DECLARATION OF CONDITIONS AND RESTRICTIONS FOR SCHMIDT FARMS PROPERTY OWNERS ASSOCIATION

This document provides the full text of the master Declaration of Conditions and Restrictions for the Schmidt Farms Property Owners Association (POA) in the City of Crown Point, Lake County, Indiana. Executed on January 17, 2005, by the Developer, Schmidt Farms Development, LLC, this master declaration establishes the corporate framework, voting weights, easement reservations, insurance mandates, operational assessments, and multi-phase expansion mechanisms that govern the subdivision.

Recorded Date: January 20, 2005 (Document No. 2005 003563)
Prepared By: Michael L. Muenich, Attorney at Law, 3235 45th Street, Suite 304, Highland, IN 46322
Declarant/Developer: Schmidt Farms Development, LLC, an Indiana Limited Liability Company
Signatory: Douglas R. VanDerNoord, Manager
Notary Public: Julie C. Mills, Lake County (Commission Expires: July 9, 2011)

RECITALS & WITNESSETH

WHEREAS, Declarant is the owner of the real property described in Exhibit 'A' to be known generally as Schmidt Farms; and

WHEREAS, Developer desires to create on the property a residential community with permanent roadways, appurtenant parkways, general parking areas, and to reserve the right to provide recreational facilities and other common areas ('Community Facilities') for the benefit of the Community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities of the Community and for the enhancement, maintenance and use of the Community Facilities; and, to this end desires to subject the property and the respective owners to the covenants, restrictions, terms and conditions hereinafter set forth; and

WHEREAS, Developer deems it desirable for the preservation of the Community to create an agency to which should be delegated and assigned the powers of maintaining, administering and enforcing various covenants and restrictions and collecting and disbursing the assessments and charges hereinafter set forth, to be known as the Schmidt Farms Property Owners Association for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that all of the property described in Exhibit 'A' shall be held, transferred, sold, conveyed, occupied and dedicated subject to the covenants, conditions, restrictions, easements, undertakings, agreements, changes, liens and rules of Schmidt Farms POA as provided herein.

ARTICLE I: DEFINITIONS

1.01 Definitions. The following terms, unless the context requires otherwise, shall have the following meaning when used in this Declaration:
A. 'Declaration' shall mean this instrument and shall include such amendments, if any, to this instrument as may from time to time be adopted as permitted by the term hereof.
B. 'Declarant' shall mean Schmidt Farms Development, LLC, its beneficiaries, successors and assigns.
C. 'Developer' shall mean Schmidt Farms Development, LLC, an Indiana Limited Liability Company, its successors and assigns.
D. 'Property' shall mean the real estate described in Exhibit 'A' hereto.
E. 'Association' shall mean Schmidt Farms Property Owners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.
F. 'Common Areas' shall mean any outlots so identified or other parts of the Property not comprising the feeholder lots which may be later added or defined as common areas, owned by or leased via easement to the Association for the common use and benefit of members.
G. 'Unit' or 'Dwelling Unit' shall mean a residential building and/or house integrated and designed for use exclusively as living quarters for a single family.
H. 'Building' shall mean a structure, located on the Property, containing one (1) dwelling unit.
I. 'Parcel' shall mean any property owned by Developer or conveyed to a grantee other than the Association, which has not been designated or conveyed as a Community Parcel.
J. 'Owner', 'Unit Owners', or 'Parcel Owners' shall mean the record owner of fee simple title to any Dwelling Unit or Parcel, excluding those holding interest merely as security. Developer is excluded from the definition of Owner for unsold parcels under Section 3.01.
K. 'Member' shall mean every person or entity who holds membership in the Association.
L. 'Board' shall mean the board of directors of the Association.
M. 'Occupant' shall mean a person or persons who from time to time occupy a Dwelling Unit.
N. 'Occupancy Expense' shall mean all sums incurred, expended, or proposed for carrying out, protecting, or implementing the permitted activities of the Board or Association.
O. 'Proportionate Share' shall mean the ratio of Common Expenses based on the number of Units owned relative to total existing Units. A vacant or developing parcel counts as a single Unit.

ARTICLE II: REAL ESTATE AFFECTED

2.01 Property. The property described in Exhibit 'A' at all times hereafter, shall be held, transferred, sold, conveyed, used and occupied subject to and in accordance with the terms, provisions and conditions contained in this Declaration.
2.02 Applicability of Declaration. Upon subjection of the Property, all action heretofore taken by the Board, Association, or Developer shall be binding upon and inure to the benefit of the Parcel and Unit Owners. Owners shall not be responsible for expenditures made prior to the date their property is subjected to the declaration, except by equitable adjustments specified at the election of the Developer.
2.03 Sub-Declarations and Agreements. Developer, the Board, or individual Owners may execute further Declarations (such as condominium declarations, maintenance/cross-easement agreements, or building owner declarations). To the extent any subsequent agreement conflicts with this master Declaration, this master Declaration shall govern.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 Membership. Each Owner of a Unit or of any Parcel shall have a membership in the Association. Membership is appurtenant to and shall not be separated from ownership of a Parcel or Unit. Accepting conveyance of a parcel automatically establishes membership. Developer is not excluded from membership while it retains ownership of one or more Units or Parcels.

3.02 Voting Rights.

A. Each Owner shall be entitled to one (1) vote for each Unit or Parcel owned.

B. Developer Control Window: Notwithstanding the foregoing, the Developer retains the absolute right to control the Owner's Association until four (4) months after seventy-five percent (75%) of the Units across all recorded phases are sold, or for five (5) years from recording, whichever occurs first. Thereafter, control transfers to the Unit Owners, with Developer retaining individual voting rights for any remaining unsold lots.

3.03 Multiple and Entity Ownership. There shall be exactly one (1) vote and one (1) designated voting member for each Parcel or Unit. Co-owners must confirm their designated voting representative in writing. Voting rights for corporations are exercisable by their chief executive officer; for corporate trusts by the beneficiary; and for individual trusts by the trustee.

ARTICLE IV: COMMUNITY FACILITIES: OWNERSHIP, USE, MAINTENANCE & EASEMENTS

4.01 Conveyance of Common Areas. Developer shall convey identified outlots to the Association for use as Common Areas (covering easements, parkways, and detention basins). The Association is legally obligated to accept all such conveyances. Outlots serving as vehicular or pedestrian access are subject to a perpetual easement for ingress and egress for all adjacent parcels. Developer explicitly reserves the right to use all Common Areas for the benefit of adjacent non-subject property and to install improvements thereon.

4.02 Easement Privileges. Developer reserves the following structural easement rights, which survive all lot conveyances:

A. Utility Installation: To grant public or private utilities or government authorities the right to install and maintain infrastructure (electric, gas, water, sanitary sewer, storm sewer, and telephone service) across any portion of the Property.

B. Drainage & Sump Tap-ins: To reserve and grant drainage/storm sewer easements, including the absolute right to tap into and use all existing pipes, conduits, or pumping facilities owned by the Association.

C. Re-entry Right: To re-enter any portion of the property to execute necessary structural repairs on pipes, conduits, or pumping equipment.

D. Modification: To expand, modify, or relocate these easements to facilitate their intended purpose, provided no easement unreasonably impairs an Owner's residential use of a dwelling.

4.03 Easement Equipment. All utility infrastructure installed via these easements remains the property of the Association or the respective utility provider.

4.04 Other Facilities. The Association can operate recreational facilities within common areas and charge operational fees to users, capped at actual costs.

4.05 Use of the Common Areas. Every Owner, occupant, and invitee has a perpetual right to use and benefit from the Common Areas, which passes with the title of every parcel. The Association

holds unconditional rights of ingress and egress over common areas to perform upkeep.
4.06 Maintenance and Common Expenses. The Association is exclusively responsible for the upkeep, alteration, improvement, real estate taxes, accounting, legal fees, and comprehensive insurance policies for all common areas. All such expenditures constitute Common Expenses funded via assessments.
4.07 Suspension of Privileges. The Board retains the explicit power to suspend an Owner's or occupant's rights to use Common Areas and community facilities during any period in which an assessment remains delinquent, or to penalize a covenant default. The Board may seek injunctive relief to enforce a suspension.
4.08 No Dedication. Recording this declaration does not constitute a public dedication of the Common Areas. The Board and Developer may jointly apply to dedicate any portion of common areas for public use or subdivide them without requiring further consent from lot owners.
4.09 Prior Rights. All rights established herein are subordinate to any pre-existing easements, covenants, or restrictions of record.

ARTICLE V: SPECIFIC POWERS OF THE BOARD OF DIRECTORS

5.01 Specific Powers of the Board. The Board is authorized to contract and pay for the following out of the master maintenance fund:
A. Shared Utilities: Water, electricity, waste removal, telephone, heat, or power serving common areas or non-metered structures.
B. Casualty Insurance (All-Risk Mandate): Property insurance against fire and extended hazards covering all Common Areas (excluding land, foundations, and excavations) at maximum insurable replacement value. Policies must contain a maximum deductible of the lesser of $10,000 or 1% of the face amount. Carriers must hold a B general policyholders rating and a III financial size category (or an A rating). Policies must feature Inflation Guard, Demolition Cost, and Contingent Liability endorsements, naming the Association as primary insured and providing 10 days' written notice of cancellation to all mortgage holders.
C. Comprehensive Public Liability Insurance: Mandatory general liability coverage of not less than $1,000,000 for bodily injury and property damage for a single occurrence, protecting owners, board members, officers, and the developer. Coverage must include cross-liability claims and require a 10-day cancellation notice.
D. Workmen's Compensation: Coverage matching all state legal mandates.
E. Professional Services: Hiring independent property management firms, standard labor, legal counsel, and accounting teams.
F. Grounds Maintenance: Complete landscaping, sweeping, painting, repairs, and payment of real estate taxes assessed against common outlots.
G. Mechanic's Lien Discharges: The Board may expend funds to clear any mechanic's lien levied against the common structures. If individual owners caused the lien, they are jointly and severally liable for all discharge costs via a special assessment.
H. Capital Expenditure Cap: The Board's authority to purchase equipment, capital additions, or improvements is strictly capped at $10,000 per calendar year. Any expenditure exceeding $10,000 requires the prior approval of two-thirds (2/3) of the Voting Members, unless it is explicitly approved at the annual meeting by a majority of votes or is required to eliminate an immediate emergency.
5.02 Vouchers. All financial payment vouchers must be signed by officers designated by written board resolution, defaulting to the joint signatures of the Treasurer and President.

ARTICLE VI: ASSESSMENT AND MAINTENANCE FUND MECHANISMS

6.01 Common Expenses Estimate. On or before December 1st annually, the Board (or Developer) must estimate the neighborhood's cash requirements for the upcoming year, including operating reserves. Owners must be notified in writing with an itemized breakdown by December 15th.
Payment Schedule: Owners are legally obligated to pay exactly one-quarter (1/4) of their annual assessment on January 1st and every 90 days thereafter. A late fee of $25.00 is automatically applied to any payment delinquent past 30 days. Unsold lots held by the developer are explicitly exempt from these operating assessments; assessments commence on the date of the initial third-party lot sale.
6.02 Reserve for Contingencies and Replacements. A dedicated capital replacement reserve fund must be maintained. Extraordinary or unbudgeted items must be charged against this reserve first. If the master budget is insufficient, the Board may levy a supplemental assessment distributed among owners by Proportionate Share, becoming effective with the next quarterly cycle due more than 10 days after notice.
Capital Contribution at Closing: Upon purchasing a completed home from a contractor or builder, the homebuyer must pay a mandatory capital contribution equal to one (1) full quarterly assessment directly to the Association to build operational reserves. For unimproved or vacant lot transfers, this reserve payment triggers automatically upon the physical occupancy of the dwelling.
6.04 Failure to Prepare Annual Budget. A delay or failure by the Board to issue an annual budget does not release an Owner from their assessment obligations. Owners must continue paying quarterly at the existing premium rate until a new budget is formally calculated.
6.05 Books and Records. Chronological financial accounts, receipts, and source vouchers must be kept open for inspection by any owner during standard business hours. Upon 10 days' notice and payment of a fee, the Board must provide a certified account standing statement.
6.07 Personal Assessment Obligation. Every assessment, along with interest, collection costs, and reasonable attorney's fees, is the direct personal obligation of the person who owned the parcel at the time of the levy. It does not pass to successors in title unless explicitly assumed. Accumulated reserves transfer automatically with the deed to a new buyer.
6.08 Association Lien and Foreclosure Remedies. If an assessment remains unpaid for 30 days, the Board can file a lawsuit for collection or foreclose a lien against the real estate. Delinquent balances accumulate a penalty interest rate of twelve percent (12%) per annum, compounded monthly, plus full attorney's fees.
Lien Priority: The Association's assessment lien becomes active 30 days after delinquency and can be perfected by recording a notice with the Lake County Recorder. This lien is completely subordinate to any bank purchase-money first mortgage recorded prior to the assessment delinquency. First mortgage foreclosure sales extinguish the lien for assessments due prior to the sale, but do not release subsequent owners from future assessments. No owner can escape assessment liability by non-use of common areas or abandonment of their unit.

ARTICLE VII & VIII: LAND USE PROHIBITIONS & INCORPORATION

7.01 Use Restrictions. Common areas must remain un-obstructed. No storage or alterations are permitted within common outlots without prior written board consent. Commercial signage, advertising posters, or public placards are strictly prohibited on common areas (excluding activities by the developer). No trade, business, or professional practice can be conducted on common areas.

The developer and subcontractors retain absolute right-of-way access during construction.
8.01 Corporate Formation. The Developer or Board is authorized to charter an Indiana Not-for-Profit Corporation to serve as the corporate shell for the Schmidt Farms Property Owners Association, Inc., transferring all management functions to this legal entity.

ARTICLE IX: GENERAL COMPLIANCE & LEGAL FRAMEWORKS

9.02 Encumbrance Limits. No individual lot owner has any authority to execute a mortgage or place any legal encumbrance on the Common Areas; encumbrances can only be placed on their single deeded parcel.
9.03 Negligence of Owner. If an owner, occupant, or hired contractor causes structural damage to any common area through negligence or omission, the complete repair costs are assessed directly to that owner's parcel, unless fully covered by active property insurance. Liability is joint and several between owners and occupants.
9.04 Association Right of Access. Authorized representatives of the Association or its property manager hold an absolute right of access to enter any private dwelling unit upon reasonable notice to conduct necessary repairs, maintenance, or structural mitigation impacting shared common facilities.
9.05 Legal Abatement. The Board or Developer can file lawsuits for damages, injunctions, or specific performance to halt any covenant violation or default, recovering all associated legal expenses.
9.06 Phasing, Expansion & Annexation Mechanics. The master declaration sets forth detailed rules allowing the neighborhood to scale dynamically:
A. Phase 1 Base: Developer establishes the initial footprint covering Lots 1 through 54.
B. Annexation Option: The Declarant and Developer explicitly reserve an unconditional option for a period of five (5) years from recordation to annex and add 'Additional Property' to this declaration without requiring the consent or approval of the Association or existing lot owners.
C. Dynamic Scaling: Developer may add land in any volume, sequence, or order in their absolute discretion. Added structures must match the existing community in construction quality but need not match in architectural style, size, elevation, or material choices.
D. Power of Attorney Grant: To execute these expansion amendments, every homeowner and mortgagee, by accepting a deed or executing a mortgage in Schmidt Farms, automatically grants the Declarant an irrevocable Power of Attorney, coupled with an interest, to sign, execute, and record subsequent phase amendments in their name.
9.07 Professional Management Constraints. The Developer can hire a professional property manager. However, the Developer cannot bind the Association to a professional management contract unless it grants the Association an unconditional right of termination without cause or penalty, exercisable at any time after control transfers, on not more than ninety (90) days' written notice.
Developer Working Capital Fund: The Developer is legally mandated to seed the Association's startup accounts by collecting a working capital fund contribution equal to at least three (3) months' estimated common assessments for every single Unit at the time that unit's initial sale is closed.
9.10 Covenants to Run with Land. All restrictions, conditions, liens, and assessments constitute covenants running with the land, permanently binding all future grantees, heirs, and titleholders.
9.11 Non-Waiver. Failure by the Board or Developer to enforce a covenant infraction does not constitute a waiver of the right to enforce future violations, regardless of the frequency of the breaches.

9.13 Supermajority Amendment Thresholds. Prior to the formal transfer of control, the Declarant reserves the absolute right to unilaterally change or modify the Declaration and By-Laws. After control transfers to the homeowners, amendments require the signature of the Board and the explicit approval of a sixty-seven percent (67%) supermajority of both Unit Owners and their eligible mortgage holders. Declarant may unilaterally amend the document at any time prior to control transfer to meet secondary mortgage market requirements (FNMA, GNMA, FHLMC, FHA, VA).
9.15 Perpetuities & Rental Protections.
A. Legal Timeframe: If any provision is deemed a violation of the rule against perpetuities or restraints on alienation, it remains valid until 21 years after the death of the last living descendant of the active Governor and United States Senators from the State of Indiana serving on the date of recordation.
B. Lease Requirements: The Association cannot block an owner's right to sell a home. However, any lease or rental agreement must be executed in writing, must be fully subject to the rules of the Association, and must feature a mandatory minimum lease duration of thirty (30) days.
9.17 Board Indemnification. Board members, officers, and the developer are shielded from personal or contractual liability for any good-faith actions, omissions, or mistakes of judgment made on behalf of the Association. Owners must indemnify the board against contractual claims, limited to their Proportionate Share.