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ACCEPTANCE FOR TRANSFER

WEST 86TH

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS
OF WEST 86TH

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DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF WEST 86TH

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF WEST 86TH, is made this 29th day of December, 1989, by SCM REAL ESTATE DEVELOPMENT CORP., an Indiana corporation, and

WITNESSES:

WHEREAS, Declarant (as defined herein) is the owner or contract purchaser of the Development (as defined herein); and

WHEREAS, Declarant intends by this Declaration (as defined herein) to impose upon the Development mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Development by the recording of this Declaration; and

WHEREAS, Declarant desires to provide a flexible and reasonable procedure for the overall development of the Development and the relationship of the component residential associations, if more than one, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such properties as are now or may hereafter be subject to this Declaration; and

WHEREAS, Declarant anticipates that a number of different types of residential communities will be developed in the Development and that certain aspects of the overall Development will be of benefit to such different communities, including, but not limited to, the Community Facilities, the Streets, the Drainage System (all as defined herein), central landscaping features, central signage for the Development, the street lighting system (excluding exterior light fixtures to be installed by Owners (as defined herein)) and common elements related to services to be provided to the residents of all such communities; and

WHEREAS, Declarant contemplates that in addition to the amenitites, improvements and services of common benefit to all residents, such communities within the Development may be provided with further amenities, improvements and services of benefit only to the residents of a particular community or communities, and in furtherance thereof, Declarant intends that a Supplemental Declaration (as defined herein) will be recorded making reference to this Declaration and setting forth the various terms and provisions relating to such communities' specific amenitites, improvements, services and other matters; and

WHEREAS, the Declarant has formed (or intends to form) the Association (as defined herein) for the purposes of carrying out the powers and duties aforesaid.

NOW, THEREFORE, Declarant hereby declares that all of the real estate described in Exhibit "A", and any additional property as may by subsequent amendment be added to and subjected to this Declaration, shall be held, sold and conveyed subject to the following covenants, conditions, easements and restrictions which shall "run with the land" and are for the purpose of protecting the value and desirability of and which shall run with, the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Development or any part thereof, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of each owner

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thereof. Declarant, for itself and its successors and assigns, specifically reserves unto itself the right and privilege, prior to the recording of any plat, plans or Supplemental Declaration dealing with specific portions of the Development as described in Exhibit "A" hereto, to exclude any real estate from, or to include Additional Land (as defined herein) within and subject to, the terms and provisions of this Declaration by recording a document with the Recorder of Marion County, Indiana, making reference to the terms and provisions hereof and purporting to accomplish such exclusion from or addition of real estate with respect to the provisions hereof.

ARTICLE 1

DEFINITIONS

Section 1.1 Additional Land. Additional Land shall mean and refer to additional real property now owned or which may in the future be owned by Declarant subject to Declarant's reserved unilateral right to annex the same within and subject to this Declaration as provided elsewhere herein, including, but not limited to, the real property described in Exhibit "B" attached hereto and incorporated throughout this Declaration by reference.

Section 1.2 Articles of Incorporation. Articles of Incorporation means and refers to the Articles of Incorporation of the Association, as filed with the Secretary of State of the State of Indiana.

Section 1.3 Association. Association shall mean and refer to West 86th Homeowners Association, Inc., or an organization of similar name, formed, or to be formed, as an Indiana not-for-profit corporation, its successors and assigns. The Board of Directors or Board shall mean the elected body of the Association having its normal meaning under Indiana not-for-profit corporation law.

Section 1.4 Bylaws. Bylaws shall refer to the Bylaws of the Association, as the same may exist and be in effect from time to time.

Section 1.5 Common Area. Common Area shall mean all real and personal property now or hereafter owned by or subject to an easement in favor of the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be conveyed to the Association at any time prior to the last conveyance of a subdivision interest to any Owner by Declarant. By way of example and not by way of limitation, Common Area shall include the Community Facilities, the Drainage System in the Development including all lakes, retention/detention ponds, spillways, creeks and culverts, all landscaping other than landscaping on any Lot, the street lighting system for the Development (excluding exterior light fixtures to be installed and maintained by Owners), all Streets within the Development, community recreational facilities and such other or further items as shall be shown as Common Area or subject to an easement for stated purposes on the various Plats and Plans filed with the Recorder of Marion County from time to time with respect to portions of the Development, whether in conjunction with the recordation of a Supplemental Declaration or otherwise.

Section 1.6 Common Expenses. Common Expenses shall mean and include the actual and estimated expenses of operating the Association, for general purposes as well as for Community purposes insofar as Owners within the respective Communities are concerned, including any reasonable reserves, all as may be found to be necessary and appropriate by the

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Board pursuant to this Declaration, the By!aws, and the Articles of Incorporation of the Association. Common Expenses shall include, without limitation, the actual and estimated cost to the Association for the maintenance, management, operation, repair, improvement and replacement of Common Area, real estate taxes or personal property taxes assessed against any Common Area, as well as any other costs or expense incurred by the Association for the benefit of the Common Area and the Owners.

Section 1.7 Community. Community shall mean and refer to separately designated, developed residential areas composed of various types of housing initially or by amendment or Supplemental Declaration made subject to this Declaration; for example, and by way of illustration and not limitation, duplexes, tri-plexes, four-plexes, condominiums, apartment buildings, fee simple town homes and single-family detached houses. In the absence of specific designation of separate Community status, all real estate made subject to this Declaration shall be considered a part of the same Community; provided, however, the Declarant may designate in any Supplemental Declaration adding property to the terms and conditions of this Declaration that such property shall constitute a separate Community or Communities; provided further that, by a two-thirds (2/3) vote, the Board of Directors may also designate Community status to any area of the Development so requesting.

Section 1.8 Community Assessments. Community Assessments shall mean assessments for such expenses as may be provided for herein or in any Supplemental Declaration which shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Lots in a given Community against which the specific Community Assessment is levied and for the purpose of maintaining the properties or providing services for the Owners within a given Community, all as may be specifically authorized from time to time by the Board of Directors and as will be more particularly described in the Supplemental Declaration creating the same. The Community Assessment shall be levied equally against Owners of Lots in a Community for such purposes that are authorized by this Declaration or by the Board of Directors from time to time, provided that in the event assessments are levied for exterior maintenance of dwellings, or insurance on dwellings, or replacement reserves which pertain to particular dwellings within a given Community (pursuant to a Supplemental Declaration), such assessments (that are for the use and benefit of particular Lots) shall be levied upon a pro rata basis among the benefited Owners.

Section 1.9 Community Facilities. Community Facilities shall mean and refer to the clubhouse, together with a swimming pool, tennis court(s) and related facilities and equipment to be located upon and to be a part of the Common Area as delineated on Plats and Plans for a portion of the Development.

Section 1.10 Community-Wide Standard. Community-Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association.

Section 1.11 Control Transfer Date. Control Transfer Date shall have the meaning given such term in Section 3.2 hereof.

Section 1.12 Declarant. Declarant means SCM Real Estate Development Corp., an Indiana corporation, or any other person, firm, corporation or partnership which succeeds to

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the interest of SCM Real Estate Development Corp., as developer of the Development, as a matter of law or as evidenced by a written instrument of transfer to such effect.

Section 1.13 Development. Development shall mean and refer to the real property described in Exhibit "A", attached hereto and incorporated herein by reference and such additional real property as may be added in accordance with Article VIII.

Section 1.14 DCC. DCC shall mean and refer to the Development Control Committee established pursuant to the provisions of Article XI hereof.

Section 1.15 Drainage System. Drainage System shall mean and include the retention/detention ponds, storm sewers, subsurface drainage tiles, swales, ditches, pipes, and other structures, fixtures, properties, equipment, and facilities located in, upon, or under the Common Area, Streets, or easements affecting one or more Lots or property located outside the Development, and designed for the purpose of expediting the drainage of surface and subsurface waters from, over, across and under the Development, other than such as may have been dedicated to the public and accepted for maintenance by the appropriate public agency.

Section 1.16 Eligible Mortgage Holder. Eligible Mortgage Holder shall mean a holder, insurer, or guarantor of a first mortgage on a Lot who has requested notice of certain matters from the Association as herein and in the Association's Bylaws provided.

Section 1.17 Eligible Votes. Eligible Votes shall mean those votes available to be cast on the issue at hand. A vote which is for any reason suspended is not available to be cast.

Section 1.18 Lot. Lot shall mean a portion of the Development other than the Common Area intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the Plats and Plans filed with this Declaration, amendments thereto and any Supplemental Declaration. Where the context indicates or requires, the term Lot includes any structure on the Lot or a residential unit in a condominium or apartment building. Lot shall mean a structure situated upon a portion of the Development intended for any type of independent ownership for use and occupancy as a residence by a single family and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) duplexes, tri-plexes, four-plexes, condominium units, apartment buildings, patio or zero-lot-line homes, and single-family houses on separately platted lots, as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Development; provided, further, the term shall include all portions of the Lot owned as a part of any structure thereon; provided, further, apartment units shall not constitute nor be construed to be a Lot. For the purposes of this Declaration, a Lot which is a structure shall come into existence when substantially complete or, if later, upon the issuance of a certificate of occupancy or its equivalent by the appropriate agency of Marion County or other local governmental entity. In the case of an apartment building, the Owner of such apartment building shall be considered for all purposes hereof to be the Owner of all Lots and apartment units contained therein and the exact number of Lots included therein and other matters peculiar to the inclusion of such facilities hereunder shall be specified in the Supplemental Declaration governing the same.

Section 1.19 Majority. Majority means more than fifty (50%) per cent of the total number of eligible groups, Eligible Votes, eligible Owners, or other, as the context may indicate.

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Section 1.20 Member. Member shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 1.21 Mortgage. Mortgage means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 1.22 Mortgagee. Mortgagee shall include a beneficiary or holder of a deed of trust, as well as a mortgagee.

Section 1.23 Mortgagor. Mortgagor shall include the trustor of a deed of trust, as well as a mortgagor.

Section 1.24 Owner. Owner shall mean and refer to the record owner, whether one or more persons or entities, of any Lot which is part of the Development, but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner shall include the Declarant (but pursuant to Section 10.11 no assessments are payable by Declarant as an Owner except as specifically described therein).

Section 1.25 Person. Person means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 1.26 Plats and Plans. Plats and Plans shall collectively mean those plats or plans of all or any portion of the Development making reference hereto which have been or hereafter may be recorded in the office of the Recorder of Marion County, Indiana, as the same may be amended or supplemented by replats or otherwise.

Section 1.27 Special Assessments. Special Assessments shall mean those certain assessments authorized and made pursuant to the terms of Section 10.4 hereof.

Section 1.28 Streets. Streets shall mean all driveways, walkways, roadways, streets and similar areas, designated as such on the Plats and Plans, which have been or hereafter are constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots, other than those that have been dedicated to the public and accepted for maintenance by the appropriate public agency.

Section 1.29 Supplemental Declaration. Supplemental Declaration shall mean any amendment to this Declaration which adds additional property to that covered by this Declaration or otherwise imposes additional covenants, conditions, easements or restrictions on all or any portion of the Development. Such Supplemental Declaration may, but is not required to impose, expressly or by reference, additional restrictions and obligations on the land subject to that Supplemental Declaration to the provisions of this Declaration and shall set forth the specific development standards, services to be provided by the Association to Owners in the Community being created thereby, the initial level of assessments for Community Assessments associated therewith and such other matters as the Declarant may determine to include therein.

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ARTICLE II

PROPERTY RIGHTS

Section 2.1 Owner's Easement of Enjoyment. (a) Every Owner shall have a right and easement of ingress and egress in and to, and, use and enjoyment of the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to:

(i) the right of the Association to charge reasonable admission and other fees for the use of any facility, including but not limited to the Community Facilities, now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use such facilities;

(ii) the right of the Association to suspend an Owner's voting rights and the right to use any such facilities for any period during which any assessment of the Association against that Owner's Lot remains unpaid, and for any violation by an Owner of the Association's rules and regulations, for the duration of the violation and for an additional period thereafter not to exceed thirty (30) days;

(iii) the Declarant's reserved easements as described herein and the right of the Declarant to grant easements in and to the Common Area to any public agency, authority, or utility for such purposes as benefit only the Development or portions thereof and Owners or Lots contained therein;

(iv) the right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, for acquiring additional Common Area, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Area, provided two-thirds (2/3) of all Owners present at a meeting called for such purpose shall approve; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of Declarant or any Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Development; and

(v) the right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the Declarant during any time that the Declarant controls the Association and otherwise by at least two-thirds (2/3) of the votes which those Members of the Association which are present or represented by proxy are entitled to cast at a meeting duly called for such purpose.

(b) This Section 2.1 may not be amended without the written consent of Declarant during the time that Declarant owns any property subject to this Declaration.

Section 2.2 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association and subject to reasonable rules, regulations, and limitations as may be adopted in accordance therewith, his or her right of enjoyment to the Common Area and

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facilities to the Members of his or her family, tenants, and social invitees and shall be deemed to have made a delegation of all such rights to the occupants of any leased Lot.

Section 2.3 Owner's Right to Ingress Egress and Support. Each Owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to his or her Lot and shall have the right to lateral support for his or her Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

Section 2.4 Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, cancelled, or modified by the Board or the Association in a regular or special meeting by the vote of Members holding a Majority of the total votes in the Association or with the written approval of the Declarant for so long as Declarant shall control the Association. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure, as provided in Article X. In addition, the Association, through the Board, may, by contract or other agreement, enforce county ordinances or permit Marion County to enforce ordinances affecting the Development for the benefit of the Association and its Members.

Section 2.5 Declarant's Reserved Easement. (a) Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any property in the Development, for the benefit of Declarant and its successors and assigns over, under, in, and on the Development, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use, and enjoyment and otherwise dealing with the Development and any other property now owned or which may in the future be owned by Declarant. The reserved easement shall constitute a burden on the title to all or any portion of the Development and specifically includes, but is not limited to:

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

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

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(iii) The right to maintain a sales and marketing office for the Development within the Community Facilities without cost to Declarant until Declarant no longer owns any Lots in the Development.

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property within the Development, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto with respect to all or any portion of the Development.

(b) This Section 2.5 may not be amended without the advance written consent of Declarant.

Section 2.6 Character of the Development.

A. Use of Lots. (1) Except as may be otherwise expressly provided in this Declaration, each Lot shall be used for residential purposes only as a residence for a single family related by blood, adoption, or marriage; no trade or business of any kind may be conducted on any Lot. Lease or rental of a Lot or any building thereon for residential purposes shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors may promulgate, or in the absence of such rules and regulations, with the prior written approval of the Board. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the rules and regulations adopted hereunder.

(2) Without the prior written consent of the Association's Board of Directors, nothing shall be done or kept on any Lot or on the Common Area or any part thereof to increase the rate of insurance on the Development or any part thereof over what the Association, but for such activity, would pay. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the Common Area or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules and regulations in furtherance of this provision.

B. Use of Common Areas. No planting or gardening shall be done, and no fences, hedges, walls or any other structure or planting shall be erected or maintained upon the Common Area, except in accordance with the initial construction of the improvements located thereon by the Declarant or as approved by the Association's Board of Directors or their designated representatives. No antennas may be erected upon the Common Area, except the Association may erect a master antenna serving the Members. Except for the right of ingress and egress, the Owners of Lots may use the property outside their respective Lots only in accordance with reasonable regulations as may be adopted by the Association's Board of Directors or as is expressly provided herein. Specifically, restrictions on use of lakes and ponds on the Development shall be set forth in Supplemental Declarations with respect to the Communities in which such lakes and ponds are located or to which they are contiguous, and otherwise as may be implemented by the Board. It is expressly acknowledged and agreed by all parties concerned that this Section 2.6 is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

C. Signs. Except as hereinafter provided for Declarant, no signs of any type whatsoever, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Development, other than signage provided by Declarant (before the Control Transfer Date) or by the Association (after the Control Transfer Date) and approved by the DCC.

D. Storage and Parking of Vehicles. There shall be no outside storage or parking upon any Lot or the Common Area of any automobile, commercial vehicle, truck, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other transportation device of any kind, except within the parking spaces in the Owner's garage (with the door closed) and for visitors temporarily parking in spaces and in accordance with rules and regulations designated and promulgated by the Board. No Owners or tenants shall repair or restore any vehicle of any kind upon any Lot or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed.

E. Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Development, except that normal household pets in reasonable numbers may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a pet from being kept on any Lot in the Development, including inside residences constructed thereon.

F. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the DCC), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Declarant, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the offending Owner's Lot, and may be collected (i) in any manner provided by law or in equity for collection of a liquidated debt, or (ii) by foreclosure of said lien in the manner provided for in Section 10.6 for the lien of assessments. Neither the Declarant, nor any officer, agent, employee or contractor thereof, the Association, or any Owner enforcing the provisions of this paragraph shall be liable for any damage which may result from enforcement hereof.

G. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted below. All dwellings built in the Development shall be equipped with a garbage disposal unit. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the time when refuse collections are being made. The Association may designate a trash collection day or a trash collection service to be used and

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paid for by Owners in the Development in furtherance of this paragraph. Additionally, the Association may enter into a master contract for trash collection with a refuse disposal service with the costs thereof to be included as a Common Expense of the Association to be paid by Owners as part of their normal assessments. During the construction on any Lot of an approved structure, Owner shall utilize a trash bin or trash dumpster the type, size and manufacturer of which shall be specified by Declarant or approved by the DCC.

H. Model Homes. No Owner of any Lot in the Development other than Declarant or persons having the written permission of Declarant shall build or use, or permit the building or use upon any such Lot of any dwelling that is to be used as a model home or exhibit house.

I. Temporary Structures. No temporary house, trailer, tent, garage or other out building shall be placed or erected on any Lot, nor shall any regular overnight camping be permitted on any Lot.

J. Utility Services. No utility services will be installed under any paved areas in the Development, except by jacking, drilling, or boring unless specifically approved by the Declarant (or, after Declarant turns over control of the Association, by the DCC). All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

K. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the DCC. No septic tanks shall be installed on any of the Lots or in any of the Common Areas.

L. Antennas and Solar Heat Panels. Except as approved by the DCC, no exposed antennas or solar heat panels shall be allowed on any Lot or on any residence on any Lot which is visible from outside such residence.

M. Mailboxes. The Declarant shall select and designate a standard mailbox and post for the Development. No exterior newspaper receptacles shall be permitted in the Development. All repairs and replacements to such standard mailboxes shall be consistent in color, quality and appearance with the original mailbox and post designated by Declarant unless the advance written approval of the DCC is obtained.

N. Address Identification. Individual address identification devices for each Lot shall be installed by each Owner in accordance with standards established by the Declarant. All repairs and replacements to such standard address identification devices shall be consistent in color, quality and appearance with the originals thereof unless the advance written approval of the DCC is obtained.

O. Exterior Lighting. The DCC shall adopt and designate a standard exterior light fixture for all Lots in the Development and may designate a standard location for such exterior light fixtures. Each Owner of a Lot in the Development shall cause such standard exterior light fixture to be installed and maintained, at such Owner's expense. Exterior light fixtures shall be on and illuminated from dusk to dawn unless the Board shall provide otherwise by rule or regulation. No exterior lighting fixture, other than those fixtures approved by the DCC (or installed by Declarant) shall be installed on the exterior of any structure in the Development. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of

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exterior lighting must be approved in writing by the DCC, in advance, as provided in Article XI of this Declaration.

P. Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots without the advance written approval of the DCC. Approval by the DCC of any outbuilding may be conditioned on construction thereof in a location such that it is substantially hidden from view from all streets in the Development.

Q. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the DCC and such decision shall be binding on all parties.

R. Other Restrictions. All tracts of ground in the Development shall be subject to all covenants, conditions, easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

S. Fences, Light Fixtures, Etc. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence, deck, patio, exterior light fixture, basketball goal, swimming pool, hot tub or other exterior structure must be approved by the DCC as to size, location, height and composition before it may be installed. Any fencing in the Development must first be approved in writing by the DCC. Fencing style and color will be consistent with the Development as determined by the DCC.

T. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

U. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any Lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

V. Maintenance of Lots and Improvements. Unless the Association is obligated to perform the same, the Owner of any Lot in the Development shall at all times maintain the Lot (and to the extent required by the restrictions contained elsewhere herein or in the Plats and Plans, Common Area adjacent to such Lot) and any improvements situated thereon in such a manner as to prevent the same from becoming unsightly and, specifically, such Owner shall:

(i) Mow and care for the lawn at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and weeds;

(ii) Remove all debris or rubbish;

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development;

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(iv) Cut down and remove dead trees; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 3.1 Membership. Every Owner of a Lot shall be a Member of the Association. Member shall be appurtenant to and may not be separated from ownership of any Lot.

Section 3.2 Classes of Membership. The Association shall have two classes of voting membership, as follows:

Class A. Class A Members shall be all Owners of Lots with the exception of the Developer, and each Owner shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by the person whom the collective Members with respect to such Lot may designate. In no event shall such vote be split into fractional votes and in no event shall more than one vote be cast with respect to any Lot. Each vote cast with respect to a Lot shall presumptively be valid, but if such vote is questioned by any Member holding any interest in such Lot and if all such Members holding an interest in the Lot are not in agreement as to the validity of the vote for such Lot which is questioned, then such vote shall not be counted.

Class B. The Declarant shall be the sole Class B Member. The Class B Member shall be entitled to 1,000 votes for so long as it shall own any Lot or other real estate in the Development, or until the Declarant's Class B membership is converted to a Class A membership if that occurs earlier. The Class B membership shall cease and be converted to a Class A membership (having a number of votes equal to the number of Lots then owned by Declarant) on the happening of the first to occur of the following events:

(a) When the Class B Member no longer owns any Lot or, or other interest in, the Development,

(b) When the Class B Member voluntarily surrenders its Class B membership, or

(c) The later of (i) December 31, 1995, or (ii) 120 days after the date by which the Declarant shall have conveyed all of the Lots in the Development to Owners (but in no event later than the date which is ten (10) years after the date the first Lot in the Development is conveyed to an Owner).

The first to occur of the foregoing events is hereinafter referred to as the "Control Transfer Date."

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Section 3.3 Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Declarant and shall manage the affairs of the Association until the Control Transfer Date.

Section 3.4 Professional Management. No contract or agreement for professional management of the Association nor any other contract with Declarant shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

Section 3.5 Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Areas, the determination of Common Expenses, the collection of annual assessments, Special Assessments, and Community Assessments, and the granting of any approvals whenever and to the extent called for by this Declaration for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain insurance in accordance with the provisions of Article V hereof. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

Section 3.6 Control and Transfer of Control of Association. Until the Control Transfer Date and otherwise during the development and construction stages of the Development, the Association shall be operated and controlled by Declarant. The Board of Directors of the Association shall, during such period, consist of persons appointed by Declarant, and each Owner shall give and shall be deemed to have given to Declarant an irrevocable proxy to vote on any and all matters on which the Owner is entitled to vote under this Declaration, any Supplemental Declaration, or under the Articles of Incorporation or the By-Laws of the Association. The proxy granted to Declarant shall be deemed to be coupled with an interest and irrevocable. Such proxy shall terminate as of the Control Transfer Date.

ARTICLE IV

MAINTENANCE AND PARTY WALLS

Section 4.1 Maintenance (a) The Association shall maintain and keep in good repair the Common Area. The maintenance of the Common Area shall be deemed to include, but not be limited to, maintenance, repair, and replacement, subject to the insurance and casualty loss provisions contained herein, at the Association's sole cost and expense as Common Expense, of all trees, fences, shrubs, grass, Community Facilities, Streets, Common Area parking spaces, if any, walks, Drainage System improvements, the street lighting system and other improvements situated upon the Common Area.

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(b) The Association shall also undertake the maintenance responsibilities and shall provide the services designated for the various Communities as may be designated in the Supplemental Declarations. The assessment for Common Expenses shall be separate and distinct from the assessment for the Community Assessments with the intention being that all Owners in the Development shall be assessed on a pro-rata basis for the Common Expenses associated with the Common Area while Owners in the different Communities will be assessed in addition thereto the Community Assessments which relate to the services and amenities associated with such Community as set forth in the Supplemental Declaration associated therewith. Community Assessments shall be collected by the Association in the same manner as the assessments for Common Expenses associated with the Common Area and each Lot shall be subject to a lien for Community Assessments to the same extent and in the same manner as such Lot is subject to a lien for assessments for Common Expenses as set forth herein.

(c) In the event that the Board of Directors of the Association determines that (i) any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, repair, or replacement of items for which he or she is responsible hereunder or otherwise; or (ii) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then, in that event, the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense; the notice shall set forth with reasonable particularity the maintenance, repairs, or replacement required and shall advise the Owner to complete the same within three (3) days from the date of such notice; provided, however, that if the same is not capable of completion within the three (3) day period, such notice shall advise the Owner to immediately commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at Owner's sole cost and expense, and the cost shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

(d) The cost of snow removal, landscaping maintenance and road maintenance in excess of amounts budgeted therefor shall be paid by the Owners (on the same basis as assessments for Common Expenses are allocated to the Owners in accordance with Section 10.3 hereof) by a Special Assessment. In the event the Association enters into contracts for snow removal, landscaping maintenance and road maintenance while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto. This Section 4.1(d) is included herein in recognition of the fact that the costs of snow removal, landscaping maintenance and road maintenance for the Development may substantially exceed amounts budgeted therefor by the Association due to inordinate snow fall, an inordinate number of snow falls during any season, general weather conditions, agricultural conditions and amount of use. Nothing contained herein shall be construed to require that the Association provide snow removal service for the Development. In the event snow removal service is to be provided for the Development an amount therefor shall be included in the annual budget and collected as a Common Expense with the understanding that a Special Assessment may be necessary in the event the amount budgeted therefor in insufficient to defray the actual snow removal costs.

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Section 4.2 Party Walls. (a) Each wall built as a part of the original construction of a structure which shall serve and separate any two (2) adjoining Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

(c) If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if the other Owner or Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(f) In the event that, by reason of the design, inexactness of construction, shifting or settling of the structures built upon or comprising the Lots, or similar circumstances any spaces, structures, utility lines, ventilation ducts, appliances, or other portions or components intended to serve the Development or other dwelling units on other Lots encroach upon a Lot, an exclusive easement shall be deemed to exist in favor of the benefited property for the maintenance, use and enjoyment of such portions or components of the Lot that are encroached upon, for so long as such portions or components exist. Additionally, in the event any Streets or driveways encroach upon any Lot other than as depicted graphically on the Plats and Plans of such Lots as recorded from time to time with Recorder of Marion County, a mutual non-exclusive easement in favor of all other Lots shall be deemed to exist for the maintenance, use and enjoyment of such Streets and driveways (but only to the extent the same is necessary for providing access to a particular Lot) as actually in existence, and all replacements and renewals thereof.

ARTICLE V

INSURANCE

Section 5.1 Insurance. (a) The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

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(b) In addition to casualty insurance on the Common Area, the Association may, but shall not under any circumstances be obligated, unless a Supplemental Declaration requires otherwise, obtain and continue in effect adequate blanket all-risk casualty insurance in such form as the Board of Directors deems appropriate for the full replacement cost of all structures on the Lots. Costs of such coverage shall be a Common Expense to the Association, if carried on all Lots. If the Association elects not to obtain such insurance as a Common Expense the same shall be considered a specific expense of the affected Community to be paid by Community Assessments. In the event such insurance is obtained by the Association as a Common Expense or on behalf of a Community, the provisions of this Article shall apply to policy provisions, loss adjustment, and all other subjects to which this Article applies. All such insurance shall be for the full replacement cost. All such policies shall provide for a certificate of insurance for each Member to be furnished to the Association.

(c) The Board shall also obtain a public liability policy covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a Five Hundred Thousand Dollar ($500,000) single person limit as respects bodily injury and property damage, a One Million Dollar ($1,000,000) limit per occurrence, and a Two Hundred Fifty Thousand Dollar ($250,000) minimum property damage limit. Premiums for all insurance on the Common Area shall be Common Expenses of the Association; premiums for insurance provided to other associations or Communities shall be charged to those associations or Communities and collected for through Community Assessments. The policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefited parties, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

(i) All policies shall be written with a company licensed to do business in Indiana and holding a rating of XI or better in the Financial Category as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(ii) All policies on the Common Area shall be for the benefit of the Lot Owners and their Mortgagees as their interests may appear; all policies secured at the request of Members in a given Community or pursuant to the requirements of a Supplemental Declaration shall be for the benefit of the Owners and their Mortgagees of Lots within the Community.

(iii) Exclusive authority to adjust losses under policies in force on the Development obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iv) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

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(v) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Marion County area.

(vi) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(2) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;

(3) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;

(4) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(5) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(6) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

(e) In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Board's best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 5.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that in the event the Association does not carry blanket all-risk casualty insurance on such Owner's Lot and structures constructed thereon (which the Association is not obligated to provide as provided for in Section 5.1), each individual Owner shall carry such insurance. Each individual Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Lot of all debris and return it to substantially the natural state in which it

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existed prior to the beginning of construction. The Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lot and the standard for returning the Lot to its natural state in the event the Owner decides not to rebuild or reconstruct.

Section 5.3 Disbursement of Proceeds. Proceeds of insurance policies written in the name of the Association shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

(b) If it is determined that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds in Section 5.3(a).

Section 5.4 Damage and Destruction. (a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Development covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed portions of the Development. Repair or reconstruction, as used in this paragraph means repairing or restoring the Development to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five (75%) per cent of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined by the Association in the manner described above that the damage or destruction of the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the damaged portion of the Development shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

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Section 5.5 Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall use general funds or seek a special assessment as permitted in Section 10.4.

ARTICLE VI

NO PARTITION

Section 6.1 No Partition. Except as is permitted in this Declaration or any Supplemental Declaration, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition until the happening of the conditions set forth in Section 5.3 in the case of damage or destruction, or unless the applicable portions of the Development have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII

CONDEMNATION

Section 7.1 Condemnation. (a) Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as set forth in Section 7.1(b) hereof.

(b) If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) per cent of the Members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTY

Section 8.1 Annexation without Approval Owners. (a) As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option, from time to time at any time until December 31, 1999, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the

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real property described in Exhibit "B", attached hereto and by reference made a part hereof, and any other real estate adjacent thereto or to the Development as the same exists from time to time whether in fee simple or leasehold, by filing in the Recorder's Office of Marion County, Indiana, an amendment or Supplemental Declaration annexing such property. Such Supplemental Declaration or amendment to this Declaration shall not require the vote or approval of any Owners. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

(b) Declarant shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of said real property to be so annexed and that such transfer is memorialized in a written, recorded instrument.

(c) The rights reserved unto Declarant to subject Additional Land to the Declaration shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such Additional Land to this Declaration or to the jurisdiction of the Association nor any obligation, if subjected, to build housing of the same type, design, or materials. If such Additional Land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose covenants and restrictions similar to those contained herein upon such Additional Land, nor shall such rights in any manner limit or restrict the use to which such Additional Land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 8.2 Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, which upon conveyance or dedication shall be accepted by the Association and thereafter shall be maintained by the Association as a Common Expense for the benefit of all Owners.

Section 8.3 Amendment. This Article shall not be amended without the written consent of Declarant, so long as the Declarant owns any property described in Exhibit "A" or Exhibit "B" attached hereto.

ARTICLE IX

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 9.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, if any), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions of this Declaration and the Bylaws.

Section 9.2 Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Development or the enforcement of this

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Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, snow removal, security, lawn and landscaping service and other common services to each Lot. The Association shall provide the services required of it by the Supplemental Declarations.

Section 9.3 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests located within the properties described in Exhibit "A" or Exhibit "B" attached hereto or hereafter annexed into the Development and conveyed to it by the Declarant.

Section 9.4 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied for the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 9.5 Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Area to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner five (5) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Section 9.6 Right of Entry. The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter into structures and upon Lots for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner or occupant of the Lot.

ARTICLE X

ASSESSMENTS

Section 10.1 Purpose of Assessment. The assessments for Common Areas and Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors. Community Assessments shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots within a given Community, as will be more specifically described in the Supplemental Declaration dealing with such Community, and as may be more specifically authorized from time to time by the Board of Directors.

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Section 10.2 Creation of Assessments. (a) There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors. General Assessments shall be allocated among all Owners within the Association as described in Section 10.3 hereof and shall be for expenses determined by the Board to be for the benefit of the Association as a whole. Community Assessments shall be levied against Lots in particular portions of the Development in those circumstances where services are provided pursuant to a Supplemental Declaration which benefit less than the Association as a whole. Community Assessments shall be in such amounts and for such purposes permitted as set forth in the Supplemental Declaration relating to the applicable Community. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay all assessments created or referenced herein. All such assessments, together with interest, not to exceed the maximum legal rate, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made.

(b) Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, monthly, quarterly, semi-annually or annually and acceleration of the annual assessment for delinquents. Unless the Board otherwise provides, all assessments shall be paid in monthly installments.

Section 10.3 Computation of Assessment. (a) It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list Common Expenses and Community Assessments for each Community (as defined in the various Supplemental Declarations), if any. Common Expenses shall be allocated among Owners in the Development on an equal basis. Each Owner of any Lot in the Development hereby covenants and agrees to pay to the Association a Proportionate Share (as hereinafter defined) of the annual Common Expenses for the Development, as fixed, established and determined from time to time as herein provided. The Proportionate Share of each Owner in the Development shall be the percentage obtained by dividing one by the total number of Lots shown on the Plats and Plans of the Development and owned by Owners (other than Declarant), as the same may be recorded from time to time. In addition each Owner covenants and agrees to pay to the Association his or her Pro-Rata Share of Community Assessments as more specifically set forth in the Supplemental Declarations dealing with the various Communities in the Development. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. Each segment of the budget including, without limitation, the assessments for Common Expenses and Community Assessments, shall become effective unless disapproved at the meeting (i) with respect to assessments for Common Expenses, by a vote of at least a Majority of the total Association membership, and (ii) with

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respect to Community Assessments for a given Community by a vote of at least a Majority of the Members in the applicable Community.

(b) Notwithstanding the foregoing, however, in the event that (i) a Majority of the membership of the Association disapproves the proposed budget or the assessments for Common Expenses, or (ii) a Majority of the Members in a given Community disapproves the proposed Community Assessments applicable thereto, or (iii) the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget (or such portion thereof or assessments as shall have been disapproved in accordance with the foregoing) shall have been determined as provided herein, the budget (or applicable portion thereof or assessments) in effect for the then current year shall continue for the succeeding year.

(c) In the event that the amounts actually expended by the Association for Common Expenses (and, with respect to a particular Community, Community Assessments) in any fiscal year exceed the amounts budgeted and assessed for Common Expenses (and, with respect to a particular Community, Community Assessments) for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for assessments for the following fiscal year, except that so long as the Declarant controls the Association, and subject to Declarant's rights to impose Special Assessments as described in Section 4.1(d) hereof, Declarant may, but shall be under no obligation, to fund such deficit; provided, however, that Declarant shall be reimbursed by the Association for any deficits so funded, together with interest at ten percent (10%) per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses (and, with respect to a particular Community, Community Assessments) in any fiscal year exceed the amount actually expended by the Association for Common Expenses (and, with respect to a particular Community, Community Assessments) for that fiscal year, an allocable share of such excess (based on the amounts originally levied as assessments) shall be a credit against the assessment(s) due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid, with interest, as required above before such excess shall be so credited to Owners.

(d) During the first year following the date of recordation of this Declaration, the total assessments per Lot per month for Common Expenses shall not exceed $150.00.

Section 10.4 Special Assessments. In addition to the other assessments authorized herein, the Association may levy Special Assessments in any year. So long as the total amount of Special Assessments allocable to each Lot does not exceed $_____ in any one fiscal year, the Board may impose the Special Assessment. Any Special Assessment which would cause the amount of Special Assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Owners. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed. In addition, the Board may levy annual Special Assessments not in excess of ____% of the annual Community Assessments then applicable against the Lots comprising any given Communities included within the Development, or one or more of such Communities, as the Board may determine. The dollar and percentage limitations contained in this Section 10.4 shall not apply to assessments levied pursuant to Section 4.1(d) hereof.

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Section 10.5 Lien for Assessments. (a) All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens of ad valorem taxes; or (ii) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of Marion County, Indiana, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

(b) All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 10.6 Effect of Nonpayment of Assessments: Remedies of the Association. (a) Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest, not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.

(b) All payments shall be applied first to costs and attorneys' fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

Section 10.7 Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost for both the Common Area and for items of a capital nature within within each Community. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association as shown on the capital budget, with respect to both amount and timing by annual assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and

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assessment for Common Expenses and Community Expenses, as appropriate, as provided in Section 10.3. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget. The Board of Directors is hereby authorized to prepare capital budgets for a particular Community or Communities and to include assessments therefor in Community Assessments as determined to be necessary to be sufficient to meet the projected capital needs of that Community.

Section 10.8 Subordination of the Lien to First Deeds of Trust and First Mortgages. The lien of the assessments, including interest, late charges, costs including attorneys' fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer (subject to the right of the Association to payment out of available foreclosure sale proceeds). No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Lot obtains title, his or her successors and assigns shall not be liable for the share of the Common Expenses or Community Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or Community Assessments shall be deemed to be Common Expenses collectible from all the Lots, including such acquirer, his or her successors and assigns.

Section 10.9 Capitalization of Association. Upon acquisition of record title to a Lot from Declarant, each Owner shall contribute to the capital of the Association an amount equal to twenty-five percent (25%) of the amount of the annual general assessment for Common Expenses plus such percentage of the amount of the Community Assessments for that Lot as may be determined by the Board. All such amounts shall be set aside as capital replacement/working capital reserve, and shall not be utilized by Declarant or the Association until after the Control Transfer Date.

Section 10.10 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to Lots generally on June 1, 1990, and as to a particular Lot on the first day of the month following the conveyance of such Lot by the Declarant to an Owner and shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any Lot becomes subject to assessment hereunder shall be the date on which such Lot is transferred by Declarant to an Owner; provided, however, that Declarant may, in its sole and absolute discretion delay the starting date for assessments for as long as Declarant shall deem appropriate in its sole and absolute discretion but assessments shall in all events be payable commencing on the first day of the first month following the date the Lot is occupied for the residential purposes or is suitable for such occupancy as evidenced, for example, by the appropriate official of Marion County, Indiana issuing a certificate of occupancy or its equivalent stating that the residential structure on such Lot is substantially complete and available for occupancy.

Section 10.11 Assessments by Declarant. (a) Declarant covenants and agrees to pay the full amount of the annual assessment for each Lot occupied for residential purposes it owns; notwithstanding anything contained herein to the contrary, the Declarant shall not be required to pay any assessments for any Lots not occupied for residential purposes (other than

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completed vacant apartment units held for rental in the ordinary course of business) that it owns, including but not limited to model homes.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

ARTICLE XI

ARCHITECTURAL STANDARDS

Section 11.1 Architectural Standards Jurisdiction. The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Development Control Committee established herein. The DCC shall have the right to promulgate, modify, and amend at any time and from time to time, architectural guidelines and standards which shall be binding on all Owners of Lots within the Development.

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no planting or removal of plants, trees, or shrubs, fences, walls or other structures shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained.

Section 11.2 New Construction. The Development Control Committee shall have exclusive jurisdiction over all original construction on any portion of the Development. The DCC shall prepare and, on behalf of the Board of Directors, shall promulgate design guidelines and application procedures. The standards and procedures shall be those of the Association, and the DCC shall have sole and full authority to prepare and to amend the standards and procedures. It shall make both available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Development and who shall conduct their operations strictly in accordance therewith. Until all the real estate included in the Development has been conveyed by Declarant to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the DCC, which shall consist of at least three (3), but no more than five (5), persons. There shall be no surrender of this right prior to that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the DCC.

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Section 11.3 Modifications. The DCC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Lots or structures thereon and the open space, if any, appurtenant thereto; provided, however, the DCC may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the DCC has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the DCC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired.

Section 11.4 Procedures for Approval. Approvals required by this Article shall be obtained only after written application has been made to the DCC by the Owner of the Lot requesting authorization (or such Owner's duly authorized representative). Such written application shall be in the manner and form prescribed from time to time by the DCC and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, improvement or modification. Such plans shall include plot plans showing the location of all improvement existing upon the Lot and the location of the improvements proposed to be constructed or placed upon the Lot, each properly and clearly designated, if applicable. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the DCC may require. All plans and drawings required to be submitted to the DCC shall be drawn to such scale as the DCC may require. There shall also be submitted, where applicable, the permits or plat plans which shall be prepared by either a registered land surveyor, engineer or architect. Plat plans submitted for improvement location permit shall bear the stamp or signature of the DCC acknowledging the approval thereof.

Section 11.5 Power of Disapproval. The DCC may refuse to grant approvals required under this Article when:

(a) The plans, specifications, drawings or other materials submitted are themselves inadequate or incomplete, or show the proposed improvements to be in violation of these restrictions or the requirements of the applicable Supplemental Declaration;

(b) The design or color scheme of a proposed repainting, modification or improvement is not in harmony with the general surroundings of the Lot, with adjacent buildings or structures, or with Community-Wide Standards, all as determined in the sole discretion of the DCC; or

(c) The proposed improvement, construction or modification, or any part thereof, would be contrary to the interests, welfare or rights of all or any part of the other Owners, all as determined in the sole discretion and opinion of the DCC.

Section 11.6 Liability of Committee. Neither the DCC nor any agent thereof, nor Declarant, shall be responsible in any way for any defects in any plans, specifications or other material submitted to it, nor for any defects in any work done according thereto, nor for any damages associated with their approval or disapproval of any matters subject to this Article.

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Section 11.7 Inspection. The DCC or its duly authorized agents, may inspect work being performed with their permission to assure compliance herewith, the requirements of the applicable Supplemental Declaration and any applicable regulations of the Association, and an easement for such inspection is hereby reserved over and upon each and every Lot in the Development.

Section 11.8 Declarant Improvements. The DCC shall have no powers with respect to any construction, improvements or modifications undertaken by the Declarant (or any assignee of Declarant if the Declarant has approved the plans therefor) or any improvements approved by Declarant at any time.

Section 11.9 Remedies for Failure to Obtain Approval. In the event any construction or modifications are made without first obtaining approval of the DCC as required herein or any construction is being performed other than in accordance with DCC approved plans and architectural guidelines and standards, the Declarant, the Association and the DCC shall have the powers of enforcement granted to the Association generally for purposes of this Declaration and may require any modifications, construction, changes or improvements undertaken or installed without or contrary to the approval of the DCC and such architectural guidelines and standards to be removed or renovated by whatever means the Declarant, the Association and/or DCC deem appropriate, with the costs thereof, including costs of collection and attorneys fees to become a lien against the defaulting Owner's Lot in the manner described in Section 10.5 hereof.

ARTICLE XII

MORTGAGEE RIGHTS

Section 12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number), (therefore becoming an Eligible Mortgage Holder), will, upon payment of the reasonable expense of the Association associated therewith, be entitled to timely written notice of:

(a) any proposed termination of the Association;

(b) condemnation, damage or destruction to the Development or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder;

(c) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Mortgage Holder where such delinquency has continued for a period of sixty (60) days;

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

(e) any proposed action which would require the consent of Eligible Mortgage Holders.

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ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law; provided, however, so long as Indiana law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law, for successive periods not to exceed the period permitted by such law, provided such renewal or extension is approved by at least a Majority of the Owners present or represented by proxy and entitled to cast votes thereon at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the Office of the Recorder of Marion County, Indiana, on or before the effective date thereof an instrument executed by the President and Secretary of the Association which shall state the terms of such renewal or extension and which shall contain a certification by such Secretary that such extension and renewal was duly approved by the Owners. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 13.2 Amendment. (a) This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal Housing Administration, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long Declarant owns any property in the Development or capable of being annexed thereto, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect, in the opinion of Declarant, the substantive rights of any Lot Owner or Mortgagee hereunder, nor shall it adversely affect title to the living area of any Lot without the consent of the affected Unit Owner.

(b) In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a Majority of the Owners and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration. Amendments to this Declaration shall become effective upon recordation in the Marion County, Indiana records, unless a later effective date is specified therein.

(c) Declarant hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of

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any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving Mortgages, so long as Declarant owns any Lots within the Development or to enable reasonable development of and construction on the Lots; provided that Declarant shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs in the reasonable opinion of the Declarant, the benefits of this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner. Declarant further reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant without the approval of any other person or entity, which amendment shall be fully effective in accordance with its terms:

(i) to cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Declaration; or

(ii) to insert such provisions clarifying matters or questions arising under this Declaration as are necessary or desirable and are not contrary to or inconsistent with this Declaration as theretofore in effect; or

(iii) to amend or modify this Declaration in any manner which in the reasonable opinion of the Declarant does not adversely affect in any material respect the rights of any Mortgagee or Owner, nor which substantially impairs the benefits of this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner; or

(iv) to extend or reduce the number of years set forth in Section 3.2 (Class B)(c)(ii) as it relates to the Control Transfer Date.

Section 13.3 Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association may, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 13.4 Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Development for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, cable television, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association might decide to have installed to serve the

Development. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 13.5 Construction and Sale. Notwithstanding any provisions contained in the Declaration to the contrary, so long as Declarant owns any Lots, it shall be expressly permissible for Declarant, free of any and all charges therefor, to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such residences, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant and the Community Facilities, if any, which may be owned by the Association, as models and sales offices. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Declaration shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

Section 13.6 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 13.7 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable. If any of the provisions hereof shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the provisions hereof.

Section 13.8 Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 13.9 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth, Queen of England.

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ARTICLE XIV

ENFORCEMENT

Section 14.1 In General. Any party to whose benefit the restrictions herein contained inure, including Declarant and the Association, may proceed at law or in equity to prevent the occurrence or continuation of any violation of this Declaration at the sole cost and expense of the party violating this Declaration (which cost and expense shall become a lien on the violating Owner's Lot subject to foreclosure in the manner provided in Article X), but neither Declarant nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any provision of this Declaration.

Section 14.2 Government Enforcement. The Department of Metropolitan Development of Marion County, Indiana, its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Department of Metropolitan Development of Marion County.

Section 14.3 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of the provisions of this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of this Declaration.

ARTICLE XV

PRIVATE AMENITIES AND SERVICES

Section 15.1 Private Amenities and Services. The Drainage System, Streets, and other elements comprising the Common Area shall be owned and maintained by the Association so long as this Declaration remains in force. In the event of any termination of this Declaration and/or dissolution of the Association, the Association shall convey the Common Area to a successor organization having similar purposes and powers as the Association, or it shall use its best efforts to dedicate the Common Area to the appropriate public agencies or utilities which normally hold and/or administer such property. If such dedication or conveyance are not possible, such property shall be disposed of as determined by the Circuit Court of Marion County, Indiana, consistent with the purposes set forth in this Declaration.

ARTICLE XVI

LIMITATION ON DECLARANT'S LIABILITY

Section 16.1 Limitation on Declarant's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner acknowledges and agrees that neither Declarant (including without limitation any assignee of the interest of Declarant hereunder) nor any director, officer or shareholder of Declarant (or any partner, officer, director or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or the Association. If any judgment is ever levied against Declarant (or its assignee), the same is hereby agreed to

be limited to the extent of Declarant's (or such assignee's) interest in the Development; and, in the event of a judgment no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon any other assets of Declarant (or its assignee).

ARTICLE XVII

ADDITIONAL EASEMENTS AND RESTRICTIONS

Section 17.1 Easements. Lots are subject to perpetual non-exclusive drainage easements, utility easements, resident access easements, island easements, and landscape easements either separately or in combination, as shown on the Plats and Plans, which are reserved for the use of the Declarant, Association, Lot Owners, public utility companies and governmental agencies as follows and which are all subject to such rules and regulations as the Board may promulgate:

A. Drainage Easements (D.E.) - Are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, including stormwater retention or detention areas, to serve the needs of a Community or the Development and adjoining ground and/or public drainage systems; and it shall be the individual responsibility of the Lot Owner to maintain the drainage across his own Lot. Under no circumstances shall said easement be blocked in any manner. 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 or by Declarant. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant.

B. Utility Easements (U.E.) - Are created (i) for the use of the local governmental agency having jurisdiction over the sanitary waste disposal system of said city and/or county designated to serve a Community or the Development for the purposes of installation and maintenance of sewers that are part of said system, and (ii) for the use of public utility companies, not including transportation companies, for the installation of pipes, mains, ducts, communication lines (which shall include cable T.V.), and such other further public service the Declarant may deem necessary. Each Owner of a Lot must connect with any public sanitary sewer available. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant.

C. Resident Access Easements (R.A.E.) -- Are created to provide either natural surface or hard surface paths, trails or walkways for the use of all Owners of Lots in the Community in which such Resident Access Easements are located for their use in walking, strolling, jogging or running thereon. There shall be no loitering or littering on or of Resident Access Easements and the use thereon of any rollerskates, skateboards, scooters, bicycles, mopeds, motorcycles or any other means of wheel-assisted propulsion shall be strictly prohibited unless the Association shall direct otherwise in any rules and regulations promulgated by the Board. Under no circumstances shall said easements be blocked in any manner. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant.

D. Island Easements (I.E.) -- Are created to provide island areas in public and/or private streets for the use of the Declarant and the Association in landscaping and maintaining said landscaping to enhance the overall appearance, value and desirability of the Development. It shall be the responsibility of the Association to maintain such easement

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areas. Under no circumstances shall the easement be blocked in any manner. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant. These easement areas shall be subject to all rules and regulations of the Indianapolis Department of Transportation and any other municipal or other applicable governmental office or agency.

E. Landscape Easements (L.S.E.) -- Are created to provide areas for the use of the Declarant and the Association in landscaping and maintaining said landscaping to enhance the overall appearance, value and desirability of the Development. It shall be the responsibility of the Association to maintain such easements. Under no circumstances shall the easement be blocked in any manner. No permanent structures shall be constructed within any such easement areas except as may be approved by Declarant.

F. Other Easements -- Are created to the extent and for the purposes specified in any Supplemental Declaration in which any such easements are set forth.

Section 17.2 Floodway Restrictions. No structures may be built on that portion of any Lots which lie within a floodway or flood plain. Any landscaping or other improvements made to any such part of the Lots, and any alterations thereon, shall be subject not only to approval of the Declarant (or the Association), but also to the prior approval of the Indiana Department of Natural Resources, its successors and assigns, and all other governmental agencies having jurisdiction thereof.

Section 17.3 Common Areas. Those areas designated as "Common Area" on any Plats and Plans are hereby declared to be Common Area. The Common Area is hereby reserved for the use of the Declarant during the development period, for the use of the Association after the development period, and for the use and enjoyment of all the Lot Owners subject to the limitations contained herein, and further subject to the right of the Association to promulgate reasonable rules and regulations governing such use and enjoyment. Each Lot owner shall be responsible for mowing and maintaining any Common Area located directly between his Lot line and any lake unless and until the Association shall have elected to take over such maintenance. There shall be absolutely no swimming, fishing or boating in any lakes, nor any other use of any such lakes, except as may be permitted by Supplemental Declaration. The Owners of Lots in the Development shall take and hold title to the Lots subject to the rights herein granted with respect to the Common Area.

Section 17.4 Lot Access. All Lots within the Development shall be accessed from the interior streets of the Community.

Section 17.5 Construction Procedure. During construction of any Community, reasonable care will be taken by the Owners of the Lots therein to protect all public and private streets from decomposition due to construction. During construction, sites shall be kept as clean as possible to avoid blowing trash and to prevent mud from coming onto other portions of the Development or adjoining properties.

Section 17.6 Streets. The streets as shown on the Plats and Plans for any Community are hereby dedicated to the public unless otherwise expressly indicated in the Supplemental Declaration for such Community.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date first above-written.

SCM REAL ESTATE DEVELOPMENT CORP.

By: _____
Sol C. Miller, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Sol C. Miller, the President of SCM Real Estate Development Corp., and acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Easements, and Restrictions of West 86th for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 19th day of Dec., 1989.

DEBORAH L. CANTRELL
NOTARY PUBLIC STATE OF INDIANA
MORGAN COUNTY
MY COMMISSION EXP. DEC.30,1993

Deborah L. Cantrell
Notary Public (Signature)

_____
(Printed Name)

My Commission Expires:

_____

County of Residence:

_____

This instrument was prepared by Phillip J. Stoffregen, Esq., ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, IN 46282; Telephone: (317) 236-2323.

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CROSS REFERENCE 910129747

12-17-91
J Fitzwater

FILED
DEC 17 1991
PIKE TOWNSHIP ASSESSOR

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WORTHINGTON SECTION I AND WORTHINGTON SECTION II

THIS SUPPLEMENTAL DECLARATION is made this _____ day of _____, 1991, by SCM REAL ESTATE DEVELOPMENT CORP., (hereinafter referred to as "Declarant"), and

91 DEC 17 PM 3:05
RECORDER

WITNESSES:

WHEREAS, Declarant is the owner or contract purchaser of the real property described in Exhibit A, attached hereto and made a part hereof, which real property will be subdivided and known as "Worthington Section I" and will be more particularly described on the plat thereof ("Section I Plat") recorded in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, Declarant is the owner or contract purchaser of the real property described in Exhibit B, attached hereto and made a part hereof, which real property will be subdivided and known as "Worthington Section II" and will be more particularly described on the plat thereof ("Section II Plat") recorded in the Office of the Recorder of Marion County, Indiana (Worthington Section I and Worthington Section II together with any additions thereto as herein provided hereinafter referred to collectively as the "Real Estate" or as the "Community"); and

WHEREAS, Declarant has heretofore executed and caused to be recorded a Declaration of Covenants, Conditions, Easements and Restrictions of West 86th, recorded on January 3, 1990 as Instrument No. 900000809 in the office of the Recorder of Marion County, Indiana (the "Prior Declaration"), which Prior Declaration has been amended by that Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of West 86th, recorded on May 23, 1991 as Instrument No. 91-49301 in the office of the Recorder of Marion County, Indiana, as heretofore amended and supplemented (hereinafter referred to as the "Master Declaration"), pursuant to which mutual and beneficial covenants, conditions and charges were imposed upon the Community as more particularly described therein; and

WHEREAS, pursuant to the Master Declaration, Declarant contemplated that this Supplemental Declaration would be recorded to annex the Real Estate as provided for in the Master Declaration and to set forth specific and particular restrictions affecting the Community which would be in addition to those imposed by the Master Declaration, for the purposes, among other things, of specifying the development standards for residences to be constructed in the Community, the services to be provided for Owners in the Community by the Association, Community Assessments for such services (which are in addition to the assessments levied and collected by the Association pursuant to the Master Declaration for Common Expenses of the Association) and such other matters as may be peculiar to the Community in relation to the other properties now or hereafter subject to the Master Declaration; and

WHEREAS, Declarant intends to sell and convey the residential Lots situated within the platted areas of the Community and before doing so desires to subject to and impose upon all

JOHN P. VON ARX
AUDITOR

real estate within the platted areas of the Community mutual and beneficial covenants, conditions, restrictions, charges and architectural guidelines (hereinafter referred to as the "Restrictions") which shall be in addition to those imposed by the Master Declaration, under a general plan or scheme of improvement for the benefit and complement of the Lots and lands in the Community and future home owners thereof.

NOW, THEREFORE, Declarant, pursuant to the provisions of Section 8.1 of the Master Declaration, hereby annexes the Real Estate and declares that all of the platted Lots and lands located within the Community as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the Master Declaration and the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said Lots and lands in the Community, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Community as a whole and of each of said Lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part of parts thereof subject to such Restrictions, and shall inure to the benefit of Declarant's successors in title to any real estate in the Community.

1. DEFINITIONS. Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned thereto in the Master Declaration unless the context otherwise requires.

2. CHARACTER OF THE COMMUNITY

A. In General. Every numbered Lot in the Community, unless it is otherwise designated by Declarant, is a residential Lot and shall be used exclusively for detached single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said Lots except a detached single family dwelling house. All tracts of land located within the Community (as shown on the Section I Plat and Section II Plat) which have not been designated by numbering as residential building lots or as dedicated streets or easements shall be Common Area (except for "Block A" on the Section II Plat) and shall be used in a manner consistent with the zoning and use designated in the Master Declaration. Block A of Worthington Section II shall be jointly owned in one-third (1/3) undivided interests by the owners of Lots 25, 26 and 27, as tenants-in-common. This undivided one-third (1/3) interest in Block A cannot be conveyed separate and apart from the ownership of the respective Lot 25, 26 or 27.

B. Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the Lots.

C. Occupancy or Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially

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completed for occupancy in accordance with the building plan therefor approved by the DCC. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the DCC and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Community shall be subject to all covenants, conditions, easements, restrictions and limitations of record, including those set forth in the Master Declaration and to all governmental zoning authority and regulations affecting the Community, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

The West 86th Development Control Committee Guidelines for Architectural Approval for Worthington are attached hereto as Exhibit C and made a part hereof, and such guidelines, as promulgated and amended from time to time as provided in Section 11.1 of the Master Declaration, together with the following restrictions shall be applicable unless the DCC shall approve otherwise in writing:

A. Types of Structures. No structure shall be erected, altered, placed or permitted to remain on any Lot except one detached single family dwelling and permanently attached accessory buildings, all as approved by the DCC.

B. Modifications to Lots and Residences. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Community, any garden, shrubs, trees or other landscaping items, fence, light fixture, basketball goal or other structure of any kind must be approved by the DCC as to size, location, height and composition before it may be installed. A standard mailbox and post will be adopted for the Community with no newspaper receptacles being allowed.

C. Exterior Construction. All plans and specifications for residences to be constructed in the Community must be approved in advance in writing by the DCC. No above-ground swimming pools will be permitted on any Lot in the Community.

D. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

E. Prohibition of Used Structures and Modular Homes. All structures constructed or placed on any numbered Lot in the Community shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot, nor shall modular constructed structures be placed on any Lot.

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F. Maintenance of Lots and Improvements. (a) The Owner of any Lot in the Community shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly, and, specifically, such Owner shall:

(i) Mow and care for the lawn at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Community.

(iv) With the approval of the DCC, cut down and remove dead trees.

(v) Keep the exterior of all improvements in such a state of good repair and maintenance so as to provide for an aesthetic appearance and as required to avoid their becoming unsightly.

(b) The Owner of any of Lots 25, 26 or 27 of Worthington Section II (excluding the Declarant) shall maintain Block A in such a manner as to prevent Block A from becoming unsightly or inaccessible, and, specifically, such Owner shall:

(i) pave and maintain Block A to the same standards and conditions as the dedicated streets within the Community.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Community.

The Owner of each such Lot 25, 26 or 27 shall be responsible for one-third (1/3) of the costs of maintaining Block A and may seek reimbursement from the other two Owners for their respective shares of such costs and expenses. All Owners in the Community, the Association and Declarant are the beneficiaries of these maintenance obligations.

G. Remedies for Failure to Comply In the event that any Owner fails to fully observe and perform the obligations set forth herein, the Association, Owners, and the DCC shall have the same enforcement rights and benefits as set forth in the Master Declaration for non-performance of the obligations set forth therein, including those for the non-payment of assessments. The Association and Declarant shall have the right to fulfill the obligations of the Owners under Section 3.F(b) above and assess one-third (1/3) the cost thereof to each of Lots 25, 26 and 27 and such assessment shall become a lien on such Lots for the benefit of the party incurring such costs and may be enforced as set forth in the Master Declaration.

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4. DESIGNATION OF COMMON AREA AND COMMUNITY ASSESSMENT MATTERS.

A. Designation of Common Area. For purposes of the Master Declaration, those portions of the Community designated as Common Area on the Section I Plat or Section II Plat or shown on the Section I Plat or Section II Plat as components of the streets system, Drainage System or otherwise shown subjected to an easement for designated purposes shall constitute the Common Area for the Development included within the Community, provided, however, Block A shall not be considered Common Area.

B. Community Services. No additional services will be provided by the Association pursuant to the provisions hereof to Owners of Lots in the Community other than those to be provided pursuant to the Master Declaration; provided, however, that Owners in the Community may by unanimous vote request and receive additional services ("Community Services") from the Association and approve Community Assessments required in connection therewith.

C. Community Assessments. The total Community Assessments per Lot per year shall be Zero Dollars ($0.00) for the Community (subject to the ability of Owners in the Community to agree on an appropriate level therefor as described above in the event services for the Community beyond those provided pursuant to the Master Declaration are desired). Community Assessments, if any, shall be levied by the Association and are subject to collection in the manner set forth in the Master Declaration for assessments for Common Expenses. As noted in the Master Declaration, Community Assessments, if any, shall be in addition to the assessment for Common Expenses.

D. Purpose of Community Assessments. The Community Assessments, if any, levied by the Association shall be used exclusively for the purpose of preserving and maintaining the values of the Lots within the Community, as the same may be platted from time to time, and promoting the health, safety and welfare of the Owners, users, and occupants of the Community and, in particular, for the provision of Community Services, as the same may be delineated from time to time, including, but not limited to, the payment of taxes and insurance with respect thereto, for the cost of labor, equipment, material and management furnished with respect to such Community Services, and any and all other related expenses (all of which are hereinafter referred to as "Community Expenses"). Each Owner of any Lot in the Community hereby covenants and agrees to pay to the Association:

(i) A Pro-Rata Share (as hereinafter defined) of the annual Community Assessments, fixed, established, and determined from time to time as herein provided; and

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(ii) An Allocated Share (as defined in Section 10.3 of the Master Declaration) of any assessments fixed, established, and determined from time to time as allocable to Owners in the Development as provided in the Master Declaration.

E. Pro-Rata Share. The Pro-Rata Share of each Owner for each Lot in the Community for purposes of clause (i) of subparagraph (D) above shall be the percentage obtained by dividing one by the total number of Lots shown collectively on the Section I Plat and Section II Plat and owned by Owners (other than Declarant), as the same may be recorded from time to time.

F. Liability for Community Assessments. Each Community Assessment and any assessments levied for Common Expenses as provided in the Master Declaration, together with any interest thereon and any costs of collection thereof, including attorneys' fees (collectively referred to herein as "Assessment"), shall be a charge on each Lot in the Community and shall constitute a lien upon each such Lot from and after the due date thereof in favor of the Association. The lien upon Lots 25, 26 and 27 shall include a lien upon an undivided one-third (1/3) interest in Block A. Each such Assessment, including any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of the Lot in the Community against which the Assessment has been levied at the time when the Assessment is due. However, the sale or transfer of any Lot in the Community pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed for Assessments. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

G. Basis of Community Assessments. In accordance with Article X of the Master Declaration, the Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth, among other things, all anticipated Community Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of any the Community items of a capital nature as described in Section 10.7 of the Master Declaration. A copy of this budget shall be delivered to each Owner in the Community within thirty (30) days prior to the beginning of each fiscal year of the Association.

H. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Community Assessments levied for such year may be insufficient to pay Community Expenses for such year, the

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Board of Directors shall call a special meeting of the Owners in the Community to consider imposing such Special Assessments as may be necessary for meeting Community Expenses for such year. A Special Assessment shall be imposed only with the approval of two-thirds (2/3) of the Owners in the Community, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

I. Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The annual Assessments on each Lot in the Community shall commence at such time and shall be due as is required pursuant to Article X of the Master Declaration.

5. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER. Whenever two or more contiguous Lots in the Community shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the DCC for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these Restrictions (and, those contained in the Master Declaration) to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the Community.

6. EFFECT OF BECOMING AN OWNER. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Declarant with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with Declarant and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

7. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

8. DURATION AND AMENDMENT. The terms and provisions of this Supplemental Declaration shall be effective during the same period of time and subject to the same conditions, limitations and may be amended to the same extent, as the terms and provisions of the Master Declaration; provided, however, that in any vote of Owners required for an

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EXHIBIT "C"

WEST 86TH DEVELOPMENT CONTROL COMMITTEE GUIDELINES FOR ARCHITECTURAL APPROVAL FOR WORTHINGTON

INTRODUCTION

Pursuant to the Declaration of Covenants, Conditions, Easements and Restrictions of West 86th as amended and implemented (herein referred to as the "Declaration"), the West 86th Development Control Committee (herein referred to as the "Committee") is charged with the responsibility of preserving and enhancing the values of properties subject to the Declaration, of maintaining a harmonious relationship among structures and the natural vegetation and topography of said properties, and of providing for the proper functioning of the storm drainage system for said properties. For these purposes, the Committee has the right to promulgate and enforce rules, regulations and guidelines to regulate the exterior design, appearance, use, location and maintenance of lands, and improvements thereon, subject to the Declaration. In order to satisfy this responsibility, the Committee has the right to take the following actions:

(a) Approve or disapprove plans and specifications for all proposed construction on land subject to the Declaration, and

(b) Approve or disapprove plans and specifications for all improvements of property on land subject to the Declaration.

The following guidelines for all construction on and improvement of the land subject to the Declaration are hereby adopted by the Committee for guidance to property owners in preparing and submitting plans and specifications to the Committee for its consideration. These guidelines may be changed, modified and amended by the Committee at any time, in accordance with the procedure therefore set forth in the Declaration.

NOTE: NO NEW CONSTRUCTION OR IMPROVEMENT TO AN EXISTING STRUCTURE MAY BE INITIATED WITHOUT PRIOR WRITTEN APPROVAL FROM THE COMMITTEE.

While the Committee shall have up to fifteen (15) days for the approval or rejection of submitted plans, every effort will be made to complete the review process in a shorter period when necessary to accommodate the needs of property owners.

I. CONSTRUCTION APPROVAL

In order to create and maintain a high quality residential development on the subject property, certain criteria for all construction has been established by the Committee.

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1. GENERAL REQUIREMENTS FOR CONSTRUCTION

While detailed construction requirements may vary by specific areas or sections of the property, the general requirements are set forth below.

(a) Square Footage. All single family residences have minimum square footage requirements which are specified as follows: 2,000 square feet for single level and 2,800 square feet for multi-level (1,600 square feet - first floor). The square footage of a residence as referred to shall not include porches, terraces, garages, carports, accessory buildings or basements.

(b) Tree Preservation. No existing tree 15' outside of the building, and 10' outside the driveway and parking areas of a lot shall be removed without the prior written approval of the Committee and such approval shall only be granted upon proof of unusual hardship in the practical utilization of the lot. Accordingly, all plot plans submitted to the Committee for approval shall designate thereon all trees outside of the building, driveway and parking areas. The removal or destruction of any such trees without the consent of the Committee shall result in liability of the owner of such lot to replace said trees with trees of like kind, quality and size.

(c) Construction Trash. All builders will be required to utilize a thirty (30) cubic yard trash receptacle for each home during periods of construction in order to properly dispose of debris. In order to preserve the overall appearance of the community while under construction, each trash receptacle will be provided by one supplier. The Committee will provide ordering information at the time of plan approval.

(d) Temporary Driveway. To further preserve the overall appearance of the community during home construction, each builder is required to install and maintain a temporary stone drive on each lot. Such temporary drive shall consist of #2 and/or #53 stone and shall provide for construction access from the public street to the building area.

(e) Colors and Materials of Homes. Materials used on the exterior of homes and improvements are subject to the approval of the Committee, and all exterior colors are, generally, to be subdued, earthen tones or white and compatible with other structures in or planned for the immediate area.

(f) Yards. By applicable zoning ordinance, the "front yard" of a lot is considered to be that area between the public street frontage and the house regardless of how the house is faced and minimum front yard, side yard and rear yard setbacks must comply with the requirements therefore referred to in the Plat Restrictions.

(g) Erosion Control and Tree Protection Measures. During periods of construction of a home or improvements on a lot, the builder shall provide adequate physical barriers such as straw bales or snow fencing in order to

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protect trees from damage by construction equipment and related activities. In addition, builders shall be required to exercise erosion control measures to prevent silt transportation to the main drainage ways. Builders shall provide appropriate temporary seeding of disturbed earth areas and temporary wood or straw bale dams to restrict silt-sediment transportation. The owner or owners of a lot shall be responsible for the performance of all requirements of these guidelines by builders and contractors employed or engaged by or through such owner or owners.

(h) Storm Water Drainage. To aid in the efficient operation of the storm water drainage system of the entire property subject to the Declaration, all water discharged from improvements on such lot including, but no limited to, water discharged from or through roofs, downspouts, sump pumps, gravity drains, water treatment and geothermal devices, patios, pool decks and tennis courts, shall be directed into existing storm drainage facilities. The site plan or plot plan for a lot submitted to the Committee for its approval shall reflect compliance with the foregoing provisions.

(i) Utilities. All utilities shall be installed underground.

2. PLANS AND SPECIFICATIONS

In order to properly review proposed construction, the Committee has established the following drawings as a minimum for submittal to the Committee. Submittal for approval shall include all items below. Clarification drawings and details may be requested by the Committee prior to approval if adequate details are not included in the plans.

(a) Site Plan. The site plan shall include location of all existing trees, proposed structure, driveways, walks, terraces, decks, pools, fences, air conditioning units, etc.

(b) Grading and Utility Plan. The grading and utility plan shall include all existing and proposed contours, finished floor elevations, proposed and existing utilities, downspout collection system and discharge point.

(c) Landscape Plan. The landscape plan shall include location, size, type and species of all proposed plant material, planting beds, mulch materials, areas of sod and seed, etc. The plan shall also include all terraces, patios, decks, walks, cabanas, pools, retaining walls, lake edge treatments, and any other hardscape elements that would have an impact upon the lot. The landscape plan is to be submitted prior to commencement of any installation.

(d) Lighting Plan. The lighting plan shall show the location and type of all exterior lighting.

(e) Foundation Plan.

(f) Floor Plan(s).

(g) Elevations. Front, rear, sides.

(h) Details. Exterior

(i) Specifications. For all exterior building colors, finishes and materials.

All site related plans shall be drawn at a scale of not less than 1" = 20'. All architectural related plans are to be drawn at a scale of not less than ¼" = 1'. All plans shall be fully dimensioned and presented in duplicate (two sets) on a 24" x 36" sheet size format.

3. METHOD OF APPROVAL

The Committee shall review plans within fifteen (15) days of compete submittal. A "Checklist of Compliance", attached to these Guidelines, shall be returned with one (1) set of plans stamped "Approved, West 86th Development Control Committee", By:_____, Date:_____. The Committee shall retain one (1) set of plans with the Checklist for its files. If the Committee disapproves the plans, written notice of such shall be given to the lot owner and shall specify the reason or reasons for such disapproval. Construction may not start until all plans have received "approval" from the Committee.

4. RESUBMITTAL

If the Committee has disapproved any of the submitted plans it is the responsibility of the owner to see that corrections or modifications are made in compliance with the Committee comments. One set of corrected plans shall then be resubmitted with changes "noted". The Committee will make every effort to review and approve the plans as quickly as possible.

II. ARCHITECTURAL GUIDELINES

As noted previously, any new building or improvement or any addition to an existing building or an exterior alteration or change to an existing building must have the prior written approval of the Committee before any work is undertaken. The Committee has established the following guidelines for specific types of construction and improvements on land subject to the Declaration. Any addition, exterior alteration or change to an existing building shall be compatible with the design character or the original building. Any new detached structure (if permitted) shall be compatible with the existing structure.

1. FENCES, WALLS, AND SCREENING

Fencing, walls and screening will be designed and installed to be as harmonious as possible with the architectural character of the community. No fence or screen will be approved if it's installation will obstruct necessary site lines for vehicular traffic.

Undue obstruction of view or other amenities from adjoining properties will be taken into consideration by the Committee when reviewing for approval. Fences in general shall not be located any closer to the front of the home than the rear foundation line of the home. Dog run fencing will be allowed only if an electronic "invisible" fence is used. The Committee discourages fencing of the entire back yard due to the effect that this fencing may have on the feeling of spaciousness desired by other property owners. The Committee shall have the right to require additional landscaping on the exterior side of all solid fencing on a lot (i.e. on the sides of such fencing facing away from the house on such lot). Fences may be privately installed but must be constructed to professional levels of quality. Non-professionally installed fences will be inspected by the Committee after completion in order to insure that the final product is of a professional quality and final approval of the fence shall be deemed withheld until successful completion of this final review.

(a) Height Restriction. The Committee is of the opinion that the environmental integrity of the community will materially lessened if the open nature of the community is damaged by a proliferation of fences of excessive height. The Committee, therefore, will approve fences up to four (4) feet in height which otherwise meet these guidelines. The Committee will give consideration, however, to a variance in this height limit where clearly unique circumstances exist. The use of six (6) foot fences around small patio areas of a backyard of a home in order to secure privacy for the immediate patio area will be permitted. The specific fence height restrictions are as follows:

(1) Property fencing and walls above grade shall not exceed four (4) feet above grade unless otherwise approved by the Committee.

(2) The Committee will not approve any proposed fence which exceeds four (4) feet in height unless the rear line of that lot offers some circumstance clearly unique to that lot.

(3) Patio screens/privacy fences shall not exceed six (6) feet in height.

(b) Materials and Finish.

(1) Wood fencing or screening will be approved if the design is in conformity with the architectural design of the community, subject to the Committee's right to require landscaping on the exterior sides thereof.

(2) The Committee will not approve an application for the installation of a chain link or other galvanized metal fencing unless it is vinyl coated or covered with similar coating material and black in color.

(3) All fencing or screening should preferably have finished material on both sides. If only one side has finished materials, that side must face the public side or adjoining property.

(4) Walls above grade should be constructed of natural stone, masonry or attractive timber. (Railroad ties will not be allowed.)

2. LANDSCAPE MATERIALS

All plant material will conform to the current issue of the American Standard for Nursery Stock published by the American Association of Nurserymen. The "landscape plan" must be implemented and completed at the time of closing on the completed house. If poor soil conditions exist, the builder (owner) is responsible for providing topsoil for backfilling of all proposed trees, shrubs and grading of the lot to establish a quality lawn. Each home will have a minimum planting requirement of:

Front and Side Yard

1 Specimen shade tree	3¼"-4" calliper
2 Deciduous shade trees	2"-2½" calliper
1 Flowering trees	1"-1½" calliper
3 Conifer trees	8'-10' height
8 Shrubs	3'-4' height
12 Shrubs	18"-24" spread

3. LAWNS

All front yards will be required to be sodded and irrigated (see Irrigation). All rear and side yards are to be seeded as the minimum requirement. All established lawns will be required, by the owner, to be fertilized and weeded as necessary to insure a quality lawn appearance at all times.

4. IRRIGATION

All lots will be required to have irrigation in front yards. Irrigation equipment shall be the pop-up spray type and hooked up to Indianapolis Water supply.

5. SWIMMING POOLS

Swimming pools must have the approval of the Committee before any work is undertaken. No above ground pools shall be allowed. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool in neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool will be required to soften the effect of sound and required pool fencing on adjacent properties.

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11. GARAGES

The location and orientation of all garages and garage doors will be planned in such a manner as to not infringe on the privacy of the adjoining property. The site and landscape plans of the home submitted for approval and the home on the adjoining property will be taken into consideration by the Committee.

12. DRIVEWAYS

All driveways must be asphalt, concrete or an acceptable alternate as approved by the Committee. Extensions, widening or re-routing of existing driveways must have the approval of the Committee prior to construction.

13. SIDEWALKS

The owner/builder is responsible for providing all sidewalks on subject lot as shown on Worthington construction plans dated October 15, 1990. Plans are available from the Committee upon request.

14. DRIVEWAY LIGHT(S)

Driveway lights will be located no closer than ten (10) feet to the right-of-way of the public street and five (5) feet from the edge of the driveway. The driveway light standard is attached hereto. Although the driveway light is not mandatory, no other light standard will be acceptable.

15. MAILBOXES

In order to preserve the overall aesthetic appearance of the properties subject to the Declaration, all mailboxes will be provided by SCM Real Estate Development Corp.

16. AIR COOLING UNITS

Air cooling units or other like utilities that are outside of the residential structure must be located at the side or rear of the home and screened from view by the use of architectural or landscape materials. Architectural screens must be compatible with the exterior of the home and constructed at a minimum height equal to the height of the unit in place.

17. SOLAR HEATING SYSTEMS

The Committee acknowledges the increased use of residential solar heating systems which utilize solar heating panels and related equipment. The Committee will carefully review solar heating plans to insure that their use and location have a minimum detrimental effect on adjoining properties. (See Air Conditioning Units.)

6. TENNIS COURTS, RACQUETBALL COURTS, PADDLE BALL COURTS, BASKETBALL GOALS, ETC.

Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities will be approved by the Committee only after thorough consideration of the potential effect of such a structure or use in neighboring properties. The Committee will not approve non-baffled lighted courts or facilities. An application for the construction of any such facility will not be considered unless the application is accompanied by an application for an acceptable fence and landscape design approval. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.

Basketball goals will not be allowed in the front driveways of any homes. Backboards of all basketball goals shall be translucent fiberglass with a black pole (or an approved equal). The Committee reserves the right to approve or disapprove the location of all basketball goals.

7. PLAY EQUIPMENT

Children's play equipment such as sandboxes, temporary swimming pools, swing and slide, playhouses and tents shall not require approval by the Committee provided such equipment is not more than six (6) feet high, maintained by the lot owner in good repair (including painting) and every reasonable effort has been made by the lot owner to screen or shield such equipment from view of adjacent lot owners. Equipment higher than six (6) feet shall require approval of the design, location, color, material and use by the Committee.

8. RETAINING WALLS

Retaining walls must be architecturally compatible with the exterior of the home (i.e. stone, brick or timber). Railroad tie retaining walls will not be approved.

9. ROOFS

All roofing materials must be of either wood shingle, slate, tile or a dimensional asphalt shingle as approved by the Committee.

10. GUTTERS AND DOWNSPOUTS

All homes are required to collect runoff by the use of gutters and downspouts, that are architecturally compatible in color with the exterior of the home. The builder (homeowner) is responsible for directing all downspouts into the underground storm drainage system unless otherwise approved by the Committee.

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CONSENT TO AMENDMENT OF DECLARATION OF
COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF WEST 86TH

THE UNDERSIGNED is the Owner of Lot(s) 21 in the Waters Edge Subdivision of the West 86th Development in Indianapolis, Marion County, Indiana.

THE UNDERSIGNED purchased such Lot(s) subject to the Declaration of Covenants, Conditions, Easements and Restrictions of West 86th recorded under Instrument No. 900000809 in the Office of the Recorder of Marion County, Indiana, as amended and supplemented (hereinafter referred to as the "Prior Declaration").

THE UNDERSIGNED has been delivered proposed amendments to the Prior Declaration, which amendments are set forth below.

THE UNDERSIGNED hereby consents to the Prior Declaration being amended as follows:

1. Section 2.6, Paragraph O. of the Prior Declaration is amended to read as follows:

O. Exterior Lighting. The DCC shall adopt and designate a standard exterior light fixture for all Lots in the Development and may designate a standard location for such exterior light fixtures. The DCC may require any or all Owners to install and maintain such a standard exterior light fixture, at such Owner's expense. Exterior light fixtures shall be on and illuminated from dusk to dawn unless the Board shall provide otherwise by rule or regulation. No exterior lighting fixture, other than those fixtures approved by the DCC (or installed by Declarant) shall be installed on the exterior of any structure in the Development. No lighting fixture shall be installed that may become an annoyance or a nuisance to owners or occupants of adjacent properties. All modifications of exterior lighting must be approved in writing by the DCC, in advance, as provided in Article XI of this Declaration.

2. Section 10.1 of the Prior Declaration is amended by adding the following sentence:

The word "assessments" as used herein shall mean all assessments referred to herein for Common Areas and Common Expenses and the Community Assessments.

3. Section 10.3(a) of the Prior Declaration is amended to read as follows:

Section 10.3. Computation of Assessment. (a) It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list Common Expenses and Community Assessments for each Community (as defined in the various Supplemental Declarations), if any. Each Owner of any Lot in the Development hereby covenants and agrees to pay to the Association its allocated share (the "Allocated Share") of the annual Common

Expenses for the Development, as fixed, established and determined from time to time as herein provided. The Allocated Share of each Owner in the Development shall be determined by the Declarant and shall be based upon a combination of the following factors: (i) the projected number of Lots in the Development; (ii) the actual or projected purchase price and/or value of each Lot and any residence thereon; (iii) the square footage of each Lot; (iv) the percentage of the Common Area located within and utilized by a particular Community; (v) the number of Lots owned by Owners other than the Declarant; and (vi) any other factor which the Declarant may determine, from time to time, is in the best interest of Declarant and the Development. The method by which the Declarant allocates the Common Expenses among Owners may be changed from time to time prior to the Control Transfer Date as changes occur in the six (6) factors set forth above. The method of computing each Owner's Allocated Share that is used by the Declarant on the Control Transfer Date shall be the method used by the Board subsequent to the Control Transfer Date unless a change in method is approved by a Majority of the membership of the Association at any meeting. In addition each Owner covenants and agrees to pay to the Association his or her Pro-Rata Share of Community Assessments as more specifically set forth in the Supplemental Declarations dealing with the various Communities in the Development. The Board shall cause a copy of the budget, the amount of the assessments to be levied against each Lot for the following year and a description of the method used in determining the assessments to be delivered to each Owner at least fifteen (15) days prior to the meeting. Each segment of the budget including, without limitation, the assessments for Common Expenses and Community Assessments, shall become effective unless disapproved at the meeting (i) with respect to assessments for Common Expenses, by a vote of at least a Majority of the total Association membership, and (ii) with respect to Community Assessments for a given Community by a vote of at least a Majority of the Members in the applicable Community. Any reference to "Proportionate Share" in any supplement or amendment to the Prior Declaration or this Declaration shall mean and refer to Allocated Share as defined herein.

4. Section 11.1 of the Prior Declaration is amended to read as follows:

Section 11.1 Architectural Standards Jurisdiction. The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Development Control Committee established herein. The DCC shall have the right to unilaterally promulgate, modify, and amend at any time and from time to time, on behalf of the Board of Directors and the Association, architectural guidelines and standards which shall be binding on all Owners of Lots within a Community or within the Development in its entirety, as determined in the reasonable discretion of the DCC. Such architectural guidelines and standards and amendments thereto may be recorded in the Office of the Recorder of Marion County, Indiana by the Declarant until the Control Transfer Date and subsequent thereto by the Association.

THE UNDERSIGNED acknowledges and understands that Declarant (as defined in the Prior Declaration) will execute an Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions of West 86th which shall incorporate these amendments and which shall be a substitute for the Prior Declaration.

This Consent is hereby given and effective this the 21st day of FEBRUARY, 1991.

PAUL E. ESTRIDGE CORP.

By: [signature]

GARY L MCNUTT - VICE PRESIDENT
(printed name and title)

APPROVED
DMD-DDS BY ESG
5-22-91

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