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DECLARATION OF
CONVENANTS, CONDITIONS, AND RESTRICTIONS
FOR ROBERTSON VILLAGE PLANNED DEVELOPMENT

JUL 28 1988

TOWNSHIP
MARION COUNTY

THIS DECLARATION, made on the date hereinafter set forth by John E. Smith
Enterprises, Inc., an Indiana Corporation, hereinafter referred to as
"Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Indianapolis,
Marion County, State of Indiana, more particularly described as follows:

A part of the Southeast Quarter of Section 17, Township 16
North, Range 3 East, Pike Township, Marion County, Indiana,
more particularly described as follows:

Commencing at the Northwest corner of the West Half of the
Southeast Quarter of said Section 17; thence South 0°00'00"
East along the Western line of the West Half of the Southeast
Quarter of said Section 17 and the centerline of Guion Road,
444.23 feet to the Southern right-of-way line of West 41st
Terrace as recorded January 8, 1980 as Instrument #80-01574
in the Office of the Recorder, Marion County, Indiana and
the point of beginning; thence traversing the Southern
right-of-way line of West 41st Terrace the following four
(4) courses: South 90°00'00" East, 35.00 feet;
Northeasterly on a curve to the right having a central
angle of 90°00'00", a radius of 25.00 feet, an arc length
of 39.27 feet; South 90°00'00" East, 415.00 feet; Easterly
on a tangent curve to the left having a central angle of
14°33'02", a radius of 685.03 feet, an arc length of
173.97 feet; thence South 13°04'46" East, 127.69 feet;
thence South 02°31'34" West, 204.20 feet; thence South
23°33'08" East, 85.09 feet; thence South 87°25'17" East,
258.52 feet to the Western line of Robertson Village
Subdivision, Phase I, Section One as recorded January 8,
1980 as Instrument #80-01574 in the Office of the
Recorder, Marion County, Indiana; thence South 00°13'00"
West along the Western line of Robertson Village Subdivision,
Phase I, Section One, 421.12 feet; thence North 90°00'00"
West 957.66 feet to the Western line of the West Half of
the Southeast Quarter of said Section 17 and the centerline
of Guion Road; thence North 00°00'00" East along the Western
line of the West Half of the Southeast Quarter of said
Section 17 and the centerline of Guion Road, 792.15 feet
to the point of beginning, containing 15.425 acres, more
or less.

JUL 28 1988 02:18 9Z
CURTIS L. CONRAD
MARION COUNTY RECORDER
BUILT ENTERED FOR
TAXATION
SUBJECT TO
ACCEPTANCE

RECEIVED FOR RECORD
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BETH O'LAUGHLIN
MARION COUNTY RECORDER

NOW THEREFORE, Declarant hereby declares that all of the properties described
above shall be held, sold, and conveyed, subject to the following easements,
restrictions, covenants, and conditions, which are for the purpose of protecting
the value, and desirability of, and which shall run with the real property, and
be binding on all parties having any right, title, or interest, in the described
properties, or any part thereof, their heirs, successors and assigns, and shall
inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to the Robertson Village Homeowners' Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons, or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property as described below in its raw undeveloped state. In the event properties are added to the Association in the future, the commencement for assessment on those properties shall be governed by the conveyance of the common areas within those properties.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. John E Smith Enterprises, Inc., in recording this plat of Robertson Village, has designated all areas of land, except platted lots, as playgrounds and common area, intended for the use by the homeowners in Robertson Village for recreation and other related activities; also, to be known as Common Facilities. *

Section 5. "Lots" shall mean and refer to any plot, plots, or parts of plots, of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area, upon which one dwelling unit is constructed.

Section 6. "Declarant" shall mean and refer to John E Smith Enterprises, Inc., its agents and employees, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person, or entity, who holds membership in the Association.

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Section 9. "Class I Lots" shall mean and refer to any Lot upon which there is a residence, or single family unit, which has been completed as evidenced by a FHA, or VA, notice of final inspection, or other appropriate evidence of compliance.

Section 10. "Class II Lots" shall mean and refer to any vacant Lot, or Lots, upon which a residence, or single family unit, has not been completed.

ARTICLE II

PROPERTY RIGHTS

* Section 1. Owner's Easements of Enjoyment: Every owner shall have a right, and easement, of enjoyment in, and to, the Common Area which shall be appurtenant to, and shall pass with, the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission, and other fees, for the use of any recreational facility situated upon the Common Area.

(b) the right of the Association to suspend the voting rights, and right to use of the recreational facilities, by an owner, (1) for any period during which any assessment against his Lot remains unpaid; (2) for a period, not to exceed 60 days, for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate, or transfer, all, or any part, of the Common Area to any public agency, authority, or utility, for such purposes, and subject to such conditions, as may be agreed to by the members. No such dedication, or transfer, shall be effective unless an instrument, signed by two-thirds (2/3) of each class of members, agreeing to such dedication, or transfer, together with an acceptance thereof, by the public agency, authority, or utility, has been recorded.

(d) the right of the Association to limit the number of guests of members.

(e) the right of the Association, in accordance with its Articles and By-Laws, to borrow for the purpose of improving the Common Area and common facilities, and in aid thereof, to mortgage said properties, and the rights of such mortgagee in such properties shall be subordinate to the rights of the homeowners hereunder; provided, however, that the improvements to the Common Area shown on the plat shall be completed and paid for by Declarant.

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(f) the right of the Association, through its Board of Directors, to determine the time and manner of use of the recreation facilities by the members.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and common facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership.

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. Notwithstanding the preceding paragraph, the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or,
- (b) on December 31, 1997.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Properties hereby covenants, and each owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and

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reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the maximum annual assessment shall be \$600.00 per Lot.

(a) From and after January of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year, not more than eight percent (8%) above the maximum assessment for the previous year, without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above eight percent (8%) by a vote of two-thirds (2/3) of each class of members who are voting in person, or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole, or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person, or by proxy, at a meeting duly called for this purpose.

Section 5. Certification of Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate, signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3

and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members, not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Class I Lots and Class II Lots, although the assessments on all Class II Lots shall be fixed at twenty-five percent (25%) of the assessment upon all Class I Lots.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence for the lots in each section as shown on attached Exhibit "A", on the first day of the month following the conveyance of the common area for each section. As each section is completed and recorded, the common area shall be deeded and the annual assessment commenced. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the owner of each Lot one-twelfth ($\frac{1}{12}$) of the annual assessment for such Lot.

Section 9. Effect of Non-payment of Assessments. Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall

bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, with interest, costs, and reasonable attorney's fees of any such action, added to the amount of such assessment. No Owner may waive, or otherwise escape, liability for the assessment provided herein by non-use of the Common Area, or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments, as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. All properties dedicated to, and accepted by, a local public authority, and the Common Area, shall be exempt from the assessment created herein.

Section 12. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled by an affirmative vote of sixty percent (60%) of the votes of each class of the Members of the Association. In no event shall such management agreement be cancelled prior to the effecting by the Association, or its Board of Directors, of a new management agreement with a party, or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association, or its Board of Directors, to effect a management contract. Any and all management agreements shall be made with a responsible party, or parties, having experience adequate for the management of this type of project.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor deleted from the Properties, nor shall any exterior addition to, or change, including color, or alteration thereon, be made until the plans and specifications, showing the nature, kind, shape, height, materials, and location of the same, shall have been submitted to and approved in writing by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board, as to harmony of external design (and location) in relation to surrounding structures and topography.

It is the intent of this Article that the exterior of all buildings, including the requirement for at least a one car garage, remain intact. The patios, the driveways and parking areas shall remain in their original configuration. To change the said configuration, to add or delete a garage, or to make any other change to the exterior of the building, including change of color, adding or deleting the walls, fences, and patios, shall require written approval of two-thirds (2/3) of the members. (Refer to Article VIII, Section 6 and Section 9.)

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and connects two or more dwelling units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence, or willful acts, or omissions, shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed, or damaged, by fire, or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter

make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent, or willful acts, or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent, or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under ~~this~~ Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.)

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, patios, yard lights, and other exterior improvements. (Such exterior maintenance shall not include glass surfaces, screens, screen and/or storm doors, exterior door and window fixtures, and other hardware such as patio equipment.)

As long as the Properties are subject to this Declaration of Covenants, Conditions, and Restrictions, each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Association, its agents and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the exterior maintenance contemplated herein.

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In the event that the need for maintenance, or repair, is caused through the willful, or negligent, act of the Owner, his family, or guests, or invitees, and not covered, or paid for, by insurance on such Lot, the cost of such maintenance, or repairs, shall be added to, and become a part of, the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Said property is hereby restricted to residential dwellings for residential use. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding, shall be used on any portion of said Property, at any time, as a residence, either permanently, or temporarily.

Section 2. Each Lot shall be conveyed as a separately designated, and legally described, free hold estate, subject to the terms, conditions, and provisions hereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, or the Builder of said residential units, to maintain during the period of construction and said of said residential units, upon such portion of the premises as Declarant deems necessary, such facilities, as in the sole opinion of Declarant, may be reasonably required, convenient, or incidental, to the construction and sale of said residential units.

Section 4. No animals of any kind shall be raised, bred, or kept, on any of said Lots, or in the Common Areas, except that dogs, cats, or other household pets, may be kept within the residential units, subject to rules and regulations adopted by the Association, provided that such pets are not kept, bred, or maintained, for any commercial purposes, and provided further that any such pet causing, or creating, a nuisance, or unreasonable disturbance, shall be permanently removed from the property upon three (3) days written notice from the Association.

Section 5. Nothing shall be done, or kept in any residential unit, or in the Common Areas, and common facilities, which will increase the insurance rates on any building, or the contents thereof, without the written consent of the Association. No Owner of a Lot shall permit anything to be done, or kept in his residential unit, or in the Common Areas, or common facilities, which will result in the cancellation of insurance on any residential building, or the contents thereof, or which would be in violation of any law. No waste shall be committed in the residential units, or in the Common Areas, and common facilities.

Section 6. No Owner shall cause, or permit, anything to be placed on the outside walls of any building, and no awning, canopy, shutter, radio, or television antenna, shall be affixed to, or placed upon the exterior walls, or roof, or any part thereof, without the prior written consent of the Association. No Owner shall change an exterior residential unit door without first obtaining the prior written consent of the Association as to the style, design, and quality, of such replacement door. (Refer to Article V.)

Section 7. No advertising signs (except one of not more than five (5) square feet "for rent" or "for sale" sign per lot), billboards, unsightly objects, or nuisances, shall be erected, placed, or permitted, to remain on said property, nor shall said property be used in any way, or for any purpose, which may endanger the health, or unreasonably disturb the Owner, of any residential unit, or any resident thereof.

Section 8. All clotheslines, equipment, garbage cans, service yards, woodpiles, ~~X~~ or storage piles, shall be kept from view of neighboring residential units and streets. All rubbish, trash, or garbage, shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All exterior clotheslines shall be confined to patio areas.

Section 9. Except in the individual patio areas appurtenant to a residential unit, no planting, or gardening, shall be done, and no fences, hedges, or walls, shall be erected, or maintained, upon said Property, except such as are installed in accordance with the initial construction of the buildings located thereon, or as approved by the Association's Board of Directors, or their designated representatives. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, patio, and garage areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged, and agreed, by all parties concerned, that this paragraph is for the mutual benefit of all Owners of Lots in Robertson Village and is necessary for the protection of said Owners.

Section 10. Maintenance, upkeep, and repairs of any patio, screens, storm windows, and screen and/or storm doors, exterior door and window fixtures (including window panes), and other hardware shall be the sole responsibility of the

individual Owner of the Lot appurtenant thereto, and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary, or appropriate, to the proper maintenance, and upkeep, of the Common Area, all exteriors, and roofs, of the residential units, including but not limited to, the walks, recreation, and parking areas, shall be taken by the Board of Directors, or by its duly delegated representatives.

Section 11. All fixtures and equipment installed within a residential unit, commencing at a point where the utility lines, pipes, wires, conduits, or systems enter the exterior walls of a residential unit, shall be maintained and kept in repair by the Owners thereof. An Owner shall do no act, nor any work, that will impair the structural soundness, or integrity, of another residential unit, or impair any easement, or hereditament, nor do any act, nor allow any condition to exist, which will adversely affect the other residential units, or their Owners.

Section 12. No noxious, or offensive activity, shall be carried on in any residential unit, or in the Common Areas, and common facilities, nor shall anything be done therein, either willfully, or negligently, which may be, or become, an annoyance, or nuisance, to the other Owners, or occupants.

Section 13. Except as otherwise provided herein, nothing shall be done in any residential unit, or in, or to, the Common Areas, and common facilities which will impair the structural soundness, or safety, of the Property, or which would structurally change any building, or would impair the value thereof, or impair any easement.

Section 14. No trucks of any kind that require a "truck license" shall be parked, or permitted to remain on any street, or parking area, or on any part of the common area, unless such truck shall be enclosed by a garage and not exposed to view. Trucks making deliveries, or present in connection with service, repair, or construction are excepted.

Section 15. No unlicensed vehicles shall be permitted on any part of the Common Area (an exception would be when the vehicle is stored in an Owner's garage and not exposed to view) more than twenty-four (24) hours. *


Section 16. All automobile repairs for gain are prohibited, and if performed by owner for a member of that household, said repairs shall be performed in the garage and not exposed to view.

Section 17. Except for management of the affairs of the Association, no industry, business, trade, occupation, or profession, of any kind shall be conducted, maintained, or permitted, within any residential unit; provided, however, this restriction shall not be construed to prohibit an Owner from

- (a) maintaining his professional library therein;
- (b) keeping his personal, business, or professional, records, or accounts therein, or
- (c) handling his personal, business, or professional, telephone calls, or correspondence therein.

Such uses are expressly declared customarily incident to the principle residential use and not in violation of any restriction under this Section.

Section 18. Nothing shall be altered, or constructed, or removed from the Common Areas, and common facilities, except with the written consent of the Association.

Section 19. No boat, boat trailer, travel trailer, camper, or recreational equipment of any description shall be stored, exposed to view, on the Common Area. 

Section 20. No action shall at any time be taken by the Association, or its Board of Directors, which in any manner would discriminate against Owner, or Owners, in favor of the other Owners.

ARTICLE IX

EASEMENTS

Section 1. Each Lot, and the Property included in the Common Area, shall be subject to an easement for encroachments created by construction, settling, and overhangs, as designed, or constructed, by the Declarant. A valid easement for said encroachments, and for the maintenance of same, so long as it stands, shall, and does exist. In the event the multi-family structure containing two or more residential units is partially, or totally destroyed, and then rebuilt, the Owners of the residential units so affected agree that minor encroachments of parts of the

adjacent residential units, or Common Areas, due to construction, shall be permitted, and that a valid easement for said encroachment, and the maintenance thereof, shall exist.

Section 2. There is hereby created a blanket easement upon, across, over, and under, all of said Property for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones, electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing of electrical and/or telephone company service, to erect and maintain the necessary equipment on said property, to affix and maintain electrical and/or telephone wires, circuits, and conduits on, above, across and under the roofs and exterior walls of said residential units. An easement is further granted to all police, fire protection, ambulance, and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, the Association shall have the irrevocable right, to be exercised by its Board of Directors, or by its duly authorized officers, agents, or employees, to have access to each residential unit, and to the Common Areas, and common facilities, from time to time during reasonable hours, as may be necessary for purposes of inspection in connection with the enforcement of any provision of this Declaration, the Articles of Incorporation of the Homeowners' Association, By-Laws (or Rules) and Regulations of the Association; for the maintenance, repair, or replacement, of any of the Common Areas and common facilities therein, or accessible therefrom, or any other facility, or easement this Association is obligated to maintain; or, at any time, for the purpose of making emergency repairs therein, which are deemed by the Association necessary to prevent damage to the Common Areas, and common facilities, or to the common walls, or to another residential unit. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed, or relocated, on said Property except as initially programmed, and approved, by the Declarant, or thereafter approved by Declarant, or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement, herein provided, request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said premises.

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Section 3. There is hereby created an ingress egress easement over all paved streets for the purpose of accessing each residential unit by the Owners, tenants, contract buyers, and guests and to the Declarant for purposes of continuing and extending said development in the future. Said easement to be extended section by section as the common area is deeded.

Section 4. Underground single phase electric service shall be available to all residential units on the aforesaid Lots, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the Declarant company. The utility company furnishing the service shall have an easement, as designated, on the recorded plat thereof.

Easements for the underground service may be crossed by driveways and walkways, provided the Declarant, or Builder, makes prior arrangements with the utility company furnishing said service. Such easements for the underground services shall be kept clear of all other improvements, including buildings, patios, or other pavings.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law, or in equity, all restrictions, conditions, covenants, reservations, liens, and charges, now, or hereafter imposed, by the provisions of this Declaration. Failure by the Association, or by the Owner, to enforce any covenant, or restriction, herein contained, shall, in no event, be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants, or restrictions, by judgement, or Court order, shall in no wise affect any other provision, which shall remain in full force and effect.

Section 3. Amendments. The covenants, and restrictions, of this Declaration shall run with, and bind, the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter, by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

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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 Association, 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 the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, 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 guaranty first mortgages covering Lots, (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) functions similar to those performed by such agencies or entities, (e) to subject Section Two and/or Section Three to this Declaration, 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 on 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 and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of 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 shall no longer hold or control title to any Lot or to Section Two or Section Three.

Section 4. Annexation of Additional Property. Annexation of additional property, other than as provided in Section 5 hereof, shall require the assent of two-thirds (2/3) of the Class A members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all Class A members, not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting, setting forth the purpose of the meeting. The presence of members, or of proxies, entitled to cast sixty percent (60%) of the votes of Class A members shall constitute a quorum. If the required quorum is not forthcoming at the first meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership are not present in person, or by proxy, Class A members not present may give their written consent to the action taken thereat.

Section 5. Annexation of Other Sections of the Tract. At any time, and without the necessity of any consents from Owners, or Members of the Association, the Declarant may, but is not obligated to, cause other sections of the Original Tract to be annexed to this Declaration. Said Tract is more fully described on Page One herein. When such other sections are annexed, the Declarant shall add such sections, one by one, to this Declaration by a Supplemental Declaration referring to this Declaration, describing the other sections, and submitting said property to the provisions of this Declaration. Any Owner, by acceptance of a Deed to his Lot acknowledges, consents, and agrees, that the following rights and conditions shall be applicable upon the recording of such Supplemental Declaration:

(a) The Lots described in the Supplemental Declaration shall be governed in all respects by the provisions of this Declaration, the Articles of Incorporation of Robertson Village Homeowners' Association, Inc., and its By-Laws.

(b) The rights of any Owner of a Lot in the Other Section of the Tract shall be equal to the rights of any Owner (or member), of a Lot in Section 1.

(c) Each Owner agrees to execute and deliver such additional documents as may be necessary, or desirable, to accomplish the Annexation of the Other Sections.

Section 6. Notice. Any Notice to be given hereunder shall be deemed conclusively when given to the recipients in the following manner respectively: (1) in the case of an Owner; if delivered personally to him, or to a member of his household of the age of at least sixteen (16) years, or placed in the United States Mail, First Class Postage Fully Prepaid, addressed to him at his most recent address, as shown on the records of the Association, (2) in the case of the Declarant; upon delivery to an Officer of the Declarant, or to its Resident Agent, for service of process in person, (3) in the case of the Association; upon delivery to its President, its Secretary, its Manager, or its Resident Agent, for service of process in person, or when placed in the United States Mail, First Class Postage Fully Prepaid, addressed to the Association, in care of its then Resident Agent.

Section 7. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply; (1) either to coporation, or (2) individuals (men or women), shall in all cases be assumed as though in each case fully expressed.

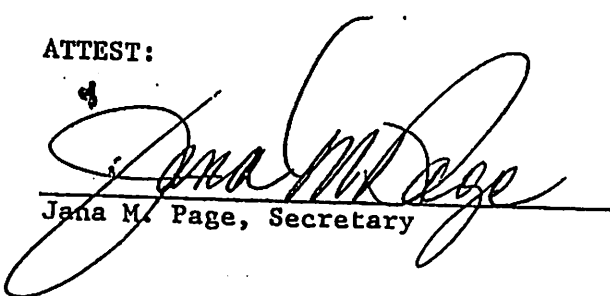
IN WITNESS WHEREOF, Declarant by its Corporate Officers has fully executed this Declaration of Covenants, Conditions, and Restrictions this 14th day of July, 1988.

JOHN E SMITH-ENTERPRISES, INC.

By: 

John E Smith, President

ATTEST:


Jana M. Page, Secretary

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STATE OF INDIANA)
) SS:
TIPPECANOE COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared John E Smith and Jana M. Page, President and Secretary, respectively, of JOHN E SMITH ENTERPRISES, INC., who acknowledged the execution of the foregoing Declaration for, and on behalf of, John E Smith Enterprises, Inc., and by authority of its Board of Directors.

Witness my hand and Notarial Seal this 14th day of July, 1988.

Madge Mills
Notary Public

My Commission Expires:

January 19, 1992

Madge Mills
Notary resides in Tippecanoe County, IN

This Instrument Prepared by G. Mark Smith, Attorney at Law

/alh

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