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Indianapolis Downtown—Corporate
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Subdivision Covenants and Restrictions

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR MT. COMFORT COMMERCIAL PARK

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
MT. COMFORT COMMERCIAL PARK (hereinafter referred to as "Declaration") is made this
27th day of February, 1998, by Precedent Commercial Development, LLC, an Indiana
limited liability company (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of certain real property located in Hancock County,
Indiana, and more particularly described in Exhibit A, attached hereto and incorporated herein
by reference, and Developer desires to subject such property to the provisions of this Declaration
and to develop such property (together with the property described in Exhibits "B" and "C") for
office, warehouse and commercial use in a development to be known as "Mt. Comfort
Commercial Park" (hereinafter the "Development"); and

WHEREAS, The Legacy Development, LLC, an Indiana limited liability company
(hereinafter referred to as "Legacy Development") has purchased the real property described in
Exhibit "B" attached hereto and desires and is willing to subject such property to the provisions
of this Declaration such that the property can be developed as a part of the Development; and

WHEREAS, Gregory D. Hochstedler and Dana M. Hochstedler, husband and wife
(hereinafter referred to jointly and severally as "Hochstedler") have purchased the real property
described in Exhibit "C" attached hereto and desire and are willing to subject such property to
the provisions of this Declaration such that the property can be developed as a part of the
Development; and

WHEREAS, as hereinafter provided in this Declaration, Developer desires to provide for
the reasonable use of the property in the Development and create a method to provide for
necessary services in the Development and maintenance of properties beneficial to or used in
common by all owners in the Development.

NOW, THEREFORE, Developer, Legacy Development and Hochstedler hereby do declare
that all of the property described in Exhibit "A", Exhibit "B" and Exhibit "C" attached hereto
is hereby subjected to this Declaration and shall be held, transferred, sold, conveyed, leased,
occupied and used subject to the easements, restrictions, covenants, charges, liens, and
conditions hereinafter set forth, all of which are for the purpose of protecting the value and
desirability of the property and which shall touch and concern and run with the title to the
property subjected to this Declaration, and which shall be binding on all parties (including any
mortgagees or lienholders) having any right, title, or interest in the described properties or any
portion thereof, and their respective tenants, occupants, invitees, heirs, successors,
successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

98-03287
DEFINITIONS

DEFINITIONS. The following words, when used in this Declaration, unless the context shall prohibit or otherwise require, shall have all the following meanings. All definitions shall be applicable to the singular and plural forms of such terms:

Section 1.1. "Architectural Control Committee" shall mean and refer to the committee which shall be responsible for the approval of all landscaping and exterior and structural improvements, additions, and changes within the Development as provided in Article IX hereof.

Section 1.2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of the Mt. Comfort Commercial Park Association, Inc. as filed with the Secretary of State of the State of Indiana, if such corporation is created by the Developer or Owners.

Section 1.3. "Assessment Percentage" shall mean and refer to the proportion of the acreage of each Owner's Lot compared to the sum of the acreage of all Owners' Lots in the Development. In the formulation of the Assessment Percentage, the acreage of an individual Owner's Lot shall be the numerator and the sum of the acreage of all Owners' Lots in the Development shall be the denominator. When determining the figure for acreage, such figure shall be rounded to the nearest one hundredth of an acre.

Section 1.4. "Association" shall mean and refer to an Indiana not-for-profit corporation to be known as the Mt. Comfort Commercial Park Association, Inc. (the "Corporation"), or, if such corporation is not created, any unincorporated association, such as the Owners Committee (as defined hereafter), created by Developer or the Owners to manage the Development as contemplated by this Declaration.

Section 1.5. "Base Assessment" shall mean and refer to assessments levied by the Association against each Lot in the Development to fund Common Expenses in the manner herein provided.

Section 1.6. "Board of Directors" or "Board" shall mean and refer to the board of directors of Mt. Comfort Commercial Park Association, Inc., if such corporation is established. If such corporation is not established, the terms "Board of Directors" or "Board" shall mean the Owners Committee (as defined herein).

Section 1.7. "Business" shall mean and refer to any improved property designed or intended for office, warehouse or other commercial use within the Development.

Section 1.8. "Common Expenses" shall mean the actual and estimated expenses incurred for the general benefit of the Development, including any reasonable reserve, all as may be found to be necessary and appropriate pursuant to the provisions contained herein. Common Expenses shall not include original capital improvements for Developer's original construction of the roads, utilities, and original construction of the stormwater drainage system and retention ponds, if any. Common Expenses may include, to the extent such are installed,
the original cost of installation of landscaping and lighting associated with the roads and Landscape Easement Areas, whether such is purchased or leased.

Section 1.9. "Common Properties" shall mean and refer to all properties, whether real or personal, which are owned in common by the Owners or owned by the Association (or are to be owned by the Association) as shown pursuant to any recorded plat of the Development or as shown by the terms and conditions of this Declaration. The designation of any land and/or improvements as Common Properties shall not mean or imply that the public at large acquires any easement of use or enjoyment therein. The Common Properties shall include the common retention pond area, the equipment, pipes, and other materials comprising the stormwater drainage system within the Development if such are not dedicated to the public.

Section 1.10. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Development. Such standard may be more specifically determined by the Board and the Architectural Control Committee.

Section 1.11. "Developer" shall mean and refer to Precedent Commercial Development, LLC, an Indiana limited liability company, and any successors or assigns who take title to any portion of the property described on Exhibit "A", and who is designated as the Developer hereunder in a recorded instrument executed by the immediately preceding Developer.

Section 1.12. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Mt. Comfort Commercial Park and all amendments thereof filed for record in the public records of Hancock County, Indiana.

Section 1.13. "Development" shall mean and refer to those tracts or parcels of real estate described on Exhibits "A" and "B", which real estate may be platted from time to time as a part of Mt. Comfort Commercial Park, together with all improvements thereon.

Section 1.14. "Landscape Easement Areas" shall mean and refer to those areas identified on any recorded plat of the Development as "Landscape Easement" or landscape easement areas. The landscaping located within the easement area shall be maintained by the Association and the Association shall have an easement of ingress and egress on and over the areas adjacent thereto for the purpose of this maintenance obligation. The landscaping and other improvements planted or installed by Developer or the Association within the Landscape Easement Areas may not be removed by an Owner, nor may an Owner add any landscaping or improvements in such area without the approval of the Developer and/or the Association.

Section 1.15. "Lot" shall mean and refer to each plot of land included in the Development identified as a lot on any recorded plat of the Development upon which it is intended that a building or buildings shall be constructed.

Section 1.16. "Owner" shall mean and refer to the record owner, whether one or more Persons, with fee simple title to any Lot which is part of the Development, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. The term "Owner" shall include Developer so long as Developer shall own any Lot. If a Lot is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner.
Section 1.17. "Owners Committee" shall be a committee organized to manage the Development and which includes each of the Owners who owns a Lot in the Development. Each Owner shall appoint an individual to serve on such committee whose vote on such committee shall be equal to the Percentage Interest for the Owner who has appointed such member. The Owners Committee shall not be created or shall terminate if a not-for-profit corporation or other entity is created to manage the affairs of the Development.

Section 1.18. "Percentage Interest" shall mean and refer the amount of acreage owned by each Owner as compared to the sum of all acreage in the Development. In the formulation of the Percentage Interest, the acreage owned by the individual Owner shall be the numerator, while the sum of all acreage in the Development shall be the denominator. When determining the figure for acreage, such figure shall be rounded to the nearest one hundredth of an acre. When determining the overall acreage for the Development, there shall be excluded from the calculation the amount of acreage, if any, that constitutes Common Properties or that has been dedicated to the public.

Section 1.19. "Person" means a natural person, corporation, limited liability company, partnership, trustee, or any other legal entity.

Section 1.20. "Rules" shall mean the by-laws of the Association, if established, the rules and regulations of the Owners Committee, if established, and this Declaration.

Section 1.21. "Sign Easement Areas" shall mean and refer to those areas identified on any recorded plat of the Development as "Sign Easement". The signs located within the easement area shall be maintained by the Association and the Association shall have an easement of ingress and egress on and over the areas adjacent thereto for purposes of this maintenance obligation. The signage installed by the Association within the Sign Easement Areas may not be removed by an Owner, nor may an Owner add any improvements in such area without the approval of the Developer and/or the Association.

Section 1.22. "Special Assessment" shall mean and refer to assessments levied in accordance with Article VIII of this Declaration.

ARTICLE II

NATURE OF DEVELOPMENT AND BUSINESS USAGE

Section 2.1. Development of Property. All property within the Development shall be and is hereby restricted exclusively to office, warehouse and commercial use and shall be subject to the existing zoning restrictions with regard to the Development and to the standards and restrictions set forth in this Declaration. Developer shall have the right, but not the obligation, for so long as Developer owns any property within the Development, to maintain and make improvements, repairs, and changes to property within the Development, including, without limitation, (i) installation and maintenance of any improvements in and to the Common Properties, Landscape Easement Areas and Sign Easement Areas; (ii) changes in the location of the boundaries of any Lots owned by Developer or of the Common Properties or Landscape Easement Areas, and (iii) installation and maintenance of any water, sewer, and other utility
systems and facilities. Notwithstanding the foregoing, however, no Lot will be subdivided, replatted or be adversely affected by any plat amendment without the prior written consent of the Owner of the Lot adversely affected. At a date determined in the sole discretion of the Developer, but in no event later than the date that Developer no longer owns property within the Development, Developer will turn over to the Owners or the Association all the Common Properties, and all documents and information in Developer's possession necessary for the management of the Development.

Section 2.2. Zoning Restrictions. In addition to all other restrictions set forth in this Declaration, all uses of and all improvements made in the Development shall be in compliance with the zoning ordinances of all governmental authorities having zoning jurisdiction of the Development and the zoning commitments recorded with respect thereto, if any.

ARTICLE III
PROPERTY RIGHTS

Section 3.1. General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his Lot subject to the provisions of this Declaration. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, the right of enjoyment in and to the easements described herein for the benefit of all Owners and their tenants, licensees, guests and invitees as established hereunder. Each Owner shall automatically become a member of the Association and shall remain a member thereof until such time as its ownership ceases for any reason, at which time its membership in the Association shall automatically pass to its successor-in-title to its Lot, and upon such transfer, such former Owner shall simultaneously transfer and endorse to his successor-in-title any certificates or other evidences of its membership in the Association.

Section 3.2. Utility and Public Service Easements.

(a) There is hereby reserved to Developer for the benefit of Developer, the Association, and their respective successors and assigns, the perpetual right and easement, as well as the power to grant and accept easements to and from Hancock County, Indiana, or any other public authority or agency, public service district, public or private utility or other person, upon, over, under, and across (i) all of the Common Properties; and (ii) those portions of all Lots as are reasonably necessary for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, drainage systems, and retention ponds and facilities for the Development or any portion thereof, and electrical, gas, telephone, water, and sewer lines, provided that such easement shall not unreasonably affect the use, developability, marketability, or value of any such Lot. To the extent possible, all utility lines and facilities serving the Development and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the
providing utility company or other supplier or servicer, with respect to the portions of
the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps,
and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes,
or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action
reasonably necessary to provide economical and safe installation, maintenance, repair,
replacement, and use of such utilities and systems; provided, however, that such utility
company or other supplier or servicer shall take reasonable actions to repair any damage
caused by such utility company or other supplier or servicer during the exercise of any
rights conveyed under any easement granted hereunder.

(b) Developer hereby grants to Hancock County, Indiana, and/or such other
governmental authority or agency as shall from time to time have jurisdiction over the
Development with respect to law enforcement and fire protection, the perpetual, non-
exclusive right and easement upon, over, and across all Lots and throughout the
Development for purposes of performing such duties and activities related to law
enforcement and fire protection in the Development as shall be required or appropriate
from time to time by such governmental authorities under applicable law.

(c) There shall also exist utility easements reserved in favor of Developer, the
Association, and their respective successors and assigns, as well as any public or private
utility as such may be necessary in accordance with the terms of Section 3.2(a) above in
such areas as may be designated on any Plat of the Development as a utility easement.
The Owner of any Lot subject to a utility easement shall be required to maintain that area
to the extent it is not in a Landscape Easement Area and shall be required to keep such
area free from obstructions which have not been approved by the Architectural Control
Committee and any affected utility.

Section 3.3. Drainage Easements. There is hereby reserved an easement for the
Developer, the Association, and their successors and assigns for access to and installation,
repair, or removal of the stormwater drainage system, either by surface drainage or appropriate
underground installations, throughout the Development. Additionally, there shall exist
designated drainage easements with respect to those areas as shown on any recorded plat and the
Owner of any Lot subject to a drainage easement shall be required to maintain the portion of
said drainage easement on his Lot in the condition originally provided by Developer and free
from obstructions so that the surface water drainage will be unimpeded. No changes shall be
made to any designated drainage easement area by an Owner without the written consent of the
Association; provided, however, that Developer, in its sole discretion, may make any changes.
No permanent structures shall be erected or maintained upon said drainage easements.

Section 3.4. Landscape Easement Areas. Landscape Easement Areas, as designated
on a plat of all or any part of the Development, are hereby created and reserved for the use of
Developer and the Association for access to and installation, maintenance, repair, and
replacement of walls, earth mounds, trees, foliage, landscaping, and other improvements.
Except as installed by Developer or the Association, no improvements or permanent structures,
including without limitation, fences, shall be erected or maintained in or upon said Landscape
Easement Areas.
Section 3.5. Sign Easement Areas. Sign Easement Areas, as designated on a plat of all or any part of the Development, are hereby created and reserved for the use of Developer and the Association, for access to and installation, construction, maintenance, repair, and replacement of signs and other informational devices in the Development. Except as installed by Developer or the Association, no improvements or permanent structures shall be erected or maintained in or upon said Sign Easement Areas.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Membership in the Association shall be governed by the following rules:

(a) Every Owner and the Developer shall be a member of the Association.

(b) The Association shall have only one class of membership.

(c) The Association shall either be the Owners Committee or the Corporation. At any time, Developer may, in its sole discretion, establish the Corporation to manage the Development or the Owners, by a majority vote of the Percentage Interests, may establish the Corporation to manage the Development.

(d) If the Corporation is not established then all of the responsibilities of the Association shall be performed by the Owners Committee with voting rights as hereinafter described.

(e) In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights of a Lot owned by a corporation, partnership or limited liability company shall be exercised by one individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association, subject to the Rules. Each Owner must designate one individual to serve as a member of the Board or a member of the Owners Committee. In any situation where an Owner is entitled personally to exercise the vote for his Lot and more than one (1) Person holds an interest in such Lot, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

Section 4.2. Management. The Association shall be managed according to the following rules:

(a) If the Corporation is established the Board of Directors will consist of the number of different Owners and each Owner shall appoint an individual to serve as a member of the Board. Each Board member will have one (1) vote for each one percent (1%) of the Owner's Percentage Interest which that Board member represents (rounded
to the nearest one hundredth). The Corporation will be managed by the Board except to the extent decisions are expressly reserved herein to the Owners.

(b) If the Corporation is not established then the Development shall be managed by the Owners Committee which Committee shall consist of one (1) member ("Member") appointed by each Owner. Each Member of the Owners Committee shall be entitled to one (1) vote for each one percent (1%) of such Owner’s Percentage Interest which that Member represents (rounded to the nearest one hundredth).

(c) Notwithstanding anything contained in this Declaration, until such time as Developer owns less than fifty percent (50%) of the property comprising the Development, Developer shall have the right and authority to act on behalf of (and in lieu of) the Association; provided, however, such shall not eliminate the requirement of the Developer to account for the funds of the Association and prepare the budget as required by Article VIII below.

(d) Except where a different percentage is specified in this Declaration as to any vote requiring the approval of the Board or the Owners, a majority vote of the Board or the Owners shall control for decision-making purposes.

ARTICLE V
MAINTENANCE AND SERVICES

Section 5.1. Mandatory Responsibilities of the Association. The Association shall be required to provide and pay for the following expenses and maintain and keep in good repair the following properties:

(a) The storm sewer system, drainage easement areas (to the extent affecting the stormwater run-off), and any retention ponds and lakes created by Developer for the benefit of the Development and to the extent not dedicated and maintained by the public. Any such retention area may include not only that property which is a Common Property of the Association but also any other area within the Development if designated by Developer to be a part of the common drainage system of the Development.

(b) The Landscape Easement Areas, Sign Easement Areas, and any other easement designated on a recorded plat of the Development which establishes a maintenance obligation of the Association;

(c) The cost of maintaining any lighting associated with the Development including the cost of operating and/or leasing the lighting;

(d) Snow removal for the dedicated roads in the Development to the extent it is determined that the snow is not being adequately removed by governmental authorities;

(e) The cost of creating and maintaining signage for the Development but not with respect to any signage for the individual Lots;
(f) Insurance on behalf of the Association if such is determined to be necessary and as hereinafter provided; and

(g) All Common Expenses not otherwise provided for above, including, but not limited to, any management fees of the Association, if required.

All costs associated with the maintenance and above-described services for the Development shall be a Common Expense to be allocated among all Lots as part of the Base Assessment. The mandatory responsibilities of the Owners and the Association referenced in this subsection shall not be changed without (i) the affirmative vote of eighty percent (80%) of the Percentage Interests of the Owners voting with respect to the elimination of such service; and (ii) the making of adequate provision for the replacement of such service or maintenance on behalf of the Association.

Section 5.2. Optional Responsibilities of the Association. In addition to the mandatory maintenance and services described in Section 5.1 above, the Association may also provide such additional maintenance or service items as the Owners may request including, but not limited to, snow removal and maintenance of the individual Lots, trash removal from the Lots, security services for the Lots and landscaping of the Lots.

Upon the request of an Owner, and if approved by the Association, the Association shall provide any such maintenance or service on an individual basis to one or more Lots, in which event the costs thereof will be billed directly to the Owner of the Lot receiving said maintenance or service and such shall not be a Common Expense.

Section 5.3. Responsibilities of the Owners. Each Owner shall maintain and repair the interior and exterior of its Lot and all structures, parking lots, interior sidewalks, lawns, landscaping, grounds, signage, lighting, water service lines, and other improvements comprising the Lot. Each Owner shall also be responsible for snow removal from its Lot, including its parking lot and interior sidewalks.

No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a building or the landscaping, grounds, or other improvements within a Lot unless such decoration, change, or alteration is first approved, in writing, by the Architectural Control Committee as provided in Article IX hereof, or (ii) do any work which in the reasonable opinion of the Architectural Control Committee would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement thereto.

Each Owner shall be responsible for the landscaping of its Lot. During any period in which the Lot remains unimproved, the Owner must plant grass seed and maintain the Lot in a neatly trimmed and clean condition. Upon completion of construction of a building, the Owner must sod or hydroseed all exposed land with an acceptable strain of grass and must maintain its Lot and building in a clean, neat and well-maintained condition which shall include, but not be limited to, fertilization of plants, shrubs and trees and the replacement of any grass, plants, shrubs or trees which have died.

In the event that Developer or Association determines that: (i) any Owner has failed or refused to discharge properly its obligations with regard to the maintenance, cleaning, repair,
or replacement of items for which is its responsibility hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, its tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, Developer or the Association, except in the event of an emergency situation, may give such Owner written notice of Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner and setting forth with reasonable particularity the maintenance, cleaning, repair, or replacement deemed necessary. Except in the event of an emergency situation, such Owner shall have ten (10) days within which to complete the same, in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said ten (10) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Developer or the Association may provide (but shall not have the obligation to do so) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner and such cost shall become a part of the costs of the Association (until such time as reimbursement is received from the individual Lot Owner). In the event that Developer undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Developer for Developer's costs and expenses, including reasonable attorneys' fees. There is hereby reserved and created for the use of Developer and the Association and their respective agents, employees, successors, and assigns, a maintenance easement to enter upon any Lot for the purpose of accomplishing the performance of any maintenance or repair work referenced in this paragraph, provided that such easement shall not impose any duty or obligation upon Developer or the Association to perform any such actions.

ARTICLE VI

INSURANCE

Section 6.1. Insurance. If reasonably required based upon a determination made by the Association, the Association, or its duly authorized agent, shall obtain a public liability policy covering the Association and its Owners for all damage or injury caused by the negligence of the Association or any of its agents. The public liability policy shall have at a minimum a Five Hundred Thousand Dollar ($500,000.00) single person limit with respect to bodily injury and property damage, a One Million Dollar ($1,000,000.00) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar ($500,000.00) minimum property damage limit.

Additionally, the Association may, if it determines such is reasonably necessary, obtain worker's compensation insurance, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if required. The amount of fidelity coverage shall be determined in the best business judgement of the Association.

The cost of all insurance purchased pursuant to this Section 6.1 shall be a Common Expense of the Association.
Section 6.2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance and public liability insurance meeting, at a minimum, the same requirements as set forth in Section 6.1 of this Article VI. The Developer or Association may require all Owners to furnish copies or certificates thereof to the Developer or Association. Each Owner further covenants and agrees that in the event of loss or damage to any building by fire, wind, flood, or otherwise, the Owner shall proceed promptly to repair or to reconstruct the damaged building in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX of this Declaration and all applicable zoning, building and other governmental regulations. No boarded-up buildings shall be maintained on any Lot.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 7.1. Duties and Powers. The duties and powers of the Corporation shall be those set forth in the provisions of the Indiana Nonprofit Corporation Act of 1991 (if a not-for-profit corporation is established, as set forth herein), as limited or supplemented by this Declaration and the Rules, together with those rights and privileges reasonably implied to effect the purposes of the Association. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public and private utilities, or others, as a Common Expense or by billing directly to Lots for the use of trash collections, water, sewer, and/or security service for the Common Properties and/or the Lots. The Association shall have the right to own (as a Common Property) any drainage system, piping, sewer equipment or materials, or any other utility equipment which Developer or the Association deems to be in the best interests of the Development. Notwithstanding the foregoing provision of this Declaration to the contrary, for so long as Developer shall own any portion of the Development, the Association shall not, without the consent of Developer, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Properties. The Association shall act only through its Board or Owners Committee, whichever is applicable.

If a not-for-profit corporation is not established as allowed herein, all Common Properties and other property that otherwise would be owned by the Corporation shall be owned by the Owners in common.

Section 7.2. Agreements. All agreements and determinations lawfully authorized by the Association shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development; and in performing its responsibilities hereunder, the Association shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity (including Developer or any affiliate) to manage its affairs or any part thereof, to the extent it
deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or members of the Association by this Declaration or the Rules. Such manager may be an individual, corporation, or other legal entity, as the Board shall determine, and may be bonded in such a manner as the Board may require with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for as a Common Expense, and the Board may hire or contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of the Rules of the Association.

The Association shall have the right to enter into an agreement with the Developer (or any affiliate thereof) for the management of the Association's responsibilities and affairs.

Section 7.3. Personal Property and Real Property for Common Expense. The Association, acting through its Board, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association or Owners. The share of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot also transfers the membership in the Association which is an appurtenance to such Lot.

The Association shall have the authority to have real estate property tax statements issued separately for each easement or property interest in which the Owners of Association possess an interest in as a result of this Declaration and to pay the tax generated thereby as a Common Expense of the Association. Each Owner agrees to cooperate in the execution and filing of any documents necessary to accomplish such assessment.

Section 7.4. Rules and Regulations. The Association, as provided in Article XI hereof, through its Board, may make and enforce reasonable rules and regulations governing the Development, which rules and regulations shall be consistent with the rights and duties established by this Declaration. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.

Section 7.5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Rules, and every other right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.
ARTICLE VIII

ASSESSMENTS

Section 8.1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by this Declaration or the Board to be commenced at the time and in the manner set forth in Section 8.6 of this Article. There shall be two (2) types of assessments: (a) Base Assessments; and (b) Special Assessments. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments.

Each Owner's assessment shall be in proportion to such Owner's Assessment Percentage.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Indiana law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and its grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority institutional mortgage or to the holder of any mortgage securing a loan made by Developer, its affiliates, successors, or assigns, who takes title to a Lot through foreclosure, or to any purchaser of such Lot at such foreclosure sale. In the event of co-ownership of any Lot all of such co-owners shall be jointly and severally liable for the entire amount of such assessments. All assessments are payable without relief from valuation and appraisal laws.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. All assessments shall be pro rated from the date of closing for each Owner. Each Owner by acceptance of a deed to its Lot, acknowledges that all Base Assessments levied hereunder are annual assessments due and payable in advance on the first day of June of each fiscal year; provided, however, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on its Lot, the Board may revoke the privilege of paying in installments and require all annual assessments to be paid in full immediately.

No Owner may waive or otherwise exempt itself from liability for the assessment provided for herein, including by way of illustration and not limitation, by non-use of Common Properties, non-use of services or abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Developer or other entities for the payment of some portion of the Common Expenses.

Section 8.2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget for
Common Expenses shall include a capital contribution for sustaining a reserve fund for future repairs and replacements in accordance with Section 8.5 below.

The Base Assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves.

The total annual assessments shall be divided among the Lots based upon the Assessment Percentage of the Owner of each such Lot.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a Special Assessment as provided in Section 8.3 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

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

(ii) charges for services provided for the Development, including trash collection, snow removal, security service, if any such services or charges are provided or paid by the Association;

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

(iv) the expenses of maintenance and operation of the Association and its properties as set forth under the provisions of this Declaration;

(v) the expenses of the Architectural Standards Committee, which are not defrayed by plan review charges;

(vi) real and personal property taxes assessed and levied against the property interests of the Association;

(vii) such other expenses as may be determined from time to time by the Board to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots or buildings; and

(viii) the establishment and maintenance of a reasonable reserve fund or funds (a) for inspections, maintenance, repair, and replacement of those portions of the Development which are the responsibility of the Association and which must be inspected, maintained, repaired, or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds,
and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board.

Section 8.3. Special Assessments.

(a) All Lots. The Association shall levy Special Assessments against each Lot in proportion to the Assessment Percentage of the Owner of such Lot in the event there exists a deficiency in the fund for Base Assessments to pay for the Common Expenses and the expenses which are the obligation of the Association. Additionally, the Association may levy Special Assessments from time to time for purposes other than to cure said deficiency, provided any such assessment receives the affirmative vote of at least sixty percent (60%) of the Percentage Interests of the Owners. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Lots. The Association may levy a special assessment against any Owner individually and against such Owner's Lot to reimburse the Association for costs incurred in bringing an Owner and its Lot into compliance with the provisions of the Declaration, which Special Assessment may be levied upon the vote of the Board after notice to the Owner and an opportunity for a hearing.

Section 8.4. Lien for Assessments. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments of priority and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be supererogatory, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) the assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged to such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8.5. Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 8.2 and 8.3 of this Article.
Section 8.6. Date of Commencement of Annual Assessments. The Base Assessments provided herein shall commence as to each Lot on the day on which such Lot is conveyed to a third party by Developer and shall be due and payable in such manner and on such schedule as the Board may provide. Base Assessments and any outstanding Special Assessments shall be adjusted on a pro rata basis for such Lot according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot is first conveyed.

Section 8.7. No Abatement of Assessments. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

ARTICLE IX

ARCHITECTURAL STANDARDS

Section 9.1. Purpose. In order to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots and all improvements located thereon shall be subject to the restrictions set forth in Articles II, IX and X herein, and, as with all other covenants, easements, restrictions and conditions contained in this Declaration such restrictions shall run with and bind the land and shall inure to the benefit of and be enforceable by the Owners, the Developer, the Association, and their respective heirs, successors and assigns.

Nothing shall be erected or constructed on any Lot, which terms shall include clearing, excavation, grading, and other site work without meeting the requirements of this Article and without the approval of the committee established in Section 9.2. By way of example only, no erection or construction of signage, loading docks, trash dumpster or removal areas, parking facilities, parking lot lighting, and no exterior alteration or modification of existing improvements or landscaping, plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the committee has been obtained pursuant to Sections 9.2 below. The Board may establish reasonable fees to be charged by the committee on behalf of the Association for reviewing of applications hereunder and may require such fees to be paid in full prior to review of any application.

This Article shall not apply to the activities of the Developer with respect to the original construction of the Development, nor to construction or improvements or modifications to the Development by or on behalf of the Association.

The Board shall have the authority and standing, on behalf of the Association and Owners, to enforce in courts of competent jurisdiction decisions of the committee established
in Section 9.2 of this Article IX. This Article may not be amended without the Developer’s written consent so long as the Developer owns any land subject to this Declaration.

Section 9.2. Architectural Control Committee. The Architectural Control Committee (ACC) shall consist of three (3) persons. Until Developer has conveyed all of the total acreage of the Development to purchasers in the normal course of development and sale, Developer shall retain the right to appoint all three (3) members of the ACC, which members shall serve at the discretion of the Developer. Thereafter, all members shall be appointed by and shall serve at the discretion of the Board. Members of the ACC may include persons who are not Owners. Members of the ACC may or may not be members of the Board.

The regular term of office for each member of the ACC shall be one year, coinciding with the fiscal year of the Association. Any member appointed by the Developer or the Board may be removed with or without cause by the Developer or the Board, depending on who appointed the member, at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The ACC shall elect a Chairman and Vice Chairman and the Chairman, in his absence, the Vice Chairman, shall be the presiding officer at its meetings. The ACC shall meet upon call of the Chairman, and all meetings shall be held at such places as may be designated by the Chairman. Two (2) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ACC shall constitute the action of the ACC on any matter before it. The ACC is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ACC in performing its functions set forth herein. Such costs associated with the use of consultants shall be considered a Common Expense. Each member of the ACC may be paid a stipend or honorarium as from time to time determined by the Board.

Notwithstanding anything contained in the Declaration to the contrary, Developer may, during the time in which it has the right to appoint all members of the ACC, change the number of members of the ACC from three (3) to five (5). Such change shall be reflected by minutes maintained in the permanent records of the Association and no further amendment of these Declarations shall be required to implement such change. Thereafter, the presence of three (3) members shall constitute a quorum and the affirmative vote of the majority of those present in person or by proxy shall constitute an action on behalf of the ACC.

The ACC shall have exclusive jurisdiction over all exterior construction, modifications, additions, or alterations made on or to existing Lots or structures containing Lots and the open space, if any, appurtenant thereto. The ACC shall promulgate standards or procedures governing its areas of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, sizes, materials, and location of such modifications, additions, or alterations shall be submitted to the ACC for approval as to quality of workmanship and design and as to harmony of external design with existing structures and location in relation to surrounding, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of its building, or to paint the interior of its building any color desired; provided, modifications or alterations to any interior portions of a building which are visible from outside the building shall be subject to approval hereunder. In the event that the ACC fails to approve
or to disapprove such plans or to request additional information within thirty (30) days after submission of completed plans, proposals, specifications or drawings and any additional information having been requested by the ACC, the plans shall be deemed approved but only to the extent such plans do not violate express provisions of the Declaration or any plat.

Section 9.3. No Waiver of Future Approvals. The approval of the ACC of any proposals or plans and specification or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

Section 9.4. Variance. The ACC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations set forth by the ACC. Such variance may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in this Declaration or a recorded plat, or (c) extend the ACC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 9.5. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the ACC may be excluded by the Association from the Development without liability to any person.

Section 9.6. Construction of Improvements. A building may not be temporarily or permanently occupied until the exterior thereof has been completed and a certificate of occupancy for such building has been issued. No accessory building or outbuilding shall be permitted on any Lot at any time, except as may be permitted by rules and regulations promulgated by the Board.

Section 9.7. Responsibilities During Construction. Owners shall take necessary action during construction activities to assure the following occurs:

(a) Construction of a building on a Lot must be completed within a reasonable time from the date construction is commenced based upon the size and complexity of the building.

(b) Stone shall be installed over the path of the driveway such that it shall be level with curb at the lot line to avoid curb breakup.

(c) No track vehicles or heavy equipment vehicles shall be operated or unloaded on any street in the Development.

(d) During the construction period, the Lot shall be maintained in a clean and orderly manner at all times. All loose shingles, lumber, bricks, blocks, drywall,
Insulation, or other building material which can blow onto adjacent lots shall not be left lying around. Construction trash shall be contained in a trash fence and shall be removed from the Lot once per week or contained in a dump site provided by a trash disposal service which will empty the container as needed but no less than one time per week.

(e) The Lot Owner shall be responsible for removal of dirt, mud or debris or other foreign material of any kind which may be deposited upon any street in the Development from construction on the Lot. If such deposits occur, then the Lot Owner shall make provisions to remove such deposits within five (5) days or the ACC may remove such deposits and charge such cost of removal to the Lot Owner.

(f) No outside toilets shall be permitted on any lot during construction without prior approval of the ACC.

(g) All utility services (including, but not limited to, water, power, sanitary sewers, telephone or cable) to the Lot shall be shown on the plot plan and said services shall not undermine the curbs or alter the subsurface or surface drainage systems.

(h) Upon completion of construction, each Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot on which such construction has been completed.

Section 9.8. Architectural Approval. To preserve the architectural and aesthetical appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by an Owner, other than Developer, with respect to the construction or affecting the exterior appearance of any building or with respect to any other portion of the Development, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, decks, awnings, walls, fences, exterior lights, loading docks, trash dumpsters and trash removal areas, signs, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the ACC. As to the compliance of such plans and specification with such standards as may be published by the ACC, from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the ACC, and the other copy shall be returned to the Owner marked "approved", "approved as noted", or "disapproved".

Section 9.9. Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by an Owner other than Developer, unless and until the plans therefore have been submitted to and approved in writing by the ACC. The provisions of this Article IX regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling.
Section 9.10. Approval Not a Guarantee. No approval of plans and specifications and no publication of standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Neither Developer, the Association, nor the ACC shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article IX, nor loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications.

Section 9.11. Building Restrictions. The exterior walls of all buildings must be constructed of material approved by the ACC. Generally, all such exterior walls shall be constructed of brick, an approved finished masonry (including tilt-up concrete) or an approved metal surface; provided, however, metal surfaces shall not comprise more than forty percent (40%) of the front façade of the building and the ACC, in its discretion, may limit the extent of metal surfacing on the remainder of the building. All buildings, improvements, and other structures shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions. No exterior portion of any building, structure or other improvement (excepting sidewalks and driveways) located on or with respect to any Lot shall be located other than as permitted by the applicable set-back line restrictions. All set-back lines shall be as specified in the recorded plat of the Development. All exterior colors, including roof color, must be approved by the ACC.

ARTICLE X
USE RESTRICTIONS

The Association, acting through its Board, shall have the authority to make and to enforce standards and restrictions governing the use of the Development, in addition to those contained herein. Such regulations and use restrictions shall be binding upon all Owners and parties in possession until and unless overruled, added to, canceled or modified in a regular or special meeting of the Association by the vote of at least seventy-five percent (75%) of the Percentage Interest of the Owners.

In addition to restrictions set forth elsewhere in this Declaration, each Lot shall be subject to the following restrictions on its use:

Section 10.1. Signs. The erection of any and all signs, including signs on any building or the painting of signs upon or on any building, shall be subject to the prior written approval of the ACC, and shall meet the specifications as established from time to time by the ACC.

Section 10.2. Parking. It shall be the responsibility of each Owner to provide and maintain adequate parking facilities on its Lot with sufficient space in which its employees, customers, invitees and tenants may park. All parking areas must be paved with hard, all weather surfacing and shall be subject to the prior written approval of the ACC.
Section 10.3. Outdoor Storage. Outdoor storage of any property in an area within the Development that would require the approval of the governmental body having jurisdiction over zoning matters for that parcel of property shall also require the approval of the ACC. As to all areas where outdoor storage is permitted or is approved by the ACC, the ACC may, in its discretion, require certain screening (in the form of landscaping or other approved materials) and may require the Owner to submit a screening plan for approval. In making its determination, the ACC shall take into account various factors including, but not limited to, the nature of the business use carried on on the particular Lot, the area of location of the storage on the Lot, and the proximity and visual impact of the storage on other properties.

Section 10.4. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on such Owner’s Lot. The pursuit of certain activities, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Development. Nothing which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Development or which result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation shall be pursued, undertaken or permitted on any Lot. Without limiting the generality of the foregoing provisions, no horns, whistles, bells or other sound devices, except security, safety and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development. During the construction period on any Lot, the Owner thereof shall be responsible for the removal of all debris, trash and waste materials from the Lot and the Development on a weekly basis. In the event the Owner fails to timely remove such materials, the Association or any Owner may remove such materials and receive reimbursement for the costs thereof from the Owner of the Lot.

Section 10.5. Hazardous Materials. No hazardous or toxic materials of any kind may be brought, placed on, mixed or created on any Lot in the Development except as may be reasonably necessary for the business conducted on the Lot. Each Owner shall be responsible for the compliance of its tenants, guests and invitees with all applicable health, environmental and hazardous waste management laws, rules and regulations. Hazardous materials shall not include janitorial materials, supplies, cleaning fluids or chemicals necessary for the day-to-day operation or maintenance of the Development nor any other materials which are ancillary to the business conducted on said Lot; provided, however, all such materials must be stored and used in a careful and secure manner.

Section 10.6. Trash. All trash dumpsters and containers or trash pick-up areas shall be located or screened so as to be concealed from view of neighboring Lots and streets and shall be subject to the prior written approval of the ACC.

Section 10.7. Drainage, Water Wells and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person other than Developer may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Developer hereby reserves for itself and the Association and Owners a perpetual easement across the properties for the purpose of altering drainage and water flow. No private water wells may
be drilled or maintained and no septic tanks or similar sewerage facilities may be installed or
maintained on any Lot, except for wells maintained solely for irrigation purposes. All such
irrigation wells must receive the prior written approval of the ACC.

Section 10.8. Antennas and Satellite Dishes. All exterior antennas, aerials or satellite
dishes shall be subject to the prior written approval of the ACC.

Section 10.9. Fences and Walls; Screening. All fences, walls, or barriers of any kind
shall be subject to the prior written approval of the ACC.

Section 10.10. Laws and Ordinances. Every Owner and its tenants, guests and
invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal
governments applicable to the Development and any violation thereof may be considered a
violation of this Declaration; provided, however, the Board shall have the right but not the
obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 10.11. Occupants Bound. All provisions of the Declaration, Rules, and of any
other rules and regulations or use restrictions promulgated pursuant thereto which govern the
conduct of Owners and which provide for sanctions against Owners shall also apply to all
occupants, tenants, guests and invitees of any Lot. Every Owner shall cause all occupants of
its Lot to comply with the Declaration, Rules, and the other rules and regulations adopted
pursuant thereto, and shall be responsible for all violations and losses to the Association and
other Owners caused by such occupants, notwithstanding the fact that such occupants of a Lot
are fully liable and may be sanctioned for any violation of the Declaration, Rules, and other
rules and regulations adopted pursuant thereto.

ARTICLE XI

RULEMAKING

Section 11.1. Rules and Regulations. Subject to the provisions hereof, the Board may
establish reasonable rules and regulations concerning the use of Lots, buildings, and the
Common Properties. Copies of such rules and regulations and amendments thereto shall be
furnished by the Association to all Owners prior to the effective date of such rules and
regulations and amendments thereto. Such rules and regulations shall be binding upon the
Owners, their tenants, guests, invitees, servants and agents, until and unless any such rule or
regulation be specifically overruled, canceled, or modified by the Board or in a regular or
special meeting of the Association by the vote of the Owners, in person or by proxy, holding
a majority of the total votes in the Association, provided that in the event of such vote, such
action must also be approved by Developer, for so long as Developer owns any Lot.

Section 11.2. Authority and Enforcement.

(a) Upon the violation of this Declaration, the Rules or any other rules and
regulations duly adopted hereunder, including, without limitation, the failure to timely
pay any assessments, the Board shall have the power, after fifteen (15) days written
notice to the Owner or occupant of said violation, and failure by said Owner or occupant to cure the violation:

(i) to cause the Association to correct the violation at its own cost and expense, which said cost and expense shall constitute a continuing lien upon the Lot of the Owner or occupant who is guilty of such violation; and

(ii) to suspend an Owner's right to vote in the Association.

The Board shall have the power to impose one or both of these sanctions. An Owner or occupant shall be subject to the foregoing sanctions in the event of such a violation by it or its tenants or guests. Any such suspension of rights may be for the duration of the infraction and or any additional period thereafter, not to exceed thirty (30) days per violation.

(b) Notwithstanding subsection (a) above, a violation or threatened violation of any of the covenants and restrictions contained in this Declaration and the provisions contained in the Rules or any other rules and regulations adopted hereunder, shall be grounds for an action at law or equity instituted by Developer, the Association, or any Owner against any person violating or threatening to violate any such covenant, restriction, rule, or regulation. Available relief in any such action shall include the recovery of damages; injunctive relief, either to restrain the violation or threatened violation or to compel compliance with the covenants, restrictions, rules or regulations; declaratory relief; the enforcement of any lien created by these covenants, restrictions, rules, or regulations; and the recovery of costs and attorneys’ fees incurred by any party successfully enforcing such covenants, restrictions, rules, or regulations. Failure by the Developer, the Association, or any Owner to enforce any covenant, restriction, rule, or regulation shall in no event be deemed a waiver of the right to do so thereafter provided, however, that no action shall be brought against either the Developer, the Association or the Owners Committee for failing to enforce or carry out any such covenants, restrictions, rules, or regulations.

ARTICLE XII

GENERAL PROVISIONS

Section 12.1. Term. The covenants, easements and restrictions of this Declaration shall run with and bind the Development, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by more than eighty percent (80%) of the Percentage Interests of the Owners has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. The number of ten (10) year renewal periods shall be unlimited.
Section 12.2. Amendment. The Developer may unilaterally amend this Declaration at any time and from time to time if such amendment is (a) not material and the impact of such amendment, if any, would not be significant to this Declaration; (b) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rules or regulation, or judicial determination; (c) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (d) required by an institutional or governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to acquire or purchase mortgage loans on the Lots; (e) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; or (f) would not have a material adverse impact on any of the Lots sold to date; provided, however, any such amendment shall not adversely affect the title to any Lot or the use of such Lot unless the Owner shall consent thereto in writing. Additionally, the Developer may unilaterally amend this Declaration at any time, and from time to time, to remove portions of the property described in Exhibit "A" from the requirements of this Declaration.

Thereafter and otherwise, this Declaration may be amended (except where a different voting requirement is specified) only by the affirmative vote or written consent of the Owners, thereof, of at least seventy-five percent (75%) of the Percentage Interests of the Owners; provided, however, no such amendment shall be made without the unanimous consent of the Owners and the Developer (to the extent Developer still owns any property within the Development) if such amendment would (i) eliminate or change the assessments for access to and throughout the Development contained in Article III above; (ii) would preclude or adversely affect the current or anticipated use of a Lot by an Owner; or (iii) would in any way change the uses and requirements of any property owned by Developer within the Development. Any amendment to be effective must be recorded in the public records of Hancock County, Indiana.

If an Owner consents to any amendment to this Declaration or the Rules, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege.

Section 12.3. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Developer, or the Board or Owners Committee will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing in the public records of Hancock County, Indiana. The captions of each Article and Section hereof as to the contents of each Article and Sections are inserted for convenience of reference only and shall be of no effect in limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Indiana.
Section 12.4. Right of Entry. The Association shall have the right, but not the obligation, to enter onto any Lot for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with the Rules, which right may be exercised by the Association's Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner or occupant directly affected thereby. This right of entry shall include the right of the Association to enter a Lot and building to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 12.5. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association or Owners Committee unless approved by a vote of seventy-five percent (75%) of the Percentage Interests of the Owners. However, this Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article VIII hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Developer or is approved by the Owners, and pursuant to the same procedures necessary to institute proceedings as provided above.

Section 12.6. Developer's Right of Assignment. Any or all of the special rights and obligations of the Developer may be transferred to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein. No such transfer shall be effective unless it is in a written instrument signed by the Developer and duly recorded in the public records of Hancock County, Indiana.

Section 12.7. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to such Owner's Lot, such Owner shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Until such written notice is received by the Board, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Lot hereunder, including payment of assessments, notwithstanding the transfer of title to the Lot.

In the event an Owner sells, leases, mortgagess or otherwise disposes of any Lot or building, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagor, or transferee.

Section 12.8. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provision hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 12.9. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of the Declaration to any person or to any property shall be prohibited or held invalid, such
prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 12.10. Rights of Third Parties. This Declaration shall be recorded for the benefit of Developer and the Owners, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided for herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Developer, the Owners shall have the right to extend, modify, amend, or otherwise change the provision of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

Section 12.11. Notices. Notices required hereunder shall be in writing and shall be hand delivered or sent by United States Mail, postage prepaid. All notices to Owners shall be sent or delivered to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective lots or buildings. All notices to the Association shall be delivered or sent in care of Developer at the following address:

Precedent Commercial Development, LLC
9525 Delegates Row
Suite 200
Indianapolis, Indiana 46240

or to such other address as the Association may from time to time notify the Owners. All notices to Developer shall be delivered or sent to Developer at the above address or such other address as Developer may from time to time provide to the Owners.

IN WITNESS WHEREOF, a duly authorized officer of the undersigned Developer have executed this Declaration this __th day of __________, 1998.

PRECEDENT COMMERCIAL DEVELOPMENT, LLC

By: ____________________________

Printed: DARRELL C. FURST

Title: PRESIDENT

IN WITNESS WHEREOF, a duly authorized officer of The Legacy Development, LLC hereby executes this Declaration and subjects the real estate described in Exhibit "B" to the provisions of this Declaration.
THE LEGACY DEVELOPMENT, LLC

By: __________________________

Printed: Karen Herth Flowers

Title: Managing Member

IN WITNESS WHEREOF, Gregory D. Hochstedler and Dana M. Hochstedler hereby execute this Declaration and subject the real estate described in Exhibit "C" to the provisions of this Declaration.

[Signatures]

Gregory D. Hochstedler

Dana M. Hochstedler

STATE OF INDIANA: }

COUNTY OF MARION: }

Before me, a Notary Public in and for said County and State, personally appeared

[Signature]

Signature: __________________________

Printed: __________________________

Notary Public

My Commission Expires:

________________________

County of Residence:

________________________

NOTARY PUBLIC

SEAL

INDIANA

________________________

LORI BRINES
NOTARY PUBLIC STATE OF INDIANA
HAMilton COUNTY
MY COMMISSION EXP. SEPT 10,2000

98-03287
STATE OF INDIANA
COUNTY OF Marion

Before me, a Notary Public in and for said County and State, personally appeared
Karen Powers, on behalf of The Legacy Development, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and notarial seal this 20th day of March, 1998

My Commission Expires: 12/24/2001

Printed Sandra A. Aker
Notary Public

Signature

STATE OF INDIANA
COUNTY OF Marion

Before me, a Notary Public in and for said County and State, personally appeared
Gregory D. Hochstedler, who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and notarial seal this 24th day of Feb, 1998

My Commission Expires: 12/24/2001

Printed Lori Brines
Notary Public

Signature

County of Residence:

Marion

Lori Brines
Notary Public State of Indiana
Hamilton County
My Commission Exp. Sept 10, 2000

98-03287

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CONSENT TO DECLARATION

The undersigned lender, being the holder of a mortgage of record as evidenced by a certain real estate mortgage recorded in the office of the Recorder of Hancock County, Indiana (the "Mortgage") with respect to a portion of the real estate which is subject to the Declaration and described as Exhibit "C" attached to the Declaration, hereby consents to the Declaration and subordinates the lien of its Mortgage to the foregoing Declaration and the terms and conditions stated therein.

Peoples Bank Trust Co.
By:
Printed: Brent J. Roy
Title: Vice President

STATE OF INDIANA

COUNTY OF MARION

Before me, personally appeared Brent J. Roy of Vice President who acknowledged the execution of the foregoing instrument this 27th day of July, 1998.

Witness my hand and notary seal this 27th day of July, 1998.

My Commission Expires:

Lori Brines
Notary Public
Residing in Hamilton County

98-03287
Cross Reference: Instrument Nos.: 9803287 & 9915046

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MT. COMFORT COMMERCIAL PARK

This Second Amendment to Declaration of Covenants, Conditions and Restrictions (this "Amendment") is made as of the 20th day of August, 2004 by Precedent Commercial Development, LLC, an Indiana limited liability company ("Developer").

RECITALS

WHEREAS, Developer has executed that certain Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park recorded in the Office of the Recorder for Hancock County, Indiana, on March 20, 1998 as Instrument No. 9803287 as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated November 15, 1999 and recorded in the Office of the Recorder for Hancock County, Indiana on November 17, 1999 as Instrument No. 9915046 (collectively the "Declaration") (all terms not otherwise defined herein and appearing with their initial letter capitalized shall have the meaning set forth in the Declaration);

WHEREAS, pursuant to Section 12.2 of the Declaration, Developer desires to amend the Declaration to add additional real estate to the Development and provide for an identification sign for the Development, as more particularly provided for herein;

WHEREAS, the amendments provided for herein (a) are not material and the impact of such amendments, if any, are not be significant to the Declaration; (b) will not have a material adverse impact on any of the Lots sold to date; and (c) do not adversely affect the title to any Lot or the use of any such Lots; and

WHEREAS, the Developer may therefore unilaterally amend the Declaration as provided herein pursuant to Section 12.2 of the Declaration.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer hereby amends the Declaration as follows:

1. Addition of Section IV to the Development. The parcel of real estate described on Exhibit "A" attached hereto, which parcel may be platted from time to time as a part of Mt Comfort Commercial Park, together with all improvements thereon, is hereby added to the parcels of real estate included in the definition of the term "Development" under the Declaration.
2. **Development Identification Sign.** The Common Properties shall include a sign (the "Development Sign") to be constructed on that portion of the Development identified on Exhibit "B" attached hereto. The Development Sign shall identify Mt. Comfort Commercial Park as the name of the Development and may, in Developer's sole discretion, include the name of the Developer or some derivation of the name "Precedent" and/or "Precedent Development" and, in such a case, may also include a logo, trademark or service mark identifying the Developer, and/or a statement that the Development was developed by the Developer. All costs associated with the construction, operation, use, maintenance and repair of the Development Sign shall be included in the Common Expenses. Notwithstanding anything to the contrary in this paragraph, neither any Owner nor the Association shall have any ownership or other rights with respect to the use of the name, logo, trademark or service mark of Developer or any right to use the name "Precedent" or "Precedent Development". Following installation of the Development Sign, the Association will assume responsibility for the care and maintenance of the Development Sign, however, Developer will retain a perpetual right of access to the Development Sign for purposes of providing additional maintenance to and/or updating and/or replacing the Development Sign and/or, at the Developer's option, (and at Developer's sole cost), removing any references to Developer, "Precedent", "Precedent Development" or any logo, trademark or service mark identifying the Developer, "Precedent" or "Precedent Development" from the Development Sign.

3. **Full Force and Effect.** Except as expressly modified by this Amendment, the Declaration shall remain in full force and effect.

4. **Amendment of Declaration.** The Declaration shall be deemed to be amended to reflect the provisions of this Amendment, and all references to the Declaration shall mean the Declaration as amended by this Amendment.

IN WITNESS WHEREOF, the Developer has executed this Amendment as of the date first above written.

**DEVELOPER:**

Precedent Commercial Development, LLC

By: [Signature]

Printed: [Printed Name]

Title: [Title]

Second Amendment to Declaration- Mt Comfort Commercial Park v 2
STATE OF INDIANA       

COUNTY OF Marion       

Before me, a Notary Public in and for said State personally appeared Larry D. Setzer, known by me to be the Vice President of Precedent Commercial Development, LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Second Amendment to Declaration of Covenants, Conditions and Restrictions, for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 30th day of August 2004.

No Ann Tipton
Notary Public
(Printed Signature)

County of Residence: __________________________

My Commission Expires: ________________________

This instrument prepared by and after recording return to: H. Antonio Setzer, Bose McKinney & Evans LLP, 135 North Pennsylvania, Suite 2700, Indianapolis, Indiana 46204.
EXHIBIT A

Legal Description

A part of the Southeast Quarter of Section 12, Township 16 North, Range 5 East in Buck Creek Township, Hancock County, Indiana and more particularly described as follows:

Commencing at the Southeast Corner of the Southeast Quarter of said Section 12; thence North 00 degrees 00 minutes 00 seconds East (an assumed bearing to match the plat of Mt. Comfort Industrial Park Section I, said plat thereof recorded in Plat Cabinet A, Slide 365 and 366 in the Office of the Recorder of Hancock County, Indiana) along the East Line of said Southeast Quarter 300.11 feet to the POINT OF BEGINNING; thence continue North 00 degrees 00 minutes 00 seconds East along said East Line 1306.67 feet; thence North 88 degrees 04 minutes 33 seconds West parallel with the north line of said quarter section 826.00 feet; thence South 00 degrees 00 minutes 00 seconds West to the northwest corner of said Mt. Comfort Industrial Park Section I, 1312.43 feet; thence South 88 degrees 28 minutes 31 seconds East along the north line of said Mt. Comfort Industrial Park Section I, 825.83 feet to the point of beginning and containing 24.818 acres more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.
Cross Reference: Instrument Nos.: 9803287, 9915046, and 040013120

THIRD AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MT. COMFORT COMMERCIAL PARK

This Third Amendment to Declaration of Covenants, Conditions and Restrictions (this "Third Amendment") is made as of the 27th day of June, 2006 by Precedent Commercial Development, LLC, an Indiana limited liability company ("Developer").

RECITALS

WHEREAS, Developer has executed that certain Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 9803287 as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated November 15, 1999 and recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 9915046, and that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated August 30, 2004 and recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 040013120 (collectively the "Declaration") (all terms not otherwise defined herein and appearing with their initial letter capitalized shall have the meaning set forth in the Declaration);

WHEREAS, pursuant to Section 12.2 of the Declaration, Developer desires to amend the Declaration to add additional real estate to the Development, as more particularly provided for herein;

WHEREAS, the amendments provided for herein (a) are not material and the impact of such amendments, if any, will not be significant to the Declaration; (b) will not have a material adverse impact on any of the Lots sold to date; and (c) do not adversely affect the title to any Lot or the use of any such Lots; and

WHEREAS, the Developer may therefore unilaterally amend the Declaration as provided herein pursuant to Section 12.2 of the Declaration.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer hereby amends the Declaration as follows:
1. **Addition of Real Estate to the Development.** The parcel of real estate described on Exhibit "A" attached hereto, which parcel may be platted from time to time as a part of Mt. Comfort Commercial Park, together with all improvements thereon, is hereby added to the parcels of real estate included in the definition of the term "Development" under the Declaration.

2. **Full Force and Effect.** Except as expressly modified by this Third Amendment, the Declaration shall remain in full force and effect.

3. **Amendment of Declaration.** The Declaration shall be deemed to be amended to reflect the provisions of this Third Amendment, and all references to the Declaration shall mean the Declaration as amended by this Third Amendment.

IN WITNESS WHEREOF, the Developer has executed this Third Amendment as of the date first above written.

**DEVELOPER:**

Precedent Commercial Development, LLC

By: [Signature]

Printed: [Signature]

Title: V.P. Pres 6/7/10
STATE OF INDIANA 
COUNTY OF MARION

Before me, a Notary Public in and for said State personally appeared Larry D. Siegler, known by me to be the Vice President of Precedent Commercial Development, LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Third Amendment to Declaration of Covenants, Conditions and Restrictions, for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 27th day of June, 2006.

Notary Public
Jo Ann Tipton
(Printed Signature)

County of Residence:

My Commission Expires:

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. H. Antonio Setzer

This instrument prepared by and after recording return to: H. Antonio Setzer, Bose McKinney & Evans LLP, 135 North Pennsylvania, Suite 2700, Indianapolis, Indiana 46204.
EXHIBIT A

Legal Description

A part of the West Half of the Northwest Quarter of Section 13, Township 16 North, Range 5 East in Buck Creek Township, Hancock County, Indiana; said part being more particularly described as follows:

BEGINNING at a brass monument marking the Southwest corner of said Northwest Quarter; thence North 00 degrees 32 minutes 08 seconds West (assumed bearing) along the West line of said Northwest Quarter a distance of 2137.10 feet to a point that is 550.00 feet South of the Northwest corner of said Northwest Quarter and said point being in the centerline of Steel Ditch, a statutory legal court drain (the next Six (6) calls are along said centerline): (1) thence North 41 degrees 35 minutes 10 seconds East a distance of 82.60 feet; (2) thence North 53 degrees 46 minutes 27 seconds East a distance of 135.03 feet; (3) thence North 59 degrees 59 minutes 58 seconds East a distance of 127.55 feet; (4) thence North 44 degrees 00 minutes 30 seconds East a distance of 249.76 feet; (5) thence North 36 degrees 32 minutes 53 seconds East a distance of 128.65 feet; (6) thence North 12 degrees 16 minutes 09 seconds East a distance of 48.60 feet to a point on the North line of said Northwest Quarter that is 540.00 feet East of the Northwest corner of said Northwest Quarter; thence South 88 degrees 29 minutes 58 seconds East along said North line a distance of 810.38 feet to the Northeast corner of the West Half of said Northwest Quarter; thence South 00 degrees 22 minutes 55 seconds East along the East line of said West Half a distance of 2674.34 feet to the Southeast corner thereof; thence North 89 degrees 01 minutes 59 seconds West along the South line of said Northwest Quarter a distance of 1342.82 feet to the Point of Beginning. Containing 78.936 acres more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.
Cross Reference: Instrument Nos.: 9803287, 9915046, 040013120 and 060008377

FOURTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MT. COMFORT COMMERCIAL PARK

This Fourth Amendment to Declaration of Covenants, Conditions and Restrictions (this "Fourth Amendment") is made as of the 27th day of April, 2007 by Precedent Commercial Development, LLC, an Indiana limited liability company ("Developer").

RECITALS

WHEREAS, Developer has executed that certain Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 9803287 as amended by that certain First Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated November 15, 1999 and recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 9915046, and further amended by that certain Second Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated August 30, 2004 and recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 040013120 and Third Amendment to Declaration of Covenants, Conditions and Restrictions for Mt. Comfort Commercial Park dated June 27, 2006 and recorded in the Office of the Recorder of Hancock County, Indiana as Instrument No. 060008377 (collectively the "Declaration") (all terms not otherwise defined herein and appearing with their initial letter capitalized shall have the meaning set forth in the Declaration);

WHEREAS, pursuant to Section 12.2 of the Declaration, Developer desires to amend the Declaration to provide for the installation and maintenance of backflow devices as part of the drainage system for the Development;

WHEREAS, the amendments provided for herein (a) are not material and the impact of such amendments, if any, will not be significant to the Declaration; (b) will not have a material adverse impact on any of the Lots sold to date; and (c) do not adversely affect the title to any Lot or the use of any such Lots; and

WHEREAS, the Developer may therefore unilaterally amend the Declaration as provided herein pursuant to Section 12.2 of the Declaration.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer hereby amends the Declaration as follows:
1. **Amendment.** Paragraph (a) of Section 5.1 of the Declaration is deleted in its entirety and replaced with the following:

(a) The storm sewer system, drainage easement areas (to the extent affecting the stormwater run-off), backflow devices (including installation thereof), and any retention ponds and lakes created by Developer for the benefit of the Development and to the extent not dedicated and maintained by the public. Any such retention area may include not only that property which is a Common Property of the Association but also any other area within the Development if designated by Developer to be part of the common drainage system of the Development.

2. **Full Force and Effect.** Except as expressly modified by this Fourth Amendment, the Declaration shall remain in full force and effect.

3. **Amendment of Declaration.** The Declaration shall be deemed to be amended to reflect the provisions of this Fourth Amendment, and all references to the Declaration shall mean the Declaration as amended by this Fourth Amendment.

IN WITNESS WHEREOF, the Developer has executed this Fourth Amendment as of the date first above written.

**DEVELOPER:**

Precedent Commercial Development, LLC,
an Indiana limited liability company

By: [Signature]

Larry D. Siegler, Vice President
STATE OF INDIANA       
) S:\ 
COUNTY OF MARION 
)

Before me, a Notary Public in and for said State personally appeared Larry D. Siegler, known by me to be the Vice President of Precedent Commercial Development, LLC, an Indiana limited liability company, who acknowledged the execution of the above and foregoing Fourth Amendment to Declaration of Covenants, Conditions and Restrictions, for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 4th day of April, 2007.

[Signature]
Notary Public

(Printed Signature)

County of Residence: ______________________

My Commission Expires: __________________

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. H. Antonio Setzer

This instrument prepared by and after recording return to: H. Antonio Setzer, Bose McKinney & Evans LLP, 135 North Pennsylvania, Suite 2700, Indianapolis, Indiana 46204.
FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MT. COMFORT COMMERCIAL PARK

This first amendment to declaration of covenants, conditions and restrictions for mt. comfort commercial park (hereinafter referred to as the "Amendment") is made this 15th day of November, 1999, by precedent commercial development, llc, an Indiana limited liability company (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer executed the declaration of covenants, conditions and restrictions for Mt. Comfort Commercial Park which is dated February 27, 1998 and which was recorded March 20, 1998 in the office of the Recorder of Hancock County, Indiana as Instrument No. 9803287 (the "Declaration");

WHEREAS, the Declaration covers certain real property, located in Hancock County, Indiana, as more specifically described therein (the "Development");

WHEREAS, the Developer is still the record owner of certain portions of the property located in the Development (the "Developer's Parcel") which is more specifically described in the attached Exhibit A to this Amendment;

WHEREAS, the Developer is the owner of certain undeveloped real property which is located adjacent to the Development (the "Undeveloped Parcel") which is more specifically described in the attached Exhibit B to this Amendment;

WHEREAS, pursuant to Section 12.2(f) of the Declaration, the Developer desires to confirm its commitment and undertaking to subject the Undeveloped Parcel to the provisions of this Declaration:
WHEREAS, pursuant to Section 12.2(f) of the Declaration, the Developer desires to modify and amend the Declaration to subject the Undeveloped Parcel and the Developer’s Parcel to additional covenants, conditions and restrictions necessary to preserve the architectural and aesthetic appearance of the Development; and

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Developer hereby amends the Declaration as follows:

1. **Incorporation and Defined Terms.** All of the provisions contained in the foregoing recitals, including, without limitation, all defined terms set forth above, are incorporated into and made a part of this Amendment. All initially capitalized terms used but not specifically defined herein shall have the meanings for such terms as are specified in the Declaration.

2. **Inclusion of the Undeveloped Parcel.** Pursuant to the provisions of Section 12.2(f) of the Declaration, the Developer is entitled to include additional land as a part of the Development subject to the covenants, conditions and restrictions contained in the Declaration. Accordingly, the Undeveloped Parcel shall be subject to all of the terms, covenants, conditions and restrictions of the Declaration including, but not limited to, those provisions of the Declaration which require the Owners from time to time of the Undeveloped Parcel to share in the Common Expenses of the Development.

3. **Addition of Section 9.12.** A new section is added to the Declaration as follows:

   **Section 9.12.** The Owners from time to time of any land in the Undeveloped Parcel and the Developer’s Parcel shall construct all buildings and improvements with uniform Ninety Degree (90°) level roof lines such that the visual appearance of the roof of any and all such buildings and improvements shall have no noticeable slope, pitch, ascent or angle from any elevation or location in the Development within reasonable view of such building or other improvements. The visual effects of the foregoing may be accomplished by the construction of parapet walls or in such other manner as is acceptable to the ACC. In addition, the ACC shall have the right, in its sole discretion, to waive the restrictions contained in this Section 9.12 as to any or all of the elevations of any such building or other improvement to the extent that the ACC determines that the visual effect of any visible slope, pitch, ascent or angle are not aesthetically incompatible with the other buildings or improvements in the Development. The provisions of this Section 9.12 shall only apply to those portions of the Development which are included in the Undeveloped Parcel or the Developer’s Parcel. As such, any Owner of
any Lot in the Development which is not part of the Undeveloped Parcel or the Developer's Parcel shall not be subject to the restrictions contained in this Section 9.12 unless such Owner consents to such restrictions in a recorded document.

4. **Modification and Incorporation.** The terms of this Amendment are incorporated into and made a part of the Declaration. All terms and provisions of the Declaration which are not expressly modified herein shall remain in full force and effect.

EXECUTED the day and year first written above.

PRECEDENT COMMERCIAL DEVELOPMENT, LLC

By: ____________________________
   Larry D. Siegel
   
   Printed: ____________________________
   Larry D. Siegel
   
   Title: VP
STATE OF INDIANA

COUNTY OF MARION

Before me, a Notary Public in and for said County and State, personally appeared LARRY D. SIMON, by me known and by me known to be the VICE PRESIDENT of Precedent Commercial Development, LLC, who, being first duly sworn upon his oath, has executed the foregoing "First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Mt. Comfort Commercial Park" for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 16th day of November, 1999.

[Signature]
Notary Public

My Commission Expires: 8-12-2007
My County of Residence: HAMILTON

THIS INSTRUMENT WAS PREPARED BY AND AFTER RECORDING RETURN TO:

James C. Carlino, Esq.
Bose McKinney & Evans
8888 Keystone Crossing
Suite 1500
Indianapolis, Indiana 46240
Block D in Mt. Comfort Commercial Park Secondary Plat, as per plat recorded in Plat Cabinet B, Slide 309, Instrument Number 9612627 in the Office of the Recorder of Hancock County, Indiana.

Lot 4 in Amendment No. 2 to Mt. Comfort Commercial Park Secondary Plat as per plat recorded in Plat Cabinet B, Slide 353, Instrument Number 980271 in the Office of the Recorder of Hancock County, Indiana.

Lot 8 in Amendment No. 4, a replat of Lot 6, Block B, to Mt. Comfort Commercial Park Secondary Plat as per plat recorded in Plat Cabinet B, Slide 385, Instrument Number 9907832 in the Office of the Recorder of Hancock County, Indiana.
EXHIBIT B

A part of the North Half of the Northeast Quarter of Section 13, Township 16 north, Range 5 East, in Buck Creek Township, Hancock County, Indiana, said part being more particularly described as follows:

COMMENCING at a brass monument marking the Northeast Corner of said Half Quarter Section; thence South 00 degrees 17 minutes 33 seconds West (assumed bearing) along the East line of said Half Quarter Section a distance of 300.07 feet to a railroad spike marking the Southeast Corner of a 4.196 acre tract of land per Instrument #88-6338 in the Office of the Recorder of Hancock County, Indiana, and being the POINT OF BEGINNING of this description; thence continuing South 00 degrees 17 minutes 38 seconds West along said East line a distance of 1029.64 feet to the Southeast corner of said Half Quarter Section, said corner being on a line and equidistant from the Northeast Corner and the Southeast Corner of said Quarter Section; thence North 88 degrees 29 minutes 46 seconds West along the South line of said Half Quarter Section a distance of 2,719.88 feet to the Southwest Corner of said Half Quarter Section, said corner being on line and equidistant between the Northwest corner and the Southwest corner of said Quarter Section; thence North 00 degrees 14 minutes 51 seconds East along said West line a distance of 1,330.72 feet to a stone marking the Northwest corner of said Half Quarter Section; thence South 88 degrees 28 minutes 31 seconds East along the North line of said Half Quarter Section a distance of 864.18 feet to a railroad spike marking the Northwest Corner of Airport Industrial Park, Section One, as per plat thereof recorded as instrument #90-1372 in the Office of said Recorder (the next three calls are along the Westerly, Southerly and Easterly boundaries of said plat); South 01 degrees 31 minutes 29 seconds West a distance of 350.00 feet; South 88 degrees 28 minutes 31 second East a distance of 250.00 feet; North 01 degrees 31 minutes 29 seconds East a distance of 350.00 feet to the Southeast Corner of Mount Comfort Industrial Park, Section Two, as per plat thereof recorded as Instrument #88-5893 in the Office of said Recorder; thence South 88 degrees 28 minutes 31 seconds East along the South line of said plat and along the South line of said 4.196 acre tract a distance of 1,512.45 feet to the point of beginning. Containing 69.94 acres, more or less.

Subject, however, to all legal highways, rights of way, easements and restrictions of record.
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS

FOR

MT. COMFORT COMMERCIAL PARK

9803287
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**ARTICLE I**

**DEFINITIONS**

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