixtures and electrical service, except where separately metered to a particular Dwelling Unit, (5) all facilities and appurtenances located outside of the boundary lines of the Dwelling Units, except those areas and facilities expressly defined as being part of the Dwelling Unit as described in Section 4.02.

Section 5.02. Limited Common Area and Facilities. Limited Areas and those Dwellings for which the use thereof is limited are as follows:

(a) Front Porch. The Front Porch through which access to a Dwelling Unit is obtained is limited to the use of the Dwelling Unit or Dwelling Units served by such entranceway.

(b) Driveways. The driveways, walkways, and similar areas used for access to particular individual Dwelling Units serving such Dwelling Units are limited to the use of the Dwelling Unit so served.

(c) Back Yard. A ten foot area of even width parallel to and across the back of each unit shall serve as a limited common area for the use of that unit owner.

Article 6
Ownership of Common Areas, Percentage Interest, and Percentage Vote

Section 6.01. Ownership of Common Areas, Percentage Interest, and Percentage Vote. Each Owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Owners equal to his Dwelling Unit's Percentage Interest. The Owner of each Dwelling Unit shall have the same Percentage Interest and Percentage Vote as all other Owners and there shall be no differentiation based upon the size of such Dwelling Unit.
Each Dwelling Unit's Percentage Interest shall be that as each unit bears to all units. The Percentage Interest of each Dwelling Unit shall be the fraction of one divided by 56 (1/56), or 0.17857%.

Each Owner shall have an equal vote on any matter upon which the Co-Owners are entitled to vote. Each Owner is entitled to one vote. If an Owner owns two or more Units, that Owner is entitled to one vote per Unit.

The Percentage Interest appertaining to each Dwelling Unit also shall be the Percentage Vote allocable to the Owner thereof in all matters with respect to the Regime and the Association upon which the Co-Owners are entitled to vote.

**Article 7
Encroachments and Easements**

**Section 7.01. Encroachments.** If, by reason of the location, construction settling, or shifting of a Dwelling Unit, a Common Area or Limited Area now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use, and enjoyment of such Common Areas or Limited Areas.

**Section 7.02. Easements for Common Areas.** Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities.

**Section 7.03. Easement for Utilities and Public and Quasi-Public Vehicles.** All public and quasi-public vehicles, including, but not limited to, police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas, and Limited Areas of "the Regime" in performance of their duties. An easement is also granted for all areas of "the Regime" including privately owned units, to all utilities and their agents for ingress, egress, installation, replacement, repairing, and maintaining of such utilities, including but not limited to, water, sewers, gas, telephones, and electricity on the property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by the original developer or as thereafter may be approved by the Board of Directors. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Buildings.
Article 8
Real Estate Taxes and Utilities

Section 8.01. Real Estate Taxes. Real Estate taxes are to be separately taxed to each Dwelling Unit as provided in the Act. In the event that for any year real estate taxes are not assessed and taxed on the Tract, or a part thereof, as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share will be determined as follows:

(a) With respect to the real estate taxes assessed against the land, the amount of such taxes shall be a sum equal to that Owner's Percentage Interest multiplied by the total real estate taxes assessed against the land.

(b) With respect to the real estate taxes assessed against the improvements, the respective Owners will be fully obligated to pay the amounts assessed against the same.

(c) All other taxes assessed against the real estate or improvements shall be calculated by the same formula as set forth in (a) above and paid for according to each Co-Owner's Percentage Interest.

Section 8.02. Utilities. Each Owner shall pay for his own utilities, which are separately metered. Utilities which are not separately metered shall be treated as and be paid as part of the Common Expenses.

Article 9
The Association and The Board

Section 9.01. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is an Indiana nonprofit corporation currently known as Holiday Pines III, Inc. ("Association") which is an association of the Co-Owners.

The Association was originally incorporated with the Indiana Secretary of State under the name of Holiday Pines Condominiums Two, Phase 2, Co-Owners Association, Inc. There is another condominium project adjoining this Property named Holiday Pines Condominiums Two, Phases 1 and 1A. The name of the co-owners association applicable to that adjacent community is Holiday Pines Condominiums Two, Phases 1 and 1A, Co-Owners Association, Inc. That community was developed by the same developer and, in most respects, the homes are indistinguishable from those in this Property. Not surprisingly, there was immediate confusion over the names of the communities. To avoid confusion over that neighboring community, the name of the Association applicable to THIS Property was changed to Holiday Pines III, Inc. upon the filing of an amendment with the Indiana Secretary of State on October 4, 2006, after it was approved by the co-owners. Each Owner shall be a member of the Association, but
membership shall terminate when such person ceases to be an Owner, and such membership will be transferred to the new Owner.

Section 9.02. Board of Directors. The Association shall elect a Board of Directors annually in accordance with and as prescribed by the By-Laws. The Co-Owners shall be entitled to cast their Percentage Vote for the election of the Board of Directors. The Board of Directors shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the property.

Article 10
Maintenance, Repairs and Replacements

Section 10.01. Maintenance, Decoration, Repairs and Replacements. The Association shall be responsible for the maintenance, repairs, decoration and replacement of the exterior of each Dwelling Unit except the glass portions and doors and garage doors. The Board of Directors reserve the exclusive right to determine the outside decor of each Dwelling Unit inclusive, but not exclusive of, color and paint, and all decor appurtenant to the aesthetics of each individual unit. Exclusive of those aesthetics that are visible from the outside of the Dwelling Units, each Owner shall control and reserve the right of decoration of his or her Dwelling Unit on the inside. Each Owner shall repair any defect occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, Common Areas, or Limited Areas. Maintenance, repairs, and replacements and upkeep of the Common Areas shall be furnished by the Association as part of the Common Expenses. Regarding maintenance of the Common Areas, Pond, Holiday Pines III, Inc. and Holiday Pines Two, Phases I, IIA and I Condominiums Co-Owners’ Association, Inc. shall share equally in the maintenance of the pond, which maintenance and repairs, and reimbursement for the costs incurred thereto, shall be in the sole discretion of the Board of Directors.

The Board of Directors shall adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, including the appointment of committees to oversee same.

The Board of Directors or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into the Common Areas and Limited Areas appurtenant to the Dwelling Units to replace, repair, and maintain same.

Article 11
Alterations, Additions and Improvements

Section 11.01. Alterations, Additions, and Improvements. No Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Directors, nor shall any Owner make any
alterations to his respective Dwelling Unit or within the boundaries thereof which would adversely affect the safety or structural portion of the Dwelling Unit.

**Section 11.02. Exemptions and Grandfathered Improvements.** A record of approved exemptions granted to Co-Owners petitioning a variance from the restrictions contained above is to be maintained by the Board. For any exemption or variance awarded by the Board to an Owner, it is incumbent upon future Boards to honor the exemption until such time as this section is amended. Also, the Owner needs to maintain his or her written copy of the approved exemption along with other legal papers to pass along to future Owners of such Dwelling Unit.

Certain attachments, additions, and improvements to the structure of some of the Dwelling Units were performed by, or at the direction of, the original builder/developer. Such improvements will be grandfathered and the maintenance and repairs thereto will be treated as a Common Expense of the Association. Routine maintenance will be performed by the Association only. Proof for this exemption is the Bill of Sale and should be maintained with other legal papers to pass along to future Owners of the applicable Dwelling Unit.

**Article 12**

**Insurance**

**Section 12.01. Insurance Generally.** The Co-Owners, through the Association, shall provide insurance that shall:

a) Provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore; and,

b) Contain a "replacement cost endorsement". Such insurance coverage shall be for the benefit of each owner and the association and, if applicable, the owner's mortgagee. The proceeds shall be payable to the association who shall hold such proceeds as trustee for the individual owners and mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Declaration, and any surety bond or bonds obtained by the Board covering the officers of "the Regime" as provided herein shall specifically include protections for any insurance proceeds so received.

Such insurance shall insure to the benefit of each individual owner, the association, the Board of Directors, and any managing agent or company acting on behalf of the association, as their interests may appear. The Owners, as well as the Lessees, if any, shall be able to recover losses insured where applicable.

**Section 12.02. Insurance by the Owners.** Each Owner shall have the right to purchase additional insurance he may deem necessary, and each Owner shall be solely responsible for loss or damage to the contents of his own Dwelling Unit, however caused,
including all floor, ceiling and wall coverings, appliances, and fixtures and betterments
installed by the Owner or by a prior Owner, the HVAC system including all compressors,
condensers, components, ducts and vents, and interior paint and anything "inside the
paint", and his personal property stored elsewhere on the property. Each owner shall be
solely responsible for obtaining his own insurance to cover any such loss and risk
including, but not limited to, living expenses.

Section 12.03: Insurance by the Association. The Association shall purchase
and pay for as part of the Common Expenses, a master casualty policy affording fire and
extended coverage insurance in an amount equal to the full replacement costs of the
improvements that in whole, or in part, comprise the Common Areas and Limited Areas.
If the Board of Directors can obtain such coverage for reasonable amounts they shall also
obtain "all risk" coverage. The Association's Insurance provide for replacement or repair
of the following damaged components:

(A) Exterior:

(i) roof, chimney, standard roof vents, and guttering,
(ii) all windows and doors, including garage doors,
(iii) framing, brick, insulation, outer trim, shutters, and all basic
components of the structure,
(iv) exterior painting and caulking,
(v) exterior light fixtures,
(vi) landscaping (original unit allotment),
(vii) walks, stoops and driveways,
(viii) garage structure;

(B) Interior of the Dwelling Unit — to the paint:

(i) interior framing and drywall, including subflooring,
(ii) plumbing components for water and sewer lines from the meter to
the fixture,
(iii) fireplace components outside of the painted area.

The Board of Directors shall be responsible for reviewing at least annually the amount
and type of such insurance and shall purchase such additional insurance as is necessary to
provide the insurance required above. If deemed advisable by the Board of Directors, the
Board of Directors may cause such full replacement value to be determined by a qualified
appraiser. The cost of any such appraisals shall be a Common Expense. Such insurance
coverage shall name each Owner and, if applicable, the Mortgagee of each Owner, as
insureds and shall be for the benefit of each such Owner and mortgagee in accordance
with the following terms and conditions:

All proceeds payable as a result of casualty losses sustained, which are covered by
insurance purchased by the Association as hereinabove set forth, shall act as the
insurance trustees and hold such proceeds for the benefit of the individual Owners and
mortgagees. The proceeds shall be used or disbursed by the Association or Board of
Directors, only in accordance with the provisions of this Declaration and any surety bond
or bonds obtained by the Board of Directors concerning the officers of the Association shall specifically include protection for any insurance proceeds so received.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy. The Association shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Owner appoints the Association to act for and on behalf of the Owners for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability and the performance of all other acts necessary to accomplish such purposes.

No Owner or any other party shall have priority over any rights of a Mortgagor pursuant to its mortgage in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of a Dwelling Unit and/or Common Areas. The Association shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Owner appoints the Association to act for any on behalf of the Owners for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability and the performance of all other acts necessary to accomplish such purposes.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and (c) contains an endorsement that such policy shall not be terminated for non-payment of premiums without at least ten (10) days prior written notice to mortgagors and to the Association and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted, (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Article 13 of this Declaration, and (iii) an agreed amount endorsement or an inflation guard endorsement to the extent such are commonly required by prudent institutional mortgage investors in the metropolitan Indianapolis and/or Hendricks County area.

The Association shall also purchase and pay for as part of the Common Expenses a master liability policy in an amount required herein as revised from time to time by a decision of the Board of Directors of the Association, which policy shall cover the Association, the Board of Directors, the officers of the Association, any committee of the
Association or Board of Directors, the managing agent, if any, and all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Dwelling Units, all Dwelling Unit Owners and all other persons entitled to occupy any unit or other portions of the condominium. Such other policies as may be required may be obtained and paid for as part of the Common Expenses and in amounts as determined by the Board of Directors, by the Co-Owners through the Association, including, without limitation, workers compensation insurance, liability insurance on motor vehicles owned by the Association, specialized policies covering lands or improvements on which the Association has or shares ownership or other rights, and Directors' and Officers' liability policies.

The premiums for all such insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtaimment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished by the officer of the Association who is required to send notices of meetings of the Association.

In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his Mortgagee jointly.

Section 12.04. Notice from the Association of Insurance. When any policy of insurance has been obtained by or on behalf of the Association, written notice of the obtaimment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Co-Owner or Mortgagee whose interest may be affected thereby by the officer required to send notices of meetings of the Association.

Article 13
Disaster, Casualty and Restoration

Section 13.01. Reconstruction. In case of fire or any other casualty or disaster, other than complete destruction of all buildings containing the Dwelling Units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements.

Section 13.02. Complete Destruction. In the event of complete destruction of all of the buildings containing Dwelling Units, the building(s) shall not be reconstructed, except as otherwise provided, and the insurance proceeds, if any, shall be divided among the Co-Owner(s) proportioned according to the fair market value of all other Dwelling Units and the property considered as to be removed from the condominium under the Act unless by vote of two-thirds (2/3) of all of the Co-Owners a decision is made to rebuild the buildings, in which case the insurance proceeds shall be applied and any excess of construction costs over insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the buildings.
Section 13.03. Vote by the Co-Owners. A determination of total destruction of the buildings containing Dwelling Units shall be determined by a vote of two-thirds (2/3) of all Co-Owners at a special meeting of the Association called for that purpose.

Section 13.04. Liability of the Co-Owners. Where the improvements are not insured or where the insurance proceeds are not sufficient to cover the cost of repair or reconstruction and the property is not to be removed from the horizontal property regime, the Co-Owners shall contribute the balance of any such costs in the percentage by which a Dwelling Unit Owner owns an undivided interest in the Common Areas and facilities. Such amount shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided in the Act.

Section 13.05. Decision Not to Rebuild. If, pursuant to the Sections 13.02, 13.03, and 13.04 above, it is not determined by the Co-Owners to rebuild after a casualty or disaster has occurred, then in that event;

a) The property shall be deemed to be owned in common by the Dwelling Unit Owners;

b) The undivided interest in the property owned in common which shall appertain to each Dwelling Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas and facilities;

c) Any liens affecting any of the Dwelling Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Dwelling Unit Owner in property; and

d) The property shall be subject to an action for partition at the suit of any Dwelling Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Dwelling Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the property, after first paying out of the respective shares of the Dwelling Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each Owner.

Article 14

Membership in the Association; Covenants

Section 14.01. Membership in the Association. The Tract is subject to the covenants and restrictions contained herein. For the purpose of this Declaration, upon the recording of this Declaration, all the rights and obligations accruing to a Dwelling Unit shall include, but not be limited to, the obligation to pay the monthly assessments as provided herein, which monthly assessments are a lien on each Dwelling Unit, and the
necessity and right to become a member of the Association, and to have a vote for each
Dwelling Unit owned, pursuant to the formula heretofore set out.

Section 14.02. Covenants and Restrictions. The covenants and restrictions
applicable to the use and enjoyment of the Dwelling Units are set forth herein. These
Covenants and Restrictions are for the mutual benefit and protection of the present
Owners and shall run with the land and inure to the benefit of and be enforceable by the
Owner, Co-Owners or by the Association. Present Owners or the Association shall be
entitled to injunctive relief against any violation or attempted violation of these
provisions, but there shall be no right to reversion or forfeiture of title resulting from such
violation.

Article 15
Amendment

Section 15.01. Amendment of Declaration. Except as otherwise provided in
this Declaration, amendments to this Declaration shall be proposed and adopted in the
following manner:

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

(b) Resolution. A resolution to adopt a proposed amendment may be
proposed by the Board of Directors or the Owners of at least a majority of the
Percentage Vote.

(c) Meeting. The resolution concerning a proposed amendment must be
adopted by the designated vote at a meeting of the Association duly held.

(d) Adoption. Any proposed amendment to this Declaration must be
approved by a vote of not less than a majority of the Percentage Vote.

(e) Amendments Requiring Unanimous Approval. No amendment to this
Declaration shall be adopted which changes the Percentage Interest with respect
to any Dwelling Unit or the applicable share of an Owner's Liability for the
Common Expense without approval of all of the Co-Owners.

(f) Power of the Board to Adopt Certain Amendments. Notwithstanding the
foregoing or anything elsewhere contained herein or in any other documents, the
Board of Directors of the Association shall have and hereby reserves the right and
power acting alone and without the consent or approval of the Owners or any
other party to amend or supplement this Declaration, the Articles of
Incorporation, and/or the By-Laws at any time and from time to time if such
amendment or supplement is made.
(1) to comply with requirements of the Federal National Mortgage Association ("Fannie Mae"), the Government National Mortgage Association ("Ginnie Mae"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing & Urban Development ("HUD"), the Federal Housing Association ("FHA"), the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities (hereinafter referred to as the "U.S. federal mortgage agency requirements"); or

(2) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Dwelling Units; or

(3) to bring this Declaration, the Articles of Incorporation and/or the By-Laws into compliance with any U.S. federal mortgage agency requirements, statutory or otherwise regulatory, and impacting federal agency first mortgages upon Dwelling Units.

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

Article 16
MISC. ISSUES

Section 16.01. Acceptance and Ratification. All present and future Owners, Mortgages, tenants, and occupants of the Dwelling Unit shall be subject to and shall comply with the provisions of this Declaration, the Act, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Act, and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length with in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy, or control a Dwelling Unit or Dwelling Units, or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the Rules and Regulations applicable thereto as each may be amended from time to time.
Section 16.02. Negligence. Each Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Dwelling Unit or its appurtenances or of the Common Areas or Limited Areas.

Section 16.05. Costs and Attorneys' Fees. In a proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the Declaration, the Act, or the rules and regulations, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

Section 16.06. Waiver. No Owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of his Dwelling Unit. Nor does the Association waive the right to place a lien on the Dwelling Unit and foreclose the same by failing to do so when payment is not timely made of the common expenses by the Owner when due.

Section 16.07. Severability Clause. The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration shall not impair or affect in any manner the validity, enforceability, or affect the rest of this Declaration.

Section 16.08. Plans. The Plans, as described in Section 1.01(p) of this Declaration, are incorporated into this Declaration by reference and have been filed in the Office of the Recorder of Hendricks County, Indiana, as amended and supplemented from time to time, pursuant to this Declaration.

Section 16.09. Drainage and Sewer Easements. The open areas of the Tract were reserved by the original developer as an undefined Drainage and Sewer Easement (D. & S. Easement). In doing so, it was the intention of the original developer to provide the needed flexibility to itself to properly install and allow to be maintained all sewer and drainage services, to the Dwelling Units constructed. The D. & S. Easement shall include all Common Areas. No other improvements or permanent structures (excluding walkways, pavement or driveways and fences) shall be placed within the D. & S. Easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of the Association to provide for and maintain appropriate drainage.
Article 17
Meetings of Association

Section 17.01. Purpose of Meetings. Meetings of the Co-Owners shall be held at least annually and at other times as may be necessary for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection and payment of common expenses, and for such other purposes as may be required by the Declaration or the Act.

Section 17.02. Annual Meetings. The annual meeting of the Co-Owners shall be held in the month of September of each year, with the specific date, time and place to be determined by the Board of Directors. At the annual meeting, the Co-Owners shall elect the Board of Directors of the Association and transact such other business as may properly come before the meeting.

Section 17.03. Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Co-Owners who have not less than ten percent (10%) of the total percentage vote. The resolution or petition shall be presented to the president or secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 17.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at facilities, as designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the secretary of the Association to each Co-Owner not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Co-Owners as part of a newsletter or other publication regularly sent to the Co-Owners constitutes a written notice. The notice shall be mailed or delivered to the Co-Owners at their address as it appears upon the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

In lieu of written notices from the Association sent pursuant to the above paragraph, an Owner may elect to receive notices from the Association by e-mail. Any Owner choosing e-mail shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Owner shall have the right at any time to withdraw his or her election to receive notice by e-mail, and shall thereafter be sent notices by the Association pursuant to the above paragraph.
Section 17.05. Voting.

a) **Number of Votes:** Each Owner is entitled to one full vote on each matter coming before the meeting. The total number of votes shall equal the total number of Dwelling Units, which is fifty-six (56).

b) **Multiple Owners:** When more than one (1) person or entity constitutes the Owner of a particular Dwelling Unit, all such persons or entities shall be Members of the Association, but all of such persons or entities shall have only one vote applicable to the Dwelling Unit, which vote shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Dwelling Unit.

c) **Voting by Corporation or Trust:** Where a corporation or trust is an owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation shall cast the vote to which the corporation is entitled.

d) **Multiple Unit Property Owners:** An Owner of more than one Dwelling Unit is entitled to one vote for each Dwelling Unit he or she owns.

e) **Proxy:** An Owner may vote either in person or by his duly authorized and designated attorney-in-fact and/or proxy. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Association prior to the commencement of the meeting. Consistent with Section 17.05(b) above, only one proxy is allowed per Dwelling Unit.

f) **Quorum:** A quorum for any meeting consists of a group of Owners duly authorized to cast at least twenty-nine (29) of the total of fifty-six (56) votes.

g) **Conduct of Meeting:** The chairman of the meeting shall be the president of the Association. Unless otherwise provided in this Declaration or as provided by Indiana law, all meetings of the Association will be conducted according to the latest edition of Robert's Rules of Order Newly Revised. The chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

1. **Call for Quorum:** The chairman will call the roll. If there is a quorum the meeting will proceed. If a quorum does not exist, the meeting shall be adjourned, continued or rescheduled.

2. **Reading of Minutes:** The secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the Owners represented at the meeting.
(3) **Treasurer’s Report**: The treasurer shall report to the co-owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the common expenses and financial report for the prior year and the proposed budget for the current year.

(4) **Budget**: The proposed budget for the calendar year shall be presented to the co-owners for approval and or amendment.

(5) **Election of Board of Directors**: Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the secretary at least (10) days prior to the annual meeting. Voting shall be by paper ballot. If the president chooses, he may appoint a nominating committee to recommend a slate of candidates. However, any nomination by an owner of a qualified candidate shall be placed upon the slate. Each candidate must give his or her consent to the secretary to allow his or her name to be placed on the ballot prior to the election process held at the meeting. Failure to provide the consent prior to the announcement of the meeting shall disqualify the candidate. Each Owner shall have one vote for each Board position to be filled. A voter must vote for all positions, and in no case may be vote for the same person more than once. Those persons receiving the highest number of votes shall be elected. In the event of a tie vote for one or more of the last remaining positions, subsequent ballots shall be cast until the tie is broken.

(6) **Other Business**: Other business may be brought before the meeting only upon a written request submitted to the secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) **Committee Reports**: Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors.

(8) **Adjournment**

**Article 18**

**Board of Directors**

**Section 18.01. Board of Directors**. The affairs of the Association shall be governed and managed by the Board of Directors (herein collectively called “Board” or “Directors” and individually called “Director”). The Board shall consist of five (5) Directors. No person shall be eligible to serve as a Director unless he is an Owner.
Section 18.02. Additional Qualifications: Where an Owner consists of more than one person or in a partnership, corporation, trust or legal entity, then one of the persons constituting the multiple owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Directors, except that no single Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

Section 18.03. Term of Office and Vacancy: The Board of Directors shall be elected at each annual meeting of the association. Each Director shall serve a two-year term. The terms of the Directors shall be staggered so that three will be elected in one year, and two elected the next year. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors except in the case of a vacancy occurring in accordance with Section 18.05 in which case the vacancy shall be filled at a special meeting duly called in accordance with procedures for election of Board member set forth in Section 18.05 below.

Section 18.05. Removal of Directors. A Director or Directors elected by the Owners, or elected by the Directors to fill a vacancy, may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Section 18.06. Duties of the Board of Directors: The Board of Directors shall provide for the administration of the Horizontal Property Regime, the maintenance, upkeep, and replacement of the Common Areas and Limited Area, and the collection and disbursement of the common expenses. These duties include, but are not limited to:

(a) maintenance, repair and replacement of the Common Areas and Limited Areas including driveways, sidewalks, stoops, porches and patios.

(b) removal of garbage and waste, and snow from the Common Areas.

(c) maintenance and repair of the exterior of buildings. Maintenance of exterior doors, garage doors, and windows shall be limited to outside painting and caulking. For exterior doors (including garage doors), the Association will also provide weather-stripping.

(d) assessment and collection of each Owner's pro-rata share of the common expenses and each Owner's assessments.

(e) preparation of the proposed annual budget, a copy of which shall be mailed or delivered to each Owner at the same time as the mailing of the notice of the annual meeting.
(f) preparation of a year-end statement listing all income and expenses for the entire prior year. This statement shall be delivered to all Owners prior to the annual meeting.

(g) maintenance of an up-to-date accounting of all income and expenditures of the Association. All records and vouchers shall be made available for examination by any owner upon written request to the Board.

(h) contract with a certified public accounting firm for a formal audit of calendar years ending in zero and five, whose report will be available to the Co-Owners.

(i) prepare and maintain Association records (including hard copies and digital copies) at an off-site premise.

Section 18.07, Power of the Board of Directors: The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ and terminate at will a managing agent or real estate management company (either being hereinafter referred to as "managing agent") to assist the Board in performing its duties.

(b) to purchase for the benefit of the co-owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors.

(c) to procure for the benefit of the owners, fire and extended coverage insurance covering the buildings and the property to the full insurable value thereof and to procure public liability and property damage insurance and workmen's compensation insurance, if necessary, for the benefit of the owners or the Association.

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

(e) to include the costs of all of the above and foregoing as common expenses and to pay all of such costs.

(f) to open and maintain a bank account or accounts in the name of the Association.
(g) to adopt, revise, amend, and alter from time to time, reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the property.

Section 18.08. Limitation on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of no more than $10,000.00 without obtaining the prior approval of a majority of a quorum at a duly called meeting of the Co-Owners except in the following cases:

(a) supervision of, and full authority regarding replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where the costs thereof is payable out of insurance proceeds actually received; and,

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Co-Owners at the annual meeting. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

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

Section 18.09. Compensation: No Director shall receive any compensation for his services, as such, except to such extent as may be expressly authorized by a majority of the Owners.

Section 18.10. Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Nonprofit Statute, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear
each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

In lieu of written notices from the Association sent pursuant to the above paragraph, a Director may elect to receive notices of Board meetings by e-mail. Any Director choosing e-mail shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Director shall have the right at any time to withdraw his or her election to receive notice by e-mail, and shall thereafter be sent notices by the Association pursuant to the above paragraph.

Section 18.11. Waiver of Notice: Any Director may waive his right of notification if done in writing prior to the commencement of the meeting. The presence of any Director at a meeting constitutes his waiver of notification. If all Directors are present at a meeting no meeting notice shall be required.

Section 18.12. Non-Liability of Directors. The Directors shall not be liable to the Co-Owners for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct or bad faith. Every contract made by the Board or the managing agent on behalf of the Association shall provide that the Board of Directors and the managing agent, as the case may be, is acting as agent for the Co-Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their percentage interest.

Section 18.13. Additional Indemnity of Directors and Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified by the Association to the same and fullest extent that directors of nonprofit corporations are indemnified under the Indiana Nonprofit Corporations Act of 1991, as it now exists or as hereinafter amended.

Article 19
Officers

Section 19.01. Officers of the Association: The principal officers of the Association shall be the president, vice-president, secretary and treasurer, all of whom shall be elected by the Board. The Directors may appoint an assistant treasurer and an assistant secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the president and secretary shall not be performed by the same person.

Section 19.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of each new Board. Upon recommendation of a majority of all members of the Board and upon an affirmative vote of a majority of all Owners, any officer may be removed either with or without cause and
his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 19.03. The President: The president shall be elected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board, and shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Co-Owners as he may deem necessary, to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 19.04. The Vice-President: The vice-president shall be elected from among the Directors and shall perform all duties incumbent upon the president during the absence or disability of the president. The vice-president shall also perform such other duties as this Declaration may prescribe or as shall, from time to time, be imposed upon him by the Board or by the president.

Section 19.05. The Secretary: The secretary shall be elected from among the Directors. The secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the secretary, and such other duties as from time to time may be prescribed by the Board. The secretary shall specifically see that all notices of regular meetings of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of this Declaration.

Section 19.06. The Treasurer: The Board shall elect from among the Directors a treasurer who shall maintain a correct and complete record of accounts showing accurately at all times the financial condition of the Association and such other duties incident to the office of treasurer. He shall be a legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the Association. The treasurer shall be bonded.

Section 19.07. Assistant Officers: The Board of Directors may from time to time, designate and elect from among the Co-Owners an assistant secretary and assistant treasurer, who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as this Declaration or the Board of Directors may prescribe. Except that they shall have no voting privileges on the Board unless they are chosen from among elected Board members.
Article 20
Assessments

Section 20.01. Annual Accounting. Annually, after the close of each fiscal year and prior to the date of the annual meeting of the Association, the Board shall cause to be prepared and furnished to each Owner a financial statement, which statement shall show all receipts and expenses received, incurred, and paid during the preceding calendar year.

Section 20.02. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Dwelling Unit by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments; and (2) Special Assessments, such assessments to be established and collected as hereinafter provided. The Regular and Special Assessments, together with interest, late fees, costs, reasonable attorney's fees, and any other obligation which may be charged to an Owner pursuant to this Declaration, shall be a charge on the Dwelling Unit, and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with interest, late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Both regular and special assessments may be collected on a quarterly basis.

Section 20.03. Proposed Annual Budget. Annually, before the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the common expenses for the ensuing year, and furnish a copy of the proposed budget to each Owner prior to the annual meeting. The annual budget shall be submitted to the Co-Owners at the meeting of the Association for adoption and if so adopted, shall be the basis for the regular assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the Co-Owners, the budget may be approved in whole or in part, or may be amended in whole or in part by a majority of the vote; provided, however, that in no event shall the annual meeting of the Co-Owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

Section 20.04. Regular Assessments. The adopted annual budget shall contain a stated assessment against each Dwelling Unit. This assessment will be equal for all Dwelling Units. Upon adoption of the final budget, each Co-Owner shall be given written notice of his assessment (herein called the Regular Assessment). The Regular Assessment may be paid in equal quarterly installments commencing on the first day of the month following adoption. Payment shall be made at a place designated by the Board and checks should be made out to the order of Holiday Pines III, Inc. The Regular Assessment for the year shall become a lien on each separate unit, as of the first day of the month after adoption. An Owner's assessment commences on the first of the month following closing of their unit or when possession is taken, whichever first occurs. This assessment may be raised no more than ten percent (10%) each year or may be raised in
greater segments than ten percent (10%) providing the cumulative increase averages no
more than ten percent (10%) per year.

In addition to meeting the estimated cash requirements for the Common
Expenses, the annual budget and the Regular Assessment shall be established to include
the establishment and maintenance of an adequate replacement reserve fund for capital
expenditures and replacement and repair of the Common Areas and Limited Areas, which
replacement reserve fund shall be used only for those purposes and not for usual and
ordinary repair expenses of the Property. Such reserve fund shall be:

(a) maintained in a separate, federally insured, interest bearing account with a
bank or savings association authorized to conduct business in Hendricks County; or

(b) invested in the same manner, and in the same types of investments, in
which the funds of a political subdivision may be invested under Indiana Code 5-13-9, as
amended, or as otherwise provided by law.

Section 20.05. Special Assessments. In addition to the Regular Assessments,
the Association may levy in any assessment year, Special Assessments for the purpose of
defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or
replacement of a capital improvement, including fixtures and personal property related
thereto, and (2) the expenses of any other contingencies or operating deficits; provided
that any such assessments shall have the assent of a majority of the votes of the members
who are voting in person or by proxy at a meeting duly called for this purpose.

Section 20.06. Failure of Owner to Pay Assessments. No Owner may exempt
himself or herself from paying Regular or Special Assessments, or from contributing
toward the expenses of administration and of maintenance and repair of the Common
Areas and Limited Areas and toward any other expense lawfully agreed upon, by waiver
of the use or enjoyment of the Common Areas or Limited Areas, or by abandonment of
the Unit belonging to such Owner. Each Owner shall be personally liable for the
payment of all Regular and Special Assessments and all other charges. Where the Owner
constitutes more than one person, the liability of such persons shall be joint and several.
If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special
Assessments when due, the lien for such assessment on the Owner’s Unit may be
foreclosed by the Board for and on behalf of the Association as provided by law. Upon
the failure of an Owner to make payments of any Regular or Special Assessments within
ten (10) days after such are due, the Board, in its discretion, may:

(1) impose a uniform monthly late charge, which will be considered an addition to
the assessment, in an amount to be determined by the Board of up to twenty-five
percent (25%) of the amount of the Assessment;

(2) accelerate the entire balance of the unpaid Assessments for the remainder of
the fiscal year and declare the same immediately due and payable,
notwithstanding any other provisions hereof to the contrary; and

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(3) suspend such Owner's right to vote.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Dwelling Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessments without foreclosing or waiving the lien securing the same. In connection with any effort to collect or in any action to recover a Regular or Special Assessment, regardless of whether litigation is initiated, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the Unit, not only the delinquent Regular or Special Assessments, but also all late charges imposed, all court costs, all costs of collection, charges, fees and expenses incurred by the Association with respect to such collection effort or action, including but not limited to charges, costs, fees or other expenses incurred by the Association to the managing agent for administering, monitoring or processing delinquent Owners' accounts, and reasonable attorney's fees.

Section 20.07. Notice of Unpaid Assessments. The Association shall, upon request of a mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a Dwelling Unit, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Regular or Special Assessments against the unit, which statement shall be binding upon the Association and the Co-Owners, and any mortgagee or grantee of the unit shall not be liable for, nor shall the unit conveyed be subject to, a lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 20.08. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repairs within their own Dwelling Unit which, if neglected, would adversely affect the value of the property, and which is the responsibility of the Owner to make personally. Such maintenance and repairs include, but are not limited to, all water lines serving the Owner's unit commencing at the Owner's side of the water meter, all sanitary sewer lines and vents serving the unit terminating at the building's common sewer lateral, electric lines serving the unit commencing at the meter base, gas lines commencing at the gas meter, air conditioning equipment, all kitchen and household appliances, interior light fixtures and all other accessories belonging to the Owner and appurtenant to the Dwelling Unit, including all materials used to further enclose the covered porch, if such charge occurs upon proper consent and application.

For exterior doors, windows and garage doors, the Association will only provide exterior painting and caulking. For exterior doors (including garage doors), the Association will also provide weather stripping and screen maintenance as a result of storm damage. The Owner is responsible for all other maintenance, repairs and replacements.
Article 21
Restrictions on Use

Section 21.01. Following are the restrictions on the use and enjoyment of the
buildings, Dwelling Units, Common Areas, Limited Areas, and the property:

(a) all Dwelling Units shall be used exclusively for residential purposes and
occupancy for a single family.

(b) no residence shall be erected, altered, placed or permitted to remain on any
property other than one single-family residence two stories or less in
height. Every residence shall have an attached garage that is large enough
to shelter one or more automotive vehicles. All lots developed shall be
developed to the current R-3 zoning classification standards. Said
residential structures shall measure a minimum of 1500 square feet of
living space, and two-story structures shall have a minimum ground floor
area of 900 square feet on said lots with a minimum 1800 square feet of
living space total. All residential structures shall be constructed with one
hundred percent (100%) brick on the lower level.

(c) no additional buildings shall be erected other than the buildings designated
in the Declaration and shown on the plans.

(d) nothing shall be done or kept in any unit or in the Common Areas or
Limited Areas which will cause an increase in the rate of insurance on any
building or the contents thereof. No owner shall permit anything to be
done or kept in their unit or in the Common Areas or Limited Areas which
will result in a cancellation of insurance on any building or contents
thereof, or which would be in violation of any law or ordinance.

(e) there shall be no oil, gasoline or other storage tanks allowed.

(f) no clothing, laundry or wash shall be aired or dried on any portion of any
lot visible from the road or from another Dwelling Unit.

(g) no waste shall be committed in the Common Areas or Limited Areas.

(h) no owner may attach in any manner any item to the outside surfaces of any
building without the written consent of the Board. This shall include, but
not be limited to, storm windows, T.V. antennas, satellite dishes, awnings,
canopies, patio roofs, shutters and signs.

(i) no owner may place any object in any Common Area or Limited Area
without the written consent of the Board.
(j) no owner may plant trees, plants and flowers in any Common Area or Limited Area without the written consent of the Board. Flowers may be planted in designated planting areas adjacent to the buildings and patios by the owner authorized to use that area; provided, that said owner maintains the area where the plantings occur. Designated planting areas must be within the area three (3) feet adjacent to the building provided that a mulch box area is already in place and the planting area is completely contiguous to the building and leaves no grassy area difficult for mowing.

(k) no animals, livestock, or poultry of any kind shall be raised, bred, or kept in any unit or in the Common Areas or Limited Areas, except that pet dogs, cats, or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred, or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash and an Owner shall be fully liable for any damage to the Common Areas or Limited Areas caused by his pet. The Owner shall be responsible for the cleaning of any Common Area or Limited Areas made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the property upon two (2) written notices from the Board to the respective owner. County and town ordinances covering pets shall be enforced in an effort to encourage violators of this provision to comply.

(m) nothing shall be done or permitted in any Dwelling Unit which will impair the structural integrity of any building or which would structurally change any building, except as otherwise provided in this Declaration; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the neighborhood or to be a nuisance, annoyance, inconvenience, or damage to other residents of the building or neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, T.V., loud speakers, electrical equipment, amplifiers, or other equipment or machines.

(n) no clothes, sheets, blankets, rugs, laundry, or other things shall be hung out or exposed on any part of the Common or Limited Areas. The Common and Limited Areas shall be kept free of and clear of rubbish, debris, and other unsightly material by the Owners.

(o) no industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced, or permitted on the property, except that a religious activity limited to no more than fifteen (15) individuals and not regularly
scheduled, may be allowed; provided, however, that an Owner may maintain an office or home business in the Dwelling Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Dwelling Unit; (3) there are no employees or independent contractors within the Dwelling Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of the municipal ordinances, including any "home occupations ordinance"; and (6) all other provisions of this Declaration and the rules and regulations are complied with.

(p) no signs or other advertising display shall be permitted on any part of the property excepting "for sale" signs that are confined to the Limited Area and planting area of that Dwelling Unit.

(q) all Owners and members of their families, their guests, or invitees, and all occupants of any unit or other persons entitled to use the same and to use and enjoy the Common Areas and Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be adopted by a vote of a majority of the Board governing the operation, use, and enjoyment of the Common Areas and Limited Areas. The Board shall cause copies of such rules to be delivered or mailed promptly to all Owners.

(r) only operating vehicles used for normal passenger vehicle use, which are capable of fitting into a garage and normally used for passenger service may be parked in driveways. No other vehicle or any description shall be stored or parked anywhere on the premises except in the garages of the Dwelling Units. Vehicles parked in driveways must be in good mechanical repair as not to damage or soil the paved surfaces and must be generally acceptable in appearance. No street parking shall be permitted, except on a temporary basis not to exceed twenty-four (24) continuous hours.

(s) no digging or planting in the Common or Limited Areas (except those designated planting areas) by Owners is allowed.

(t) no drainage or alteration of the lake capacity or change of the normal drainage pool is allowed. No swimming, no use of any watercraft or skiing or flotation device is allowed. Fishing is allowed. The lake shall be used primarily for drainage and no change in that function is allowed.
Section 21.02. Right of Entry. An Owner or occupant of a Dwelling Unit shall grant the right of entry to the managing agent or any person authorized by the Board in case of any emergency originating in, or threatening his unit or the building in which it is located, whether the Owner is present or not. Any Owner shall permit other persons, or their representatives when so required, to enter his or her Dwelling Unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Article 22
Leasing

Section 22.01. General Lease Conditions. All permitted leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. However, no lease shall be for a term of less than thirty (30) days, and the Board cannot approve a lease with a term of less than thirty (30) days. No portion of any Dwelling Unit other than the entire Dwelling Unit shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Dwelling Unit. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

Section 22.02. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of this Declaration, the Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, or from the Owner’s liability to the Association for payments of assessments or any other charges.

Section 22.03. Association’s Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors or Managing Agent by the Owner within thirty (30) days after execution.

Section 22.04. Violations. Any lease or attempted lease of a Dwelling Unit in violation of the provisions of this Article 22 shall be voidable at the election of the
Association's Board of Directors or any other Owner, except that neither party to such
lease may assert this provision to avoid its obligations thereunder. In the event of a
violation, the Board of Directors, on behalf of the Association, or any Owner, shall have
the right to exercise any and all available remedies at law or equity in the same manner
and with the same rights as for any other violations of the Declaration and By-Laws.

Section 22.05. Institutional Mortgagors. The provisions set forth in this Article
22 shall not apply to any institutional mortgagee of any Dwelling Unit which comes into
possession of the Dwelling Unit by reason of any remedies provided by law or in equity
or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result
of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a
Dwelling Unit is sold or conveyed by such an institutional mortgagee to a subsequent
purchaser, that subsequent purchaser shall be bound by the provisions of this Article.

Section 22.06. Burden of Proof. Anything to the contrary herein
notwithstanding, if at any time a Dwelling Unit is not occupied by one of the Owners
thereof, there shall be a presumption that the Dwelling Unit is being leased and subject to
the provisions of this Article 22 and the Owners shall have the burden of proving to the
satisfaction of the Board of Directors that the occupancy is not in violation of the terms of
this Article, including but not limited to the delivery to the Board of Directors of a
written statement of the nature and circumstances of the occupancy and any written
document or memorandum that is the legal basis for the occupancy. For purposes of this
Article 22 and this Section 22.06, any occupancy (including occupancy pursuant to a rent
to buy contract or similar arrangement or pursuant to any option to purchase) by anyone
other than an Owner shall be deemed to be a lease, rental or other similar arrangement,
unless the Owner delivers to the Board of Directors a written purchase contract,
conditional sales contract or similar contract whereby the occupant is unconditionally and
presently legally obligated to purchase the Dwelling Unit.
Executed this 11th day of January, 2013.

Holiday Pines III, Inc., by:

Michael A. Morley, President

Attest:

Roy J. Licht, Secretary

STATE OF INDIANA  
COUNTY OF HENDRICKS

Before me, a notary public, in and for said County and State, personally appeared Michael A. Morley and Roy J. Licht, the President and Secretary, respectively, of Holiday Pines III, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the certifications and representations made therein are true. Witness my hand and notarial seal this 11th day of January, 2013.

Janet R. Hussong  
Notary Public - Signature

Janet R. Hussong  
Printed

My Commission Expires:  
Residence County: Hendricks

May 18, 2015

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGL, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216. Telephone (317) 536-2565.
Article I
Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration creating the Holiday Pines Two, Phase 2, Horizontal Property Regime and these By-Laws are hereby declared to be a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the property and the administration and conduct of the affairs of the association.

Section 1.02. Individual Application. All of the owners, co-owners, future owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a unit or any part of the property, shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Horizontal Property Act of the State of Indiana, Act 1963 Chapter 349, Sections 1 through 31, as amended.

Article II
Meetings of Association

Section 2.01. Purpose of Meetings. After the expiration of the term of the initial Board of Managers (Article III, Sec 3.02). Meetings of the co-owners shall be held at least annually and at other times as may be necessary for the purpose of electing the Board of Managers, approving the annual budget, providing for the collection and payment of common expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the act.

Section 2.02. Annual Meetings. The first annual meeting of the members of the association should be held on a date and time specified by the initial Board (see Sec. 3.02). Subsequent meetings will be held on the anniversary date of the first annual meeting or on such other date as set forth by the Board of Managers. At the annual meeting, the co-owners shall elect the Board of Managers of the association in accord with the provisions of these By-Laws and transact such other business as may properly come before the meeting.
Section 2.03. Special Meetings. A special meeting of the members of the association may be called by resolution of the Board of Managers or upon a written petition of the co-owners who have not less than a majority of the total percentage vote as defined in the Declaration. The resolution or petition shall be presented to the president or secretary of the association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the association shall be held at facilities, as designated by the Board of Managers. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the secretary of the association to each co-owner not less than fourteen (14) days prior to the date of such meeting. The notice shall be mailed or delivered to the co-owners at their address as it appears upon the records of the association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

a) Number of Votes: The owner of each dwelling unit shall be entitled to one full vote on each matter coming before the meeting. The total number of votes shall equal the total number of dwelling units sold by the developer prior to the time of the meeting.

b) Multiple Owners: When the owner of a dwelling unit constitutes more than one person (i.e., joint ownership between husband and wife) or is a partnership, there shall be only one voting representative entitled to the vote allocable to that unit. At the time of acquisition of title to a unit by a multiple owner or a partnership or prior to the first election meeting, those persons constituting such owner or the partners shall file with the secretary of the association an irrevocable proxy appointing one of such persons or partners as the voting representative for such unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction or is rescinded by the same authority that granted him or her voting privileges in the first place. Such appointed voting representative may grant a proxy to another to vote in his or her place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of this right to act as voting representative for the unit. If the multiple owners of dwelling unit cannot agree to a voting representative, then the Board of Managers will decide by the flip of a coin at each meeting which of the owners shall be the voting representative for that meeting.
c) **Voting by Corporation or Trust:** Where a corporation or trust is an owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation shall cast the vote to which the corporation is entitled.

d) **Multiple Unit Property Owners:** An owner of more than one dwelling unit is entitled to one vote for each dwelling unit he or she owns.

e) **Proxy:** An owner may vote either in person or by his duly authorized and designated attorney-in-fact and/or proxy. Where voting is by proxy, the owner shall duly designate his attorney-in-fact in writing, delivered to the association prior to the commencement of the meeting.

f) **Quorum:** A quorum for any meeting consists of a group of people duly authorized to cast a majority (51%) of the total vote as defined in paragraph (a) above.

g) **Conduct of Meeting:** The chairman of the meeting shall be the president of the association. The chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

1. **Call for Quorum:** The chairman will call the roll. If there is a quorum the meeting will proceed. If a quorum does not exist the meeting shall be adjourned, continued or rescheduled.

2. **Reading of Minutes:** The secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

3. **Treasurer’s Report:** The treasurer shall report to the co-owners concerning the financial condition of the association and answer relevant questions of the owners concerning the common expenses and financial report for the prior year and the proposed budget for the current year.

4. **Budget:** The proposed budget for the calendar year shall be presented to the co-owners for approval and or amendment.

5. **Election of Board of Managers:** Nominations for the Board of Managers may be made by an owner from those persons eligible to serve. Such nominations must be in writing and presented to the secretary at least (10) days prior to the annual meeting or first election meeting. Voting shall be by paper ballot. If the president chooses he may appoint a nominating committee to recommend a slate of candidates; however, any nomination by an owner of a qualified candidate shall be placed upon the slate. Each candidate must give his or her consent to the secretary to
allow his or her name to be placed on the ballot prior to the election process held at the meeting. Failure to provide the consent prior to the announcement of the meeting shall disqualify the candidate. Each owner shall have one vote for each Board position to be filled. Multiple unit property owners as defined in Section 2.05 (d) are entitled to the number of votes for each Board position equivalent to the number of dwelling units he or she owns. A voter must vote for all positions, and in no instance may he vote for the same person more than once unless the voter owns more than one dwelling unit. Those persons receiving the highest number of votes shall be elected. In the event of a tie vote for one or more of the last remaining positions subsequent ballots shall be cast until the tie is broken.

(6) Other Business: Other business may be brought before the meeting only upon a written request submitted to the secretary of the association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Committee Reports: Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Managers.

(8) Adjournment

Article III
Board of Managers

Section 3.01. The affairs of the association shall be governed and managed by the Board of Managers (herein collectively called "Board" or "managers" and individually called "manager"). The initial Board of Managers shall be composed of three (3) persons. After the expiration of the term of the initial Board of Managers, the constituency of such Board shall be five (5). No person shall be eligible to serve as a manager unless he is an owner or is an attorney, agent, or employee of declarant.

Section 3.02. Initial Board of Managers: The initial Board of Managers shall be

Joe Potts  
Marie Potts  
and  
David Clark

The initial Board shall hold office until six months after three-fourths (3/4) of units are closed and title transferred or January 1, 2006, whichever occurs first. Responsibility for conducting the business of the association shall be transferred to the elected Board of Managers at the first annual meeting called by the initial Board. Joe Potts  
and  
David Clark

shall be the initial president and secretary/treasurer, respectively of the Board. The Declarant shall have the option at any time until the first meeting of the elected Board of Managers to replace the initial Board.
of Managers. All decisions of the initial Board of Managers are subject to review and change in whole or in part, by the Declarant.

Section 3.03. Additional Qualifications: Where an owner consists of more than one person or is a partnership, corporation, trust or legal entity, then one of the persons constituting the multiple owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Managers, except that no single dwelling unit may be represented on the Board of Managers by more than one person at a time.

Section 3.04. Term of office and vacancy: The Board of Managers shall be elected at each annual meeting of the association, subject to the limitations set forth in Section 2.01 above. At the first annual meeting five (5) Board members shall be elected. The three highest vote recipients shall serve for two years while the next two highest vote recipients shall serve for one year. At subsequent annual meetings, those seats whose terms have expired shall be elected for a two year term, thereby creating staggered terms. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining managers except in the case of a vacancy occurring in accordance with Section 3.05 in which case the vacancy shall be filled at a special meeting duly called in accordance with procedures for election of Board member set forth in Section 3.05 below.

Section 3.05. Removal of Managers: After the tenure of the initial Board of Managers, a manager or managers may be removed with or without cause by a majority vote of a quorum at a special meeting of the co-owners duly called. In such case, successor managers shall be elected at the same meeting from eligible owners nominated at the meeting. A manager so elected shall serve the unexpired term of his predecessor.

Section 3.06. Duties of the Board of Managers: The Board of Managers shall provide for the administration of the Horizontal Property Regime, the maintenance, upkeep, and replacement of the common areas and limited area, and the collection and disbursement of the common expenses. These duties include, but are not limited to:

(a) maintenance, repair and replacement of the common areas and limited areas including driveways, sidewalks and stoops.

(b) removal of garbage and waste, and snow from the common areas.

(c) maintenance and repair of the exterior of buildings. Maintenance of exterior doors, garage doors, and windows shall be limited to outside painting and caulkung.

(d) assessment and collection of each owner’s pro-rata share of the common expenses and each owner’s assessments.
(c) preparation of the proposed annual budget, a copy of which shall be mailed or delivered to each owner at the same time as the mailing of the notice of the annual meeting.

(f) preparation of a year end statement listing all income and expenses for the prior year. This statement shall be delivered to all owners prior to the annual meeting.

(g) maintenance of an up-to-date accounting of all income and expenditures of the co-owners association. All records and vouchers shall be made available for examination by any owner upon written request to the Board.

Section 3.07. Power of the Board of Managers: the Board of Managers shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ and terminate at will a managing agent or real estate management company (either being hereinafter referred to as "managing agent") to assist the Board in performing its duties.

(b) to purchase for the benefit of the co-owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Managers.

(c) to procure for the benefit of the owners, fire and extended coverage insurance covering the buildings and the property to the full insurable value thereof and to procure public liability and property damage insurance and workmen's compensation insurance, if necessary, for the benefit of the owners of the association.

(d) to employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Managers may be necessary or desirable in connection with the business and affairs of the co-owners' association.

(e) to include the costs of all of the above and foregoing as common expenses and to pay all of such costs.

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

(g) to adopt, revise, amend, and alter from time to time, reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the property.

Section 3.08. Limitation on Board Action. After the tenure of the initial Board of Managers, the authority of the Board of Managers to enter into contracts shall be limited
to contracts involving a total expenditure of less than $3,000.00 without obtaining the
prior approval of a majority of owners, or the majority of a quorum at a duly called
meeting of the co-owners except in the following cases:

(a) supervision of, and full authority regarding replacing or restoring portions
of the common areas or limited areas damaged or destroyed by fire or
other casualty where the costs thereof is payable out of insurance proceeds
actually received; and,

(b) proposed contracts and proposed expenditures expressly set forth in the
proposed annual budget as approved by the co-owners at the annual
meeting.

Section 3.09. Compensation: No manager shall receive any compensation for his
services, as such, except to such extent as may be expressly authorized by a majority of
the owners.

Section 3.10. Meetings: Regular meetings of the Board of Managers may be held at
such time and place as shall be determined from time to time by a majority of managers.
The secretary shall give notice of regular meetings of the Board
to each manager personally or by United States mail at least five (5) days prior to the
date of such meetings.

Special meetings of the Board may be called by the president or any two Board members.
It is the responsibility of the person or persons calling the special meeting to notify all
Board members in writing at least (3) days in advance of the meeting. The notice of the
meeting shall contain a statement of the purpose of the meeting. Notification must be
derivered by mail or delivered in person to the manager’s residence.

Section 3.11. Waiver of Notice: Any manager may waive his right of notification if
done in writing prior to the commencement of the meeting. The presence of any manager
at a meeting constitutes his waiver of notification. If all managers are present at a
meeting no meeting notice shall be required.

Section 3.12. Non-liability of Managers. The managers shall not be liable to the co-
owners for any error or mistake of judgment exercised in carrying out their duties and
responsibilities as managers, except for their own individual willful misconduct or bad
faith. The co-owners shall indemnify and hold harmless each of the managers against
any and all liability to any person, firm, or corporation arising out of contracts made by
the Board on behalf of the co-owners’ association, unless any such contract shall have
been made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is
intended that the managers shall have no personal liability with respect to the contracts
made by them on behalf of the association and that in all matters, the Board is acting for
and on behalf of the co-owners and as their agent.
The liability of any owner arising out of any action taken by the Board or out of the aforesaid indemnity in favor of the managers shall be in proportion to the owners’ percentage interest of the common area unless otherwise agreed by the owner.

Every contract made by the Board or the managing agent on behalf of the association shall provide that the Board of Managers and the managing agent, as the case may be, is acting as agent for the co-owners and shall have no personal liability thereunder, except in their capacity as owners and then only to the extent of their percentage interest.

Section 3.13. Additional Indemnity of Managers. The co-owners shall indemnify any person, his or her heirs, assigns, and legal representatives, made a party to any action, suit, or proceeding by reason of the fact that he or she is or was a manager of the association against the expense, including attorney’s fees actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except as otherwise specifically provided herein in relation to a proceeding that such manager is liable for gross misconduct in the performance of his duties. The co-owners shall also reimburse to any such manager the reasonable costs of settlement or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the co-owners that such manager was not guilty of gross misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceedings against a manager, no manager shall be considered or deemed to be guilty of or liable for gross misconduct in the performance of his duties where, acting in good faith, such manager relied on the books and records of the association or statements or advice made by or prepared by the managing agent of the association or any officer or employee thereof, or any accountant, attorney or other person, firm, or corporation employed by the association to render advice or service unless such manager had actual knowledge of the falsity or incorrectness thereof; nor shall a manager be deemed guilty of or liable for gross misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Managers.

Article IV

Officers

Section 4.01. Officers of the Association: The principal officers of the association shall be the president, vice-president, secretary and treasurer, all of whom shall be elected by the Board. The managers may appoint an assistant treasurer and an assistant secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the president and secretary shall not be performed by the same person.

Section 4.02. Election of Officers. Except as set forth in Section 3.02 above, the officers of the association shall be elected annually by the Board at the initial meeting of each new Board. Upon recommendation of a majority of all members of the Board and upon an affirmative vote of a majority of all owners any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.
Section 4.03. The President: The president shall be elected from among the managers and shall be the chief executive officer of the association. He shall preside at all meetings of the association and of the Board, and shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the co-owners as he may deem necessary, to assist in the affairs of the association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. The Vice-President: The vice-president shall be elected from among the managers and shall perform all duties incumbent upon the president during the absence or disability of the president. The vice-president shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the president.

Section 4.05. The Secretary: The secretary shall be elected from among the managers. The secretary shall attend all meetings of the association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the secretary, and such other duties as from time to time may be prescribed by the Board. The secretary shall specifically see that all notices of regular meetings of the association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer: The Board shall elect from among the managers a treasurer who shall maintain a correct and complete record of accounts showing accurately at all times the financial condition of the association and such other duties incident to the office of treasurer. He shall be a legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the association. He shall immediately deposit all funds of the association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name of the association. The treasurer shall be bonded.

Section 4.07. Assistant Officers: The Board of Managers may from time to time, designate and elect from among the co-owners an assistant secretary and assistant treasurer, who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Managers may prescribe. Except that they shall have no voting privileges on the Board unless they are chosen from among elected Board members.

Article V

Section 5.01. Annual Accounting: Annually, after the close of each fiscal year and prior to the date of the annual meeting of the association, the Board shall cause to be prepared and furnished to each owner a financial statement, which statement shall show all receipts and expenses received, incurred, and paid during the preceding calendar year.
The initial Board shall present to members of the association at the first annual meeting a statement showing all accumulated income and expenses for all prior years.

**Section 5.02. Proposed Annual Budget.** Annually, on or before the date of the annual meeting of the association, the Board of Managers shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the common expenses for the ensuing year, and furnish a copy of the proposed budget to each owner prior to the annual meeting. The annual budget shall be submitted to the co-owners at the meeting of the association for adoption and if so adopted, shall be the basis for the regular assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the co-owners, the budget may be approved in whole or in part, or may be amended in whole or in part by a majority of the vote; provided, however, that in no event shall the annual meeting of the co-owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

**Section 5.03. Regular Assessments.** The adopted annual budget shall contain a stated assessment against each dwelling unit that has been sold and title conveyed. This assessment will be equal for all dwelling units. Upon adoption of the final budget each co-owner shall be given written notice of this assessment (herein called the regular assessment). The regular assessment may be paid in equal quarterly installments commencing on the first day of the month following adoption. Payment shall be made at a place designated by the Board and checks should be made out to the order of Holiday Pines Condominium Two, Phase 2, Co-Owners' Association, Inc. The regular assessment for the year shall become a lien on each separate unit, as of the first day of the month after adoption. An owner's assessment commences on the first of the month following closing of their unit or when possession is taken, whichever first occurs. This assessment may be raised no more than ten percent (10%) each year or may be raised in greater segments than ten percent (10%) providing the cumulative increase averages no more than ten percent (10%) per year.

Units under construction, model units leased or owned by Declarant for model, and unsold units and the common areas associated with such units shall not be assessed and shall be maintained by the declarant until sold. These units are not counted toward the ¼ required under Section 3.02 for turn-over to the Association.

**Section 5.04. Special Assessments.** Each of the owners within the development shall automatically and mandatorily be members of the co-owners association and entitled to all of the privileges and subject to all of the obligations thereof. Declarant and all dwelling unit owners, by their acceptance of their deeds, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the articles of incorporation and regulations of the co-owners' association and of the provisions hereof. Each dwelling unit owner shall pay to the association equal annual assessments, which assessments are necessary to provide for maintenance and repair of the common areas and limited common areas, together with necessary insurance, reserve fund for replacements,
maintenance, and for any other necessary function for such maintenance and operation of the regime.

In addition to the annual assessments authorized above, the association may levy in any assessment year, special assessments for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and (2) the expenses of any other contingencies; provided that any such assessments shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

The amount of the annual assessment or of any special assessment provided for in this Section, shall be assessed as a lien at the beginning of each annual assessment period or at the time of special assessment, as the case may be. Each assessment shall be due and payable within thirty (30) days of the assessment, and, upon default of payment within such period of time, such assessment shall be a lien against the defaulting owner and against that part of the property, if any, owned by the defaulting declarant, and the association shall be entitled to enforce the payment of said lien according to the laws of the state of Indiana, and to take any other actions for collection from the defaulting parties. Any such lien against a building unit or against that part of the property, if any, owned by the declarant, shall be subordinate to any recorded first mortgage covering such building unit or, as the case may be, covering that part of the property, if any, owned by declarant.

Both annual and special assessments may be collected on a quarterly basis. Penalties may be invoked by the Board for late payments.

Section 5.05. Maintenance and Repairs. Every owner shall promptly perform all maintenance and repairs within their own building unit which, if neglected, would adversely affect the value of the property, and which is the responsibility of the owner to make personally. Such maintenance and repairs include, but are not limited to, all water lines serving the co-owners unit commencing at the co-owners side of the water meter, all sanitary sewer lines and vents serving the unit terminating at the building's common sewer lateral, electric lines serving the unit commencing at the meter base, gas lines commencing at the gas meter, storm windows, air conditioning equipment, all Kitchen and household appliances, exterior doors, windows and garage doors except as noted in Section 3.06(c), interior light fixtures and all other accessories belonging to the owner and appurtenant to the building unit, including all materials used to further enclose the covered porch, if such charge occurs upon proper consent and application.

Article VI
Restrictions on Use

Section 6.01. The following restrictions on the use and enjoyment of the building units, common areas, limited areas, and the property are in addition to those set forth in the Declaration. These are as follows:
(a) all building units shall be used exclusively for residential purposes and occupancy for a single family. Nothing herein contained shall restrict the use of premises during construction and sale period as "models", office, construction trailer and equipment, and for storage of equipment, materials and supplies.

(b) no residence shall be erected, altered, placed or permitted to remain on any lot other than one single-family residence two stories or less in height. Every residence shall have an attached garage that is large enough to shelter one or more automotive vehicles. All lots developed shall be developed to the current R-3 zoning classification standards, except that 12 lots in Phase II, Section 2, numbered 121 through 132, shall be developed to the R-2 standard. Said residential structures shall measure a minimum of 1500 square feet of living space, and two-story structures shall have a minimum ground floor area of 900 square feet on said lots with a minimum 1800 square feet of living space total. All residential structures shall be constructed with one hundred percent (100%) brick on the lower level.

(c) no additional buildings shall be erected other than the buildings designated in the Declaration and shown on the plans.

(d) nothing shall be done or kept in any unit or in the common areas or limited areas which will cause an increase in the rate of insurance on any building or the contents thereof. No owner shall permit anything to be done or kept in their unit or in the common areas or limited areas which will result in a cancellation of insurance on any building or contents thereof, or which would be in violation of any law or ordinance.

(e) there shall be no oil, gasoline or other storage tanks allowed.

(f) no clothing, laundry or wash shall be aired or dried on any portion of any lot visible from the road or from another lot.

(g) no waste shall be committed in the common areas or limited areas.

(h) no owner may attach in any manner any item to the outside surfaces of any building without the written consent of the Board. This shall include, but not be limited to, storm windows, T.V. antennas, awnings, canopies, patio roofs, shutters and signs. The foregoing shall not include storm doors approved by the Board and the foregoing shall not include satellite dishes of no more than twelve (12) inches in diameter.

(i) no owner may place any object in any common area or limited common area without the written consent of the Board. The foregoing prohibition
shall include but not be limited to, bird baths, bird feeders, artificial animals, rain barrels, wagon wheels and fences. This shall not include porch and patio furniture confined to patios, stoops and porches, nor automobiles confined to driveways, nor other items in a covered porch.

(j) no owner may plant trees, plants and flowers in any common area or limited common area without the written consent of the Board. Flowers may be planted in designated planting areas adjacent to the buildings and patios by the owner authorized to use that area; provided, that said owner maintains the area where the plantings occur. Designated planting areas must be within the area three (3) feet adjacent to the building provided that a mulch box area is already in place and the planting area is completely contiguous to the building and leaves no grassy area difficult for mowing.

(k) no owner may carpet uncovered porches or patios without the written consent of the Board.

(l) no animals, livestock, or poultry of any kind shall be raised, bred, or kept in any unit or in the common areas or limited areas, except that small pet dogs, cats, or customary household pets may be kept in a building unit, provided that such pet is not kept, bred, or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash and an owner shall be fully liable for any damage to the common areas or limited areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the property upon two (2) written notices from the Board to the respective owner. County and town ordinances covering pets shall be enforced in an effort to encourage violators of this provision to comply.

(m) nothing shall be done or permitted in any dwelling unit which will impair the structural integrity of any building or which would structurally change any building, except as otherwise provided in the Declaration or these By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the building unit or to be a nuisance, annoyance, inconvenience, or damage to other residents of the building or neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, T.V., loud speakers, electrical equipment, amplifiers, or other equipment or machines.

(n) no clothes, sheets, blankets, rugs, laundry, or other things shall be hung out or exposed on any part of the common or limited common areas. The
common or limited common areas shall be kept free of and clear of rubbish, debris, and other unsightly material by the owners.

(o) no industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced, or permitted on the property, except that a religious activity limited to no more than fifteen (15) individuals and not regularly scheduled, may be allowed.

(p) no "for sale", "for rent", or "for lease" signs or other window advertising display shall be maintained or permitted on any part of the property or any unit without the prior written consent of the Board; provided, however, that the right reserved by the declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on any unsold or unoccupied units shall control and further provided that such signs may be displayed in the street side window of the unit, not in the yard. Units being held "open" for sale will be allowed to have signs in the yard on the days when the open house is being conducted.

(q) all owners and members of their families, their guests, or invitees, and all occupants of any unit or other persons entitled to use the same and to use and enjoy the common areas and limited common areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be issued by the Board governing the operation, use, and enjoyment of the common areas and limited common areas.

(r) only operating vehicles used for normal passenger vehicle use, which are capable of fitting into a garage and normally used for passenger service may be parked in driveways, except on a temporary basis not to exceed twenty-four (24) continuous hours. No other vehicle of any description shall be stored or parked anywhere on the premises except in the garages of the dwelling units. Vehicles parked in driveways must be in good mechanical repair as not to damage or soil the paved surfaces and must be generally acceptable in appearance. No street parking shall be permitted, except on a temporary basis not to exceed twenty-four (24) continuous hours. Parking of a visitor vehicle in driveways that will not cause damage to any common or limited area nor create a nuisance to any other co-owners shall be permitted.

(s) no digging in common or limited areas (except those designated planting areas) by owners is allowed. All digging in common or limited areas must be approved by the Board.

(t) no drainage or alteration of the lake capacity or change of the normal drainage pool is allowed. No swimming, no use of any watercraft or
skiing or flotation device is allowed. Fishing is allowed. The lake shall be 
used primarily for drainage and no change in that function is allowed.

The initial Board may grant exceptions to these restrictions on use that are valid 
only for the duration of the initial Board term. The first elected Board shall have the 
authority to rescind any exception to these restrictions that the initial Board approved.

Section 6.02. Right of Entry. An owner or occupant of a building unit shall grant the 
right of entry to the managing agent or any person authorized by the Board in case of any 
emergency originating in, or threatening his unit or the building in which it is located, 
whether the owner is present or not. Any owner shall permit other persons, or their 
representatives when so required, to enter his or her building unit for the purpose of 
performing installations, alterations or repairs to the mechanical or electrical services, or 
to make structural repairs, provided that requests for entry are made in advance and that 
such entry is at a time convenient to the owner. In case of emergencies, such right of 
entry shall be immediate.

Section 6.03. Right of Board to Adopt Rules and Regulations. The Board may 
promulgate such additional rules and regulations regarding the operation of the property, 
including, but not limited to, the use of the common areas and limited areas, as it may 
deem necessary from time to time and such rules as are adopted may be amended by a 
vote of a majority of the Board, and the Board shall cause copies of such rules to be 
delivered or mailed promptly to all owners.

Article VII
Amendment to By-Laws

Section 7.01. These By-Laws may be amended by a vote of not less than fifty-one 
percent (51%) of the vote of the co-owners in a duly constituted meeting called for such 
purpose. Except that right is reserved to the Board of Managers to so amend during the 
period set out in Section 3.02 above.

Article VIII
Notice of Unpaid Assessments

Section 8.01. Notice of Unpaid Assessments. The Association shall, upon request of a 
mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a 
unit, furnish to such mortgagee or purchaser a statement setting forth the amount of the 
unpaid regular or special assessments against the unit, which statement shall be binding 
upon the association and the co-owners, and any mortgagee or grantee of the unit shall 
not be liable for, nor shall the unit conveyed be subject to, a lien for any unpaid 
assessments in excess of the amount set forth in such statements.

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Article IV

Section 9.01. Power of Attorney. The power of attorney executed by each owner in favor of the declarant, as agent, and referred to in the Declaration and the By-Laws, is incorporated herein by reference and the terms and conditions of each are subject to the terms and conditions of said power of attorney.

Certification

The undersigned, being first duly sworn, hereby certifies that the within and foregoing code of By-Laws of the Holiday Pines Condominiums Two, Phase 2, Co-Owners’ Association, Inc., are true and correct.

PINES DEVELOPMENT GROUP, INC.
As Declarant

William J. Rose, President

STATE OF INDIANA
COUNTY OF HENDRICKS

Subscribed and sworn to before me, a notary public in and for said county and state, this 14th day of August, 2003.

My commission expires: 5-8-11

Barbara L. Henderson
Printed Name: Barbara L. Henderson

County of Residence: Hendricks

THIS DOCUMENT PREPARED BY:
CHARLES E. HOSTETTER, ATTORNEY AT LAW
HOSTETTER & O'HARA
313 NORTH GREEN STREET, SUITE 300
BROWNSBURG, INDIANA 46112

Nw/0107/nocinestate/phazedebylaws
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP
HOLIDAY PINES II
HORIZONTAL PROPERTY REGIME

THIS DECLARATION, made this 2nd day of August, 2001, by the "Declarant", Roach Enterprises, Inc., an Indiana corporation

WITNESSETH:

A. Whereas Declarant is the owner in fee simple of the following described real estate, located in Hendricks County, Indiana, to wit:

See Exhibit "A"

B. Whereas Declarant is the owner in fee simple of certain real estate within the above described real estate described as Section 1, Holiday Pines II Horizontal Property Regime, and more particularly described as follows:

See Exhibit "B"

C. Whereas, Declarant, by execution of this Declaration creates a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Act of the State of Indiana and terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. The following definitions shall apply throughout this Declaration:
   (a) "Act" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Section 1 through 31, as amended. The Act is incorporated herein by reference.
   (b) "Additional Sections" means the real estate referred to in paragraph 16, which may in part or in whole from time to time be annexed to and included within "the regime" as provided in paragraph 16, all of which will be a part of the proposed tract.
   (c) "Association" means the incorporated association of Co-Owners of "the Regime", more particularly described in paragraph 13.
   (d) "Board of Managers" means the governing body of the Association elected by the Co-Owners in accordance with the By-Laws. The term "Board of Managers", as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.
(e) "Building", if and when used, shall mean and be the same as "Dwelling Unit".

(f) "By-Laws" mean the By-Laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.

(g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.

(h) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas, except as otherwise expressly provided in this Declaration or the By-Laws, and all sums lawfully assessed against the owners by the association or as declared by the act, this declaration or the by-laws.

(i) "Co-Owners" means the Owners of all the Dwelling Units.

(j) "Declarant" means the Owner of the real estate described at the time of the filing of this Declaration, its successors and assigns to its interest herein, other than those persons who purchase Dwelling Units by deed from the Declarant, unless the conveyance indicated an intent that grantee become the Declarant.

(k) "Dwelling Unit" means one of the individual units constituting "the Regime", each individual unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.

(l) "Formula" means the method set forth in paragraph 8 of this Declaration for computing the Percentage Interest applicable to each Dwelling Unit.

(m) "The Regime" means the name by which the Property and Horizontal Property regime shall be known.

(n) "Limited Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration.

(o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to the Dwelling Unit.

(p) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the common areas and limited areas appertaining to each dwelling unit as determined in accordance with paragraphs 8 and 17 of this declaration.

(q) "Percentage Vote" means an Owner's percentage vote and is the relationship of his
vote to the total eligible votes expressed as a percentage as determined in accord with paragraph 8 and 16 of this Declaration.

(r) "Section" means a part of the tract upon which dwelling units are constructed and annexed to "the regime" as provided in paragraph 16. Each particular section shall be identified by an Arabic numeral designation corresponding to the order of annexation.

(s) "Plans" means a plat showing the location of the building, the elevations, the dwelling units within the building, Arabic identification numbers for each dwelling unit and the outside dimensions for each building, duly certified, all of which is incorporated herein by reference. "Plans" also shall include the supplemental plans which shall be prepared, verified and filed with each supplemental declaration, depicting the location of the buildings, the dwelling units within the buildings, Arabic identification numbers for each dwelling unit and the outside dimensions for buildings, which are constructed on the sections of the tract when and if annexed to and made a part of "the regime".

(t) "Property" means the Tract and appurtenant easements, the Dwelling Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of "the Regime".

(u) "Tract" means the total real estate described in paragraph A above.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Dwelling Units. Holiday Pines II, Section One, consists of

The dwelling units in the additional section or sections, when annexed, shall be identified numerically, the exact number of dwelling units to be identified and referred to in the supplemental declaration and supplemental plans annexing such section or sections to "the regime".

4. Identification of the Dwelling Unit. Each Dwelling Unit is also identified by an Arabic number on the Plans, same referring to the individual Dwelling Unit.
The legal description for each Dwelling Unit shall consist of the Arabic number designation of the particular Dwelling Unit along with the Arabic number designation of the building containing the Dwelling Unit.

5. **Further Description of Dwelling Units.**

(a) **Boundaries.** The dimensions required to determine the boundaries of each Dwelling Unit shall be shown on the Plans and will include all the space bounded by the bottom of the concrete garage floor and any covered porch slab, and the top of the floor joists to the bottom of all ceiling joists including garage and covered porch ceiling joists in a horizontal plane and the inside surfaces of all perimeter stud walls extended to include any covered porch in a vertical plane. In the event any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Dwelling Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Dwelling Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Dwelling Unit in and to such space lying outside the actual boundary line of the Dwelling Unit, but within the appropriate areas of the Dwelling Unit.

(b) **Appurtenances.** Each Dwelling Unit shall consist of all space within the Boundaries thereof and all portions of the structure thereof situated, including, but not limited to, all fixtures, facilities, utilities, equipment, appliances, and structural components designated and intended for common use. All fixtures, equipment and appliances intended for the exclusive enjoyment, use and benefit of a Dwelling Unit shall constitute a part of such Dwelling Unit, even if they are located partly or completely outside the boundaries of said Dwelling Unit. Those may include but are not limited to air conditioner condensing units.

6. **Common Area and Facilities.** Common areas mean and include (1) the Tract, (2) the yards, planting areas, and drainage areas, (3) central electricity, gas, and sanitary sewer mains, (4) exterior lighting fixtures and electrical service, except where separately metered to a particular Dwelling Unit, (5) all facilities and appurtenances located outside of the boundary lines of the Dwelling Units, except those areas and facilities expressly defined as being part of the Dwelling Unit as described in paragraph 5(b).

7. **Limited Common Area and Facilities.** Limited Areas and those Dwellings for which the use thereof is limited are as follows:

(a) **Front Porch.** The Front Porch through which access to a Dwelling Unit is obtained is limited to the use of the Dwelling Unit or Dwelling Units served by
such entranceway.

(b) Driveways. The driveways, walkways, and similar areas used for access to particular individual Dwelling Units serving such Dwelling Units are limited to the use of the Dwelling Unit so served.

(c) Back Yard. A ten foot area of even width parallel to and across the back of each unit shall serve as a limited common area for the use of that unit owner.

8. Ownership of Common Areas, Percentage Interest, and Percentage Vote. Each Owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Owners equal to his Dwelling Unit's Percentage Interest. Each Dwelling Unit's Percentage Interest in the Common Areas and Limited Areas shall be determined in accord with the Formula set forth in paragraph 16 of this Declaration.

If the regime consists only of Section One, each dwelling unit's percentage interest shall be that as each unit bears to all units in the section. As sections are annexed, as permitted and contemplated by paragraph 16 of this declaration, upon execution of the applicable supplemental declaration, the percentage interest of each dwelling unit in the section or sections which are a part of the regime prior to such annexation shall automatically reduce in accord with the formula. The owners of dwelling units in the section or sections which are a part of the regime prior to such annexation shall be granted and receive a percentage interest in the common area of such section of the additional tract being annexed, the precise percentage interest to be determined according to the formula and designated in the supplemental declaration.

Each Owner shall have an equal vote on any matter upon which the Co-Owners are entitled to vote. Each Owner is entitled to one vote. A multiple Owner, meaning an Owner of more than one Unit, is entitled to multiple votes, that is one vote for each Unit owned.

The Percentage Interest appertaining to each Dwelling Unit as determined by paragraph 16 also shall be the Percentage Vote allocable to the Owner thereof in all matters with respect to the Regime and the Association upon which the Co-Owners are entitled to vote, but not limited to, the election of the Board of Managers.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction settling, or shifting of a Dwelling Unit, a Common Area or Limited Area now encroaches or shall hereafter encroach upon any Dwelling Unit, then in such event an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use, and enjoyment of such Common Areas or Limited Areas.

Each owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities.
10. **Real Estate Taxes.** Real Estate taxes are to be separately taxed to each Dwelling Unit as provided in the Act. In the event that for any year real estate taxes are not assessed and taxed on the Tract, or a part thereof, as a whole, then each Owner shall pay his proportionate share of the real estate taxes. Each Owner's proportionate share will be determined as follows:

(a) With respect to the real estate taxes assessed against the land, the amount of such taxes shall be a sum equal to that Owner's Percentage Interest multiplied by the total real estate taxes assessed against the land. Declarant will pay for the taxes on the real estate until annexed.

(b) With respect to the real estate taxes assessed against the improvements, the respective Owners will be fully obligated to pay the amounts assessed against the same.

(c) All other taxes assessed against the real estate or improvements shall be calculated by the same formula as set forth in (a) above and paid for according to each Co-Owner's Percentage Interest.

11. **Utilities.** Each Owner shall pay for his own utilities, which are separately metered. Utilities which are not separately metered shall be treated as and be paid as part of the Common Expenses.

12. **Easement for Utilities and Public and Quasi-Public Vehicles.** All public and quasi-public vehicles, including, but not limited to, police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas, and Limited Areas of "the Regime" in performance of their duties. An easement is also granted for all areas of "the Regime" including privately owned units, to all utilities and their agents for ingress, egress, installation, replacement, repairing, and maintaining of such utilities, including but not limited to, water, sewers, gas, telephones, and electricity on the property, provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Managers. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Buildings.

13. **Association of Owners.** In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Act, there is hereby created an association of the Co-Owners of the Dwelling Units in "the Regime" to be known as the Holiday Pines Condominiums II Co-Owners Association, Inc. Each Owner shall be a member of the Association, but membership shall terminate when such person ceases to be an Owner, and such membership will be transferred to the new Owner.
The Association shall elect a Board of Managers annually in accordance with and as prescribed by the By-Laws. The Co-Owners shall be entitled to cast their Percentage Vote for the election of the Board of Managers.

The Board of Managers shall be the governing body of the Association, representing all of the Co-Owners in providing for the management, maintenance, repair, replacement and upkeep of the property.

14. **Maintenance, Decoration, Repairs and Replacements.** The Co-Owners' Association shall be responsible for the maintenance, repairs, decoration and replacement of the exterior of each Dwelling Unit except the glass portions and doors and garage doors. The Board of Managers reserve the exclusive right to determine the outside decor of each Dwelling Unit inclusive, but not exclusive of, color and paint, and all decor appurtenant to the aesthetics of each individual unit. Exclusive of those aesthetics that are visible from the outside of the Dwelling Units, each Owner shall control and reserve the right of decoration of his or her Dwelling Unit on the inside. Each Owner shall repair any defect occurring in his Dwelling Unit which, if not repaired, might adversely affect any Dwelling Unit, Common Areas, or Limited Areas. Maintenance, repairs, and replacements and upkeep of the Common Areas shall be furnished by the Association as part of the Common Expenses.

The Board of Managers shall adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, including the appointment of committees to oversee same.

The Board of Managers or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into the Common Areas and Limited Areas appurtenant to the Dwelling Units to replace, repair, and maintain same.

15. **Alterations, Additions, and Improvements.** No Owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alterations to his respective Dwelling Unit or within the boundaries thereof which would adversely affect the safety or structural portion of the Dwelling Unit.

16. **Expansion by Sections.** Declarant anticipates that it will construct additional dwelling units on additional sections by expansion within the tract, all or part of which may be expanded in the manner hereinafter set forth, and subject to the provisions of the act. The general plan of development shall not exceed 120 units total. A time limit, not exceeding twelve (12) years, shall be the limit where additional sections may be added.

At any time prior to January 1, 2008, Declarant, at his option, may, but is not obligated to cause all or part of the additional section or sections within the tract to be expanded, subject to the following conditions:
(a) Another section or sections may be annexed if the dwelling units to be constructed in such section or sections have been completed to such an extent that the units' location may be accurately set and the supplemental plans to be filed with the supplemental declaration are completed and certified to by the engineer or architect as fully and accurately depicting the layout, location, and dimensions of the dwelling units. Declarant shall reserve the right to determine the developmental standards of each section.

(b) The dwelling units on any section to be annexed shall be constructed with labor and material of comparable quality to the dwelling units previously constructed although not necessarily of similar type floor plan, design or exterior.

(c) Declarant, or its assign, shall be the sole owner of the fee simple title to the section or sections to be annexed.

Declarant expressly reserves the right not to annex any or all of the tract in sections after Section One. No owner shall acquire any rights whatsoever in the tract except as to those sections which are annexed to and made a part of the horizontal property regime. After each section is annexed, those co-owners owning dwelling units in the section or sections being turned over shall then incur and pay all common expenses attendant with that section or sections according to the formula and their respective percentage interest. Units under construction, models, and unsold units and the common areas associated with such units shall not be assessed and shall be maintained by the Declarant until sold.

17 Percentage Interest. The Owner of each Dwelling Unit shall have the same Percentage Interest and Percentage Vote as all other Owners and there shall be no differentiation based upon the size of such Dwelling Unit. Each Owner shall be equal as to the Percentage Interest and Percentage Vote.

The percentage interest appurtenant to each unit shall be computed and, upon the annexation of an additional section or sections, same shall be recomputed dividing among the then-existing dwelling unit owners an equal share to the extent that the total shares at all times equal 100%. The percentage interest and percentage vote shall be expressed as a fraction if necessary when the number of units is not evenly divisible into 100 so that the total interest and vote equals 100% at all times.

As each section is developed, Declarant shall record a supplemental declaration annexing and adding such section to this declaration and making it a part of "the regime". Declarant reserves the right to annex additional sections thereof that are not necessarily in numerical order shown on the plans. Such supplemental declaration shall contain the following:
(a) A description of the real estate to be annexed,

(b) A description of the dwelling units described in a manner consistent with this declaration,

(c) The percentage interest of all dwelling units upon annexation, computed in accordance with the formula.

Each owner, by acceptance of a deed to a dwelling unit, acknowledges, consents, and agrees that the following rights and conditions shall be applicable upon the recording of each supplemental declaration:

(a) The section described in each supplemental declaration shall be governed in all applicable respects by the provisions of this declaration.

(b) The percentage interest applicable to each dwelling unit shall be automatically reallocated in accordance with the schedule set forth in such supplemental declaration, which shall be based upon the formula. On recording of each supplemental declaration, the amount by which the percentage interest of a dwelling unit is reduced thereby shall be deemed to release and divest that amount from such dwelling unit owner and revert to the Declarant, its successors and assigns.

(c) Each deed, mortgage, or other instrument affecting a dwelling unit shall be deemed given subject to the limitation that the percentage interest appurtenant to each dwelling unit shall be, upon the recording of each supplemental declaration, altered in accordance with the supplemental declaration based upon the formula.

(d) The percentage interest in the common areas and limited areas appurtenant to each dwelling unit shall be deemed to include any additional common areas and limited areas annexed hereto by a supplemental declaration, which supplemental declaration shall grant and convey to the owners the appropriate percentage interest, and each deed, mortgage, or other instrument affecting a dwelling unit shall be deemed to include such additional common areas and limited areas, and the ownership of any dwelling unit and lien of any mortgage shall automatically include and attach to such additional common area and limited area upon recording of such supplemental declaration.

(e) The recording of a supplemental declaration shall not alter the amount of the lien for common expenses assessed to a dwelling unit in a section already a part of the regime prior to such recording. The lien for the prorata share of common expenses for the sections annexed upon such recording shall be assessed and paid as provided in the by-laws.
(f) Each owner agrees for himself and all those claiming under him, including mortgagees, that this declaration and each supplemental declaration is and shall be deemed to be in accordance with the act, and for the purpose of this declaration and act, any changes in percentage interest as set forth in any supplemental declaration which is in accordance with the formula expressed herein, shall be deemed to be made by agreement of all owners.

(g) Each owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the sections in the tract in accordance with the provisions and intent of this paragraph 17.

(h) Each owner, by acceptance of a deed to a dwelling unit, shall thereby appoint Declarant or its nominee as such owner’s attorney-in-fact for the purpose of reallocating from time to time the percentage interest appurtenant to such owner’s dwelling unit in accordance with the provisions of this paragraph 16, and, to the extent required by law to carry out the intent of this paragraph 16, on behalf of such owner to consent to or vote in favor of the amendment of this declaration, as well as to do all things as contained in such agreement allowing Declarant to act as attorney-in-fact, which agreement for a power of attorney and power of attorney are incorporated herein by reference. The appointment of Declarant or its nominee as such attorney-in-fact and the granting of such special power to Declarant or its nominee shall be deemed to be coupled with an interest in the common areas, and shall be irrevocable and binding upon the heirs, successors and assigns of such owner, but shall expire when all of the additional tract has been annexed, Declarant turns the project over to the co-owners, or on January 1, 2006 or 6 months after the last unit is sold whichever first occurs.

In the event Declarant does not elect to annex additional sections within the tract or any part thereof, as permitted by this paragraph 16, Declarant shall file a supplemental declaration which shall permanently remove that part of the tract that has not been annexed from any right to be made a part of “the regime”, provided, however, any section for which a supplemental declaration has not been filed by January 1, 2008, shall automatically be removed from the possibility of becoming a part of “the regime” in the manner provided in this declaration. Upon the filing of such supplemental declaration removing a part of the additional tract from the possibility of becoming a part of “the regime” in accordance with this declaration, the percentage interest designed in the declaration or supplemental declaration last filed shall not be altered without the consent of all owners.

18. Easements to and From Additional Sections. In the event all or any part of
the additional sections of the tract are not annexed, Declarant reserves unto itself, its’ successors and assigns, for the use and benefit of that part of the tract not annexed, the right and easement to enter upon the streets and common areas to provide ingress and egress to the additional sections. It is the purpose and intent of the easements herein granted or reserved to provide free and unrestricted use and access across the roadway and sidewalks for the owners and residents of the additional sections, their guests, invitees, and all public and quasi-public vehicles.

The easements granted and reserved in this paragraph 18 shall be easements and covenants running with the land and accruing to the benefit of the additional sections.

19. **Insurance**

(a) The Co-Owners, through the association of Co-Owners, shall provide insurance that shall:

1) Provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the owners do not elect to restore pursuant to paragraph 18 below; and,

2) Contain a "replacement cost endorsement". Such insurance coverage shall be for the benefit of each owner and the association and, if applicable, the owner's mortgagee. The proceeds shall be payable to the association who shall hold such proceeds as trustee for the individual owners and mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this paragraph 17 and paragraph 18 of the declaration, as applicable, and any surety bond or bonds obtained by the Board covering the officers of "the Regime" as provided in the By-Laws shall specifically include protections for any insurance proceeds so received.

Such insurance shall inure to the benefit of each individual owner, the association, the Board of Managers, and any managing agent or company acting on behalf of the association, as their interests may appear. The Owners, as well as the Lessees, if any, shall be able to recover losses insured where applicable.

Each Owner shall have the right to purchase additional insurance he may deem necessary, and each Owner shall be solely responsible for loss or damage to the contents of his owner dwelling unit, however caused, including all floor and wall coverings, and fixtures and betterments installed by the Owner, and his personal property stored elsewhere on the property. Each owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk including, but not limited to, living expenses.

(b) The Co-Owners through the association of Co-Owners shall purchase and pay for as part of the common Expenses, a master casualty policy affording fire and
extended coverage insurance in an amount equal to the full replacement costs of the improvements that in whole, or in part, comprise the Common Areas and facilities. The Co-Owners through the Association of Co-Owners shall also purchase and pay for as part of the Common Expenses a master liability policy in an amount required by the By-Laws or Declaration as revised from time to time by a decision of the Board of Managers of the association, which policy shall cover the association of Co-Owners, the executive body, if any, the managing agent, if any, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the condominiums, all condominium unit owners and all other persons entitled to occupy any unit or other portions of the condominium. Such other policies as may be required may be obtained and paid for as part of the common Expenses and in amounts as determined by the Board of Managers, by the Co-Owners through the association, including, without limitation, workmen’s compensation insurance, liability insurance on motor vehicles owned by the association, specialized policies covering lands or improvements on which the association has or shares ownership or other rights, and officers’ and managers’ liability policies.

(c) When any policy of insurance has been obtained by or on behalf of the association of Co-Owners, written notice of the obtaining thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Co-Owner or Mortgagee whose interest may be affected thereby by the officer required to send notices of meetings of the association of Co-Owners.

20. Disaster, Casualty and Restoration

(a) In case of fire or any other casualty or disaster, other than complete destruction of all buildings containing the condominium units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements.

(b) In the event of complete destruction of all the buildings containing condominium units, the building(s) shall not be reconstructed, except as otherwise provided, and the insurance proceeds, if any, shall be divided among the Co-Owners proportioned according to the fair market value of all other condominiums and the property considered as to be removed from the condominium under section 28 of the Act unless by vote of two-thirds (2/3) of all of the Co-Owners a decision is made to rebuild the buildings, in which case the insurance proceeds shall be applied and any excess of construction costs over insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the buildings.

(c) A determination of total destruction of the buildings containing condominium units shall be determined by a vote of two-thirds (2/3) of all Co-Owners at a special meeting of the association of Co-Owners called for that purpose.
(d) Where the improvements are not insured or where the insurance proceeds are not sufficient to cover the cost of repair or reconstruction and the property is not to be removed from the horizontal property regime, the Co-Owners shall contribute the balance of any such costs in the percentage by which a condominium unit owner owns an undivided interest in the Common Areas and facilities as expressed in the Declaration. Such amount shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided in Section 24 of the Act.

(e) If, pursuant to (a), (b) and (c) above, it is not determined by the Co-Owners to rebuild after a casualty or disaster has occurred, then in that event,

1) The property shall be deemed to be owned in common by the condominium unit owners;

2) The undivided interest in the property owned in common which shall appertain to each condominium unit owner shall be the percentage of undivided interest previously owned by such owner in the Common Areas and facilities;

3) Any liens affecting any of the condominium units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the condominium unit owner in property; and

4) The property shall be subject to an action for partition at the suit of any condominium unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the condominium unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the condominium unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each condominium unit owner.

21. **Sale of Dwelling by Declarant.** For the purpose of maintaining the residential character of the Regime, and for the protection of the Co-Owners, Declarant specifically reserves the mode and method of the original sale of each Unit until the last unit in the Regime is sold.

22. **Membership in the Co-Owners Association.** The Tract is subject to the covenants and restrictions contained herein. For the purpose of this Declaration, upon the recording of this Declaration, all the rights and obligations accruing to a Dwelling Unit shall include, but not be limited to, the obligation to pay the monthly assessments as provided in such Declaration, which monthly assessments are a lien on each Dwelling Unit, and the necessity and right to become a member of the Co-Owners Association, and to have a vote for each Dwelling Unit owned, pursuant to the formula heretofore set out.
23. **Covenants and Restrictions.** The covenants and restrictions applicable to the use and enjoyment of the Dwelling Units are set forth in the Code of By-Laws of the Co-Owners Association. These Covenants and Restrictions are for the mutual benefit and protection of the present Owners and shall run with the land and inure to the benefit of and be enforceable by the Owner, Co-Owners or by the Association. Present Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions, but there shall be no right to reversion or forfeiture of title resulting from such violation.

24. **Amendment of Declaration.** Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

   (a) **Notice.** Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered. The amendments to declaration dealing with the additional sections and reassignment of percentage interest in the respective sections, however, are not subject to the conditions of this sections and may be adopted by the Board of Managers without notice.

   The restrictions and prohibitions against amendments are further qualified by any right or grant given to the Declarant by virtue of the Agreement of Power of Attorney and Power of Attorney executed by the respective Owners in favor of the Declarant or its assigns, which Agreement and Power of Attorney are again incorporated herein by reference.

   (b) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Managers or the Owners of at least a majority of the Percentage Vote.

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

   (d) **Adoption.** Any proposed amendment to this Declaration must be approved by a vote of not less than a majority of the Percentage Vote.

   (e) **Amendments.** No amendment to this Declaration shall be adopted which changes:

      1) The Percentage Interest with respect to any Dwelling Unit or the applicable share of an Owner’s Liability for the Common Expense without approval of all of the Co-Owners, except as otherwise provided relating to annexation;
2) The provisions of paragraph 16 of this Declaration except by Declarant in the manner provided therein;

3) The provisions of paragraph 17 of this Declaration without the consent of the Declarant.

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

25. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants, and occupants of the Dwelling Unit shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any dwelling unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit or the Property as though such provisions were recited and stipulated at length with in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy, or control a Dwelling Unit or Dwelling Units, or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the Rules and Regulations applicable thereto as each may be amended from time to time.

26. Rights of Mortgage Purchaser. In the event Federal Home Loan Mortgage Corp., or other purchaser of a mortgage of any property in this Regime should request or require it, the Declarant or Board of Managers may fully satisfy such requirements and the right to act for and on behalf of such Co-Owners with regard to same is hereby conferred, among other things in the Agreement for Power of Attorney and Power of Attorney executed herewith by each Co-Owner.

27. Negligence. Each Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy, or abandonment of his Dwelling Unit or its appurtenances or of the common Areas or Limited Areas.
28. **Reservation of Rights.** Declarant reserves the right to amend this Declaration without consent of the respective Owners until six (6) months after the last Dwelling Unit is sold, the project is turned over to the Co-Owners Association, or January 1, 2008, whichever occurs first. In the event there is an annexation or annexations of an additional section or sections, the same rule will apply to amendments and supplements to this declaration as pertains to each individual section. Declarant also reserves the right to determine the mode and method of sale of the Dwelling Units until the last such unit is sold.

29. **Costs and Attorneys’ Fees.** In a proceeding arising because of failure of an Owner to make any payments required or to comply with any provisions of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys’ fees incurred in connection with such default or failure.

30. **Waiver.** No owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas or limited areas or by abandonment of his dwelling unit. Nor does the association waive the right to place a lien on the dwelling unit and foreclose same by failing to do so when payment is not timely made of the common expenses by the owner when due.

31. **Severability Clause.** The invalidity of any covenant, restriction, condition, limitation, or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability, or affect the rest of this Declaration or the attached By-Laws.

32. **Plans.** The Plans, as described in paragraph 1(q) of this Declaration, are incorporated into this Declaration by reference and have been filed in the Office of the Recorder of Hendricks County, Indiana, in Book Page as of , and amended plans as may, from time to time, be so filed pursuant to this declaration, are also incorporated into this declaration.

33. **Drainage and Sewer Easements.** Declarant hereby reserves the open areas of the Tract as an undefined Drainage and Sewer Easement (D. & S. Easement). In doing so, it is the intention of Declarant to provide the needed flexibility to itself to properly install and allow to be maintained all sewer and drainage services, to the dwelling units constructed. The D. & S. Easement shall include all common areas. No other improvements or permanent structures (excluding walkways, pavement or driveways and fences) shall be placed within the D. & S. Easements and any fences so installed shall be and are expressly subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair or remove any necessary facilities and the right of Declarant (while he develops the tract) and the Association to provide for and maintain appropriate drainage.
34. **Additional Easement Rights.** Declarant further reserves unto itself an easement and the full right, title and authority to relocate, alter or otherwise change the location of any drainage, utility, and sewer easement and to grant such further easements, licenses and right-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within the Tract or any portion of the Tract.

Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other easement Plat or amendment to the Plat recorded in the Office of the Recorder of Hendricks County, Indiana and any Owner of any Dwelling Unit shall take title subject to the rights and easements reserved herein; provided, however, the rights reserved in this Section shall not be exercised in a manner which unreasonably and adversely affects any building or portion thereof or which unreasonably restricts the rights of ingress and egress to any Dwelling Unit. The rights and easements reserved by Declarant in this Section shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate one (1) year after Declarant shall have conveyed the last dwelling unit within the property or on January 1, 2008, whichever first occurs.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

ROACH ENTERPRISES, INC.

BY: William J. Roach  
President
STATE OF INDIANA  
COUNTY OF HENDRICKS

Before me, a Notary Public in and for said County and State, personally appeared William J. Roach, President of Roach Enterprises, Inc., who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Ownership.

Witness my hand and seal this 2nd day of August, 2010.

My commission expires: 10/24/18

(Signature)

Printed: Nancy A. Yew
County of Residence: Hendricks

FIRST AMERICAN

THIS INSTRUMENT PREPARED BY:
CHARLES E. HOSTETTER, ATTORNEY AT LAW
HOSTETTER & O'HARA
315 NORTH GREEN STREET, SUITE 200
BROWNSBURG, IN 46112
TWENTIETH SUPPLEMENTAL DECLARATION OF COVENANTS
AND RESTRICTIONS OF HORIZONTAL PROPERTY OWNERSHIP
HOLIDAY PINES TWO, PHASE ONE, A, HORIZONTAL PROPERTY REGIME

This Twentieth Supplemental Declaration, made this _____ day of
__________, 2004, by Roach Enterprises, Inc., an Indiana Corporation ("Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the following
described real estate located in Hendricks County, Indiana, to-wit:

See "Attachment A", for legal description

(hereinafter referred to as "Holiday Pines Two, Phase One, A, Horizontal Property
Regime Section Two")

B. On the 2nd day of August, 2001, Declarant executed a Declaration of
Horizontal Property Ownership, Holiday Pines Two, Phase One Horizontal Property
Regime, which Declaration was recorded in the office of the Recorder of Hendricks
County, Indiana on the 8th day of August, 2001, as Instrument No. 200100023190, in
Book No. 264, pages 1329-1346 (the "Declaration"). Incorporated into the Declaration
by reference are the Articles of Incorporation and Code of By-Laws of Holiday Pines
Two, Phase One Co-Owners Association, Inc. The Declaration, the Articles of
Incorporation, and By-Laws of Holiday Pines Two, Phase One, Co-Owners Association,
Inc. are incorporated herein by reference and all the terms and definitions as described
therein are hereby adopted and shall have the same meaning in this Supplemental
Declaration.

C. Holiday Pines Two Horizontal Property Regime, Phase One, A, Section
Two, is part of the tract described in Paragraph A and Paragraph 16 of the Declaration.
Paragraph 16 of the Declaration provides that all or part of the tract may be annexed to
Holiday Pines Two Horizontal Property Regime, Phase One, incorporated into the
Declaration, and the Owners thereof become members of Holiday Pines Two, Phase One,
Co-Owners Association, Inc. in accordance with the conditions in Paragraphs 16 and 17
of the Declaration and the filing of the Supplemental Declaration by Declarant. All
conditions relating to the annexation of Holiday Pines Two, Phase One, A, Horizontal
Property Regime, Section Two, to the tract of Holiday Pines Two, Phase One, Horizontal
Property Regime have been met and Declarant, by execution of this Supplemental
Declaration, hereby incorporates Holiday Pines Two, Phase One, A, Horizontal Property
Regime, Section Two, into the Declaration and as annexed to Holiday Pines Two, Phase
One, Horizontal Property Regime.
NOW THEREFORE, Declarant makes this Supplemental Declaration as follows:

1. Declaration. Declarant hereby declares that Holiday Pines Two, Phase One A, Section Two, and other appurtenant easements, dwelling units, buildings, improvements and property of every kind and nature whatsoever, real, personal or mixed located thereon, is hereby annexed to Holiday Pines Two, Phase One A, Horizontal Property Regime and made part of the Declaration as if such originally had been included in the Declaration, and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and provisions of the Declaration, the Articles, the By-Laws and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. Holiday Pines Two, Phase One A, Horizontal Property Regime, Section Two, hereafter and for all purposes shall be included in the definition of Tract as defined in Paragraph 1(u) of the Declaration.

2. Description of Holiday Pines Two, Phase One A, Horizontal Property Regime, Section Two. Holiday Pines Two, Phase One A, Horizontal Property Regime, Section Two, consists of One (1) building, Building 200 with one unit included in the building; numbered unit 200; together with the Common Area as designated on the Plat. The Common Area and the size of the units are as designated on the Plat.

3. Percentage Interest. The Owner of each dwelling unit, including the owners of Section One, Section Two, Section Three, Section Four, Section Five, Section Six, Section Seven, Section Eight, Section Nine, Section Ten, Section Eleven, Section Twelve, Section Thirteen, Section Fourteen, Section Fifteen, Section Sixteen, Section Seventeen, and Section Eighteen in Phase One, and Section One in Phase One A, and Section Two in Phase One A annexed by this Supplement, shall each have a percentage interest in the Common Areas and Limited Areas and a corresponding percentage vote of 2 1/15%.

4. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of a Dwelling Unit shall constitute an agreement that the provisions of this Supplemental Declaration, the Declaration, the By-Laws, the Articles and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by each Owner, tenant or occupant and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Dwelling Unit as if those provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof.

5. Supplemental Plat. The plat of Section Two of Holiday Pines Two, Phase One A, Horizontal Property Regime, has been recorded in the office of the Recorder of Hendricks County, Indiana on the ______ day of ________, 2004, and is incorporated herein by reference.

2
EXECUTED the day and year hereinabove written.

ROACH ENTERPRISES, INC.

BY: William J. Roach, President

STATE OF INDIANA )
)SS:
COUNTY OF HENDRICKS )

Before me a Notary Public in and for said County and State, personally appeared William J. Roach, an officer of Roach Enterprises, Inc., who acknowledged the execution of the above and foregoing Twentieth Supplemental Declaration of Covenants and Restrictions for Holiday Pines Two, Phase One A, Section Two, Horizontal Property Ownership, of and on behalf of said Corporation.

Witness my hand and Notarial Seal this 30st day of May, 2004.

My Commission Expires: 1-15-12
County of Residence: Hendricks

Notary Public
Jennifer L. Appleget
Printed Name of Notary Public

This instrument prepared by
Charles E. Hostetter
HOSTETTER & O'HARA
515 North Green Street, Suite 200
Brownsburg, IN 46112
(317) 852-2422

jla/04/04/holidaypines_declarationrev0206a
LAND DESCRIPTION
Holiday Pines Two, Phase IA
Horizontal Property Regime, Section Two

That portion of Block "G", Holiday Pines Two, Phase IA, the Plat of which is recorded as Instrument No. 2002-23613 in Plat Cabinet 5, Slide 16, Page 1 in the Office of the Recorder of Hendricks County, Indiana, described as follows:

BEGINNING at the northwest corner of said Block "G"; thence South 89 degrees 50 minutes 31 seconds East along the north line thereof 110.00' to the northeast corner of said Block "G"; thence South 00 degrees 09 minutes 29 seconds West along the east line thereof 94.93 feet; thence North 89 degrees 50 minutes 31 seconds West parallel with said north line 110.00 feet to the west line of said block "G"; thence North 00 degrees 09 minutes 29 seconds East along said west line 94.93 feet to the POINT OF BEGINNING, containing 10,442 square feet, more or less.

The above described parcel contains Unit 200
CODE OF BY-LAWS OF
HOLIDAY PINES CONDOMINIUMS II CO-OWNERS’ ASSOCIATION, INC.
A NOT-FOR-ProFIT INDIANA CORPORATION

Article I
Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration creating the Holiday Pines II Horizontal Property Regime and these By-Laws are hereby declared to be a part thereof. The Declaration is incorporated herein by reference and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the property and the administration and conduct of the affairs of the association.

Section 1.02. Individual Application. All of the owners, co-owners, future owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a unit or any part of the property, shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Horizontal Property Act of the State of Indiana, Act 1963 Chapter 349, Sections 1 through 31, as amended.

Article II
Meetings of Association

Section 2.01. Purpose of Meetings. After the expiration of the term of the initial Board of Managers (Article III, Sec. 3.02), Meetings of the co-owners shall be held at least annually and at other times as may be necessary for the purpose of electing the Board of Managers, approving the annual budget, providing for the collection and payment of common expenses, and for such other purposes as may be required by the Declaration, these By-Laws, or the act.

Section 2.02. Annual Meetings. The first annual meeting of the members of the association should be held on a date and time specified by the initial Board (see Sec. 3.02). Subsequent meetings will be held on the anniversary date of the first annual meeting or on such other date as set forth by the Board of Managers. At the annual meeting, the co-owners shall elect the Board of Managers of the association in accord with the provisions of these By-Laws and transact such other business as may properly come before the meeting.
Section 2.03. Special Meetings. A special meeting of the members of the association may be called by resolution of the Board of Managers or upon a written petition of the co-owners who have not less than a majority of the total percentage vote as defined in the Declaration. The resolution or petition shall be presented to the president or secretary of the association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the association shall be held at facilities, as designated by the Board of Managers. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the secretary of the association to each co-owner not less than fourteen (14) days prior to the date of such meeting. The notice shall be mailed or delivered to the co-owners at their address as it appears upon the records of the association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

a) Number of Votes: The owner of each dwelling unit shall be entitled to one full vote on each matter coming before the meeting. The total number of votes shall equal the total number of dwelling units sold by the developer prior to the time of the meeting.

b) Multiple Owners: When the owner of a dwelling unit constitutes more than one person (i.e., joint ownership between husband and wife) or is a partnership, there shall be only one voting representative entitled to the vote allocable to that unit. At the time of acquisition of title to a unit by a multiple owner or a partnership or prior to the first election meeting, those persons constituting such owner or the partners shall file with the secretary of the association an irrevocable proxy appointing one of such persons or partners as the voting representative for such unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction or is rescinded by the same authority that granted him or her voting privileges in the first place. Such appointed voting representative may grant a proxy to another to vote in his or her place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall constitute relinquishment of this right to act as voting representative for the unit. If the multiple owners of dwelling unit cannot agree to a voting representative, then the Board of Managers will decide by the flip of a coin at each meeting which of the owners shall be the voting representative for that meeting.
c) **Voting by Corporation or Trust.** Where a corporation or trust is an owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation shall cast the vote to which the corporation is entitled.

d) **Multiple Unit Property Owners.** An owner of more than one dwelling unit is entitled to one vote for each dwelling unit he or she owns.

e) **Proxy.** An owner may vote either in person or by his duly authorized and designated attorney-in-fact and/or proxy. Where voting is by proxy, the owner shall duly designate his attorney-in-fact in writing, delivered to the association prior to the commencement of the meeting.

f) **Quorum:** A quorum for any meeting consists of a group of people duly authorized to cast a majority (51%) of the total vote as defined in paragraph (a) above.

g) **Conduct of Meeting.** The chairman of the meeting shall be the president of the association. The chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

1) **Call for Quorum:** The chairman will call the roll. If there is a quorum the meeting will proceed. If a quorum does not exist the meeting shall be adjourned, continued or rescheduled.

2) **Reading of Minutes:** The secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

3) **Treasurer’s Report:** The treasurer shall report to the co-owners concerning the financial condition of the association and answer relevant questions of the owners concerning the common expenses and financial report for the prior year and the proposed budget for the current year.

4) **Budget:** The proposed budget for the calendar year shall be presented to the co-owners for approval and or amendment.

5) **Election of Board of Managers:** Nominations for the Board of Managers may be made by an owner from those persons eligible to serve. Such nominations must be in writing and presented to the secretary at least (10) days prior to the annual meeting or first election meeting. Voting shall be by paper ballot. If the president chooses he may appoint a nominating committee to recommend a slate of candidates, however, any nomination by an owner of a qualified candidate shall be placed upon the slate. Each
candidate must give his or her consent to the secretary to allow his or her name to be placed on the ballot prior to the election process held at the meeting. Failure to provide the consent prior to the announcement of the meeting shall disqualify the candidate. Each owner shall have one vote for each Board position to be filled. Multiple unit property owners as defined in Section 2.05 (d) are entitled to the number of votes for each Board position equivalent to the number of dwelling units he or she owns. A voter must vote for all positions, and in no instance may he vote for the same person more than once unless the voter owns more than one dwelling unit. Those persons receiving the highest number of votes shall be elected. In the event of a tie vote for one or more of the last remaining positions subsequent ballots shall be cast until the tie is broken.

(6) Other Business: Other business may be brought before the meeting only upon a written request submitted to the secretary of the association at least ten (10) days prior to the date of the meeting, provided, however, that such written request may be waived at the meeting if agreed by a majority of the vote.

(7) Committee Reports: Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Managers.

(8) Adjournment

Article III
Board of Managers

Section 3.01. The affairs of the association shall be governed and managed by the Board of Managers (herein collectively called "Board", or "managers" and individually called "manager"). The initial Board of Managers shall be composed of three (3) persons. After the expiration of the term of the initial Board of Managers, the constituency of such Board shall be five (5). No person shall be eligible to serve as a manager unless he is an owner or is an attorney, agent, or employee of declarant.

Section 3.02. Initial Board of Managers: The initial Board of Managers shall be Barry E. Roach, President, Wayne A. Jones, Director, and Jeanie L. Roach, Secretary/Treasurer. The initial Board shall hold office until six months after the last unit has been sold (or is not being leased by Declarant) and title transferred or January 1, 2006, whichever occurs first. Responsibility for conducting the business of the association shall be transferred to the elected Board of Managers at the first annual meeting called by the initial Board. Barry E. Roach and Jeanie L. Roach shall be the initial president and secretary/treasurer, respectively of the Board.

Section 3.03. Additional Qualifications: Where an owner consists of more than one
person or is a partnership, corporation, trust or legal entity, then one of the persons constituting the multiple owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Managers, except that no single dwelling unit may be represented on the Board of Managers by more than one person at a time.

Section 3.04. Term of office and vacancy. The Board of Managers shall be elected at each annual meeting of the association, subject to the limitations set forth in Section 2.01 above. At the first annual meeting five (5) Board members shall be elected. The three highest vote recipients shall serve for two years while the next two highest vote recipients shall serve for one year. At subsequent annual meetings, those seats whose terms have expired shall be elected for a two year term, thereby creating staggered terms. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining managers except in the case of a vacancy occurring in accordance with Section 3.05 in which case the vacancy shall be filled at a special meeting duly called in accordance with procedures for election of Board member set forth in Section 3.05 below.

Section 3.05. Removal of Managers. After the tenure of the initial Board of Managers, a manager or managers may be removed with or without cause by a majority vote of a quorum at a special meeting of the co-owners duly called. In such case, successor managers shall be elected at the same meeting from eligible owners nominated at the meeting. A manager so elected shall serve the unexpired term of his predecessor.

Section 3.06. Duties of the Board of Managers. The Board of Managers shall provide for the administration of the Horizontal Property Regime, the maintenance, upkeep, and replacement of the common areas and limited area, and the collection and disbursement of the common expenses. These duties include, but are not limited to:

(a) maintenance, repair and replacement of the common areas and limited areas including driveways, sidewalks and stoops.
(b) removal of garbage and waste, and snow from the common areas.
(c) maintenance and repair of the exterior of buildings. Maintenance of exterior doors, garage doors, and windows shall be limited to outside painting and caulking.
(d) assessment and collection of each owner’s pro-rata share of the common expenses and each owner’s assessments.
(e) preparation of the proposed annual budget, a copy of which shall be mailed or delivered to each owner at the same time as the mailing of the notice of the annual meeting.
(f) preparation of a year end statement listing all income and expenses for the prior year. This statement shall be delivered to all owners prior to the
annual meeting.

(g) maintenance of an up-to-date accounting of all income and expenditures of the co-owners association. All records and vouchers shall be made available for examination by any owner upon written request to the Board.

Section 3.07. Power of the Board of Managers: the Board of Managers shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ and terminate at will a managing agent or real estate management company (either being hereinafter referred to as "managing agent") to assist the Board in performing its duties.

(b) to purchase for the benefit of the co-owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Managers.

(c) to procure for the benefit of the owners, fire and extended coverage insurance covering the buildings and the property to the full insurable value thereof and to procure public liability and property damage insurance and workmen's compensation insurance, if necessary, for the benefit of the owners of the association.

(d) to employ legal counsel, architects, contractors, accountants, and others as in the judgment of the Board of Managers may be necessary or desirable in connection with the business and affairs of the co-owners' association.

(e) to include the costs of all of the above and foregoing as common expenses and to pay all of such costs.

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

(g) to adopt, revise, amend, and alter from time to time, reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the property.

Section 3.08. Limitation on Board Action. After the tenure of the initial Board of Managers, the authority of the Board of Managers to enter into contracts shall be limited to contracts involving a total expenditure of less than $3,000.00 without obtaining the prior approval of a majority of owners, or the majority of a quorum at a duly called meeting of the co-owners except in the following cases:

(a) supervision of, and full authority regarding replacing or restoring portions
of the common areas or limited areas damaged or destroyed by fire or other
casualty where the costs thereof is payable out of insurance proceeds
actually received; and,

(b) proposed contracts and proposed expenditures expressly set forth in the
proposed annual budget as approved by the co-owners at the annual
meeting.

Section 3.09. Compensation: No manager shall receive any compensation for his
services, as such, except to such extent as may be expressly authorized by a majority of the
owners.

Section 3.10. Meetings: Regular meetings of the Board of Managers may be held at
such time and place as shall be determined from time to time by a majority of managers.
The secretary shall give notice of regular meetings of the Board
to each manager personally or by United States mail at least five (5) days prior to the date
of such meetings.

Special meetings of the Board may be called by the president or any two Board members.
It is the responsibility of the person or persons calling the special meeting to notify all
Board members in writing at least (3) days in advance of the meeting. The notice of the
meeting shall contain a statement of the purpose of the meeting. Notification must be
delivered by mail or delivered in person to the manager's residence.

Section 3.11. Waiver of Notice: Any manager may waive his right of notification if
done in writing prior to the commencement of the meeting. The presence of any manager
at a meeting constitutes his waiver of notification. If all managers are present at a meeting
no meeting notice shall be required.

Section 3.12. Non-liability of Managers. The managers shall not be liable to the co-
owners for any error or mistake of judgment exercised in carrying out their duties and
responsibilities as managers, except for their own individual willful misconduct or bad
faith. The co-owners shall indemnify and hold harmless each of the managers against any
and all liability to any person, firm, or corporation arising out of contracts made by the
Board on behalf of the co-owners' association, unless any such contract shall have been
made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is
intended that the managers shall have no personal liability with respect to the contracts
made by them on behalf of the association and that in all matters, the Board is acting for
and on behalf of the co-owners and as their agent.

The liability of any owner arising out of any action taken by the Board or out of the
aforesaid indemnity in favor of the managers shall be in proportion to the owners' per-
centage interest of the common area unless otherwise agreed by the owner.

Every contract made by the Board or the managing agent on behalf of the association shall
provide that the Board of Managers and the managing agent, as the case may be, is acting as agent for the co-owners and shall have no personal liability thereunder, except in their capacity as owners and then only to the extent of their percentage interest.

Section 3.13. Additional Indemnity of Managers. The co-owners shall indemnify any person, his or her heirs, assigns, and legal representatives, made a party to any action, suit, or proceeding by reason of the fact that he or she is or was a manager of the association against the expense, including attorney's fees actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except as otherwise specifically provided herein in relation to a proceeding that such manager is liable for gross misconduct in the performance of his duties. The co-owners shall also reimburse to any such manager the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the co-owners that such manager was not guilty of gross misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceedings against a manager, no manager shall be considered or deemed to be guilty of or liable for gross misconduct in the performance of his duties where, acting in good faith, such manager relied on the books and records of the association or statements or advice made by or prepared by the managing agent of the association or any officer or employee thereof, or any accountant, attorney or other person, firm, or corporation employed by the association to render advice or service unless such manager had actual knowledge of the falsity or incorrectness thereof; nor shall a manager be deemed guilty of or liable for gross misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Managers.

Article IV
Officers

Section 4.01. Officers of the Association. The principal officers of the association shall be the president, vice-president, secretary and treasurer, all of whom shall be elected by the Board. The managers may appoint an assistant treasurer and an assistant secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the president and secretary shall not be performed by the same person.

Section 4.02. Election of Officers. Except as set forth in Section 3.02 above, the officers of the association shall be elected annually by the Board at the initial meeting of each new Board. Upon recommendation of a majority of all members of the Board and upon an affirmative vote of a majority of all owners any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The president shall be elected from among the managers and shall be the chief executive officer of the association. He shall preside at all meetings of the association and of the Board, and shall have and discharge all the general powers
and duties usually vested in the office of the president or chief executive officer of an 
association or a stock corporation organized under the laws of Indiana, including, but not 
limited to, the power to appoint committees from among the co-owners as he may deem 
necessary, to assist in the affairs of the association and to perform such other duties as the 
Board may from time to time prescribe.

Section 4.04. The Vice-President. The vice-president shall be elected from among the 
managers and shall perform all duties incumbent upon the president during the absence or 
disability of the president. The vice-president shall also perform such other duties as 
these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the 
Board or by the president.

Section 4.05. The Secretary: The secretary shall be elected from among the managers. 
The secretary shall attend all meetings of the association and of the Board and shall keep 
or cause to be kept a true and complete record of proceedings of such meetings, shall 
perform all other duties incident to the office of the secretary, and such other duties as 
from time to time may be prescribed by the Board. The secretary shall specifically see that 
all notices of regular meetings of the association or the Board are duly given, mailed or 
delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer: The Board shall elect from among the managers a 
treasurer who shall maintain a correct and complete record of accounts showing 
accurately at all times the financial condition of the association and such other duties 
incident to the office of treasurer. He shall be a legal custodian of all monies, notes, 
securities, and other valuables which may from time to time come into possession of the 
association. He shall immediately deposit all funds of the association coming into his 
hands in some reliable bank or other depository to be designated by the Board and shall 
keep such bank account in the name of the association. The treasurer shall be bonded.

Section 4.07. Assistant Officers: The Board of Managers may from time to time, 
designate and elect from among the co-owners an assistant secretary and assistant 
treasurer, who shall have such powers and duties as the officers whom they are elected to 
assist shall delegate to them and such other powers and duties as these By-Laws or the 
Board of Managers may prescribe. Except that they shall have no voting privileges on the 
Board unless they are chosen from among elected Board members.

Article V

Section 5.01. Annual Accounting. Annually, after the close of each fiscal year and prior 
to the date of the annual meeting of the association, the Board shall cause to be prepared 
and furnished to each owner a financial statement, which statement shall show all receipts 
and expenses received, incurred, and paid during the preceding calendar year. The initial 
Board shall present to members of the association at the first annual meeting a statement 
showing all accumulated income and expenses for all prior years.
Section 5.02. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the association, the Board of Managers shall cause to be prepared a proposed annual budget for the ensuing fiscal year estimating the total amount of the common expenses for the ensuing year, and furnish a copy of the proposed budget to each owner prior to the annual meeting. The annual budget shall be submitted to the co-owners at the meeting of the association for adoption and if so adopted, shall be the basis for the regular assessments (hereinafter defined) for the ensuing calendar year. At the annual meeting of the co-owners, the budget may be approved in whole or in part, or may be amended in whole or in part by a majority of the vote; provided, however, that in no event shall the annual meeting of the co-owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended.

Section 5.03. Regular Assessments. The adopted annual budget shall contain a stated assessment against each dwelling unit that has been sold and title conveyed. This assessment will be equal for all dwelling units. Upon adoption of the final budget each co-owner shall be given written notice of this assessment (herein called the regular assessment). The regular assessment may be paid in equal quarterly installments commencing on the first day of the month following adoption. Payment shall be made at a place designated by the Board and checks should be made out to the order of Holiday Pines Condominium II Co-Owners’ Association, Inc. The regular assessment for the year shall become a lien on each separate unit, as of the first day of the month after adoption. An owner’s assessment commences on the first of the month following closing of their unit or when possession is taken, whichever first occurs. This assessment may be raised no more than ten percent (10%) each year or may be raised in greater segments than ten percent (10%) providing the cumulative increase averages no more than ten percent (10%) per year.

Units under construction, model units leased by Declarant for model, and unsold units and the common areas associated with such units shall not be assessed and shall be maintained by the declarant until sold.

Section 5.04. Special Assessments. Each of the owners within the development shall automatically and mandatorily be members of the co-owners association and entitled to all of the privileges and subject to all of the obligations thereof. Declarant and all dwelling unit owners, by their acceptance of their deeds, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the articles of incorporation and regulations of the co-owners’ association and of the provisions hereof. Each dwelling unit owner shall pay to the association equal annual assessments, which assessments are necessary to provide for maintenance and repair of the common areas and limited common areas, together with necessary insurance, reserve fund for replacements, maintenance, and for any other necessary function for such maintenance and operation of the regime.

In addition to the annual assessments authorized above, the association may levy in any assessment year, special assessments for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital
improvement, including fixtures and personal property related thereto, and (2) the
expenses of any other contingencies, provided that any such assessments shall have the
assent of a majority of the votes of the members who are voting in person or by proxy at a
meeting duly called for this purpose.

The amount of the annual assessment or of any special assessment provided for in this
Section, shall be assessed as a lien at the beginning of each annual assessment period or at
the time of special assessment, as the case may be. Each assessment shall be due and
payable within thirty (30) days of the assessment, and, upon default of payment within
such period of time, such assessment shall be a lien against the defaulting owner and
against that part of the property, if any, owned by the defaulting declarant, and the
association shall be entitled to enforce the payment of said lien according to the laws of
the state of Indiana, and to take any other actions for collection from the defaulting
parties. Any such lien against a building unit or against that part of the property, if any,
owned by the declarant, shall be subordinate to any recorded first mortgage covering such
building unit or, as the case may be, covering that part of the property, if any, owned by
declarant.

Both annual and special assessments may be collected on a quarterly basis. Penalties may
be invoked by the Board for late payments.

Section 5.05. Maintenance and Repairs. Every owner shall promptly perform all
maintenance and repairs within their own building unit which, if neglected, would
adversely affect the value of the property, and which is the responsibility of the owner to
make personally. Such maintenance and repairs include, but are not limited to, all water
to lines serving the co-owners unit commencing at the co-owners side of the water meter, all
sanitary sewer lines and vents serving the unit terminating at the building’s common sewer
lateral, electric lines serving the unit commencing at the meter base, gas lines commencing
at the gas meter, storm windows, air conditioning equipment, all
Kitchen and household appliances, exterior doors, windows and garage doors except as
noted in Section 3.06(c), interior light fixtures and all other accessories belonging to the
owner and appurtenant to the building unit, including all materials used to further enclose
the covered porch, if such charge occurs upon proper consent and application.

Article VI
Restrictions on Use

Section 6.01. The following restrictions on the use and enjoyment of the building units,
common areas, limited areas, and the property are in addition to those set forth in the
Declaration. These are as follows:

(a) All building units shall be used exclusively for residential purposes and
occupancy for a single family. Nothing herein contained shall restrict the
use of premises during construction and sale period as "models", office,
construction trailer and equipment, and for storage of equipment, materials
and supplies.

(b) no residence shall be erected, altered, placed or permitted to remain on any lot other than one single-family residence two stories or less in height. Every residence shall have an attached garage that is large enough to shelter one or more automotive vehicles. All lots developed shall be developed to the current R-3 zoning classification standards, except that Lots 1-12 shall be developed to the R-2 standard. Said residential structures shall measure a minimum of 1500 square feet of living space, and two-story structures shall have a minimum ground floor area of 900 square feet on said lots with a minimum 1800 square feet of living space total. All residential structures shall be constructed with one hundred percent (100%) brick on the lower level.

(c) no additional buildings shall be erected other than the buildings designated in the Declaration and shown on the plans.

(d) nothing shall be done or kept in any unit or in the common areas or limited areas which will cause an increase in the rate of insurance on any building or the contents thereof. No owner shall permit anything to be done or kept in their unit or in the common areas or limited areas which will result in a cancellation of insurance on any building or contents thereof, or which would be in violation of any law or ordinance.

(e) there shall be no oil, gasoline or other storage tanks allowed.

(f) no clothing, laundry or wash shall be aired or dried on any portion of any lot visible from the road or from another lot.

(g) no waste shall be committed in the common areas or limited areas.

(h) no owner may attach in any manner any item to the outside surfaces of any building without the written consent of the Board. This shall include, but not be limited to, storm windows, T.V. antennas, awnings, canopies, patio roofs, shutters and signs. The foregoing shall not include storm doors approved by the Board and the foregoing shall not include satellite dishes of no more than twelve (12) inches in diameter.

(i) no owner may place any object in any common area or limited common area without the written consent of the Board. The foregoing prohibition shall include but not be limited to, bird baths, bird feeders, artificial animals, rain barrels, wagon wheels and fences. This shall not include porch and patio furniture confined to patios, stoops and porches, nor automobiles confined to driveways, nor other items in a covered porch.
(j) no owner may plant trees, plants and flowers in any common area or limited common area without the written consent of the Board. Flowers may be planted in designated planting areas adjacent to the buildings and patios by the owner authorized to use that area, provided, that said owner maintains the area where the plantings occur. Designated planting areas must be within the area three (3) feet adjacent to the building provided that a mulch box area is already in place and the planting area is completely contiguous to the building and leaves no grassy area difficult for mowing.

(k) no owner may carpet uncovered porches or patios without the written consent of the Board.

(l) no animals, livestock, or poultry of any kind shall be raised, bred, or kept in any unit or in the common areas or limited areas, except that small pet dogs, cats, or customary household pets may be kept in a building unit, provided that such pet is not kept, bred, or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash and an owner shall be fully liable for any damage to the common areas or limited areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the property upon two (2) written notices from the Board to the respective owner. County and town ordinances covering pets shall be enforced in an effort to encourage violators of this provision to comply.

(m) nothing shall be done or permitted in any dwelling unit which will impair the structural integrity of any building or which would structurally change any building, except as otherwise provided in the Declaration or these By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the building unit or to be a nuisance, annoyance, inconvenience, or damage to other residents of the building or neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, T.V., loud speakers, electrical equipment, amplifiers, or other equipment or machines.

(n) no clothes, sheets, blankets, rugs, laundry, or other things shall be hung out or exposed on any part of the common or limited common areas. The common or limited common areas shall be kept free of and clear of rubbish, debris, and other unsightly material by the owners.

(o) no industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced, or permitted on the property, except that a religious activity
limited to no more than fifteen (15) individuals and not regularly scheduled, 
may be allowed.

(p) no "for sale", "for rent", or "for lease" signs or other window advertising 
display shall be maintained or permitted on any part of the property or any 
unit without the prior written consent of the Board, provided, however, 
that the right reserved by the declarant and the Board to place or allow to 
be placed "for sale" or "for lease" signs on any unsold or unoccupied units 
shall control and further provided that such signs may be displayed in the 
street side window of the unit, not in the yard.

(q) all owners and members of their families, their guests, or invitees, and all 
occupants of any unit or other persons entitled to use the same and to use 
and enjoy the common areas and limited common areas or any part thereof, 
shall observe and be governed by such rules and regulations as may from 
time to time be issued by the Board governing the operation, use, and 
 enjoyment of the common areas and limited common areas.

(r) only operating vehicles used for normal passenger vehicle use, which are 
capable of fitting into a garage and normally used for passenger service 
may be parked in driveways, except on a temporary basis not to exceed 
twenty-four (24) continuous hours. No other vehicle of any description 
shall be stored or parked anywhere on the premises except in the garages 
of the dwelling units. Vehicles parked in driveways must be in good 
mechanical repair as not to damage or soil the paved surfaces and must be 
generally acceptable in appearance. No street parking shall be permitted, 
except on a temporary basis not to exceed twenty-four (24) continuous 
hours. Parking of a visitor vehicle in driveways that will not cause damage 
to any common or limited area nor create a nuisance to any other co-
owners shall be permitted.

(s) no digging in common or limited areas (except those designated planting 
areas) by owners is allowed. All digging in common or limited areas must 
be approved by the Board.

(t) no drainage or alteration of the lake capacity or change of the normal 
drainage pool is allowed. No swimming, no use of any watercraft or skiing 
or flotation device is allowed. Fishing is allowed. The lake shall be used 
primarily for drainage and no change in that function is allowed.

The initial Board may grant exceptions to these restrictions on use that are valid only for 
the duration of the initial Board term. The first elected Board shall have the authority to 
rescind any exception to these restrictions that the initial Board approved.

Section 6.02. Right of Entry. An owner or occupant of a building unit shall grant the
right of entry to the managing agent or any person authorized by the Board in case of any emergency originating in, or threatening his unit or the building in which it is located, whether the owner is present or not. Any owner shall permit other persons, or their representatives when so required, to enter his or her building unit for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of emergencies, such right of entry shall be immediate.

Section 6.03. Right of Board to Adopt Rules and Regulations. The Board may promulgate such additional rules and regulations regarding the operation of the property, including, but not limited to, the use of the common areas and limited areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board, and the Board shall cause copies of such rules to be delivered or mailed promptly to all owners.

Article VII
Amendment to By-Laws

Section 7.01. These By-Laws may be amended by a vote of not less than fifty-one percent (51%) of the vote of the co-owners in a duly constituted meeting called for such purpose. Except that right is reserved to the Board of Managers to so amend during the period set out in Section 3.02 above.

Article VIII
Notice of Unpaid Assessments

Section 8.01. Notice of Unpaid Assessments. The Association shall, upon request of a mortgagee, a proposed mortgagee or purchaser who has a contractual right to purchase a unit, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid regular or special assessments against the unit, which statement shall be binding upon the association and the co-owners, and any mortgagee or grantee of the unit shall not be liable for, nor shall the unit conveyed be subject to, a lien for any unpaid assessments in excess of the amount set forth in such statements.

Article IV

Section 9.01. Power of Attorney. The power of attorney executed by each owner in favor of the declarant, as agent, and referred to in the Declaration and the By-Laws, is incorporated herein by reference and the terms and conditions of each are subject to the terms and conditions of said power of attorney.

Certification

The undersigned, being first duly sworn, hereby certifies that the within and
foregoing code of By-Laws of the Holiday Pines Condominiums II Co-Owners' Association, Inc., are true and correct.

Barry E. Roach, President
Holiday Pines Condominiums II Co-Owners' Association, Inc.

STATE OF INDIANA )
COUNTY OF HENDRICKS )

Subscribed and sworn to before me, a notary public in and for said county and state, this 23rd day of August, 2021.

My commission expires: 10/10/2021

Printed Name: Nancy A. Jones
County of Residence: Hendricks

THIS DOCUMENT PREPARED BY:
CHARLES E. HOSTETTER, ATTORNEY AT LAW
HOSTETTER & O'HARA
515 NORTH GREEN STREET, SUITE 200
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