DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNHOMES AT CITY CENTER

Hamilton County, Indiana

PRIOR DEED REFERENCE: 2001-00061267
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE TOWNHOMES AT CITY CENTER

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNHOMES AT CITY CENTER (the "Declaration") is made as of ________________ 2002 by RH OF INDIANA, L.P., an Indiana limited partnership (the "Declarant").

RECITALS:

A. The Declarant is, or at the time of recordation of this Declaration will be, the owner of certain real property located in Hamilton County, Indiana, which is more specifically described in Exhibit A, which is attached hereto and incorporated herein by reference (the "Property").

B. The Declarant desires to create on the Property a residential community (the "Community") which shall have permanent open spaces and other common facilities for the benefit of the residents of the Community.

C. The Declarant desires to provide for the preservation of the values of the Community and such other areas as may be subject to this Declaration, and to provide for the maintenance of the open spaces and other facilities, and, to this end, declare and publish their intent to subject the Property to the covenants, conditions, restrictions, easements, charges and liens herein (after set forth, it being intended that they shall run with title to the Property and shall be binding on all persons or entities having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner thereof.

D. The Declarant has deemed it desirable for the efficient preservation of the values of the Community to create an association to be known as The Townhomes at City Center Homeowners Association, Inc., an Indiana not-for-profit corporation (the "Association") to which shall be delegated and assigned the powers of owning, maintaining and administering the common areas and facilities, administering and enforcing the covenants and restrictions made in and pursuant to this Declaration, collecting and disbursements the assessments and charges hereafter created, and promoting the recreation, health, safety and welfare of the owners of Property and all parts thereof.

NOW, THEREFORE, the Declarant, for and in consideration of the premises and the covenants contained herein, grants, establishes and conveys to each owner of each Lot (as herein defined), mutual, non-exclusive rights, privileges and easements of enjoyment on equal terms and
in common with all other owners of Lots in and to the use of any common areas and facilities, and further, the Declarant declares that the Property shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved, and occupied subject to the provisions, agreements, covenants, conditions, restrictions, reservations, easements, assessments, charges and liens hereinafter set forth, all of which are for the purpose of protecting the value and desirability of, and shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their respective successors and assigns, and shall inure to the benefit of Declarant and its successors in title to the Property or any part or parts thereof.

ARTICLE 1

DEFINITIONS

Section 1.1. "Association" shall mean and refer to The Troubadors at City Center Homeowners Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns.

Section 1.2. "Authority Transfer Date" shall have the meaning ascribed in Section 1.1 of this Declaration.

Section 1.3. "Articles" shall mean and refer to the Articles of Incorporation of the Association as the same may be amended from time to time.

Section 1.4. "Board of Directors" shall mean the elected body having its normal meaning under Indiana corporate law.

Section 1.5. "Bylaws" shall mean and refer to the Code of Bylaws of the Association, as the same may be amended from time to time.

Section 1.6. "City" shall mean the City of Carmel, Indiana.

Section 1.7. "Common Area" or "Common Areas" shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Members. All of the Property which is not included in any particular Lot, as shown on current or future approved plats of the Property and/or as described herein, shall be considered to be a part of the Common Area.

Section 1.8. "Common Expenses" shall mean and refer to expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of Common Areas, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 1.9. "County" shall mean the County of Hamilton, Indiana.
Section 1.10. "Declarant" shall mean and refer to RH of Indiana, L.P., an Indiana limited partnership, and its successors or assigns to whom RH of Indiana, L.P., an Indiana limited partnership, assigns any or all of its rights as Declarant pursuant to this Declaration by assignment recorded in the Office of the Recorder of Hamilton County, Indiana.

Section 1.11. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for The Townhomes at City Center, which is to be recorded in the Office of the Recorder of Hamilton County, Indiana.

Section 1.12. "Development Period" means the period of time commencing with Declarant’s acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot. The Development Period shall recommence each time the Declarant acquires any part (or all) of the Additional Property.

Section 1.13. "Dwelling Unit" shall mean and refer to any improvement to the Property intended for any type of independent ownership for use and occupancy as a residence by a single household and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) townhouses and detached homes.

Section 1.14. "Federal Agencies" shall mean (by way of illustration but not limitation) the Federal Housing Authority, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency.

Section 1.15. "Local Governing Authority" shall mean the City and/or the County, individually or collectively.

Section 1.16. "Lot" shall mean and refer to any plot of land created by and shown on a lawfully recorded subdivision plat of the Property upon which a Dwelling Unit could be constructed in accordance with applicable zoning ordinances, with the exception of the Common Area and streets dedicated to public use. Each Lot shall include such property to the centerline of any party wall separating Dwelling Units in the same Structure (as herein defined) and shall include an area equal to the exterior face of the rear wall of each Dwelling Unit.

Section 1.17. "Maintenance Costs" means all of the costs necessary to keep the facilities to which the term applies operation and in good condition, including but not limited to the cost of all upkeep, maintenance, repair, replacement, of all or any part of any such facility, payment of all insurance with respect thereto, all taxes imposed on the facility and on the underlying land, leasehold, easement or right-of-way, and any other expense related to continuous maintenance, operation or improvement of the facility.

Section 1.18. "Member" shall mean and refer to every person or entity who holds a membership in the Association, as more particularly set forth in Article II below.
Section 1.19. "Mortgagee" shall mean and refer to any person or entity secured by a first mortgage or first deed of trust on any Lot or the Common Area who has notified the Association of this fact in writing. An "Eligible Mortgagee" shall be a Mortgagee who has given notice to the Association of its interest and requested all rights afforded Eligible Mortgagees under Article XII.

Section 1.20. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including a contract seller but excluding those holding such interest in a Lot solely by virtue of a contract to purchase a Lot or as security for the performance of an obligation. If more than one (1) person or entity is the record owner of a Lot, the term Owner as used herein shall mean and refer to such owners collectively, so that there shall be only one (1) Owner of each Lot.

Section 1.21. "Permitted Signs" shall mean customary real estate sale or lease signs which have received the prior written approval of the Architectural Review Board.

Section 1.22. "Person" shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

Section 1.23. "Property" shall mean that certain real property located in Hamilton County, Indiana, which is more specifically described in Exhibit A, which is attached hereto and incorporated herein by reference as the same may be duly subdivided and platted, and any additions thereto which, from time to time, may be subjected to the covenants, conditions, restrictions, reservations, easements, charges and liens of this Declaration.

Section 1.24. "Regular Assessment" shall mean and refer to assessments levied against all Lots to fund Common Expenses.

Section 1.25. "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens, and other provisions set forth in this Declaration, as the same may be amended from time to time.

Section 1.26. "Special Assessment" shall mean and refer to assessments levied in accordance with Section 5.7 of this Declaration.

Section 1.27. "Structure" shall mean any temporary or permanent improvement or building or portion thereof, including, without limitation, walls, decks, patios, stairs, windows, window boxes, doors, fences, play equipment, greenhouses, skylights, address markers, mail boxes, name plates, flag poles, lawn ornaments, trees, hedges, shrubbery, solar panels, satellite dishes, antennas, shutters, awnings, fences, pools, hot-tubs, pavement, walkways, driveways, garages and/or garage doors, or appurtenances to any of the aforementioned.

Section 1.28. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant or its successors, and recorded in the public records of Hamilton County, Indiana, which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on
the land described therein. The term shall also refer to the instrument recorded by the
Corporation to subject additional property to this Declaration.

**ARTICLE III**

**MEMBERSHIP**

Every Owner of a Lot which is subject to this Declaration shall be a Member of the
Association. Membership shall be appurtenant to and may not be separated from ownership of any
Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole
qualification for membership. No Owner shall have more than one (1) membership in the
Association for each Lot it owns.

**ARTICLE III**

**VOTING RIGHTS**

**Section 3.1 Class:** The Association shall have two (2) classes of voting membership
as follows:

**Class A:**
Class A Members shall be all Members with the exception of the Class B
Member. A Class A Member shall be entitled to one (1) vote for each Lot in
which it holds the interest required for membership pursuant to Article II
herein with respect to each matter submitted to a vote of members upon
which the Class A members are entitled to vote.

**Class B:**
The Class B Member shall be the Declarant and all successors and assigns of
Declarant designated by Declarant as Class B Members in a written notice
mailed and delivered to the resident agent of the Association. A Class B
Member shall be entitled to three (3) votes for each Lot in which it holds the
interest required for membership pursuant to Article II herein. The
Declarant's Class B membership interest shall be converted to and shall
become a Class A membership interest with one (1) vote for each Lot in
which it holds an interest upon the happening of any of the following events,
whichever occurs first (the "Authority Transfer Date"):

(a) within four (4) months after the total votes outstanding in the Class
A membership equal the total votes outstanding in the Class B
membership; or

(b) seven (7) years from the date of recordation of this Declaration; or

(c) sixty (60) days after the Declarant abandons construction (i.e., no
new dwelling construction has been initiated for a period of eighteen
(18) months, unless there is evidence of continuing construction).
Section 3.2: **Expansion.** If the Declarant exercises its rights to expand the Property to include additional real estate pursuant to this Declaration, and in the event that Class B membership shall have ceased as provided in Section 3.1 above, the Declarant’s Class B membership interest shall be revived with respect to all Lots owned by the Declarant, including those, if any to which it had previously had its Class B membership interest converted to Class A membership interests. In addition, in such event, all of Declarant’s rights and privileges hereunder which it enjoyed prior to the Authority Transfer Date shall also be renewed and reinstated. Any such new and/or revived Class B membership interests shall cease and be converted to Class A membership interests upon the happening of any of the following events, whichever occurs first:

(a) within four (4) months after the total votes outstanding in Class A membership in the additional property equal the total votes outstanding in the Class B membership in such additional property; or

(b) five (5) years from the date of recordation of the document adding such additional property to the Property; or

(c) sixty (60) days after the Declarant abandons construction (i.e., no new dwelling construction has been initiated for a period of eighteen (18) months, unless there is evidence of continuing construction).

Section 3.3: **Multiple Ownership Interests.** When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Association, but all of such Persons shall have only one (1) vote for such Lot. The vote for such Lot shall be exercised as the Owners of the Lot among themselves determine and may be exercised by any one (1) of the people or entities holding such ownership interest, unless any objection or protest by any other holder of such ownership interest is made prior to the completion of a vote, in which case the vote for such membership interest shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. In no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE IV

DECLARATION OF RESTRICTION AND STATEMENT OF PROPERTY RIGHTS

Section 4.1: **Declaration.** Declarant hereby expressly declares that the Property and any additions thereto pursuant to this Declaration, shall be held, transferred and occupied subject to these Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, (i) by acceptance of a deed from Declarant, or its successors, conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the
rights and powers of Declarant, the Architectural Review Board and of the Association with respect to these Restrictions, and also, for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Architectural Review Board, the Association, and the Owners and Subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

**Section 4.2 Property Rights.** Every Owner shall have a right and easement of use, access, and enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to:

(a) this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying any part of the Property to the Association;

(b) the right of the Association to limit the number of guests of Members on the Common Area or to make any part of the Common Area available to occupants of adjacent real estate or members of the general public;

(c) the right of the Association to adopt and enforce rules and regulations governing the use of the Common Area and the personal conduct of Owners, occupants and guests thereon, including, without limitation, the imposition of fines for the violation thereof;

(d) the right of the Association to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;

(e) the right of the Association to suspend the voting rights, the right to run for office within the Association, and rights of a Member to the use of any nonessential services offered by the Association, to the extent that such access and the provision of utilities to the Lot through the Common Area are not precluded, for any period during which any assessment against such Member's Lot remains unpaid or for a period not to exceed sixty (60) days for any violation of its published rules and regulations;

(f) the right of the Association at any time, or upon dissolution of the Association, and consistent with the then-existing zoning and subdivision ordinances of the City and/or the County and consistent with its designation of the Common Area as "open space", to transfer all or any part of the Common Area to an organization conceived and organized to own and maintain common open space, or, if such organization will not accept such a transfer, then to a Local Governing Authority or other appropriate governmental agency, or, if such a transfer is declined, then to another entity in accordance with the laws governing the same, for such purposes and subject to conditions as may be agreed to by the Members. Except in the case of dissolution, any such transfer shall have the assent of at least two-thirds (2/3) of each class of Members entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written
notice of which having been sent to all Members not less than twenty-five (25) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. Upon such assent and in accordance therewith, the officers of the Association shall execute the necessary documents. The re-subdivision or adjustment of the boundary lines of the Common Area and the granting of easements by the Association shall not be deemed a transfer within the meaning of this Article;

(g) the right of the Association to grant, with or without payment to the Association, licenses, rights-of-way and easements through or over any portion of the Common Area;

(h) the right of the Association to lease the Common Area, provided however that such lease(s) must:

(i) be only to non-profit organizations;

(ii) prohibit assignment and subleasing;

(iii) require the prior, written approval of the Association of uses of the Common Area and facilities, which must be in accordance with this Declaration;

(iv) be consistent with the then-existing ordinances of the Local Governing Authority; and

(v) be consistent with the open space designation of the Common Area;

(i) the right of the Declarant or the Association to re-subdivide and/or adjust the boundary lines of the Common Area consistent with applicable zoning and subdivision ordinances as either deems necessary for the orderly development of the subdivision;

(j) all rights reserved by the Declarant in Article VIII hereof; and

(k) the right of the Declarant to erect, maintain and operate real estate sales and construction offices, displays, signs and other facilities for sales, marketing and construction purposes.

The Association, acting through the Board of Directors, may exercise these rights without the need for any approval from any Member, Mortgagee or any Federal Agency, unless provided otherwise in this Declaration.

Section 4.3. Common Area.

(a) Ownership. Declarant shall convey title to the Common Area to the Association; provided, however, that the Declarant may retain legal title to the Common Area during the Development Period, but shall convey the Common Area free and clear of
all liens and other financial encumbrances, exclusive of the lien for taxes not yet due and payable, no later than the end of the Development Period. The Common Areas shall remain private, and neither Declarant's execution, or recording of an instrument portraying the Common Areas, nor the doing of any other act by Declarant is, or is intended to be, or shall be construed as, a dedication to the public of the Common Areas. Declarant or the Association may, however, dedicate or transfer all or any part of the Common Areas to any public agency or utility for use as roads, utilities, parks or other public purposes.

(b) Maintenance. The Association shall be responsible for maintaining the Common Area and the Maintenance Costs thereof shall be assessed as a regular assessment against all Lots subject to assessment.

(c) Control. The Association, subject to the rights of Declarant and the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon and, except as otherwise provided herein or in a Supplemental Declaration, shall keep the Common Areas in good, clean, attractive and sanitary condition, order, and repair.

(d) No Permanent Structures. Except for underground utility facilities, no permanent improvements shall be made to or installed on the Common Area other than lighting, seating, walkways, planting structures, and fountains or other non-recreational water features. The use of the Common Area shall be subject to the rules and regulations adopted by the Board of Directors which are not inconsistent with the provisions of this Declaration or any Supplemental Declaration.

(e) Delegation of Use. Any Member may delegate its right of enjoyment to the Common Area and facilities to the members of its immediate household, its tenants or contract purchasers who reside on the Member's Lot. However, by accepting a deed to such Lot, every Owner covenants that should the Owner desire to rent its Lot, the rental agreement shall contain specific conditions which require the tenant to abide by all Association covenants, rules and regulations, and any Owner desiring to rent a Lot further covenants that the tenant will be provided a complete set of all Association covenants, rules and regulations.

(f) Damage or Destruction by Owner. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents, members of his family, or any other Person having or gaining access to the Owner's Lot with the knowledge and consent of such Owner, such Owner authorizes the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. An amount equal to the costs incurred to effect such repairs shall be assessed against such Owner as a Special Assessment and shall constitute a lien upon the Lot of said Owner.
(g) Density of Use. Declarant expressly disclaims any warranties or representations regarding the density of use of the Common Areas or any facilities located thereon.
ARTICLE V

ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Assessments. The declarant covenants, for each Lot owned, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance, is deemed to covenant and agree to pay to the Association: (a) Regular Assessments, (b) Special Assessments, and any other amounts as may be provided for hereunder to be due from any owner in connection with his, her or its ownership of a Lot in the Community. Such assessments are to be established and collected as hereinafter provided. The Association's regular Assessments and Special Assessments, together with interest thereon, late fees (as contemplated in Section 5.6(d), below) and costs of collection therefor, as hereinafter provided, shall be a charge on each applicable Owner's Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. The Regular Assessments and Special Assessments, when assessed upon resolution of the Board of Directors for each year, shall become a lien on the Lot in the amount of the entire Regular Assessment or Special Assessment, but shall be payable in two equal installments collected on a semi-annual basis.

Section 5.2. Purpose of Assessment. The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents and Owners of the Property, for the improvement, maintenance and landscaping of the Common Area, including but not limited to the payment of taxes, construction of improvements and maintenance of services, facilities, irrigation/sprinkler systems, trees, lawns, shrubbery and other plantings, and devoted to those purposes or related to the use and enjoyment of the Common Area or other property which the Association has the obligation to maintain, and for such other purposes as the Board of Directors may determine to be appropriate.

Section 5.3. Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each owner a financial statement prepared by a certified public accountant or firm of certified public accountants then serving the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 5.4. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Association at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each owner at or prior to the time the notice of such meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the designated meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments for the next ensuing fiscal year. At such annual or special
meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall such meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, Regular based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 5.5. Establishment of Regular Assessment. The Association must levy in each of its fiscal years a Regular Assessment against each Lot. The amount of such Regular Assessment shall be established by the Board of Directors, subject to the limitations imposed by Section 5.4, below, and written notice of such shall be sent to every Owner at least thirty (30) days in advance of the commencement of each Regular Assessment period. Regular Assessments against each Lot shall be paid in advance, payable in two equal semi-annual installments. The first Regular Assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year. All payments of Regular and Special Assessments shall be non-refundable, and all collections and funds held by the Association on account thereof shall be appurtenant to and run with the Lot. In no event shall any Owner be due any rebate or credit from the Association upon resale or other transfer or conveyance for prepaid Regular or Special Assessments.

Section 5.6. Basis and Regular Assessment. Until January 1 of the year immediately following conveyance of the first Lot to an Owner other than the Declarant, the Regular Assessment shall be Twelve Hundred Dollars ($1,200.00).

(a) From and after January 1 of the year immediately following the first conveyance of a Lot to an Owner other than the Declarant, the Regular Assessment shall increase, effective January 1 of each year, without the need for a vote of the Members, by an amount equal to (i) the anticipated increase in costs of insurance, taxes, snow removal, recycling, trash and waste removal, plus (ii) an amount equal to the amount of the prior year’s Regular Assessment times ten percent (10%).

(b) The Board of Directors may determine not to increase the Regular Assessment to the full extent of the automatic increase provided by subparagraph (a) of this Section, in which case the Board of Directors may determine to increase the Regular Assessment by any lesser amount.

(c) From and after January 1 of the year immediately following the first conveyance of a Lot to an Owner other than the Declarant, the Regular Assessment may be
increased above that established by subparagraph (a) Regularly, provided that, to be
effective, any such change shall have the assent of more than fifty percent (50%) of the
votes of those Members who are entitled to vote and who, in fact, do vote, in person or by
proxy, at a meeting duly called for this purpose at which a quorum is present, written notice
of which (setting forth the purpose of the meeting) shall be sent to all Members not less than
thirty (30) days nor more than sixty (60) days in advance of the meeting.

(d) The Regular Assessment against each Lot shall be paid in full in advance
by a date specified by the Board of Directors which date shall not be earlier than fifteen
(15) days after the written notice of such Regular Assessment is given to the Owners.

Semi-annual installments of Regular Assessments shall be due and payable automatically
on their respective due dates without any notice from the Board of Directors or the
Association, and neither the Board nor the Association shall be responsible for providing
any notice or statements to Owners for the same. If an Owner fails to pay any semi-
annual installment of any such Regular Assessment on or before the due date established
by the Board of Directors, a late fee in the amount of $25.00 will be added to the amount
due, and any such installment, together with any such late fee, will be and remain,
immediately due and payable.

(e) Payment of the Regular Assessment shall be made to the Board of
Directors or the Managing Agent, as directed by the Board of Directors.

(f) The Regular Assessment for each fiscal year of the Association shall
become a lien on each separate Lot as of the first day of each fiscal year of the
Association, even though the final determination of the amount of such Regular
Assessment may not have been made by that date.

Section 5.7 Special Assessments. In addition to the Regular Assessment authorized
above, the Association may levy, in any assessment year, a special assessment applicable to that
year only for the purpose of defraying, in whole or in part, the cost of any construction,
reconstruction, repair or replacement of capital improvements upon the Common Area, including
the fixtures and personal property related thereto, or for any other specified purpose. Without
limiting the generality of the foregoing provisions, Special Assessments may be made by the
Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any
repair or reconstruction of damage caused by fire or other casualty or disaster to the extent
insurance proceeds are insufficient therefore under the circumstances described in this
Declaration. Except in the case of damage or destruction caused by an Owner or any of his guests,
tenants, licensees, agents, members of his family, or any other Person having or gaining access to
the Owner's Lot with the knowledge and consent of such Owner as contemplated by Section
4.4(b), any such Special Assessment shall be levied against all of the Lots which benefit from the
construction, reconstruction, repair or replacement of capital improvements giving rise to the
Special Assessment, pro rata according to each Lot's benefit, as reasonably determined by the
Board of Directors, which determination shall be final. In the case of damage or destruction caused
by an Owner or any of his guests, tenants, licensees, agents, members of his family, or any other
Person having or gaining access to the Owner's Lot with the knowledge and consent of such
Owner as contemplated by Section 4.4(b), the Special Assessment may be levied solely against that Owner. Notwithstanding the fact that in some instances this Declaration may provide that certain items of routine and ordinary repair and maintenance should be performed by the Association, the Association shall nevertheless retain the right to assess the costs thereof to any Owner or group of Owners as a Special Assessment. To be effective, any such assessment shall have the assent of more than two-thirds (2/3) of the votes of each class of Members who are entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written notice of which setting forth the purpose of the meeting having been sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 5.8. Quorum for any Action Authorized Under Sections 5.6 or 5.7. At the first calling of a meeting under Section 5.6 or Section 5.7 of this Article, the presence of the meeting of Members or proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum does not exist at any such meeting, another meeting may be called subject to the notice requirements set forth in Section 5.6 and Section 5.7 and to applicable law, and the required quorum at any such subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.9. Working Capital Assessment. In addition to the Regular and Special Assessments authorized above, the Association shall establish and maintain a working capital fund. At each settlement on the initial sale or any re-sale by a Declarant of a Lot for which a residential use permit has been issued, the purchaser of such Lot shall pay to the Association a working capital assessment in an amount equal to one-sixth (1/6th) of the then current Regular Assessment for said Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any other charge owed to the Association. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and repair of the Common Areas. Such replacement reserve fund shall be used for those purposes and not for normal or ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and repair of the Common Areas shall be maintained by the Association in a separate interest-bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton County or Marion County, Indiana selected from time to time by the Board.

Section 5.10. Rate of Assessment. The Regular Assessment shall be fixed at a uniform rate for all Lots, except for unoccupied Lots owned by the Declarant. Except in the case of damage or destruction caused by an Owner as contemplated by Section 4.4(b), and except for unoccupied Lots owned by the Declarant, the Special Assessments shall be fixed at a uniform rate for all Lots which benefit from the construction, reconstruction, repair or replacement of capital improvements giving rise to the Special Assessment, as reasonably determined by the Board of Directors, which determination shall be final. Notwithstanding the foregoing or anything else contained herein, no Regular Assessments or Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Property owned by Declarant while the same is owned by Declarant, nor shall any such
Assessments or charges become a lien on any such Lot or other portion of the Property owned by
Declarant.

Section 5.11 Notice of Assessment and Certificate. Written notice of the Regular Assessments
and any Special Assessments shall be sent to every Member. The due dates for
payment of the Regular Assessments and any Special Assessments shall be established by the
Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing
signed by an officer or authorized agent of the Association setting forth whether the assessments on
a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance
of these certificates. Such certificates shall be conclusive evidence of payment of any assessment
therein stated to have been paid.

Section 5.12. Remedies of the Association in the Event of Default. Each Owner shall
be personally liable for the payment of all Regular and Special Assessments against his Lot.
Where the Owner constitutes or consists of more than one Person, the liability of such Persons
shall be joint and several. If any assessment pursuant to this Declaration is not paid within thirty
(30) days after its due date, the assessment shall bear interest from the date of delinquency at the
rate charged by the Internal Revenue Service on delinquent taxes. In addition, in its discretion, the
Association may:

(a) impose a penalty or late charge as previously established by rule;

(b) bring an action at law against the Owner personally obligated to pay the
same and/or foreclose the lien against the Lot, and interest, costs and reasonable attorneys’
fees of any such action shall be added to the amount of such assessment. A suit to recover a
money judgment for nonpayment of any assessment levied pursuant to this Declaration, or
any installment thereof, may be maintained without perfecting, foreclosing or waiving the
lien provided for herein to secure the same;

(c) suspend a Member’s voting rights, right to hold an office within the
Association, and right to use nonessential services offered by the Association to the extent
that access and the provision of utilities to the Lot through the Common Area are not
precluded. An Owner, whose rights have been suspended in this manner, shall have no
ing rights to any refund or suspension of his, her or its obligations to pay such assessments for
the duration of such suspension or otherwise; and

(d) accelerate the due date of the unpaid assessment so that the entire balance
shall become immediately due, payable and collectible.

No Owner may waive or otherwise escape liability for the assessments provided for herein
by non-use of the Common Area or facilities, abandonment of its Lot, or the failure of the
Association or the Board of Directors to perform their duties.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of
the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally
liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit, and the Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefore for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board of Directors may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby being deemed to have waived) the lien securing the same. In any action to recover any Regular Assessment or Special Assessment, or any other debts, dues or charges owed the Association, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid.

Section 5.13 Subordination of the Lien to Mortgages. The lien for the Assessments provided herein shall be subordinate to the lien of any properly recorded first mortgage or deed of trust encumbering a Lot. Notwithstanding anything contained in this Section 5.11 or elsewhere in this Declaration, any sale or transfer of a Lot to a Mortgagor pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefore; and further provided, that any Person taking title to such Lot subsequently shall have no right to use the non-essential services or amenities of the Community until such time as all Assessments for such Lot shall be brought current. No such sale, transfer or conveyance shall relieve the Lot, or the purchaser thereof at such foreclosure sale, or the grantee in the event of conveyance in lieu thereof, from liability for any assessments (or periodic installments of such assessments, if applicable) thereafter becoming due or from the lien for such assessments.

Section 5.14. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all property dedicated to and accepted by a local public authority; and (b) the Common Area; however, except as otherwise provided in Section 5.10 hereof, no developed or undeveloped Lot, land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 5.15. Reserves for Replacements. The Association shall establish and maintain a reserve fund for the maintenance, repair and replacement of the Common Area and improvements located therein by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board of Directors, which reserve fund shall be sufficient, in the sole opinion of the Board of Directors, to accommodate such future maintenance, repair and replacement which shall be a component of the Regular Assessment. Such fund shall be conclusively deemed to be a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by any state or by any agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacement of
the Common Area may be expended only for the purpose of effecting the replacement of the Common Area, major repairs to, replacement and maintenance of any improvements within the Common Area, including but not limited to, sidewalks, parking areas, landscape improvements, street or common area lighting, streets or roadways developed as a part of the Property, equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the Common Area. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any Member in any such reserves shall be considered an appurtenance of the Member’s Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

ARTICLE VI

USE, RESTRICTIONS AND ARCHITECTURAL CONTROL

Section 6.1. Residential Use. The Property shall be used exclusively for residential purposes except as provided in Section 6.19 hereof. The Declarant reserves the right, pursuant to a recorded subdivision or re-subdivision plat, to alter, amend, and change any Lot line or subdivision plan or plat. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling Unit and appurtenant structures, approved by the Association and appropriate Local Governing Authorities, for use solely by the occupant of the Dwelling Unit.

Section 6.2. Architectural Review Board Approval. No Structure (as herein defined) or addition to a Structure shall be erected, placed, painted, altered or externally modified or improved on any Lot until the plans and specifications, including design, elevation, material, shape, height, color and texture, and a site plan showing the location of all improvements with grading modifications, shall be filed with and approved in writing by the Architectural Review Board, and, if required, by appropriate Local Governing Authorities and, where required, appropriate construction permits obtained. As used herein, the term

Section 6.3. Laundry. No clotheslines may be erected on any Lot, and no clothing, sheets, blankets, rugs, laundry or wash shall be hung out, exposed, aired or dried on any portion of the Property within public view.

Section 6.4. Sight Lines. No fence, wall, tree, hedge or shrub shall be maintained in such a manner as to obstruct sight lines for vehicular traffic.

Section 6.5. Lot Maintenance. An Owner shall, at all times, maintain its Dwelling Unit and all appurtenances thereto free of debris or rubbish and in good repair and in a state of neat appearance from all exterior vantage points. While the Association will perform all routine maintenance to all structures and landscape improvements, the Owners are responsible for all extraordinary items of maintenance to any Structure or landscape improvement or amenity, including, without limitation, trees and shrubs, and for repair of any damage or destruction
maintenance to any Structure or landscape improvement or amenity, including, without limitation, trees and shrubs whether or not caused by an Owner, third party, elements of nature, or acts of God.

Section 6.6. Additions to Landscape Improvements. No tree, shrub, or other vegetation or landscape improvement originally installed by Declarant shall be removed or altered unless such item is dead or decayed and dangerous to human health, safety, or welfare and the removal has been approved by the Architectural Review Board or unless removal is ordered by a Local Governing Authority or by the Architectural Review Board to maintain proper sightlines. No approval for removal of any trees or shrubs will be granted by the Architectural Review Board unless appropriate provisions are made for replacing the removed trees or shrubs. Owners are permitted to add to the landscape features within approved flowerbeds. Prior to adding any such landscape, however, the Owner of such Lot must submit a written landscape plan to the Architectural Review Board for its review and approval or disapproval.

Section 6.7. Nuisance. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood. Nothing shall be done or kept by any Owner in any Dwelling Unit, on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance paid by the Association or any other Owner. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Area or any other Owner, or which would be a violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau. No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the Community or which might be a nuisance, annoyance, or inconvenience, or which might cause damage, to other Owners and occupants of Dwelling Units or neighboring property, including, without limiting the generality of the foregoing, noise by the use of any musical instrument, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines. No exterior lighting on a Lot shall be directed outside the boundaries of the Lot. No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Architectural Review Board), and no sanitary waste or other wastes shall be permitted to be exposed.

Section 6.8. Signs. The only signs permitted on the Property shall be Permitted Signs. No more than one (1) Permitted Sign shall be displayed in public view on any Lot and must be less than or equal to six (6) square feet in total surface area and may not be illuminated. All Permitted Signs advertising the property for sale or rent shall be removed within three (3) days from the date of the conveyance of the Lot or of the execution of the lease agreement, as applicable.

Section 6.9. Animals. No domesticated or wild animal shall be kept or maintained on any Lot, except that no more than three (3) common household pets such as dogs and cats may be kept or maintained, provided that they are not kept, bred or maintained for commercial purposes and do not create a nuisance or annoyance to surrounding Lots or the neighborhood and are kept in compliance with applicable laws and ordinances of the Local Governing Authority. Excessive barking of dog(s) or vicious animals shall constitute a nuisance and may be ordered removed from the Property by the Association. Pets will not be permitted outside of a Dwelling Unit unless on a
leash and any Owner walking a pet within the Community or on any Common Area will immediately clean up any solid animal waste and properly dispose of the same. Failure to remove any solid animal waste shall subject the owner to a fine not to exceed $50.00 per occurrence as determined by the Board. Law enforcement and animal control personnel shall have the right to enter the Property to enforce local animal control ordinances.

**Section 6.10. Trash Storage.** Trash shall be collected and stored in trash receptacles only and not solely in plastic bags. Trash and garbage receptacles shall not be permitted to remain in public view and shall remain inside of each Owner's garage except on days of trash collection, except those receptacles designed for trash accumulation located in the Common Area. No accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on the exterior of any Dwelling Unit. No publish, garbage or other waste shall be allowed to accumulate on any Lot or Common Area. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse on any Lot or Common Area.

**Section 6.11. Antenna Systems.** To the extent not inconsistent with federal law, exterior television and other antenna, including satellite dishes, are prohibited, unless approved in writing by the Architectural Review Board. The Architectural Review Board shall adopt rules for the installation of such antenna and/or satellite systems, which rules shall require that antennae and satellite dishes be placed as inconspicuously as possible and only when fully screened from public view on the rear and above the eave line of any Dwelling Unit. To the extent not inconsistent with federal law, satellite dishes shall not exceed 18 inches in diameter. It is the intent of this provision that the Architectural Review Board shall be able to strictly regulate exterior antennae and satellite dishes to the fullest extent of the law and should any regulations adopted herein or by the Architectural Review Board conflict with federal law, such rules as do not conflict with federal law shall remain in full force and effect.

**Section 6.12. Painting.** No Owner shall cause or permit any alterations or changes of the exterior design and/or color scheme of any Dwelling Unit, Structure or building. No person shall paint the exterior of any building, or portion thereof, except contractors and agents employed by Declarant or the Association. Any and all such painting of the exterior of any building or any portion thereof shall be done by the Association, and the costs thereof will be assessed to the Owners either as a part of the Regular Assessments due hereunder or, if necessary, as a Special Assessment, as determined by the Board of Directors in its discretion under Article V, above. All Dwelling Units in the Community will, at all times, be painted in a uniform color, without variance. To the extent that the Association should deem it necessary to paint only a portion of a building, by way of example, without limitation, in the case of damage affecting only one Dwelling Unit, and, if a matching paint cannot be located or if, when applied, the paint does not match the finish on the adjacent Dwelling Units, the Association, in its sole discretion to paint the exteriors of the entire building, with the costs thereof being assessed to the Owners either as a part of the Regular Assessments due hereunder, or, if necessary, as a Special Assessment, as determined by the Board of Directors in its discretion.

**Section 6.13. Finished Exteriors.** The exteriors of all Structures, including, without limitation, walls, doors, windows and roofs, shall be kept in good maintenance and repair. No
Structure shall be permitted to stand with its exterior in an unfinished condition for longer than six (6) months after the commencement of construction. In the event of fire, windstorm or other damage, the exterior of a Structure shall not be permitted to remain in a damaged condition for longer than three (3) months, unless expressly excepted by the Board in writing. If the Board of Directors of the Association determines that any Structure or Dwelling Unit is not in compliance with the provisions of this Section, the Association will send written notice to the Owner of that Structure or Dwelling Unit identifying, with reasonable specificity, the items in need of repair or maintenance (a “Repair Notice”). If an Owner fails to comply with the provisions of this Section after its receipt of such a Repair Notice, the Association shall be entitled to enforce the provisions of this Section in the manner contemplated under Section 11.10(1), below, and in any other manner permitted hereunder or by applicable law.

Section 6.14. Fences. No fence or similar enclosure shall be erected or built on the Property.

Section 6.15. Vehicles. No inoperable, junk, unregistered or unlicensed vehicle shall be kept on the Property. No portion of the Property shall be used for the repair of a vehicle.

Section 6.16. Commercial Vehicles. Except upon the prior written approval of the Architectural Review Board, no commercial or industrial vehicle, such as but not limited to moving vans, trucks, tractors, trailers, vans, wreckers, tow trucks, hearses and buses, shall be regularly or habitually parked or parked overnight on the Property, nor shall any such vehicle be located on the Property for longer than twenty-four (24) hours.

Section 6.17. Recreational Vehicles. No recreational vehicles or equipment, such as but not limited to boats, boating equipment, jet-skis, wave runners, travel trailers, fuel tanks, camping vehicles or camping equipment shall be parked on the Property without the prior, written approval of the Architectural Review Board, as to location, size, screening and other relevant criteria. The Association shall not be required to provide a storage area for these vehicles.

Section 6.18. Towing. The Board of Directors shall have the right to tow any vehicle parked or kept in violation of the covenants contained within this Article, upon twenty-four (24) hours’ notice and at the vehicle owner’s sole expense.

Section 6.19. Garage Usage. Any conversion of any garage that will preclude the parking of vehicles within that garage is prohibited. Owners shall keep their garages at all times in a manner that will permit the usage of such garage for parking of passenger automobiles, vans and/or trucks.

Section 6.20. Rental Agreements. Any rental agreement for a Dwelling Unit must be for an initial period of at least six (6) months, must be in writing and must be subject to the rules and regulations set forth in this Declaration and in the other Association documents. Every such rental agreement must include a provision stating that any failure by the tenant, its household members or guests, to comply with the terms of this Declaration shall be a default under the rental agreement, and the Owner shall be responsible for enforcing that provision; provided, however, that the
Association shall also have the right to enforce any of these Restrictions against the Owner or any tenant, or both, in its sole discretion, without regard to whether the Declarant or the Association were or are in privity with such tenant, and is not herein waiver its rights hereunder to enforce these Restrictions against a tenant or any other person in possession of the Property or any part thereof.

Section 6.21. **Initial Construction and Marketing.** The Declarant or its assigns may, during its construction and/or sales period, erect, maintain and operate real estate sales and construction offices, model homes, displays, signs and special lighting on any part of the Property and on or in any building or Structure on or hereafter erected thereon and shall not be bound by the provisions of this Article to the extent application thereof would delay, hinder or increase the cost of construction and/or marketing of Dwelling Units for sale in the Community.

Section 6.22. **Dusk to Dawn Coach Lights.** Each Owner shall maintain any and all coach lights installed as a part of the initial construction of each Dwelling Unit in good order, condition and repair, including, without limitation, any necessary repairs or maintenance as may be required for the effective operation of all “dusk to dawn” photocell switches and replacement of light bulbs so that those coach lights remain continuously operational from dusk to dawn.

Section 6.23. **Garages.** Garage doors shall remain closed except when entering and exiting or otherwise having a need to access the garage.

Section 6.24. **Storage Facilities.** No permanent or temporary or portable storage facilities shall be permitted on any Lot; provided, however, that portable storage facilities are permitted so long as they located wholly within the Owner’s garage area and are removed within twenty-four (24) hours. No portable storage facility is permitted in any driveway, Common Area, or public right-of-way.

Section 6.25. **Awnings.** Except on Lots on which there is maintained a sales office or model home by the Declarant, or as approved by the Architectural Review Board, no metal, wood, fabric, fiberglass or similar type material awnings or patio covers will be permitted anywhere on the Property.

Section 6.26. **Mailboxes.** No individual mailboxes at curb or on any Dwelling Unit shall be allowed or permitted. Declarant shall install a common postal facility, with individual mailboxes, for all Dwelling Units within a single building.

Section 6.27. **Address Markers.** Declarant shall install uniform address markers on each Lot and no Person, except the Association, shall remove, alter, change, or add to such address markers.

Section 6.28. **Pools and Hot Tubs.** No pools or hot tubs shall be permitted on any Lot.

Section 6.29. **Play Equipment.** No children’s play equipment such as playhouses, sandboxes, swing and slide sets, and trampolines, shall be permitted on any Lot.
Section 5.30. Basketball Goals. No basketball goals, hoops, or backboards shall be permitted on any Lot.

Section 5.31. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot, except that an Owner or occupant resident on a Lot may conduct business activities within a Dwelling Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) no sign or display is erected that would indicate from the exterior that the Dwelling Unit is being utilized in part for any purpose other than that of a residence; (c) no commodity is sold upon the premises; (d) no person is employed other than a member of the immediate family residing in the Dwelling Unit; (e) no manufacture or assembly operations are conducted; (f) the business activity conforms to all zoning requirements for the Property; (g) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (h) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot or Dwelling Unit shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant or its affiliates or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which such entity owns within the Properties.

Section 5.32. Landscaping of Common Areas. No Owner shall be allowed to plant, trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board of Directors.

Section 5.33. Declarant's Use. Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including but not limited to any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Authority Transfer Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Property (other than individual Dwelling Units and Lots owned by Persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the sale of Lots and the construction of Dwelling Units, or for the conducting of any business or activity attendant thereto, or for the construction and maintenance of Common Areas, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate
any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Areas, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Property at any time.

Section 6.34 Nonapplicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth herein shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Common Areas.

Section 6.35 Additional Rules and Regulations. The Association shall have the authority to adopt such rules and regulations regarding this Article as it may from time to time consider necessary or appropriate.

ARTICLE VII

ARCHITECTURAL REVIEW BOARD

Section 7.1 The Architectural Review Board. As used herein, the term "Architectural Review Board" will mean and refer to a group of individuals who will administer the duties described in Section 2.6, below. During the Development Period, the Architectural Review Board will consist of two (2) committees: (i) the "New Construction Committee" and the "Modification and Change Committee." Upon expiration of the Development Period, these committees will be dissolved and the Architectural Review Board will not be divided into committees.

Nothing contained in this Declaration or in the Articles or By-Laws will prohibit an individual from serving on both committees simultaneously; however, membership on any one committee will not entitle any individual to also be a member of the other committee. Likewise, nothing contained herein will require the appointment of an individual to either such committee simply because that individual is also a member of the other committee described herein.
The New Construction Committee shall consist of three (3) members who are appointed by the Declarant. The Modification and Change Committee shall consist of a number of members equivalent to the number of members of the Board of Directors of the Association and will consist of the individuals who are members of the Board of Directors of the Association. Upon expiration of the Development Period and dissolution of the New Construction Committee and the Modification and Change Committee, the rights and responsibilities of each such committee hereunder will simply be administered by the Architectural Review Board. Upon expiration of the Development Period, the individuals who are members of the Board of Directors of the Association will automatically become members of the Architectural Review Board, without the need for any previous member of either committee to submit any type of resignation or acknowledgement of the termination of such committee. The term of membership for any member of the Architectural Review Board will be concurrent with the term of that individual’s membership on the Board of Directors.

Section 7.2. Removal and Vacancies. Members of the New Construction Committee may be removed by the Declarant at any time, with or without cause. The Declarant will fill any vacancies on the New Construction Committee in the same manner that it has the right to initially appoint members of the New Construction Committee, in its sole discretion. Individuals who are members of the Modification and Change Committee may only be removed from that committee to the extent that such individual is removed or otherwise ceases to be a member of the Board of Directors of the Association. After the Development Period, individuals who are members of the Architectural Review Board may only be removed from that board to the extent that such individual is removed or otherwise ceases to be a member of the Board of Directors of the Association. Appointments to fill vacancies in unexpired terms (during the Development Period) on the Modification and Change Committee or (after the Development Period) on the Architectural Review Board, shall be made in the same manner as members are appointed or elected to the Board of Directors of the Association.

Section 7.3. Officers. At the first meeting of the Modification and Change Committee of the Architectural Review Board following each annual meeting of Members, the Modification and Change Committee shall elect from among themselves a chairperson, a vice-chairperson and a secretary who shall perform the usual duties of their respective offices.

Section 7.4. Duties. The Committee of the Architectural Review Board shall regulate the external design and appearance of the Property and the external design, appearance and location of the improvements thereon in such a manner so as to preserve and enhance property values and to maintain harmonious relationships among Structures and the natural vegetation and topography in the Community. During the Development Period, the New Construction Committee shall regulate all initial construction, development or improvements on the Property and the Modification and Change Committee shall regulate all modifications and changes to existing improvements on the Property. In furtherance thereof, the Architectural Review Board (acting through the designated committees during the Development Period and of its own accord after the Development Period) shall:

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(a) review and approve or disapprove written applications of Owners for proposed alterations or additions to Lots;

(b) periodically inspect the Property for compliance with adopted, written architectural standards and approved plans for alteration;

(c) adopt and publish architectural standards subject to the confirmation of the Board of Directors;

(d) adopt procedures for the exercise of its duties; and

(e) maintain complete and accurate records of all actions taken by the Architectural Review Board.

No request for approval by the Architectural Review Board or any committee thereof will be reviewed or otherwise considered unless submitted in writing by the Owner requesting such approval. Approval by the Architectural Review Board of a correctly filed application shall not be deemed to be an approval by Local Governing Authorities nor a waiver of the Association’s right to require an applicant to obtain any required approvals from any such Local Governing Authorities or to otherwise comply with applicable local ordinances. No approval of the Architectural Review Board or any committee thereof shall be effective unless in writing and signed by the members of the Architectural Review Board or applicable committee whose approval is required hereunder.

Section 7.5. Failure to Act. Failure of the Architectural Review Board, any committee thereof or the Board of Directors to respond to any request for approval, enforce the architectural standards contained in this Declaration or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver by the Architectural Review Board or the Board of Directors of any provision of this Declaration requiring such approval hereunder or otherwise prevent the Architectural Review Board or the Board of Directors from enforcing this Declaration at any later date. If approval has not been issued in writing within thirty (30) days after submission of an application to the Change and Modification Committee, then any such request to the Change and Modification Committee shall be deemed to be denied.

Section 7.6. Discretion. Declarant intends that the members of the Architectural Review Board, and all committees thereof, exercise discretion in the performance of their duties, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members.

Section 7.7. Enforcement. Any exterior addition, change or alteration made without a written application to, and approval of, the Architectural Review Board shall be deemed to be in violation of this Declaration and may be required by the Board of Directors to be restored to its original condition at the offending Owner’s sole cost and expense.
Section 7.8. Appeal. Any aggrieved party may appeal a decision of the Architectural Review Board to the Board of Directors by giving written notice of such appeal to the Association or any director within twenty (20) days of the adverse ruling.

Section 7.9. Liability of the Architectural Review Board, Declarant, Association. Neither the Architectural Review Board, nor any committee or any agent thereof, nor the Declarant, nor the Association shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Architectural Review Board or any committee thereof, the Declarant, or the Association be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Architectural Review Board and its constituent committees, the Declarant, and the Association make no representations or warranties as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, inspections on each lot prior to proposing the construction.

Section 7.10. Inspection. The Architectural Review Board and the Declarant may inspect work being performed to assure compliance with these Restrictions, the restrictions contained in any plat of the Property and applicable regulations. However, neither the Architectural Review Board, nor any committee or member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Architectural Review Board, any committee thereof, or the Declarant, shall be liable or responsible for defects or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Architectural Review Board, any committee thereof or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

ARTICLE VIII

EASEMENTS

Section 8.1. General Easement Rights. The Declarant hereby grants a blanket easement over, across, through and under the Property to the Association, its directors, officers, agents and employees, to any manager employed by or on behalf of the Association, and to all police, fire, ambulance personnel and all similar persons, to enter upon the Property, in the exercise of the functions provided for by this Declaration, Articles, By-Laws and rules of the Association, and in the event of emergencies and in the performance of governmental functions. Declarant further grants a blanket easement over, across, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of underground utility and service lines and systems, including but not limited to water, sewer, gas telephones, electricity, television, cable or communication lines and systems. By virtue of this easement it shall be expressly permissible for Declarant or the providing utility or service company to install and maintain facilities and equipment on the Property and to excavate for such purposes if Declarant or such company restores the disturbed area as nearly as is practicable to the condition in which it was found. No
sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may
be installed or relocated except as proposed and approved by Declarant. Should any utility
furnishing a service covered by the general easement herein provided request a specific easement
by separate recordable document, Declarant or the Association shall have the right to grant such
easement on the Property without conflicting with the terms hereof. This blanket easement shall
in no way affect any other recorded easements on the Property, shall be limited to improvements
as originally constructed, and shall not cover any portion of a Lot upon which a Dwelling Unit
has been constructed.

Section 8.2. Limitation on General Easement Rights. When not an emergency
situation or a governmental function, the rights accompanying the easements provided for in
Section 8.1 of this Article shall be exercised only during reasonable daylight hours and then,
whenever practicable, only after advance notice to, any Owner or tenant directly affected.

Section 8.3. Plat Easements. In addition to such easements as are created elsewhere in
this Declaration or in a Supplemental Declaration and as may be created by Declarant pursuant to
written instruments recorded in the office of the Recorder of Hamilton County, Indiana. Lots are
subject to drainage easements, sewer easements, utility easements, and common area access
casements, either separately or in any combination thereof, as shown on the Plats, which are
reserved for the use of Declarant, Owners, the Association, the Architectural Review Board, and
any committee thereof, public utility companies and governmental agencies as follows:

(a) Drainage Easements (DE) are hereby created for the mutual use and benefit of the
Declarant and the Owners and are intended to provide paths and courses for the area and
local storm drainage, either overland or in adequate underground conduit to serve the
needs of the Community and adjoining ground and/or public drainage systems. Under no
circumstance shall said easement be blocked in any manner by the construction or
reconstruction of any improvement, nor shall any grading restrict, in any manner, the
waterflow. Said areas are subject to construction or reconstruction to any extent
necessary to obtain adequate drainage at any time by any governmental authority having
jurisdiction over drainage, by Declarant, by the Association and by the Architectural
Review Board, but neither Declarant nor the Association nor the Architectural Review
Board shall have any duty to undertake any such construction or reconstruction. The
Owner of each Lot, by acceptance of a deed thereto, consents to the temporary storage
(detention) of storm water within the Drainage Easement (DE) on such Owner's Lot.

(b) Sewer Easements (SE) are created for the use of the local governmental agency or
public utility company having jurisdiction over any storm and sanitary waste disposal
system which may be designed to serve the Community for the purpose of installation and
maintenance of sewers that are a part of said system.

(c) Access Easements (AE) are created for the use of Declarant, the Association and
the Owners of all Lots, and each of their guests, tenants, contractors, subcontractors,
licensees, agents, or members of their families for purposes of ingress and egress to Lots
and for the use of the Association for the purpose of gaining access to the Common Areas

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in the course of maintenance, repair or replacement thereof and for the use of Owners for the purpose of gaining access to such Common Area to enjoy the use thereof to the extent authorized herein. Such right and easement as are thus granted shall be appurtenant to and shall pass with the title to every Lot for whose benefit they are granted.

(d) Utility Easements (UE) are created for the use of Declarant, the Association and all public or municipal utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, poles, lines and wires, as well as for all uses specified in the case of sewer easements.

(e) Landscape Easements (LE) are created for the use by Declarant, the Architectural Review Board, and all committees thereof, and the Association for the planting and maintenance of trees, shrubs and other plantings.

All easements mentioned herein include the right of reasonable ingress and egress for the exercise of other rights reserved. No structure, including fences, shall be built on any drainage, sewer or utility easement if such structure would interfere with the utilization of such easement for the purpose intended or violate any applicable legal requirement or the terms and conditions of any easement specifically granted to a Person who is not an Owner by an instrument recorded in the Office of the Recorder of Hamilton County, but a paved driveway necessary to provide access to a Lot from a public street and a sidewalk installed by or at the direction of Declarant (and replacements thereof) shall not be deemed a "structure" for the purpose of this Restriction.

Section 8.4. Encroachments. If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of (a) the original construction thereof by the Declarant or its assigns, which shall include, but not be limited to, any party wall or driveway which encroaches over a Lot's boundary line and any drainage of stormwater from roofs and gutters, (b) deviations within normal construction tolerances in the maintenance, repair, replacement or reconstruction of any improvement, or (c) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The owner of the encroaching improvement shall also have an easement for the limited purpose of maintenance of the encroaching improvement. This easement does not relieve any Owner or any other person from liability for such Owner's or other person's negligence or willful misconduct.

Section 8.5. Ingress Egress Easement. The Declarant, its agents and employees shall have the right of ingress and egress over the Common Areas, as required for construction on and development of the Property and otherwise necessary for any internal roadways within the Community for access, ingress and egress to and from such Owner's Dwelling Unit.

Section 8.6. Reservation of Right to Grant Future Easements. There is reserved to the Declarant a right to grant non-exclusive easements over any Lot or Common Area for the purposes of installing, repairing and/or maintaining utility lines of any sort, including but not limited to storm drains and drainage swales, sanitary sewers, gas lines, electric lines and cables, water lines, telephone lines, telecommunication lines and cables, and the like, and for any purpose
necessary for the Declarant or its assignee to obtain the release of any bonds posted with a municipality, governmental agency or regulatory agency, and non-exclusive easements over the Common Area to any municipal agency or private entity for any other purpose consistent with the "open space" designation thereof. This right to grant easements shall automatically expire as to any Lot or Common Area seven (7) years from the date of submission of such Lot or Common Area to this Declaration.

Section 8.7. Bonds and/or Dedication Requirements. There is reserved to the Declarant an easement and the right to grant and reserve easements or to vacate or terminate easements across all Lots and Common Area as may be required by any governmental agency or authority in connection with the release of improvement bonds or the acceptance of public streets for state maintenance with respect to the Property.

Section 8.8. Easements for Corrective Work. There is reserved to the Declarant a non-exclusive easement over all Lots and the Common Area for the purposes of correcting drainage, regrading, maintenance, landscaping, mowing and erecting street intersection signs, directional signs, temporary promotional signs, entrance features, lights and wall features, and for the purpose of executing any of the powers, rights, or duties granted to or imposed on the Association herein. This easement shall automatically expire as to any Lot seven (7) years from the date of submission of such Lot to this Declaration.

Section 8.9. Reciprocal Cross-Easements for Adjoining Dwelling Units. There is hereby created a reciprocal cross-easement and right of entry for all adjoining Dwelling Units covering all encroaching party walls, roofs, roof overhangs, eaves, downspouts, gutters, and splash blocks for the purposes of repairing and maintaining same at reasonable times; provided, however, that the Owner exercising the right of entry upon the adjoining Owner’s Lot shall be responsible for preserving and restoring the adjoining Owner’s Lot to the same condition prior to the exercise of the right of entry.

ARTICLE IX

PARKING

No Owner, tenant, or any other Person regularly residing in the Community shall park any type of vehicle in any Common Area. Visitors, guests and invitees shall be permitted to park in those portions of the Common Area designated by the Declarant or the Association as parking areas; provided, however, that such parking shall be permitted only on a temporary and intermittent basis and further provided that no such parking shall be permitted in any portion of the Common Area which has not been designated as a parking area. Temporary parking on or within any public right-of-way within or adjacent to the Property is permitted only to the extent permitted by Local Governing Authorities, and subject to any restrictions or limitations relating thereto, including, without limitation, laws. To the extent that any local Governmental Authority shall prohibit parking on or within any such public right-of-way, it shall likewise be a violation of these Restrictions to park within such right-of-way. The Board of Directors may promulgate such additional rules and
regulations as it deems appropriate to regulate the use of any Common Areas to permit temporary parking for purposes of loading and unloading passengers and materials. Those rules and regulations may include the towing of any vehicles parked in violation of this Declaration, with no notice of towing required and at the vehicle owner's sole expense.

ARTICLE X

PARTY WALLS

Section 10.2. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, its agents, family, household or guests (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining Owners shall proceed forthwith to rebuild or repair the structural components of such wall, sharing equally the cost thereof, and each individual Owner shall proceed forthwith to rebuild or repair the non-structural components of such wall in proportion to their respective uses of the party wall. Any and all such reconstruction and/or repairs shall be completed immediately to the extent that the failure to commence and/or complete such reconstruction and/or repairs would result in an immediate risk to human health and/or safety. All other reconstruction and/or repairs shall be completed within three (3) months following the casualty or other event that damaged or destroyed such party wall, unless a longer period of time is approved by the Association. If the damage is of such a nature that it has resulted, or will (if left uncorrected) result in damage or destruction of such party wall, the reconstruction and/or repairs will be completed within a reasonable time, not exceeding six (6) months following the initial discovery of the condition. Any and all such reconstruction and/or repair shall be made in compliance with all requirements of Local Governing Authorities and otherwise in compliance with all applicable laws, to the same or better condition as existed prior to such damage or destruction.

Section 10.4. Repairs for Damage Caused by One Owner. If any such party wall is damaged or destroyed through the act of one or more adjoining Owners, or their respective agents, families, household or guests (collectively the "Offending Parties"), whether or not such act is negligent or otherwise culpable, so as to deprive another adjoining Owner of the full use and enjoyment of the wall, then the Owner(s) of the Dwelling Unit(s) from whence the Offending Parties committed the act that caused the damage or destruction, shall forthwith proceed to rebuild and repair the same, in the manner required under Section 10.2, above, without cost to the adjoining Owner.

Section 10.4. Other Changes. In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner...
proposing to modify, make additions to or rebuild its Dwelling Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner, whose consent shall not be unreasonably withheld. If the adjoining Owner has not responded in writing to the requesting Owner within twenty-one (21) days of its receipt of any such written request, given by registered or certified mail, return receipt requested, such consent of the adjoining Owner shall be deemed received.

Section 10.5. Right to Contribution Runs with the Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner’s successors in title.

Section 10.6. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors, who shall decide the dispute in the capacity as arbitrators.

ARTICLE XI

POWERS AND DUTIES OF THE ASSOCIATION

Section 11.1. Discretionary Powers and Duties. The Association shall have the following powers and duties which may be exercised in its discretion:

(a) to enforce any covenants or restrictions which are imposed by the terms of this Declaration or which may be imposed on any part of the Property. Nothing contained herein shall be deemed to prevent the Owner of any Lot from enforcing any building restriction in its own name. The right of enforcement shall not serve to prevent such changes, releases or modifications of the restriction or reservations placed upon any part of the Property by any party having the right to make such changes, releases or modifications in the deeds, contracts, declarations or plats in which such restrictions and reservations are set forth; and the right of enforcement shall not have the effect of preventing the assignment of those rights by the proper parties wherever and whenever such right of assignment exists. Neither the Association nor the Board of Directors shall have a duty to enforce the covenants by an action at law or in equity if, in its or their opinion, such enforcement is not in the Association’s best interest. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for; provided, however, that the foregoing authorization to use the general fund for such enforcement proceedings shall not preclude the Association from collecting such costs from the offending Owner;

(b) to build facilities upon the Common Area;

(c) to use the Common Area and any improvements, structures or facilities erected thereon, subject to the general rules and regulations established and prescribed by the Association and subject to the establishment of charges for their use;
(d) to regularly mow and re-seed or re-sod lawn areas and fertilize lawn areas at least three (3) times each year within the Common Areas and on each Lot and to operate and maintain in-ground irrigation/sprinkler systems in the Common Areas and in the landscaped areas of each Lot;

(e) to care for, spray, trim, protect, plant, replant and prune trees, shrubs and other landscaping, maintenance and upkeep of the Common Area and to pick up and remove from the Common Area all loose material, rubbish, filth and accumulation of debris, and to do any other thing necessary or desirable in the judgment of the Association to keep the Common Area in neat appearance and in good order, including, but not limited to, cleaning the private streets and maintaining the gas street lights located in the Common Area;

(f) to arrange for plowing and/or removal of snow and ice on all Common Areas, streets and public walks within the Community;

(g) to exercise all rights, responsibilities and control over all easements which the Association may from time to time acquire, including but not limited to those easements specifically reserved to the Association in the Article VIII herein;

(h) to create, grant and convey easements and licenses upon, across, over and under all CommonAreas, including but not limited to easements for the installation, replacement, repair and maintenance of utility lines serving the Property;

(i) subject to the limitations set forth in Section 11.3 hereof, to employ counsel and institute and prosecute such suits as the Association may deem necessary or advisable, and to defend suits brought against the Association;

(j) to retain as an independent contractor or employee of the Association and such other employees or independent contractors as the Board deems necessary, and to prescribe the duties of employees and scope of services of independent contractors;

(k) to enter on any Lot to perform emergency repairs or to do other work reasonably necessary for the proper maintenance or protection of the Property;

(l) to enter (or have the Association's agents or employees enter on any Lot to repair, maintain or restore the Lot, all improvements thereon, and the exterior of the Dwelling Unit and any other improvements located thereon if such is not performed by the Owner of the Lot, and to assess the Owner of the Lot the costs thereof, such assessment to be a lien upon the Lot equal in priority to the lien provided for in Article V herein; provided, however, that the Board of Directors shall only exercise this right after giving the Owner written notice of its intent at least fourteen (14) days prior to such entry;
(m) to re-subdivide and/or adjust the boundary lines of the Common Area but only to the extent such re-subdivision or adjustment does not contravene the requirements of zoning and other ordinances applicable to the Property;

(n) to adopt, publish and enforce rules and regulations governing the use of the Common Area and facilities and with respect to such other areas of responsibility assigned to it by this Declaration, except where expressly reserved herein to the Members. Such rules and regulations may grant to the Board of Directors the power to suspend a Member's voting rights and the Member's right to use non-essential services for non-payment of assessments and to assess charges against Members for violations of the provisions of the Declaration or rules and regulations;

(o) to declare the office of a member of the Board of Directors vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(p) to arrange for the collection of trash and recyclable items on a weekly basis from approved locations and from appropriate receptacles in the manner contemplated in Section 4.1.2, above.

Section 11.2 Mandatory Powers and Duties. The Association shall exercise the following powers, rights and duties:

(a) to accept title to the Common Area and to hold and administer the Common Area for the benefit and enjoyment of the Owners and occupants of Lots, and to cause the Common Area and facilities to be maintained in accordance with the standards adopted by the Board of Directors;

(b) to transfer part of the Common Area to or at the direction of the Declarant, for the purpose of adjusting boundary lines or otherwise in connection with the orderly subdivision or development of the Property, but only to the extent such re-subdivision or adjustment does not contravene the requirements of zoning and other ordinances applicable to the Property;

(c) after the termination of the Class B membership, to obtain and maintain without interruption liability coverage for any claim against a director or officer for the exercise of its duties and fidelity coverage against dishonest acts on the part of directors, officers, trustees, managers, employees or agents responsible for handling funds collected and held for the benefit of the Association. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in place. The fidelity bond coverage shall be in an amount as may be determined to be reasonably prudent by the Board of Directors;

(d) to obtain and maintain without interruption a comprehensive coverage of public liability and hazard insurance covering the Common Area and easements of which
the Association is a beneficiary, if available at reasonable cost. Such insurance policy shall contain a severability of interest clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all coverage in kinds and amounts commonly obtained with regard to projects similar in construction, location and use as determined by the Board of Directors. Further, the public liability insurance must provide coverage of at least $1,000,000.00 for bodily injury and property damage for any single occurrence.

(c) to provide for the maintenance of any and all (i) improvements, structures or facilities which may exist or be erected from time to time on the Common Area; (ii) easement areas of which the Association is the beneficiary and for which it has the maintenance responsibility; and (iii) facilities, including but not limited to fences and signs authorized by the Association and erected on any easements granted to the Association;

(f) to pay all proper bills, taxes, charges and fees on a timely basis;

(g) to maintain its corporate status; and

(h) to maintain all private streets, open space and landscaping within the Common Area.

Section 11.3 Limitation on Association Action. The Association shall hold a duly authorized, duly noticed special meeting of the Members of the Association prior to commencing or prosecuting any judicial or administrative proceeding, and no judicial or administrative proceeding shall be commenced or prosecuted by the Association except upon the affirmative vote of at least seventy-five percent (75%) of the votes cast at said special meeting by Members entitled to vote authorizing the commencement and prosecution of the proposed action. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration, the By-Laws, or rules and regulations adopted by the Board of Directors (including, without limitation, any action to recover Regular or Special Assessments or other charges or fees or to foreclose a lien for such items) or (b) counterclaims brought by the Association in connection with proceedings instituted against it.

Section 11.4 Board Authority to Act. Unless otherwise specifically provided in the Association's documents, all rights, powers, easements, obligations and duties of the Association may be performed by the Board of Directors. Notwithstanding anything to the contrary contained herein, any rules or regulations which are promulgated by the Board may be repealed or amended by a majority vote of the Members cast, in person or by proxy, at a meeting convened for such purpose in accordance with the By-Laws.

Section 11.5 Compensation. No director or officer of the Association shall receive compensation for services as such director or officer except to the extent expressly authorized by a majority vote of the Class A Members.

Section 11.6 Non-liability of Directors, Officers and Board Members. The directors
and officers of the Association and members of the Architectural Review Board, and all committees thereof, shall not be liable to the Owners or any other persons for any error or mistake of judgment in carrying out their duties and responsibilities as directors or officers of the Association or members of the Architectural Review Board, or any Committee thereof, except for their own individual willful misconduct or gross negligence. It is intended that the directors and officers of the Association and members of the Architectural Review Board, and all committees thereof, shall have no personal liability with respect to any contract made by them on behalf of the Association, and the Association shall indemnify and hold harmless each of the directors, officers, Architectural Review Board members, or committee members against any and all liability to any person, firm or corporation arising out of contracts made on behalf of the Association unless any such contract shall have been made in bad faith.

Section 11.7 Indemnity of Directors and Officers and Members of the Architectural Review Board. Except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in any civil action, suit, or proceeding that such person is liable for gross negligence or willful misconduct in the performance of his or her duties or to which it shall be adjudged in any criminal action, suit or proceeding that such person had reasonable cause to believe that such person's conduct was lawful or that person had no reasonable cause to believe that such person's conduct was unlawful, the Association shall indemnify, hold harmless and defend any person, his or her heirs, assigns and legal representatives (collectively, the "Indemnitee") made or threatened to be made a party to any action, suit or proceeding, or subject to any claim, by reason of the fact that he or she is or was a director or officer of the Association or member of the Architectural Review Board, or any committee thereof, from and against (1) all liability, including, without limitation, the reasonable cost of settlement of, or the amount of any judgment, fine, or penalty rendered or assessed in any such claim, action suit, or proceeding; and (2) all costs and expenses, including attorneys fees, actually and reasonably incurred by the Indemnitee in connection with the defense of such claim, action, suit or proceeding, or in connection with any appeal thereof. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against an Indemnitee, no director or officer or member of the Architectural Review Board, or any committee thereof, shall be considered or deemed to be guilty of or liable for gross negligence or willful misconduct in the performance of his or her duties where, acting in good faith, such director, officer or member of the Architectural Review Board, or committee thereof, relied on the books and records of the Association or statements or advice made by or prepared by any managing agent of the Association or any director or officer of the Association, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service, unless such director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of gross negligence or willful misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of Directors or the Architectural Review Board, or any committee thereof. The costs and expenses incurred by an Indemnitee in defending any action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount paid by the Association if it shall ultimately be determined that the Indemnitee is not entitled to indemnification or reimbursement as provided in this Section.
ARTICLE XII

RIGHTS OF MORTGAGEES

Unless a right is waived by the appropriate Federal Agency, all Mortgagees shall have the following rights:

Section 12.1 `Veterans Administration.' If any of the Lots are security for a loan guaranteed by the Veteran's Administration (the "VA") and if there is a Class B Member:

(a) The Declarant must provide a copy of all amendments to the VA. The Association may not make any Material Amendment or take any Extraordinary Action as such terms are defined in Article XIII without the approval of the VA.

(b) Eligible Mortgagees shall have the following rights:

(i) the right to inspect Association documents and records on the same terms as the Members;

(ii) notice of any Material Amendment to the Association documents;

(iii) notice of any Extraordinary Action of the Association;

(iv) notice of any property loss, condemnation or eminent domain proceeding affecting the Common Area resulting in a loss greater than ten percent (10%) of the annual budget or affecting any Lot insured by the Association in which the Eligible Mortgagee has an interest.

(v) notice of any termination, lapse or material modification of an insurance policy held by the Association;

(vi) notice of any default by an Owner of a Lot subject to a mortgage held by the Eligible Mortgagee in paying assessments or charges to the Association which remains uncured for sixty (60) consecutive days;

(vii) notice of any proposal to terminate the Declaration or dissolve the Association at least thirty (30) days before any action is taken;

(viii) the right of a majority of the Eligible Mortgagees to demand professional management; and

(ix) the right of a majority of the Eligible Mortgagees to demand an audit of the Association’s financial records.
Section 12.2 Federal Housing Authority. If any of the Lots are security for a loan insured by Federal Housing Authority (the "FHA") and if there is a Class B Member, the following actions will require the prior approval of the FHA:

(a) annexation of additional properties, except the land described in Article XIII, below;

(b) mergers, consolidations and dissolution of the Association;

(c) mortgaging or conveyance of the Common Area; and

(d) amendment of this Declaration.

Section 12.3 Freddie Mac. Assuming that Mortgagors may securitize pools of mortgages, including mortgages on Lots and/or Dwelling Units in the Community, with the Federal Home Loan Mortgage Corporation (a/k/a "Freddie Mac"), the following requirements shall apply in all Lots and Dwelling Units in the Community:

(a) Unless at least two-thirds (2/3ths) of the first Mortgagors (based on one vote for each first mortgage owned) or two-thirds of the Class A Members have given their prior written approval, the Association shall not take any of the following actions:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The re-subdivision and/or adjustment of boundary lines of the Common Area and the granting of easements by the Association shall not be deemed a transfer or subdivision within the meaning of this clause.

(ii) change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner.

(iii) by act or omission waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Dwelling Units and their appurtenances, the exterior maintenance of Dwelling Units and their appurtenances, the maintenance of the Common Area, common fences and driveways, and the upkeep of lawns and plantings in the Property.

(iv) fail to maintain fire and extended coverage insurance on insurable parts of the Common Area or other Association property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, based on current replacement costs, not including land value.

(v) use hazard insurance proceeds for losses to the Common Area or other Association property for other than the repair, replacement or reconstruction of such property.
(b) A Mortgagor shall be given written notification from the Association of any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagor which is not cured within sixty (60) days after the Owner’s receipt of notice of the default.

(c) A Mortgagor may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for such Common Area. The Mortgagor making such payments shall be owed immediate reimbursement therefor from the Association.

(d) The assessments imposed by the Association shall include an adequate reserve fund for maintenance, repairs and replacements for those parts of the Common Area which may be replaced or require replacement on a periodic basis. Such reserves shall be payable in regular installments rather than by Special Assessment.

Section 12.4 Fannie Mae. Assuming that Mortgagors may secure funding for mortgage loans by selling mortgage loans, including mortgages on Lots and/or Dwelling Units in the Community, to the Federal National Mortgage Association (a/k/a “Fannie Mae”), the following requirements shall apply to all Lots and Dwelling Units in the Community:

(a) A Mortgagor shall be given written notification from the Association of the following:

(i) any condemnation or casualty loss that affects either a material portion of the Common Area or the Lot that is the security for the indebtedness due the Mortgagor;

(ii) any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagor which is not cured within sixty (60) days after the Owner’s receipt of notice of the default;

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

(iv) any proposed action that would require the consent of a specified percentage of Mortgagors.

(b) Provided that improvements have been constructed in the Common Area and provided that a Mortgagor gives written notice to the Association that it has relied on the value of the improvements in making a loan on a portion or all of the Property, then subject to the right of the Declarant to annex additional areas as provided in Article XIII herein, unless at least sixty-seven percent (67%) of the Members and Mortgagors
representing at least fifty-one percent (51%) of those Lots that are subject to mortgages or deeds of trust have given their prior written approval, the Association shall not add or amend any material provision of this Declaration or related Association documents concerning the following:

(i) voting rights of any Member;
(ii) assessments, assessment liens, or subordination of such liens;
(iii) reserves for maintenance, repair and replacement of those parts of the Common Area that may be replaced or require maintenance on a periodic basis;
(iv) responsibility for maintenance and repair of the Property;
(v) reallocation of interests in the Common Area or rights to its use, except as provided in Article III and Article IV herein;
(vi) converting Lots into Common Area or vice versa;
(vii) annexation or withdrawal of property to or from the Property (other than annexation of those properties referred to in Article XIII);
(viii) insurance or fidelity bonds;
(ix) leasing of Dwelling Units;
(x) imposition of any right of first refusal or similar restriction on the right of a Owner to sell, transfer or otherwise convey its property;
(xi) a decision by the Association to establish self-management when professional management has been required previously by a Mortgagee;
(xii) restoration or repair of the Property after a hazard damage or partial condemnation;
(xiii) any provisions that are for the express benefit of Mortgagee; and
(xiv) termination of the legal status of the Association after substantial destruction or condemnation of the subdivision occurs.

An addition or amendment to this Declaration or related Association documents shall not be considered material if it is for the purpose of clarification or correcting errors. A Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days of receipt of such request shall be deemed to have approved such request.
Section 12.5. General.

(a) **Condemnation.** In the event that there is a condemnation or destruction of the Common Area or other Association property, to the extent practicable, condemnation or insurance proceeds shall be used to repair or replace the condemned or destroyed property.

(b) **Books and Records.** A Mortgagor shall have the right to examine and copy at its expense the books and records of the Association during normal business hours and upon reasonable notice to the Association.

(c) **Notice.** As set forth in this Article, Mortgagors shall have the right, upon request, to receive notice of (a) the decision of the Owners to abandon or terminate the Planned Unit Development (as defined by Fannie Mae); (b) any material amendment to the Declaration, the By-Laws or the Articles; and (c) if professional management has been required by a Mortgagor, the decision of the Association to terminate such professional management and assume self-management.

(d) **Excess Proceeds.** Should there be excess insurance or condemnation proceeds after the repair, reconstruction, or renovation called for herein, such excess proceeds may be distributed equally to the Owners, apportioned equally by Lot, subject, however, to the priority of a Mortgagor with regard to the proceeds applicable to the Lot securing said Mortgage and in accordance with Indiana law.

(e) **Audited Financial Statement.** The Association shall provide an audited financial statement for the preceding fiscal year to a Mortgagor upon its written request.

(f) **Termination.** Eligible Mortgagors representing at least sixty-seven percent (67%) of the votes of the mortgaged Lots must consent to the termination of the legal status of the Association for reasons other than substantial destruction or condemnation of the property. 

(g) **Damage to Common Area.** The Association shall cause the immediate repair, reconstruction, or renovation of any damage to the Common Area unless a decision not to repair, reconstruct, or renovate is approved by the Board of Directors and a majority of the Mortgagors.
ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Enforce. The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration or other Association documents unless such right is specifically limited. Failure by the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration shall not constitute a waiver of the right of the Association or any Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association or any Owner pursuant to any term, provision, covenant or condition of the Declaration shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by this Declaration or at law or in equity.

Section 13.2 Severability; Headings; Conflict. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect. Titles of paragraphs are for convenience only and are not intended to limit or expand the covenants, rights or obligations expressed therein. In the case of any conflict between the Articles and this Declaration, this Declaration shall control; in the case of any conflict between this Declaration and the By-Laws, this Declaration shall control.

Section 13.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Association or any Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, unless such right is specifically limited, for a term of twenty (20) years from the date this Declaration is recorded, after which time the covenants and restrictions of this Declaration shall be automatically extended for successive periods of twenty (20) years each, unless terminated by a written and recorded instrument approved of in advance by the affirmative and unanimous vote of all Members of the Association and their respective Mortgages.

Section 13.4 Material Amendments/Extraordinary Action.

(a) Approval Requirements. In accordance with Federal Agencies' requirements, material amendments ("Material Amendments") or extraordinary actions ("Extraordinary Actions") must be approved by Members entitled to cast at least sixty-seven percent (67%) of the votes of Members present and voting, in person or by proxy, at a meeting held in accordance with the notice and quorum requirements for Material Amendments and Extraordinary Actions contained in the By-Laws, such vote including the vote of a majority of the Class A Members present and voting, in person or by proxy, at such meeting.
(b) **Material Amendment.** A Material Amendment includes adding, deleting or modifying any provision regarding the following:

(i) assessment basis or assessment liens;

(ii) any method of imposing or determining any charges to be levied against individual owners;

(iii) reserves for maintenance, repair or replacement of common area improvements;

(iv) maintenance obligations;

(v) allocation of rights to use Common Areas except as provided in Article III and Article IV herein;

(vi) any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on Lots;

(vii) reduction of insurance requirements;

(viii) restoration or repair of common area improvements;

(ix) the annexation or withdrawal of land to or from the Property other than annexation or withdrawal of those properties referred to in this Article XIII;

(x) voting rights;

(xi) restrictions affecting leasing or sale of a Lot or

(xii) any provision which is for the express benefit of Mortgagors.

(c) **Extraordinary Action.** Alternatively, an Extraordinary Action includes:

(i) merging or consolidating the Association (other than with another non-profit entity formed for purposes similar to this Association);

(ii) determining not to require professional management if that management has been required by the Association documents, a majority of eligible Mortgagors or a majority vote of the Members;

(iii) expanding the Association to include land not previously described as annexable which increases the overall land area of the project or number of Lots by more than ten percent (10%).
(iv) abandoning, partitioning, encumbering, mortgaging, conveying, selling or otherwise transferring the Common Area except for (i) granting easements; (ii) dedicating Common Area as required by a public authority; (iii) re-subdividing or adjusting the boundary lines of the Common Area; or (iv) transferring Common Area pursuant to a merger or consolidation with a non-profit entity formed for purposes similar to the Association;

(v) using insurance proceeds for purposes other than reconstruction or repair of the insured improvements; or

(vi) making capital expenditures (other than for repair or replacement of existing improvements) during any period of twelve (12) consecutive months costing more than twenty percent (20%) of the annual operating budget.

(d) **Class Amendments.** Any Material Amendment which changes the rights of any specific class of Members must be approved by Members entitled to cast at least fifty-one percent (51%) of the votes of all Members of such class present and voting, in person or by proxy, at a meeting held in accordance with the requirements contained in the By-Laws.

(e) **Material Amendment and/or Extraordinary Actions Amendments.** The following Material Amendments and Extraordinary Actions must be approved by Members entitled to cast at least sixty-seven percent (67%) of the total authorized votes of all Members of the Association, including at least a majority of the total authorized votes entitled to be cast by Class A Members:

(i) termination of this Declaration or the termination of the project;

(ii) dissolution of the Association except pursuant to a consolidation or merger; and

(iii) conveyance of all Common Areas.

(f) **VA Amendments.** If the VA has guaranteed any loans secured by a Lot, so long as there is a Class B Member all Material Amendments and Extraordinary Actions must have the approval of the VA.

Section 13.5 **Amendments.** Amendments other than Material Amendments or Extraordinary Actions shall be approved by at least sixty-seven percent (67%) of the votes entitled to be cast by all Members present and voting, in person or by proxy, at any duly called and convened meeting, or in writing by Members entitled to cast at least sixty-seven percent (67%) of the total authorized votes of all Members.

Any amendment must be properly executed and acknowledged by the Association (in the manner required by law for the execution and acknowledgment of deeds) and recorded among the appropriate land records.
Section 13.6. **Special Amendment.** Notwithstanding anything herein to the contrary, the Declarant may unilaterally amend this Declaration for any reason prior to the first conveyance of a Lot to an Owner other than the Declarant and thereafter may make any amendment required by any of the Federal Agencies or by the Local Governing Authorities, as a condition of the approval of this Declaration, by the execution and recordation of such amendment following notice to all Members.

Section 13.7. **Waiver.** The Declarant, as the present most interested party in maintaining the high quality of development which by these covenants is sought to be assured for the Property, hereby expressly reserves unto itself (so long as these restrictions are in effect) the unqualified right to waive or alter from time to time such of the herein contained restrictions as it may deem best, as to any one or more of the Lots, which waiver or alteration shall be evidenced by the mutual written consent of the Declarant and the then-Owner of the Lot as to which some or all of said restrictions are to be waived or altered; such written consent to be duly acknowledged and recorded in the Office of the Recorder of Marion County, Indiana.

Section 13.8. **Annexation of Additional Property.** The Association may annex additional areas and provide for maintenance, preservation and architectural control of Lots and Common Area within such areas, and so may add to its membership under the provisions of Article II herein, with the written consent of more than fifty percent (50%) of each class of Members. Any future improvements on the annexed property must be consistent with or better than the initial improvements on the Property in terms of quality, design and construction and comparable in style, size and cost.

Section 13.9. **Casualty Insurance.** Notwithstanding anything to the contrary contained in this Declaration, each and every Owner shall maintain a casualty insurance policy affording fire and extended coverage insurance insuring the Dwelling Unit in an amount equal to the full replacement value of the improvements which in whole or in part, comprise the Dwelling Unit, including, without limitations any Party Walls. Each and every Owner shall, in addition, also procure endorsements naming the Association as an additional insured under such insurance policies. Each Owner of each Lot and/or Dwelling Unit, (regardless of whether or not its ownership is encumbered or is to be encumbered by a mortgage, deed of trust or similar indenture) will furnish to the Association, at or prior to the closing of its acquisition of that Lot or Dwelling Unit, a certificate of insurance and endorsement, in form and content acceptable to the Association, evidencing the insurance coverage described herein. Each such Owner shall, prior to the expiration of the term of any such insurance policy, procure and deliver to the Association a renewal or replacement policy in form and content acceptable to the Association, including an endorsement naming the Association as an additional insured. If any such Owner fails to provide evidence of such coverage satisfactory to the Association, the Association will have the right, but no obligation, to procure such coverage at the expense of the applicable Owner, and the cost of procuring such insurance will be assessed to that Owner as a Special Assessment and shall be immediately due and payable upon demand.

Section 13.10. **Withdrawable Real Estate.**
(a) The Declarant shall have the unilateral right, without the consent of the Class A Members or any Mortgagee, to execute and record an amendment to this Declaration withdrawing any portion of the Property on which Dwelling Units have not been constructed; provided, however, that not more than five (5) years have lapsed since the date of the recordation of this Declaration.

(b) Upon the dedication or the conveyance to any public entity or authority of any portion of the Property for public street purposes, this Declaration shall no longer be applicable to the land so dedicated or conveyed.

Section 13.11. Management Contracts. For such time as the Declarant has Class B membership status, the Declarant shall have the right to enter into professional management contracts on behalf of the Association for the management of the Property for terms not to exceed one (1) year; provided, however, that the Association shall have the right to terminate such contracts, with or without cause, upon thirty (30) days' written notice to the other party and without payment of a termination fee.

Section 13.12. Dissolution. The Association may be dissolved with the consent given in writing and signed by at least two-thirds (2/3) of each class of Members and in accordance with Article 13 of the Act. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association, both real and personal, shall be offered to an appropriate public agency to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association. In the event that such offer of dedication is refused, such assets shall be then offered to be granted, conveyed or assigned to any non-profit corporation, trust or other organization devoted to similar purposes and in accordance with Indiana law. Any such dedication or transfer of the Common Area shall not be in conflict with then-governing zoning ordinances or the designation of the Common Area as "open space".

Section 13.13. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

Section 13.14. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the By-Laws and the rules, regulations and guidelines as adopted by the Board of Directors and (to the extent of its jurisdiction) the Architectural Review Board, or any committee thereof, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot or Dwelling Unit shall constitute an
agreement that the provisions of this Declaration, the Articles, the By-Laws and rules, regulations and guidelines, as each may be amended or supplemented from time to time, are accepted and ratified by each Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Property, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Property in any manner shall be subject to this and guidelines applicable thereto as each may be amended or supplemented from time to time.

WITNESS the following signatures:

RH OF INDIANA, L.P.
an Indiana limited partnership

By:  

Name: _KENNETH E. W Gifts_ 
Title: _LAND RESOURCE MANAGER_
STATE OF Indiana 
COUNTY OF Marion 

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

Kathryn C. Underwood, 

by me known by the hand of Rose C. Underwood

of RTH of Indiana, L.P., who acknowledged the execution of the foregoing "Declaration of
Covenants, Conditions and Restrictions for The Townhomes at City Center" on behalf of said

corporation.

Witness my hand and Notarial Seal this 12th day of April 2001

Notary Public

(Seal)

Teran C. Underwood

My Commission Expires: 4-20-05

My County of Residence: Hamilton

This instrument was prepared by and after recording return to:

Melissa Rhodes Garrard, Esq.
Attorney at Law
P.O. Box 478
Lebanon, Indiana 46052
Legal Description:
The Townhomes at City Center – Parcel 1 (as described by record deed (Parcel 6-D))

Part of the Northeast Quarter of Section 36, and part of the Southeast Quarter of Section 25, both in Township 18 North, Range 3 East, City Township, Carmel, Indiana, and more particularly described as follows:

Commencing at the Northeast Corner of the Northeast Quarter of Section 36, Township 18 North, Range 3 East, thence South 89 degrees 12 minutes 13 seconds West (bearing from a survey by American Consulting, Inc., dated May 31, 2000) 1227.79 feet along the North line of said Northeast Quarter Section to a point on the West right-of-way line of Third Avenue Southwest, thence North 00 degrees 12 minutes 12 seconds East 6.50 feet along said right-of-way to the proposed South right-of-way of Autumn Drive, thence South 89 degrees 12 minutes 13 seconds West 622.01 feet along said proposed right-of-way to the Point of Beginning; thence South 00 degrees 12 minutes 12 seconds West 41.26 feet; thence South 27 degrees 25 minutes 57 seconds East 39.30 feet; thence South 29 degrees 26 minutes 41 seconds East 27.33 feet; thence South 07 degrees 20 minutes 30 seconds West 51.69 feet to the proposed North right-of-way line of 126th Street and a point on a curve being concave to the Northeast, having a radius of 461.00 feet and a central angle of 4 degrees 15 minutes 29 seconds; thence Northwesterly 14.26 feet along said proposed right-of-way to the Point of Tangency; the following four courses are along said proposed right-of-way, thence North 18 degrees 24 minutes 01 seconds, West 181.15 feet to the Point of Curvature of a curve being concave to the Southwest, having a radius of 749.00 feet and a central angle of 11 degrees 35 minutes 58 seconds; thence Westerly 122.17 feet to the Point of Tangency; thence North 90 degrees 00 minutes 00 seconds, West 153.92 feet to the Point of Curvature of a curve being concave to the Southwest, having a radius of 661.00 feet and a central angle of 25 degrees 39 minutes 05 seconds; thence Southwesterly 333.15 feet to the West line of said Northeast Quarter Section; thence North 00 degrees 11 minutes 57 seconds, West 153.30 feet along said line to the North line of said Northeast Quarter; thence North 89 degrees 12 minutes 13 seconds East 233.52 feet along said line; thence North 00 degrees 13 minutes 40 seconds East 6.50 feet to the proposed South right-of-way line of Autumn Drive; thence North 89 degrees 12 minutes 13 seconds East 539.90 feet along said line to the Point of Beginning and containing 1,972 acres more or less.

Legal Description:
The Townhomes at City Center – Parcel 2 (as described by record deed (Parcel 6-B))

Part of the Northeast Quarter of Section 36, and part of the Southeast Quarter of Section 25, both in Township 18 North, Range 3 East, City Township, Carmel, Indiana, and more particularly described as follows:

Commencing at the Northeast Corner of the Northeast Quarter of Section 36, Township 18 North, Range 3 East, thence South 89 degrees 12 minutes 13 seconds West (bearing from a survey by American Consulting, Inc., dated May 31, 2000) 1227.79 feet along the North line of said Northeast Quarter Section to a point on the West right-of-way line of Third Avenue Southwest, thence North 00 degrees 12 minutes 12 seconds East 6.50 feet along said right-of-way to the proposed South right-of-way of Autumn Drive, thence South 89 degrees 12 minutes 13 seconds West 622.01 feet along said proposed right-of-way to the Point of Beginning; thence South 00 degrees 12 minutes 12 seconds West 41.26 feet; thence South 27 degrees 25 minutes 57 seconds East 39.30 feet; thence South 29 degrees 26 minutes 41 seconds East 27.33 feet; thence South 07 degrees 20 minutes 30 seconds West 51.69 feet to the proposed North right-of-way line of 126th Street and a point on a curve being concave to the Northeast, having a radius of 461.00 feet and a central angle of 4 degrees 15 minutes 29 seconds; thence Northwesterly 14.26 feet along said proposed right-of-way, thence North 18 degrees 24 minutes 01 seconds, West 181.15 feet to the Point of Curvature of a curve being concave to the Southwest, having a radius of 749.00 feet and a central angle of 11 degrees 35 minutes 58 seconds; thence Westerly 122.17 feet to the Point of Tangency; thence North 90 degrees 00 minutes 00 seconds, West 153.92 feet to the Point of Curvature of a curve being concave to the Southwest, having a radius of 661.00 feet and a central angle of 25 degrees 39 minutes 05 seconds; thence Southwesterly 333.15 feet to the West line of said Northeast Quarter Section; thence North 00 degrees 11 minutes 57 seconds, West 153.30 feet along said line to the North line of said Northeast Quarter; thence North 89 degrees 12 minutes 13 seconds East 233.52 feet along said line; thence North 00 degrees 13 minutes 40 seconds East 6.50 feet to the proposed South right-of-way line of Autumn Drive; thence North 89 degrees 12 minutes 13 seconds East 539.90 feet along said line to the Point of Beginning and containing 1,972 acres more or less.

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