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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
INNISBROOKE SUBDIVISION

This Declaration of Covenants and Restrictions of InnisBrooke Subdivision ("Declaration") is made this 9TH day of APRIL, 1992, by InnisBrooke Development, Co., an Indiana partnership (the "Declarant"),

W I T N E S S E T H:

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

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with public streets, lakes, landscaped areas, open spaces, walls, fences and other common areas and amenities for the benefit of such residential community, to be known as "InnisBrooke Subdivision"; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Real Estate to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each Owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of supervising, maintaining and administering any common areas located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the Owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "InnisBrooke Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated therein.

ARTICLE I
Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Not-For-Profit Corporation Act of 1971, as amended;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (d) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;
- (e) "By-Laws" shall mean and refer to the Code of By-Laws of the Corporation, as the same may be amended from time to time;
- (f) "Committee" shall mean and refer to the "InnisBrooke Architectural Control Committee", the same being the committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purposes herein stated;
- (g) "Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not

dedicated to the public, which are not Lakes and which are not identified as Lots on any such plat, whether such plat is heretofore or hereafter recorded, (ii) such portions of the Real Estate as are herein declared to be Common Areas on the plat of the Real Estate even though located on or constituting part of one or more such Lots shown on any such plat, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both;

- (h) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Corporation, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (i) "Corporation" shall mean and refer to InnisBrooke Homeowners Association, Inc., an Indiana not-for-profit corporation, which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;
- (j) "Declarant" shall mean and refer to InnisBrooke Development Co., an Indiana partnership, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;
- (k) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family;
- (l) "Lakes" shall mean and refer to the Lakes located on the Real Estate;

(m) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a Lot on such subdivision plat, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purpose. Any part of a "Lot" reconveyed to Declarant shall, upon such re-conveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason;

- (n) "Mortgages" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (o) "Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;
- (p) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;
- (q) "The Real Estate" shall mean and refer to the parcel of real estate in Johnson County, Indiana, described in Exhibit "A" attached to this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate;
- (r) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;
- (s) "Site Plan" shall mean and refer to the preliminary plan reflecting Declarant's proposed development of the Real Estate, a copy of which is attached hereto as Exhibit "B" and hereby incorporated herein by reference.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II

Declaration: Common Areas and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of

occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Committee and of the Corporation with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee, the Corporation, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III Obligations of Declarant as to Common Areas

Section 1. Agreement to Construct and Convey Other Common Areas. Declarant has constructed or provided for, or will prior to the Applicable Date construct or provide for, Common Areas consisting of the following items:

- (a) a storm drainage system for the Real Estate, which may include inlet pipes, open ditches, swales, pipes and other structures and drainage courses;
- (b) the installation, in common areas of landscaping and other screening materials;
- (c) the installation of entrance walls and other masonry fences;
- (d) the installation, within the street rights-of-way, of street lighting, street directories and street signs;
- (e) the installation of tennis courts.

Upon final construction or provision of the Common Areas described in this Section 1, Declarant covenants to convey by quitclaim deed all of its right, title and interest in and to

said Common Areas to the Corporation and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Corporation, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein as described in Article II, Section 2, of this Declaration.

Section 2. Additional Common Areas at Declarant's Option. Declarant may, at its option but without obligation to do so, convey other portions of the Real Estate to the Corporation for, or construct, install or provide for other items for or on, or services to serve, the Real Estate as amenities for, the mutual benefit, use or enjoyment of the Owners. Included as examples of the foregoing, but not limited therein, might be a community television antenna or receiving device to serve all of the Dwelling Units, storage buildings for storage of articles by Owners or provisions of portions of the Real Estate for recreational or other common uses or purposes for the Owners, including without limitation, a swimming pool, tennis courts, clubhouse or other recreational facilities or additional entrances, landscaped areas and walls. Any such portions of the Real Estate, or other items, or services, which Declarant, at its sole option, elects to convey, construct, install or provide as Common Areas shall become a part of the Common Areas only when so designated by Declarant in a written instrument executed by Declarant and delivered to the Corporation. Upon any such designation by Declarant, Declarant shall convey by quitclaim deed all of its right, title and interest in and to the Common Areas so designated to the Corporation and all such right, title and interest in and to the Common Areas so designated and conveyed shall then and thereupon be and become the property of the Corporation, whether or not the same constitutes, or may be located entirely or partially on, any one or more of the Lots or any Lot shown upon any recorded subdivision plat of the Real Estate, or parts thereof. As to any of such Common Areas so designated and conveyed pursuant to the foregoing provisions of this Section 3 which are located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein or thereto, as described in Article II, Section 2, of this Declaration.

ARTICLE IV

Corporation; Membership; Voting; Functions

Section 1. Membership in Corporation. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall remain a

member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Corporation.

Section 2. Voting Rights. The Corporation shall have the following classes of membership, with the following voting rights:

- (a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Corporation, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B member shall be entitled to one hundred (100) votes for each Lot of which it is the Owner and one hundred (100) votes for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Corporation, or (ii) the date Declarant no longer owns any Lots nor any portion of any single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate, nor any property adjacent to the Real Estate intended

to become a future section of InnisBrooke Subdivision (the applicable date being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate of which it is then the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.

- (c) Special. Until the Applicable Date, there shall be three (3) Special members of the Corporation, being the persons from time to time appointed by Declarant to serve as the "Initial Board" pursuant to Section 2 of Article V hereof. Persons who are Special members shall not be deemed or considered members of the Corporation nor Owners of Lots for any purpose other than to qualify to act as members of the Initial Board. Special members shall have no voting rights on any matters submitted to a vote of the members [unless such Special member is also a Class A member, in which event his voting rights shall be governed by subsection (a) of this Section 2].

Section 3. Functions. The Corporation has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE V Board of Directors

Section 1. Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated

or to be designated, in the Articles, to-wit: J. Greg Allen, James P. Barton, James P. Barton, Jr. and Robert M. Hyde (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provision of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the first annual meeting of the members of the Corporation occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first annual meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Special member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the members occurring on or after the Applicable Date provided

herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may employ a Managing Agent upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) procuring of utilities used in connection with the Lots, Dwelling Units and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);
- (c) landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (e) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (f) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (g) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (h) procuring and maintaining for the benefit of the Corporation, the Owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (i) paying taxes and assessments assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- (j) all duties and obligations imposed upon the Corporation or the Board under this Declaration, the Articles, the By-Laws or the Act.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These power include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Corporation and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and
- (h) to grant to such public or private companies, entities or bodies as the Board may approve, such easements as may be necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more utility easements, maintenance and access easement, landscape and maintenance easements, or

Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 per year without obtaining the prior approval of a majority of the cumulative vote of the Owners, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 9. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful, abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Corporation, until the Applicable Date. Declarant may, at its option, engage a Managing Agent

affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services.

ARTICLE VI
Real Estate Taxes; Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Corporation and treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Corporation.

ARTICLE VII
Maintenance and Repair

Section 1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. By the Corporation. Maintenance, repairs, replacements and upkeep of the Common Areas (including, but not limited to, the storm water drainage system for the Real Estate except where it is the responsibility of a public authority) shall (except to the extent provided herein as the

obligation of Owners) be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

In addition to the maintenance of the Common Areas, the Corporation, as part of its duties, and as a part of the Common Expenses, shall provide for maintenance for the following items, which shall be considered part of the Common Areas for purposes of maintenance only:

- (a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Corporation shall have no obligation to maintain any public street, road or highway located within any public right-of-way on or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;
- (b) any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate; and
- (c) any equipment, such as water wells or fountains, installed by Declarant to serve the entire project to be developed on the Real Estate, whether or not located on Lots.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any of the Common Areas (or items deemed Common Areas for purposes of maintenance), if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may

be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII Lake Covenants

Section 1. Each Lake area as shown on the plats of the subdivision shall be owned and controlled as tenants in common by the Owners of Lots proposed to abut the Lake.

Section 2. The Owners of said Lake Lots together with guests in their presence, shall have the exclusive rights to use and enjoyment of such Lake provided may not interfere with the drainage system of the subdivision of which the Lakes are a part.

Section 3. Until the applicable date, it shall be the responsibility of the Declarant, its successors and assigns, for the maintenance, repair and upkeep of said Lake.

Section 4. After the applicable Date, the co-owners for each Lake shall form an association in which each Lot Owner shall have one vote in the selection of a Board of Managers which shall consist of not less than three nor more than nine members. Thereafter, on the first Saturday in March of each calendar year, the voting members shall elect the Board of Managers for the ensuing year to a term commencing April 1st and expiring March 31st.

Section 5. The Board of Managers shall thereafter be responsible for establishing rules and regulations pertaining to Lake usage as well as establishing an annual budget to assure adequate maintenance, upkeep and repair of the Lake property including the easement adjacent thereto. Such budget shall be established annually on or before April 1st of each year for the ensuing twelve (12) month period.

Section 6. Assessments shall be equally paid by each voting member within thirty days from the date of billing, and there shall be a late charge of 2% per month on all delinquent payments.

Section 7. Assessments for Lake maintenance shall be a lien upon the Lots abutting the Lake subordinate only to the lien of a first mortgage, which lien can be enforced by the Board of Managers of any Lake Lot Owner subject to these Lake Covenants. By acceptance of deed of title to these properties, the grantee consents to the lien of assessment and its enforcement provisions together with the costs of collection including reasonable attorneys' fees.

Section 8. IN the event of a dispute arising from the maintenance, repair and upkeep of the Lake, any voting member upon giving notice in writing designating a time and place not less than seven (7) days from date of notice, which time may be shortened in case of dire emergency, at which meeting, by a majority vote, such dispute shall be resolved.

Section 9. The Board of Managers shall not be held personally liable in the discharge of their official duties except for wilfull and wanton misconduct, and there may be included in the maintenance budget a sufficient sum to provide insurance form liability in favor of the Board of Managers as well as public liability and property damage insurance covering all voting members for liabilities incurred by reason of Lake ownership.

Section 10. No voting member or third party shall do or permit to be done any action or activity which could result in pollution of the Lakes, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse affect upon water quality, drainage of the subdivision or proper Lake management.

The Board of Managers, in behalf of the property Owners in InnisBrooke or any Lake Lot Owner subject to these Lake Covenants, and the Johnson County Drainage Board shall have the authority to institute an action for injunction to abate such activity or seek mandatory relief for correction of any damage caused to the Lakes or interference with the drainage system, together with an damages incurred, and upon recovery of judgment shall be entitled to costs together with reasonable attorneys' fees.

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of any of the lakes which in

any way interferes with their proper functioning as part of such storm water drainage system. No boating, swimming, diving, skiing or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Managers. No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes, except the Board of Managers may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same. Fishing from the shores of such lakes adjacent to an Owner's Lot by the Owner thereof and his invited guests and family shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations.

ARTICLE IX

InnisBrooke Architectural Control Committee

Section 1. Creation. There shall be, and hereby is, created and established the "InnisBrooke Architectural Control Committee" (the "Committee") to perform the functions provided to be performed by it hereunder or under any subdivision plat of the Real Estate. Until the Applicable Date, the Declarant, or not more than five (5) or less than three (3) persons designated by it, shall constitute the Committee. After the Applicable Date, the Committee shall be a standing committee of the Corporation consisting of not more than five (5) or less than three (3) Persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not, at any time, provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Character of the Real Estate.

A. In General. Every Lot in the Real Estate, unless it is otherwise designated by the Declarant, is a residential Lot and shall be used exclusively for single family residential purposes. ~~Buildings shall be erected, placed or permitted to remain upon any of said residential lots, except a single family dwelling house and such other improvements,~~ appurtenances and facilities as are usual and customary accessory uses to a single family dwelling house; provided, however, that all improvements have been approved by the Committee.

In addition to individual site plan restrictions administered by the Committee, platted building lines, minimum distances between buildings and minimum front, side and rear building lines shall be as established on any recorded plat of the Real Estate (except as varied by the Committee to the extent

permitted hereunder). All construction upon the Real Estate shall be done in compliance with the requirements of all applicable zoning, building and other governmental laws, ordinances, codes and other regulations.

B. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the Dwelling Unit shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

Section 3. Provisions Respecting Disposal of Sanitary Waste.

A. Nuisances. No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. Construction of Sanitary Sewage Lines. All sanitary sewage lines on the Lots shall be designed, constructed and installed in accordance with the provisions and requirements of Johnson County, Greenwood Sanitation Department, and these Restrictions.

C. Connection Requirements for Sanitary Sewers. All homes shall have sewers directly connected by way of gravity except by the use of lift pumps and/or check valves or connections shall be one foot above the lowest manhole in the Subdivision.

Section 4. Committee's Functions.

A. Statement of Purposes and Powers. The Committee shall regulate the exterior design, appearance, use locations and maintenance of lands subject to these Restrictions, and improvements thereon, in such a manner as to preserve and enhance values to maintain a harmonious relationship among structures and the natural vegetation and topography, and to provide for the proper functioning of the storm drainage system for the Real Estate. For these purposes, the Committee may, from time to time and at any time, make, amend and modify such rules, regulations and guidelines as it may deem necessary or desirable to guide Owners as to the terms, conditions, procedures and requirements of the Committee for the submission and approval of items to it. Such rules, regulations and guidelines may, in addition, set forth additional specifications to those set forth herein or in any subdivision plat of the Real Estate, so long as the same are not

inconsistent with this Declaration or any such subdivision plat.

B. Approval Process. No fence, deck, dock, dwelling, building, structure or improvement of any type or kind, including basketball goals and other recreational equipment shall be constructed or placed on any Lot without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include pLot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed (and existing) landscaping, together with any other material or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1/4"=1' and all pLot plans shall be drawn to a scale of 1"=30', or to such other scale as the Committee shall require. There shall also be submitted, where applicable, such other permits or reports as may be required under this Declaration. The following drawings shall be considered minimum for approval study:

- (a) Site plan which includes complete topographic study, location of all trees, existing and proposed structures, drives, proposed (or existing) sanitary sewage disposal system location, utility service, terraces and landscape design; and
- (b) Foundation plan, floor plans, cross-sections exterior elevations and complete specifications for all materials to be used on the exterior (including roof) of the house, building, structure or other improvement.

C. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

- (a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plat restrictions or any rules, regulations or guidelines adopted by the Committee;

- (b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or
- (c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners.

D. Change, Modification or Amendment of Rules, Regulations and Guidelines. Any rules, regulations and guidelines at any time made by the Committee may be changed, modified and amended by the Committee at any time, and from time to time, on a prospective basis; provided, however, that no such change, modification or amendment shall be applied by the Committee retroactively as to any construction theretofore completed nor as to the construction of any improvement which has previously been formally approved by the Committee if such construction has been commenced or is commenced within ninety (90) days after such change, modification or amendment is effective. Any rules, regulations or guideline adopted and made by the Committee, and any changes, modifications or amendment of any such rules regulations and guidelines at any time made by the Committee, shall be set forth in a written instrument and recorded in the office of the Recorder of Johnson County, Indiana, and shall be effective upon such recording; provided, however, that the making, adoption, change, modification and amendment of any such rules, regulations or guidelines by the Committee shall not be considered or deemed to be amendments of this Declaration requiring the consent of approval of any Owners, Mortgagees or other Persons.

E. Duties of Committee. The Committee shall approve or disapprove proposed improvements within twenty-one (21) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor.

F. Non-Liability of Committee. The Committee shall not be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or

advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.

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

Section 5. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots 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 Unit, he shall apply in writing to the Committee 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 Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit.

ARTICLE X Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnish the Owners with a financial statement of operations by the Corporation, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Corporation at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual or special meeting is

mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual or special meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners attending such meeting; provided, however, that in no event shall such annual or special meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement repair of the Common Areas shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Johnson County or Marion County, Indiana selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual or special meeting of the Corporation at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided, however, Lots owned by Declarant shall not be subject to assessment. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, each Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget

by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall not be earlier than fifteen (15) days after the written notice of such Regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

- (a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether annual or quarterly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether annual or quarterly, until the entire amount of such excess has been so credited.

provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final

determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfer his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for the Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Section 2 of Article X hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot nor owned by Declarant, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by

abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. Regular and special assessments should constitute a lien against the Lots and Dwelling Units thereon. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other charges due the Corporation, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly announced or published by The Indiana National Bank or its successors (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board) plus 4% but in no event more than the maximum rate allowable under applicable usury laws.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any

Regular Assessment or Special Assessment or other charges as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments or other charges thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the party personally liable therefor, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

Section 6. Initial Budgets and Assessments.

Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date and notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant to another Person, and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Corporation against each Lot so conveyed by Declarant shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up

Fund. Upon the closing of the initial conveyance of each Lot by Declarant to another Person, the purchaser of such Lot shall pay to the Corporation, in addition to any other amount then owed or due to the Corporation, as a contribution to its working capital and start-up fund, an amount equal to one-sixth (1/6th) of the then current annual Regular Assessment against such Lot,

which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Corporation with respect to such Lot. Such working capital and start-up fund shall be held and used by the Corporation for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Corporation for its early period of operation of the Real Estate, to enable the Corporation to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE XI Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE XII
Insurance

Section 1. Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Corporation as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty on the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or distributed by the Corporation or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which

may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of \$1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, the Declarant all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

Section 3. Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall insure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. Upon request of any Owner or Mortgagee whose interest may be affected thereby, the Corporation shall provide such Owner or mortgagee with a description of the insurance coverage maintained by the Corporation.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of

insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Corporation.

ARTICLE XIII Casualty and Restoration

In the event of damage to or destruction of any of the Common Areas due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the

Common Areas to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Areas were originally constructed.

ARTICLE XIV
Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Areas shall be in addition to any other covenants or restrictions contained herein and in any subdivision plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family; provided, however, that the foregoing restriction of "used exclusively for residential purposes" shall not apply to any Lot or part thereof or any other part of the Real Estate at any time owned by the Corporation which constitutes a part of the Common Areas, and upon which no Dwelling Unit is located.

- (b) Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (c) No waste shall be committed in any Dwelling or on any Lot.
- (d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.
- (e) No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the subdivision developed or to be developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.
- (f) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Areas. The Common Areas and Lakes shall be kept free and clean of rubbish, debris and other unsightly materials.
- (g) No industry, trade, or other commercial or religious activity, educational or otherwise, designated for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.

- (h) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas.
- (i) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board.
- (j) Common Areas shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

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

Section 2. Non-applicability to Corporation.

Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in Section 1 of this Article XIII shall not apply to or be binding upon the Corporation in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or

might hinder, delay or otherwise adversely affect the Corporation in the performance of its duties, obligations and responsibilities as to the Common Areas.

Section 3. Restrictions and Obligations Concerning Size, Placement and Maintenance of Dwelling Units and Other Structures.

A. Garages and Driveways. No dwelling shall have less than a full size 2-car or more than a 3-car attached garage, unless otherwise approved by the Committee. Carports with open sides will not be permitted. All driveways and vehicle parking areas shall be hard surfaced with either concrete, brick or asphalt. No gravel or stone driveways will be permitted. No portion of any Lot may be sold or subdivided so that there will be thereby created a greater number of Lots than the original number platted.

B. Minimum Living Space. The ground floor of each multi-story dwelling constructed on a Lot, exclusive of one-story open porches, garages and other areas not considered living areas, shall be not less than 900 square feet of finished and livable floor area and all 2-story dwellings shall contain not less than 1,800 square feet of total living area. In the case of a one-story structure, the ground floor area, exclusive of open porches and garages, shall be not less than 1,500 square feet of finished and livable floor area. Basement floor areas shall not be counted in the above square footages and shall be in addition thereto. Notwithstanding the foregoing, the Committee may in its discretion approve construction of a dwelling that does not comply with the foregoing requirements if in the Committee's discretion the design and size of the dwelling will be compatible with the other dwellings in the subdivision and will not detract from their value.

C. Approval of Construction Plans and Contractor. No construction shall be commenced nor shall any building, structure or other improvements (including, without limitation, fences) be erected, placed or altered on any Lot in this subdivision until the building plans, specifications, including exterior surface of all buildings, and pLot plan showing the location of such construction have been approved as to the quality of materials, compatibility of the same with existing structures in this subdivision and with the intent of these covenants by the Committee, in accordance with the procedures for such approval contained in this Declaration and all rules, regulations and guidelines adopted by the Committee. The elevations and floor plans proposed by the Lot Owner must be determined by the Committee to be particularly suited to the Lot and compatible with the theme of the development and the

adjacent dwellings. If the Committee fails to act upon any plans submitted to it for its approval within a period of twenty-one (21) days from the submission date of the same, the Owner may then proceed with the building or construction activity according to the plans as submitted. Neither the Committee nor any of its members shall be entitled to any compensation for services performed pursuant to this covenant or in performing any of its duties or obligations set forth in the Declaration. No fence or wall or mail box and post will be erected, placed, or altered on any Lot or within the subdivision, unless previously approved by the Committee in writing. The Committee must also approve the Owner's plan for preserving existing trees and foliage prior to the commencement of any work on the property. It shall be the Lot Owner's responsibility to comply precisely with all building and site finish ground elevations as finally required and approved by the Johnson County Drainage Board and as evidenced upon the final construction plans for the development of this subdivision. Notwithstanding compliance with all minimum development standards as required by applicable ordinances and the covenants and restrictions of this plat, no construction shall commence upon any Lot in this development unless the Committee or its designee shall have first approved in writing the building contractor selected by the Lot Owner for the construction.

D. Set-Back Requirements. Set-back and yard size requirements for Lots shall be as set forth on any recorded plat of the Real Estate; provided, however, that the committee may, in its discretion, reduce any such side yard and rear yard requirements as set forth on any such plat as to a particular Lot or Lots, but in no event shall any yard requirements be reduced below those required by applicable zoning laws, ordinances and regulations and in no event shall the aggregate side yards on any Lot be less than 25 feet of the foundation of the building any closer than 10 feet to a Lot Line.

E. Mailboxes. In order to aid in the preservation of aesthetic appearances within the Real Estate, any mailbox installed on the Real Estate must be approved by the Committee as to size, location, height and composition before it is installed. A standard mailbox design will be prepared by the Declarant, and such design shall be the standard for all mailboxes installed on the Real Estate.

F. Exterior Construction. All materials used on the exterior of any Dwelling Unit and any other building improvements on a Lot shall be subject to the approval of the Committee. All driveways must be surfaced in accordance with the requirements as set forth in any recorded plat of the Real Estate and as provided herein from their point of connection with the abutting street or road to their point of connection with the garage apron. Driveway and walk designs must be submitted to the Committee for approval.

G. Heating Plants and Garages. Every Dwelling Unit located on the Real Estate must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the Dwelling Unit. Every Dwelling Unit located on the Real Estate must have at least a two-car attached garage of the same architectural design and materials as the Dwelling Unit.

H. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within one hundred eighty days (180) after the beginning of such construction unless circumstances beyond the reasonable control of the builder and/or Owner prevent such completion. 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. The Declarant and/or Homeowners Association shall have standing and authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

I. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

J. Landscaping and Grading. Each Lot Owner shall provide reasonable landscaping on his Lot including, at a minimum, suitable foundation landscaping. All landscaping plans are subject to Committee approval. The Committee may, in its discretion, modify such plans to promote the integrity and the aesthetic appearances of this subdivision. Finished grading of all yards must be completed within 15 days after the dwelling is constructed, weather permitting and all yards must be seeded or sodded with grass within ten days after the completion of finish grading, weather permitting. Trees provided by Declarant, if any, will be protected by Owner during construction and replaced within 30 days if damaged or if a tree dies on Owner Lot.

K. Maintenance of Lots and Improvements. The Owner of any Lot other than Declarant 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 the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious 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 Real Estate;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas; and
- (vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

In the event the Owner of any Lot (other than Declarant) fails to conform with the foregoing requirements, then the Corporation shall have the right but not the obligation through its agents and officers to enter upon said Lot and perform the required maintenance and repair. The cost of such maintenance and repair shall be paid by the Lot Owner and shall constitute a special assessment and lien against such Lot.

L. Declarant's and the Corporation's Right to Perform Certain Maintenance. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Corporation through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Declarant or the Corporation shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Declarant nor the Corporation, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 4. General Prohibitions. In addition to any restrictions or limitations contained elsewhere in this Declaration and in any recorded plat of the Real Estate, the following prohibitions and restrictions shall govern the development, use and occupancy of the Real Estate:

A. Parking, Storage, Pools. All motor vehicles belonging to members of a household shall have permanent parking spaces in garages or driveways and no disabled vehicle shall be stored on any Lot. Also, no boat, motorcycle, trailer, camper or motor home of any kind (including, but not in limitation

thereof, house trailers, camper trailers, or boat trailers) shall be kept or parked upon any Lot unless kept from view of neighboring residences and streets by being in a garage. No pools shall be excavated or built without the prior approval of the Committee. Above ground swimming pools shall not be permitted or constructed on any Lot.

B. Signs. No sign of any kind shall be displayed to the public view on any Lot, except signs used by an approved builder to advertise the property during the construction period, as approved by the Declarant. Signs advertising property for rent are specifically prohibited. Violation of this sign restriction will result in Fifty Dollars (\$50.00) per day liquidated damages payable to the Declarant until such time as the Corporation owns and is responsible for the maintenance of the Common Areas, at which time such liquidated damages shall be payable to the Corporation. The Declarant and/or Corporation shall approve all signs deemed appropriate by the Committee advertising properties for sale, which signs shall be uniform in design and placed as the Committee shall determine proper.

C. Appearance of Lot. All equipment, garbage cans, service yards or storage piles shall be kept from view of neighboring residences and streets. All rubbish, trash or garbage stored outside any residence shall be regularly removed from the premises and shall not be allowed to accumulate thereon. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All dwellings shall contain a garbage disposal unit. Outside trash burners will not be permitted. No Owner of a Lot shall burn or permit the burning out-of doors of garbage or other refuse. Antennas, masts, towers or satellite dishes of any kind will not be permitted on any Lot or outside any dwelling, unless first approved by the Committee. No clothes lines are permitted outside any dwelling.

D. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

E. Nuisance. No noxious, unlawful, or otherwise offensive activity shall be carried out on any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood in the opinion of the Declarant or the Corporation.

F. Private Water Systems and Air Conditioners. No private, or semi-private, water supply may be located upon any Lot which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other

civil authority having jurisdiction, approved by the Committee and restricted to use in connection with a sprinkler system or geothermal heating and cooling system. No septic tank, absorption field or any other method of sewage disposal shall be located or constructed on any Lot or Lots herein. Solar heating systems of any nature must be approved by the Committee as to design and aesthetic quality prior to construction. Owners are hereby advised that such systems are generally discouraged and will not be approved unless their design blends aesthetically with the structure and adjacent properties. All outdoor air conditioning units shall be screened from view.

G. Fences. No fence of any kind shall be allowed on any Lot without the written consent of the Committee.

H. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building shall be buried below the surface of the ground. 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 Real Estate at any time, except as the times when refuse collections are being made.

I. Model Homes. No Owner of any Lot shall build or permit the building upon his Lot or any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant.

J. Ditches and Swales. It shall be the duty of the Owner of any Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plant material) and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subparagraph F.

K. Utility Services. Utility services shall, to the greatest extent possible, be installed underground.

L. Recreational Equipment. No Owner shall install or allow to exist on Owner's Lot any basketball goal or other recreational equipment without the Committee approving the type and location of the equipment. All basketball backboards or any other fixed games and play structures shall be located behind the rear foundation line of the main structure and within Lot set-back lines unless otherwise approved by the Committee.

M. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining

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

ARTICLE XV
Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75% in the aggregate of the votes of all Owners). In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.
- (e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XI of this Declaration with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Article XII of this Declaration with respect to reconstruction or repair of the Common Areas in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the

Committee and providing for its functions, without, in each any any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Declaration.

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

Section 2. Amendments by Declarant Only.

Notwithstanding the foregoing or anything else contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any governmental requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) function similar to those performed by such agencies or entities, (e) to subject additional property to these restrictions, or (f) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 or behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under

this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XVI
Acceptance and Ratification

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

ARTICLE XVII
Negligence

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

ARTICLE XVIII
Benefit and Enforcement

This Declaration and the Restrictions shall run with and bind the Real Estate for a term commencing on the date this

Declaration is recorded in the office of the Recorder of Johnson County, Indiana and expiring 25 years from such date, after which time they shall be automatically extended for successive periods of ten (10) years each, unless by vote of a majority of the then Owners of the Lots it is agreed to change this Declaration or the Restrictions in whole or in part, or to terminate the same. The failure or delay at any time of Declarant, the Corporation, the Owners, the Committee, or any other Persons entitled to enforce this Declaration and the Restrictions, to enforce any of the same shall in no event be deemed a waiver of the same, or the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof. Notwithstanding the foregoing, any violation of this Declaration may be waived by a majority of the then Owners of the Lots.

Prosecution of Violations. It shall be lawful for the Corporation, the Committee (as to matters for which it has responsibility) or any other person owning any real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the Lot Owner or Owners found to be in violation.

ARTICLE XIX

Non-Liability of Johnson County Drainage Board

The Johnson County Drainage Board shall not be responsible in any way for, and disclaims any liability for, any defect in any plans, specifications or other materials approved by it in connection with the storm drainage system for the subdivision, or for any defects in the construction thereof.

ARTICLE XX

Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 2. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.

Section 4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 5. Interpretation. The captions and titles of the various articles, sections, sub-sections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

IN WITNESS WHEREOF, InnisBrooke Development, Co., Declarant herein, has executed this Declaration on the day and year first hereinabove set forth.

INNISBROOKE DEVELOPMENT, CO.

By: J. Greg Allen Pres.
J. Greg Allen Builders, Inc.,
General Partner

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared J. Greg Allen, the President of J. Greg Allen Builders, Inc., an Indiana corporation and general partner of InnisBrooke Development, Co., an Indiana partnership, who acknowledged the execution of the above and foregoing instrument as his voluntary act and deed as such officer for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 9th day
of April, 1992.

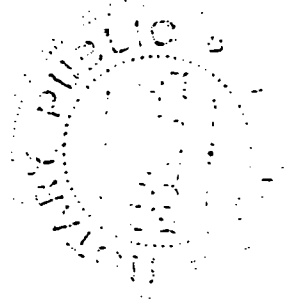
My Commission Expires:

April 1, 1994

Melva J. Barnhorst
Melva J. Barnhorst Notary Public
Resident of Johnson County

This instrument was prepared by Robert T. Wildman
HENDERSON, DAILY, WITHROW & DEVOE
2600 One Indiana Square
Indianapolis, Indiana 46204
(317) 639-4121

RTW.195



JUN 11 4 08 PM '92

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JACQUOLINE E. KELLER
JOHNSON COUNTY RECORDER