

**DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS**

of

Lakepointe Gardens
at Chandana

INDEX

**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS OF LAKEPOINTE GARDENS AT CHANDANA**

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EXHIBITS

Exhibit A - Legal Description

**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS
AND RESTRICTIONS
OF
LAKEPOINTE GARDENS AT CHANDANA**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS OF LAKEPOINTE GARDENS is made this 10th day of JANUARY 1995, by LAKEPOINTE GARDENS LIMITED LIABILITY COMPANY (hereinafter referred to as "Declarant" or "Developer").

RECITALS

WHEREAS, Declarant is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference (the "Property" or the "Development"); and

WHEREAS, Declarant desires to create on this property, called Lakepointe Gardens, a residential planned community which if carried to full and final completion, will consist of residential dwelling units consisting of single-family attached and detached homes. As part of the Lakepointe Gardens plan development, various community facilities, such as walks, roads, landscaping, open spaces, greenbelts, storm water drainage and retention systems, fencing and parking areas are or may be provided for the benefit and enjoyment of lot owners and persons residing in the townhome condominium units. The area of the property and the common area in the development will require uniform and continuing care and maintenance for the primary benefit and enjoyment of lot owners and the persons residing in the development; and

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

WHEREAS, Declarant intends to sell and convey the residential lots and townhome condominiums situated within the platted, to be platted, or annexed areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted, to be platted, or annexed areas of the Development mutual and beneficial restrictions, covenants, conditions, easements and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and townhome condominiums and lands in the Development and future home owners thereof; and

WHEREAS, the Declarant has formed (or intends to form) the Lakepointe Gardens Property Owners Association, Inc., or an organization of similar name, as a not-for-profit mutual benefit corporation under the general laws of the State of Indiana for the purpose of carrying out the powers and duties set forth herein; and

WHEREAS, the Declarant intends to convey all or any portion of the Common Area from time to time in fee simple title, free of financial encumbrances to the Lakepointe Gardens Property Owners Association, Inc. subject to easements, restrictions of record and such other conditions as the Declarant may at the time of such conveyance deem appropriate.

NOW, THEREFORE, Declarant hereby declares as follows:

That all the Development described in Exhibit A and any additional property as may by subsequent amendment be added to and subjected to this Declaration shall be held, sold and conveyed subject to the following Restrictions.

1. The purpose of the Restrictions is to protect the value and desirability of the property.
2. Said Restrictions shall run with the real property subjected to this Declaration and shall be binding on all parties having any right, title, or interest in the described Development or any part thereof, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of each owner thereof.
3. Declarant, for itself and its successors and assigns, specifically reserves unto itself the right and privilege, prior to the recording of any plat, plans or Supplemental Declaration dealing with specific portions of the Development, to exclude any real estate as shown from, or include Additional Land that will be subject to, the terms and provisions of this Declaration by recording a document with the Recorder of Porter County making reference to the terms and provisions hereof and purporting to accomplish such exclusion from or addition of real estate with respect to the provisions hereof.
4. Declarant intends to record by document or plat recordation the following easements and when so recorded, each shall encumber the property.

Easements as Shown and Defined on Plat to be Recorded

A. Drainage System

Buffer Easement.
Floodway Easement.
Floodway Fringe Easement.
Storm Drainage Easement.
Levee Easement.
Detention Basin Flooding Easement.
Storm Overflow Easement.
Side Lot Line Easement.

B. Sanitary

Sanitary Sewer Easement.
Sanitary Sewer Lift Station Easement.

C. Combination

Any combination of two (2) or more of the above Easements.

D. Miscellaneous

Adjacent neighbor encroachment Easements.
Overhand Easements.
Utility Easements as specific to certain Utilities.
General Utility Easements.

All as they might affect Lots, Parcels, and the Common Area.

The Association shall join Developer as a party to such easements and such Association shall provide a hold harmless covenant to the grantee of each of such easements in the event such grantee is made a party to personal injury litigation with reference to the reserved rights of grantor of such easement without good cause by a plaintiff in such litigation. For purposes of such covenant, dismissal of the cause of action against the grantee shall constitute a lack of good cause in such litigation.

5. Wetlands Reservation

Areas within Parcel "A" of the recorder Plat of Lakepointe Gardens Subdivision are identified as designated protected waters of the United States. In recognition of the environmental requirements to preserve such areas and of the authority of the Department

of Army Corp of Engineers to regulate wetlands, said identified and designated lands shall be reserved in perpetuity as "wetlands" and shall be maintained as same by the owners of those respective lands. No filling or deposition of any materials shall be permitted on said lands, including but not limited to soil trash, building debris, rubble, garbage, leaves or grass clippings. No building or any structure, temporary or permanent, shall be placed on said lands, nor shall any trees or vegetation be cut, destroyed, or removed without the approval of the Developer or Association.

Maintenance of the lands shall include but not be limited to the removal of any trash, debris, garbage, etc. which may be placed or blown onto the lands. That maintenance shall be the responsibility of the particular respective owners of the lands.

6. For so long as Declarant is the owner of any Property in the Development, Declarant, for itself and its successors and assigns, specifically reserves unto itself the right and privilege to convey or contract to convey at a future time, any portion of the Common Area to the City of Valparaiso, or to any public agency or to any authority as deemed necessary by the City of Valparaiso, or public agency or authority, for the purpose of regional detention basin.

7. Agency for Plats. So long as Declarant is the owner of ten percent (10%) or more of the lots, Declarant, in its own capacity as an agent for any or all of the other Owners, may at any time and from time to time prepare, present for approval by any or all appropriate governmental entities, execute, and/or record a Plat, a re-plat, an amended plat, a corrective plat, or other similar survey or modification thereof, and may prepare, present for approval by any or all appropriate governmental entities, execute, and/or record any other documents with respect thereto. The execution of any such Plat or other document by Declarant as agent of any Owner will, for such purposes, be deemed to constitute the execution of such Plat or other documents by such Owner. This paragraph will be construed to permit Declarant (so long as Declarant owns ten percent (10%) or more of the Lots) to present for approval and obtain approval by the appropriate governmental authorities and to effectuate the recording of any Plat and any amendment thereto or re-platting thereof. Notwithstanding the foregoing, the agency rights granted to Declarant pursuant to this paragraph will be applicable only with respect to those Lots which are owned by Persons other than Declarant whereby;

(a) The boundaries, setback lines, and easements over such Lot will remain unchanged; and

(b) The benefits of the Common Areas with respect to such Lot will be substantially equivalent (although not necessarily precisely equal.)

ARTICLE I

DEFINITIONS

Section 1.1 Additional Land. Additional Land shall mean and refer to additional real property which is subject to Declarant's reserved unilateral right of annexation subject to this Declaration as provided herein at Article VIII.

Section 1.2 Area of Common Responsibility. Area of Common Responsibility shall mean and refer to the Common Area, which becomes the responsibility of the Association. In addition, the office facilities and overhead of any property manager employed by or contracting with the Association and, if located on the Development, shall be part of the Area of Common Responsibility.

Section 1.3 Association. Association shall mean and refer to Lakepointe Gardens Property Owners Association, Inc., or an organization or similar name, formed, or to be formed, as an Indiana not-for-profit mutual benefit corporation, its successors and assigns.

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

Section 1.5 Common Area. Common Area shall mean all parcels and tracts of land which have not been designated by numbering as residential lots in the recorded plat(s) including the pond, private drives, open space, landscape parcels, public street cul-de-sac circular planting areas, public street entryway median planting strips and all other real and personal property now or hereafter owned by or subject to an easement in favor of the Association for the common use and enjoyment of the Owners as set forth in Article II, Section 2.1.

Section 1.6 Common Expenses. Common Expenses shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Articles of Incorporation, and the By-Laws of the Association. Common Expenses shall include, without limitation, the actual and estimated cost to the Association for the maintenance, management, operation, repair, improvement and replacement of the Lots and Common Area, real estate taxes or personal property taxes assessed against any Common Area, as well as any other costs or expense incurred by the Association for the benefit of the Common Area and the owners.

Section 1.7 Community. Community shall mean and refer to the residential community to be developed herein, as the same shall be defined and created through recordation of this Declaration with respect to development standards to be applicable as well as the function of the Association with respect thereto and the Assessments associated therewith.

Section 1.8 Construction. Construction shall mean and include the erection or construction of a building, building accessory, staking, clearing, excavation, grading, or other site work.

Section 1.9 Community-Wide Standard. Community-Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association.

Section 1.10 Developer. Developer shall mean Lakepointe Gardens Limited Liability Company, its successors and assigns.

Section 1.11 Development. See Section 1.24.

Section 1.12 Drainage System. Drainage System shall mean and include the retention/detention pond, storm sewers, subsurface drainage tiles, swales, ditches, pipes, culverts, and other structures, fixtures, properties, equipment and facilities located in, upon, or under the Common Area, streets, or easements affecting one or more Lots or Townhome Condominium Units, or property located outside the Development; and designed for the purpose of expediting the drainage of surface and subsurface waters from, over, and across the Development, including storm sewer lines and related facilities located on the property, for the benefit of the Development, other than such as may have been dedicated to the public and accepted for maintenance by the appropriate public agency.

Section 1.13 Eligible Mortgage Holder. Eligible Mortgage Holder shall mean a holder, Insurer, or guarantor of a first mortgage on a Lot or Townhome Unit who has requested notice of certain matters from the Association as hereinafter and in the Association's By-Laws provided.

Section 1.4 Eligible Votes. Eligible Votes shall mean those votes available to be cast on the issue at hand. A vote which is for any reason suspended is not available to be cast.

Section 1.15 Land Use Standards. Land Use Standards shall mean and refer to those standards, covenants, obligations, and restrictions as enumerated in this Declaration for the Development as hereinafter recorded and amended from time to time.

Section 1.16 Lot. Lot shall mean any numbered parcel of residential real estate described by the Plat of the Development and as supplemented or amended from time to time, all of which is recorder in the Office of the Recorder of Porter County, Indiana. Where the context indicates or requires, the term "Lot" includes any residential structure on the lot. The term "Lot" includes the term "Residential Unit" and the term "Building Site".

Section 1.17 Majority. Majority means those Eligible Votes, Owners, or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

Section 1.18 Member. Member shall mean and refer to a person or entity entitled to membership in the Association.

Section 1.19 Mortgage. Mortgage means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 1.20 Mortgagee. Mortgagee shall include a beneficiary or holder of a deed of trust, mortgagee.

Section 1.21 Mortgagor. Mortgagor shall include the trustor of a deed or trust, as well as a mortgagor.

Section 1.22 Owner. Owner shall mean the record owner, whether one or more persons or entities, of any Lot or Townhome Unit which is part of the Development, but excluding any party holding the fee simple title merely as security for the performance of an obligation. Owner may include Declarant. Only one vote per Lot shall be available despite multiple ownership of such Lot.

Section 1.23 Person. Person means a natural person, a corporation, a partnership, trustee, limited liability company, or other legal entity.

Section 1.24 Plats and Plans. Plat, Plats, or Plans shall mean any plat of survey of all or any portion of the Development (including the annexation of additional Property as described in Article VIII herein) making reference to Lakepointe Gardens, which have been or hereafter may be recorded in the Office of the Recorder of Porter County, Indiana, as the same may be amended or supplemented by replats, amendments, or otherwise.

Section 1.25 Property. Property or Development shall mean and refer to the real property referenced on this Declaration and such additional real property as may be added.

Section 1.26 Residential Unit. Residential Unit shall mean a structure situated upon a portion of the Development intended for any type of independent ownership for use and occupancy as a residence by no more than a single family. The term "Residential Unit" includes the terms "Lot" and/or "Building Site".

For purposes of this Declaration, a Residential Unit shall come into existence when substantially complete or upon the issuance of a certificate of occupancy by the City of Valparaiso or other local governmental entity.

Section 1.27 Streets. Streets shall mean all roadways, and related rights-of-way, streets and similar areas, designated as such on the Plats, which have been or hereafter are constructed for the purpose of providing common access for Owners, occupants and their guests and invitees, to any or all Lots. It is the intention of Declarant that the streets will be dedicated to the public and accepted for maintenance by the appropriate agency. However, private drives as set forth on the Plats shall remain as part of the Common Area and are maintained by the Association.

Section 1.28 Supplemental Declaration. Supplemental Declaration shall mean an amendment to the Declaration which adds additional property to that covered by this Declaration or otherwise imposes additional restrictions on all or any portion of the Development.

Section 1.29 Townhome Buildings. Townhome Building shall mean a structure consisting of two to five attached Townhome Units. Townhome Buildings are designated on the Plat of Development, and as supplemented or amended from time to time, by capital letters.

Section 1.30 Townhome Unit. Townhome Unit shall mean a separate living unit within a Townhome Building intended for any type of independent ownership for use and occupancy as a residence by no more than a single family. Townhome Units are designated on the Plat of Development, and as supplemented or amended from time to time, by a combination of a capital letter and number.

Section 1.31 Townhome Common Area. Townhome Common Area shall mean the Common Area except for those Common Areas which the Board determines benefits the Lot Owners, and as such, should be partially assessed against the Lot Owners. Common Areas which are not exclusively Townhome Common Areas shall include, without limitation, the pond and fountain, the median planting strips, landscape fences and buffers surrounding the Development, and the entrance sign area and sign. Expenses related to those Common Areas shall be shared equally by the Owners or a per Lot/Unit allocation as set forth in Section 10.3, herein

Section 1.32 Building Site. Building Site shall mean one numbered lot. In those instances where more than one numbered lots constitutes a single building site, no more than one single family residence structure may be built on such single family-building site despite the fact that more than one numbered lot has been aggregated by an Owner. In such instances, such Building Site constitutes a Lot as defined herein.

Section 1.33 Duplex (Paired Patio Home) Duplex (Paired Patio Home) shall mean a structure consisting of two (2) separate living units, separated by a common wall, intended to be occupied by two (2) separate single families for residential purposes. The Association shall have no responsibility for maintenance of such structures. Any repair or replacement of the structure, or any part thereof, shall be the responsibility of the owners of the structure.

ARTICLE II

PROPERTY RIGHTS

In General. Every numbered Lot in the Development which is designated for Townhome Buildings will be used either for Townhome Buildings or for detached single family residential purposes. All other numbered Lots in the Development will be used exclusively for detached single family residential purposes. Not structure will be erected, placed, or permitted to remain upon any of the Lots except a detached single family dwelling house or, where permitted, a Townhome building. No Lot will be subdivided except pursuant to any Plat, replat, amended Plat, or corrective Plat. All parcels and tracts of land located within the Development which are not designated by numbering as Lots pursuant to any applicable Plat, replat, amended Plat or corrective Plat will be Common Area and will be used in a manner consistent with the zoning and use designated by such Plat, replat, amended Plat, or corrective Plat, by the Declaration, or pursuant to the conditions designated by Declarant.

The Common Area shall remain private, and neither Declarant's execution or recording of the plat nor the doing of any other action by the Declarant is, or is intended to be, or shall be construed as, a dedication to the public of the parcel. A license for the use and enjoyment of the Common Area shall be granted by Declarant, its successors, and assigns to the persons who are from time to time members of the Association. Said license shall be on the terms and conditions deemed appropriate by the grantor of said license. Ownership of the Common Area, all/or any portion thereof, shall be conveyed from time to time as determined by Declarant in its discretion in fee simple title, free of financial encumbrances to the Association. Such conveyance shall be subject to easements and restrictions of record, and such other conditions as the Declarant may at the time of such conveyance deem appropriate. Such conveyance shall be deemed to have been accepted by the Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying said Common Area to the Association.

Section 2.1 Owner's Right of Enjoyment. (a) Every Owner shall have a right by license of ingress and egress, use and enjoyment in and to some of the Common Area which right and license shall be appurtenant to and shall pass with the title to every Lot, and Townhome Unit subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any facility now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use the facilities;

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

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

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

(v) the right of Declarant, for so long as Declarant is the Owner of any property in the Development, to dedicate or transfer all or any portion of the Common Area to the City of Valparaiso, to any public agency, authority, or utility for such purposes.

After Declarant is no longer the Owner of any property in the Development, no such dedication or transfer shall be effective unless such act shall be evidenced by an instrument agreeing to such dedication or transfer approved by at least two-thirds (2/3) of the votes of Owners present or represented by proxy and such Owners are entitled to cast a vote at a meeting duly called for such purpose.

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

Section 2.2 Declarant's Reserved Easements. (a) Notwithstanding any provisions contained in the Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any property in the Development, for the benefit of Declarant, its successors, and assigns over, under, in, and/or on the Development, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use, and enjoyment and/or otherwise dealing with the Development and any other property now owned or which may in the future be owned by Declarant (such other property is herein referred to as "Additional Property"). No structure constructed on a Lot pursuant to the conditions and subject to the reserved easements of this Section 2.2. Subject to such exception, the reserved easement shall constitute a burden on the title to all or any portion of the Development and specifically includes, but is not limited to:

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

(ii) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction and sale by Declarant of Lots and residences, if any, in all or any portion of the Development excepting only Lots which are not owned by Declarant, or in any portion of the Additional Property;

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

(iv) if these reserved easements are exercised without annexing any Additional Property to the Development, the owners of the affected Additional Property shall share the costs, if any, of using and maintaining utility and similar facilities, including, without limitation, electrical, telephone, cable television, natural gas, water, sewer, and Drainage System, lines and facilities with the owners in the Development in the proportion that the number of acres in the affected Additional Property and the Development. The costs of maintenance and repair of the Development roads and driveways shall likewise be apportioned to the affected Additional Property if the only means of vehicular access to the affected Additional Property is across Lakepointe Gardens. For the purposes of this provision, a dwelling on the affected Additional Property shall be considered completed when a certificate of occupancy has been granted. The allocation of expenses and the collection therefor may be done on a monthly, quarterly, or annual basis as may be reasonably be determined by the Association in accordance with this Declaration.

If any of the Additional Property is added to Lakepointe Gardens, from the time of the annexation, the sharing of costs and expenses and the use of any property to be added shall be governed by this Declaration rather than by these reserved easements and other provisions of this Section 2.2.

Section 2.3 Numbered Lot Easements. There is hereby reserved for the benefit of the Owner of each Lot an easement eight (8) feet in width adjacent to such Owner's Residential Unit to provide ingress and egress to maintain that portion of said Residential Unit located on a Lot line and/or within eight (8) feet of a side yard Lot line for the purpose of maintenance and repair. Also, to the extent that the Residential Unit, as originally constructed on any Lot encroaches onto the adjoining Lot, there is hereby expressly reserved an easement not to exceed two (2) feet from each side Lot line to permit such structural encroachment of adjacent Residential Units onto the adjoining Lot. In addition to the structural encroachment easement, there is hereby expressly reserved an overlap and/or overhang easement which shall extend a maximum of sixteen (16) inches beyond the structural encroachment easement. The encroachment easement and overlap/overhang easement reserved herein are limited to the original construction of the Residential Units in order to provide for and accommodate the inexactness of construction. The eight (8) foot ingress and egress easement extends beyond original construction in order to provide adequate access for ordinary and customary Residential Unit exterior maintenance and repair.

Section 2.4 Townhome Overhang Easement. An overlap and/or overhang easement is expressly reserved for the benefit of each Townhome Owner, which shall extend a maximum of twenty-four (24) inches onto another Townhome Unit or the Common Area. The overlap/overhang easements herein reserved are limited to the original construction of the Townhome Units in order to provide for and accommodate the inexactness of construction.

Section 2.5 Owner's Right to Ingress and Egress. Each Owner shall have the right to pedestrian (not vehicular) ingress and egress over, upon, and across the Common Area necessary for access to his or her Lot or Townhome Unit and such other easements that are designated on the plat for access to such Common Area and such rights shall be appurtenant to and pass with the title to each Lot.

Section 2.6 Use of Lots and Townhome Units. (a) Except as may be otherwise expressly provided in this Declaration, each Lot or Townhome Unit shall be used for residential purposes only as a residence for a single family; no trade or business of any kind may be conducted on any Lot or Townhome Unit. Lease or rental of a Lot or Townhome Unit shall not be considered to be a violation of this covenant, so long as the lease is in compliance with reasonable rules and regulations as the Board of Directors of the Association may promulgate, or in the absence of such rules and regulations, with the prior written approval of said Board.

Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the By-Laws, and the rules and regulations adopted hereunder.

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

Section 2.7 Use of Common Areas and Lots. Except to the planting of annual flowers, no planting or gardening shall be done, and no fences, hedges, walls or any other structure or planting shall be erected or maintained upon the Common Area or upon the front yard of any Lot, except in accordance with the initial construction of the improvements located thereon by the Declarant or as approved by the Declarant or the Board or their designated representatives. No antennas may be erected upon the Common Area, except the Association may erect a master antenna serving the members. Except for the right of ingress and egress, the Owners of Lots may use property outside their respective Lots only in accordance with reasonable regulations as may be adopted by the Association's Board of Directors or as is expressly provided herein.

It is expressly acknowledged and agreed by all parties concerned that this Section 2.7 is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

Section 2.8 Restrictions Concerning Alterations, Modifications, Replacement and Maintenance

(a) Definition. For purposes of this section, "Building Standards" shall mean the original Residential Unit and Townhome Unit construction plans prepared by Quincy Johnson and Associates for the Developer and all material, color and other specifications as originally selected by the Developer and attached hereto.

(b) In order to preserve the aesthetic appearance of the Development and to insure continued continuity, all repairs, maintenance and replacement affecting the exterior of Residential or Townhome Units must conform with Building Standards. Any deviation from Building Standards must be approved in advance by the Association. Notwithstanding the foregoing, the Association may, in its discretion, retroactively approve any such deviation.

(c) All alterations, additions or modifications to the exterior of Residential Townhome Units must be approved in advance by the Association and the Association shall require that the alteration, addition or modification conform to Building Standards.

Section 2.9 Signs. Except as hereinafter provided for Declarant, no advertising signs, for sale signs on vacant Lots, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the property subject to this Declaration. Political yard signs (not larger than nine square feet in size) may be placed in yards 30 days prior to a primary, general or special election but must be removed on the day following said election.

Section 2.10 Rules and Regulations. The Association and Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, Townhome Units and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, canceled, or modified by the Board or the Association in a regular or special meeting by the vote of Owners holding a two-thirds (2/3) majority of the total votes in the Development present or by proxy or with the written approval of the Declarant for so long as Declarant shall control the Development as described at Section 3.6 herein. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure, as provided in Article X.

In addition, the Association, through the Board, may, by contract or other agreement, enforce city ordinances or permit the City of Valparaiso, Indiana to enforce ordinances affecting the Development for the benefit of the Association and its Members.

Section 2.11 Exterior Lighting. The Developer shall adopt and designate a standard exterior light fixture for all Lots and Townhome Units in the Development and may designate a standard location for such exterior light fixtures. Each Owner of a Lot or Townhome Unit in the Development shall cause such standard fixture to be installed and maintained, as such Owner's expense. Exterior light fixtures shall be on and illuminated from dusk to dawn unless the Association's Board shall provide otherwise by rule or regulation. No exterior fixture, other than those fixtures originally provided, or a comparable fixture approved by the Board of Directors shall be installed on the exterior of any Residential Lot. No lighting fixtures shall be installed that may become an annoyance or nuisance to Owners or occupants of adjacent properties. All modifications or exterior lighting must be approved in writing by the Board of Directors.

Section 2.12 Storage and Parking of Vehicles. There shall be no outside storage or parking upon any Lot, street, private drive, or the Common Area of any commercial vehicle, truck, van, tractor, mobile home or trailer (either with or without wheels), camper, camper trailer, travel-trailer, recreational vehicle, snowmobile, motorcycle, boat or other watercraft, boat trailer, or any other such transportation device of any kind, except within the parking spaces in the Owner's garage (with the door closed) and for visitors and providers of services temporarily parking in driveway or street and in accordance with rules and regulations designated and promulgated by the Board. No unlicensed automobiles shall be parked longer than forty-eight (48) hours within any seven (7) day period on any street or lot in the Development. No Owners or tenants shall repair or restore any vehicle of any kind upon any Lot, street, private drive, or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of automobiles which may reasonably be parked therein after the alteration is less than the number of automobiles that could have been reasonably parked in the garage as originally constructed.

For purposes of the preceding, commercial vehicle shall also include any and all automobiles, station wagons, utility vehicles which shall bear signs or have printed on the side of same a reference to any commercial undertaking or enterprise.

For purposed of this Section 2.12, the aforementioned parking and storage limitations do not apply to usual and customary private automobiles, station wagons, passenger mini-vans and similar vehicles all currently registered and licensed for daily use.

Section 2.13 Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Development, except that no more than a total of two (2) animals (dogs, cats or other larger household pets) may be kept in residences subject to rules and regulations adopted by the Association through its Board of Directors, provided that such pets are not kept, bred, or maintained for any commercial purpose. The Board shall have the absolute power to prohibit a pet from being kept on any Lot in the Development, including inside residences constructed thereon. Excessive barking by Owners' dogs shall be considered a nuisance requiring abatement.

No animal shelters, containment pen structures or exercise run areas, enclosed or open, shall be permitted, placed or erected on any Lot without the approval of the Board.

Section 2.14 Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during a period of construction and then only with the consent of the Developer or Board), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Declarant, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge of lien upon the Offending Owner's Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall occur in any Lot or Townhome in the Development, nor shall anything be done on any of said Lots or in any Townhome that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot or Townhome in the Development. Neither the Declarant, nor any officer, agent, employee or contractor thereof, the Association, or any Owner enforcing the provisions of this paragraph shall be liable for any damage which may result from enforcement hereof.

Section 2.15 Garbage, Trash and Other Refuse. No Owner of a Lot or Townhome in the Development shall burn leaves or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in Section 2.16 below.

Section 2.16 Trash Receptacles. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at any time, except at the time when refuse collections are being made. If the City of Valparaiso discontinues trash collection services, the Association may designate a trash collection day and a trash collection service to be used and paid for by Owners in the Development in furtherance of this paragraph. Additionally, the Association may enter into a master contract for trash collection with a refuse disposal service with the costs thereof to be included as a Common Expense of the Association to be paid by Owners as part of their normal

assessments. Additionally, the Association may designate a standard trash container as acceptable by the City of Valparaiso or a private disposal company, all at the expense of each Lot and Townhome Owner, if applicable.

Section 2.17 Model Homes. No Owner of any Lot in the Development other than Declarant or persons having the written permission of Declarant shall build, or permit the building upon any such Lot of any dwelling that is to be used as a model home or exhibit house.

Section 2.18 Temporary Structures. No temporary structure (house, trailer, tent, garage or other out building) shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot excepting occasional lot owner's children "camp-out" activities.

Section 2.19 Utility Services. No utility services will be installed under any paved areas in the Development, except by jacking, drilling, or boring unless specifically approved by the Declarant (or, the Association, after Declarant turns over control, or after acceptance of such areas by the City of Valparaiso). All utility facilities in the Development will be underground, except where required to be placed above ground by the individual utility supplier.

Section 2.20 Wells and Septic Tanks. No water wells shall be drilled on any of the Lots in the Development without the approval of the Declarant or the Association. No septic tanks shall be installed on any of the Lots or in any of the Common Area.

Section 2.21 Antennas and Solar Heat Panels. No exposed radio, TV antennas, satellite dish antenna over one meter in diameter shall be allowed on any residence on any Lot or Townhome Unit which is visible from outside such residence.

Section 2.22 Mailboxes and Address Identification. The Developer shall select and designate a standard mailbox, post, and individual address identification devices for the Development. No exterior newspaper receptacles shall be permitted in the Development. All repairs and replacements to such standard mailboxes, posts, and identification devices shall be consistent in color, quality and appearance with the original mailbox, post, and identification devices unless the advance written approval of the Declarant or Board is obtained.

Section 2.23 Use of Yards. No clotheslines, outside storage, tennis courts, gazebos, or other similar uses of yards which may prove detrimental to the value of the adjoining Lots shall be permitted. Playground equipment and flag poles are permitted on Lots if approved by the Declarant or the Board.

Section 2.24 Maintenance of Lots and Improvements. The Association will be responsible for the maintenance of the front yard and the back yard (if any) of the Lots (excluding Residential Units, side lots, and improvements other than landscaping, vegetation, sidewalks, and driveways.) All determinations as to which portions of the Lots are to be maintained by the Association pursuant to the preceding sentence will be made by the Association in its reasonable discretion. The Association, pursuant to its ability to set annual and special assessments for common Maintenance (as set forth in Section 3.5 hereof) will provide the following maintenance for Lot Owners:

- (a) Mow the Lot and provide fertilizer and weed control at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and noxious weeds.
- (b) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.
- (c) Cut down and remove dead trees.

The Owner of any Lot in the Development shall at all times prevent the Lot or improvements from becoming unsightly, and, specifically, Owner shall:

- (a) Keep the exterior of all improvements in such a state of good repair and maintenance so as to provide for an aesthetic appearance and as required to avoid their becoming unsightly. The opinion of the Association shall be binding with respect to said subjective judgments.
- (b) Not allow plants or seeds, or other things or conditions, harboring or breeding infectious plant diseases or noxious insects to be maintained upon any part of a Lot.

Section 2.25 Maintenance of Exterior of Townhome Buildings and Private Drives. The Association, pursuant to its ability to set annual and special assessments for common maintenance (as set forth in Section 3.5 of these Restrictions) shall be responsible for the maintenance and repair of the exterior siding, roofs and driveways of the Townhome Buildings as well as the private drives servicing certain Townhome Buildings. The Townhome Unit Owners shall be individually responsible for all other exterior maintenance and repair.

Section 2.26 Ditches, Swales, and Waterways. It shall be the duty of every Owner of every Lot to keep any ditches, swales, waterways, or storm drainage portion areas as may be situated upon his Lot continuously unobstructed and in good repair and to repair all erosion with respect to such areas situated on such Owner's Lot even if such ditch or swale or waterway is not specifically referenced by an easement on the plat or elsewhere.

Section 2.27 Storage Tanks. No above ground storage tanks shall be permitted for the storage of gasoline, propane, kerosene, or other liquid fuels.

Section 2.28 Motor Vehicles. No minibikes, go-carts, snowmobiles or similar motor-driven vehicles shall be operated within the Development.

Section 2.29 Soliciting. (a) Subject to Constitutional Protection, if available, no person may enter upon any Common Area (private) for purposes of commercial solicitation, except upon the express authorization or invitation of the Association, upon application for a permit for such purposes by a member of the Association, provided however, that this rule shall not prohibit the use of said Common Area by the Declarant for purposes of advertising, solicitations and sale of any of the properties within the Development, so long as the Declarant/Developer owns any properties therein.

(b) No garage sales nor public auctions shall be permitted in the Development except by approval of the Association.

Section 2.30 Fences and Walls. Except for privacy fences surrounding in-ground pools, no line fence or wall shall be built except as originally constructed by the Declarant. A "living" fence consisting of trees, evergreens, hedges and bushes is permitted if approved by the Association.

Section 2.31 Swimming Pools. No above ground or in ground swimming pools, or outdoor hot tubs, shall be installed on any Lot. Children's wading pools eight (8') feet or less in diameter are not prohibited, but must be removed from the Lot overnight and whenever lawn maintenance procedures are being performed.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

Section 3.2 Classes of Membership and Voting Rights. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot or Townhome Unit owned. When more than one person holds an interest in any Lot or Townhome Unit, all such persons shall be members. The vote for such Lot or Townhome Unit shall be exercised as such co-owners among themselves determine evidenced by a certificate signed by all of the Owners filed with the Association. Such signed certificate shall also be conclusive with respect to

voting rights of an Owner in instances where such Owners' voting is referred to in these Restrictions. In no such event shall more than one vote be cast with respect to any Lot or Townhome Unit either with respect to Association membership or Lot or Townhome ownership.

Section 3.3 Board of Directors. The initial Board of Directors shall be appointed by the Declarant and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required as Section 3.6 herein. Upon transfer of management of the Association to the Members, the Members shall elect a Board of Directors of the Association as prescribed by the Association By-Laws. There shall be five (5) members serving of the Board of Directors, each Director serving a two (2) year term (except for the initial Board elected by the Membership), beginning on the date of election by a majority of the Members present, in person or by proxy, at the annual meeting of the Association. The terms of the members of the Board shall be staggered with two (2) members to be elected in each odd-numbered year, and three (3) members to be elected in each even-numbered year. The Board of Directors shall manage the affairs of the Association.

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

Section 3.5 Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Lots (as set forth in Section 2.25 herein) and Common Area, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by this Declaration for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in this Declaration. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Area, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, lawn care, trash removal, exterior maintenance and repair and such other services as the Association deems necessary or advisable.

Section 3.6 Control and Transfer of Control of Association. During the development and construction stages of the Development and for so much of selling period as described hereinafter, the Association shall be operated and controlled by Declarant. The Board of Directors of the Association shall, during such period, consist of persons appointed by Declarant, and each Owner shall give and shall be deemed to have given to Declarant an irrevocable proxy to vote on any and all matters on which the Owner is entitled to vote under this Declaration, any Supplemental Declaration, or under the Articles of Incorporation or the By-Laws of the Association.

The control of the Association shall be transferred to the Owners (which includes Declarant with respect to each unsold Lot or Townhome Unit) one hundred twenty (120) days after the date on which a total of ninety percent (90%) of the Lots and Townhome Units platted, to be platted or to be annexed then ascertained in the Development have been conveyed to Owners.

ARTICLE IV

COMMON MAINTENANCE

Section 4.1 Maintenance. (a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which responsibility shall be deemed to include the Common Area. The maintenance of the Common Area shall be deemed to include, but not to be limited to, maintenance, repair, and replacement (subject to later reimbursement from the insurance and casualty loss provisions contained at the Association's sole cost and expense as Common Expense) of all of the following located on the Common Area: trees, fences, shrubs, grass, signs, Common Area access and parking spaces, if any, walks, pedestrian bridges, Drainage System improvements, (unless contracted otherwise to a public agency), the Common Area lighting and watering systems and other improvements situated upon the Common Area.

The Association shall also be responsible for certain exterior maintenance of the Lots (as set forth in Section 2.24 herein) and the Townhome Buildings (as set forth in Section 2.25 herein). The Association shall obtain separate bids for these maintenance items and, with respect to the expense of said maintenance, assess the Owners in a fair and equitable manner.

In addition, it is contemplated that the City or another governmental agency will maintain ditches, ravines and other areas requiring remedial maintenance and/or cleaning out. It is contemplated that such governmental agency will use a tractor bulldozer for such purposes. Such tractor bulldozer will be unable to pass under the leisure trail walks and will, accordingly, be required to bypass said pedestrian walks. The Association shall maintain said bypass areas in the event of disruption by said governmental agencies as a result of said maintenance or cleaning of the ditches as described hereinabove.

In addition, the Association shall maintain, replace and keep in good repair the planting, landscape areas to include electrical and watering systems thereon located in and upon the public street cul-de-sac circular areas and the entry way median strips and all parcels designated on the plat or otherwise situated at various Lots in the Development as Common Area.

In addition, the Association shall maintain and keep in good repair the street name signs (unless installed and maintained by the City of Valparaiso) located on public streets in the Development.

In addition, the Association shall pay for any utility consumption costs such as natural gas, electricity and water which serve the Common Area.

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

(c) With respect to Common Area and Lots, the cost of snow removal, landscaping maintenance and road maintenance, if any, in excess of amounts budgeted therefor shall be paid by the Owners (on the same basis as assessments for Common Expenses are allocated by the Owners at Section 10.3) by a Special Assessment pursuant to Section 10.4. In the event the Association enters into contracts for snow removal, landscaping maintenance and road maintenance, if any, while Declarant controls the Association, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto in his capacity as Declarant but not in his capacity as Lot Owner. This Section 4.1(c) is included herein in recognition of the fact that the costs of snow removal, landscaping maintenance and road maintenance, if any,

for the Development may substantially exceed amounts budgeted therefor by the Association due to inordinate snow fall, and inordinate number of snow falls during any season, general weather conditions, agricultural conditions and amount of use. Snow removal service shall be provided, unless or until the Membership, by a majority of the members present in person or by proxy, at a meeting to decide such issue, shall vote to end the service. As long as snow removal service is provided for the Development, an amount therefore shall be included in the annual budget and collected as a Common Area expense with the understanding that a special assessment may be necessary in the event the amount budgeted therefore is insufficient to defray the actual snow removal costs.

ARTICLE V

INSURANCE

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

(b) The Board shall also obtain a public liability policy covering the Common Area, the Association, and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have at least a One Million (\$1,000,000) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000) Dollar limit per occurrence, and a Two Hundred Fifty Thousand (\$250,000) Dollar minimum property damage limit. Premiums for all insurance on the Common Area shall be common expenses of the Association. The policy may contain a reasonable deductible amount and the deductible amount thereof shall be added to the face amount of the coverage limitations of the policy in determining whether the insurance at least equals the full replacement cost.

(c) All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee and shall add the officers and directors from time to time as additional insureds, such insurance as hereinabove described for the respective benefited parties, as further identified elsewhere. Such insurance shall be governed by the provisions hereinafter set forth:

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

(ii) All policies on the Common Area shall be for the benefit of the Residential Unit Owners and their mortgagees as their interests may appear:

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

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

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

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

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

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

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

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

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

(6) that no policy may be canceled or substantially modified without at least thirty (30) days prior written notice to the Association.

(d) In addition to the other insurance required by this Section, the Board shall

obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds with respect to directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Board's best business judgment, but may not be less than three (3) month's assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon exclusion of persons serving without compensation and may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 5.2 Individual Insurance. By virtue of taking title to a Townhome Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other such Owners and with the Association that such individual Owner shall carry all-risk casualty insurance on such Owner's residence in an amount of full replacement cost, general liability coverage for a minimum of \$300,000 per occurrence, and \$2,000 medical payment coverage per person. Each such Owner shall provide the Association with a certificate evidencing such liability coverage when taking title to said Townhome Unit. Each such Owner shall provide a certificate of insurance evidencing such casualty insurance immediately prior to initiation of construction by said Owner on said Lot or when taking title to such Lot. Such certificates shall be furnished upon each renewal date to the Association to provide continuous evidence of adequate insurance coverage.

Each individual Owner further covenants and agrees that in the event of partial loss, damage or destruction resulting in less than total destruction, the individual Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the individual Owner determines not to rebuild or to reconstruct, the individual Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. The Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lot and the standard for returning the Lot to its natural state in the event the Owner decides not to rebuild or reconstruct.

Section 5.3 Disbursement of Proceeds. Proceeds of insurance policies on Common Area Improvements shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, shall be retained by and for the benefit of the Association and placed in a capital improvements account.

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

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

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five (75%) percent of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. Not mortgagee shall have the right to participate in the determination of whether the Common Area damage or destruction shall be repaired or reconstructed.

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

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

ARTICLE VI

NO PARTITION

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

ARTICLE VII

CONDEMNATION

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

(b) If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking, the Declarant and at least seventy-five (75%) percent of the members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area, to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V, Section 5.3 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired, shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTY

Section 8.1 Annexation without Approval of Owners. (a) Declarant shall have the unilateral right, privilege, and option, from time to time at any time until December 31, 2019, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of any real property adjacent thereto or to the Development as the same exists from time to time whether in fee simple or leasehold, by filing in the Recorder's Office of Porter County, Indiana, an amendment or Supplemental Declaration annexing such property. Such Supplemental Declaration or amendment to this Declaration shall not require the vote or approval of any Owners. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided herein.

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

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

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

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

ARTICLE IX

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

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

Section 9.2 Duty to Comply With Easements Benefiting The Development. The Developer has entered into seven (7) Easement Agreements with neighboring land owners for the benefit of the Development. The Easement Agreements are attached hereto and incorporated into this Declaration as Exhibits B through H. The Association shall be responsible to fulfill the duties and obligations of the Developer and to protect the rights and interest granted to the Development pursuant to the Easement Agreements. Developer may enter into additional private easements for the benefit of the Development or neighboring land owners. The Association shall be responsible to fulfill the duties and obligations of the Developer as set forth in any future easements which affect the Development and entered into by the Developer.

Section 9.3 Services. The Association may obtain and pay for the serviced of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with third parties to furnish water, trash collection, sewer service, snow removal, security, lawn and landscaping service and other common services to each Lot or Townhome Unit. The Association shall provide the services required of it by the Supplemental Declarations, if any.

Section 9.4 Person Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests located within the properties described in Exhibit A attached hereto or hereafter annexed into the Development and conveyed to it by the Declarant.

Section 9.5 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles of Incorporation, or the By-Laws, and every other right or privilege reasonably to be implied for the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 9.6 Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or

Townhome Unit or any portion of the Common Area to abate or remove, using such force as may be reasonably necessary, any construction, erection, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner five (5) days' written notice of its intent to exercise Association remedial activity (self-help). All costs of such Association remedial activity (self-help), including attorneys' fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments. No liability shall be assumed by the Association's exercise of such remedial activity.

Section 9.7 Right of Entry. The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter into Residential Units or Townhome Units for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the Owner or occupant of the Residential Unit. No liability is assumed by any of such parties by the exercise of such right or entry.

ARTICLE X

ASSESSMENTS

Section 10.1 Purpose of Assessment. The assessments for the Common Area and Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 10.2 Creation of Assessments. (a) There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors. General Assessments shall be allocated among all Owners within the Association as described in Section 10.3 hereof and shall be for capital improvements and expenses determined by the Board to be for the benefit of the Association as a whole. Each Owner, by acceptance of his or her deed, is deemed to covenant and agree to pay all assessments created or referenced herein. All such assessments, together with interest, not to exceed the maximum legal rate, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys' fees actually incurred, and any other amounts provided or permitted by law shall be a charge on the land and shall be a continuing lien upon the Lot or Townhome Unit against which each assessment is made.

(b) Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who were the Owner(s) of such Lot or Townhome Unit at the time the assessment arose, and his or her grantee shall be jointly and severally liable for total unpaid assessments as may be due and payable at the time of conveyance, except no first mortgagee who obtains title to a Lot or Townhome Unit pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title by such lender. Assessments shall be set and paid on a monthly basis, with the due date being the first (1st) of each month, as fixed by the Board of Directors. However, the Board of Directors shall have the discretion to change the timing or the due dates of assessments by furnishing a timely and appropriate notice to the Members. Unless the Board otherwise provides, all assessments shall become delinquent if not received within thirty (30) days after the due date. Additionally, a reasonable penalty, to be set by the Board of Directors, shall be assessed for any monthly payment that is not received by the tenth (10th) day after the date on which it was due.

Section 10.3 Computation of Assessment. (a) It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. In accepting bids and/or estimating Common Expenses prior to preparing the budget, the Board shall separate the Common Expenses to the extent necessary to allocate said expenses among Lot Owners and Townhome Owners as set forth below. The budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list Common Expenses.

The Board shall determine an assessment for each Townhome Unit and a separate assessment for each Lot based upon the following criteria:

(1) The Lot Owners shall be equally assessed for all expenses, including their pro-rata share of the Lot Maintenance as set forth in Section 2.24, herein;

(2) Townhome Unit Owners shall be equally assessed for all expenses, including without limitation, maintenance and repairs, related to the Townhome Common Area and for the Townhome Exterior Maintenance as set forth in Section 2.25, herein; and

(3) Expenses related to maintenance, repair and upkeep of the Common Area and property located thereon, which are not specific to the Townhome Common Area (e.g., the pond and fountains, landscape buffer areas, median planting areas, fencing surrounding the Development, and signs) shall be allocated equally among the Lot and Townhome Owners.

Each Owner of any Lot or Townhome Unit in the Development hereby covenants and agrees to pay to the Association a Proportionate Share (as hereinafter defined) of the annual Common Expenses for the Development, as fixed, established and determined from time to time as herein provided. The Proportionate Share of each Owner in the Development shall be the percentage obtained by dividing one by the total number of Lots and Townhome Units shown on the Plats of the Development as the same may be recorded from time to time and owned by Owners (including Declarant). The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot and Townhome Unit for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessments shall become effective unless disapproved at the meeting addressing Common Expenses by a vote of at least two-thirds (2/3) Majority (present or by proxy) of the total Lot and Townhome Unit Owners.

(b) Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

(c) In the event the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become the first item comprising the next year's budget as an additional basis for assessments for the following fiscal year, except that so long as the Declarant controls the Association, and subject to Declarant's right to impose Special Assessments as described in Section 4.1(c) hereof, Declarant shall be responsible for such deficit; provided, however, that Declarant shall be reimbursed by the Association for such deficits, together with interest at eight percent (8%) per annum until so reimbursed, from available surplussed in later years or through a special assessment at the time of transfer of control of the Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual assessments or by the making of one or more special

Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year, an allocable share of such excess (based on the amounts originally levied as assessments) shall be a credit against the assessment(s) due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid, with interest, as required above before such excess shall be so credited to Owners.

(d) In each year thereafter, the total assessments per Lot or Townhome Unit per month for Common Expenses shall not be increased by more than ten percent(10%) over the prior year, until such time as the Declarant relinquishes control of the Association.

Section 10.4 Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable does not exceed \$50.00 per Lot/Townhome Unit in any one fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any Lot or Townhome Unit to exceed this limitation shall be effective only if approved by a two-thirds (2/3) majority of the Owners, present in persons or by proxy. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed. This section 10.4 shall not apply to assessments levied pursuant to Section 4.1(c) hereof.

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

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

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

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

Section 10.7 Capital Budget and Contribution. The Board of Directors shall annually prepare a capital budget which shall take into account the number and nature of replacement costs for the Common Area to be funded from the monthly assessments of all members. Additionally, the Board of Directors shall annually prepare a capital budget for the exterior maintenance of the Townhome Buildings as set forth in Section 2.25 herein, to be funded by a separate monthly assessment from each Townhome Unit Owner. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association as shown on the capital budgets, with respect to both amounts and timing of need for funds by annual assessments over the period of the budgets. A copy of the capital budgets shall be distributed to each Member in the same manner as the operating budget.

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

Section 10.9 Capitalization of Association. Upon acquisition of record title to a Lot or Townhome Unit from Declarant, each Owner shall contribute to the capital of the Association an amount equal to a pro-rata portion of the annual assessment for Common Expenses for that Lot or Townhome Unit as determined by the Board. Such pro-rata shall be based upon the remaining portion of the assessment year during which the Owner acquired title.

Section 10.10 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lot and Townhome Units subject to assessment under this Declaration on the first day of the month following the conveyance of the first Lot or Townhome Unit by the Declarant to an Owner and shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any Lot or Townhome Unit becomes subject to assessment hereunder shall be the date on which such Lot or Townhome Unit is transferred by Declarant to an Owner.

Section 10.11 Assessments by Declarant. (a) After the commencement of assessments on any Lot or Townhome Unit, Declarant covenants and shall be liable for and agrees to pay the full amount of the annual assessment for each Lot or Townhome Unit it owns.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called in-kind contribution). The amount by which monetary assessments shall be decreased as a result of any in-kind

contribution shall be the fair market value of the contribution. If the Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant cannot agree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

ARTICLE XI

ARCHITECTURAL STANDARDS

Section 11.1 Architectural Standards Jurisdiction. The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce its decisions in courts of competent jurisdiction.

No construction, as defined herein, shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate Committee has been obtained.

For purposes of this Section, "Construction" shall mean:

- (a) Original construction of any kind;
- (b) Modifications, additions, or alterations of any kind;
- (c) Staking, clearing, excavating, grading and other site work;
- (d) Planting or removal of plants, trees, shrubs, gardens or other landscaping items; and
- (e) Installation of lawn carpeting, fences, walls, awnings, swimming pools, playground equipment, basketball goals, mailboxes, yard light fixtures, or any other structure or appurtenance of any kind.

It is understood and agreed that the purpose of architectural regulations and controls is to secure an attractive, harmonious residential development having continuing appeal by assuring materials and design elements are harmonious in conjunction with the way building and improvements relate to each other and the environment.

Section 11.2 Board Authority. The Board shall have exclusive jurisdiction over modifications, additions, or alterations made on or to then existing Residential Units or structures containing Residential Units or Townhome Units and the open space, if any, on any portion of the Development appurtenant thereto, provided, however, the Board may delegate this authority to the appropriate board or committee of any residential association subsequently created or subsequently subjected to this Declaration so long as the Board has determined that such board or committee has in force review and enforcement practices, procedures and appropriate standards at least equal to those of the Board. Such delegation may be revoked and jurisdiction re assumed at any time by written notice. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his or her residence, or to paint the interior of his or her residence any color desired.

Section 11.3 Procedures for Approval. Approvals required by this Article shall be in written form by the Board or appropriate committee, and shall be forthcoming only after written application has been made and application fee paid, if any, to the Board or appropriate Committee by the Owner of the Lot or Townhome Unit requesting authorization. Such written application shall be in the manner and form prescribed from time to time by the Board or applicable Committee and shall be accompanied by two (2) of all of the following:

(a) Complete sets of plans and specifications drawn to scale setting forth the nature, kind, shape, height, color and composition of all exterior materials proposed to be used; and the square footage, level by level, as well as the total square footage of the residence (excludes below grade).

(b) Plot plan drawn to scale showing street(s) location, all lot dimensions; all structures proposed or existing on the lot, their size, location and distance from each other and to adjacent property or right-of-way lines; location/width of driveway(s); location/width of sidewalk(s); required set-back distances from property or rights-of-way; topography and physical features. Indicate elevation of the proposed improvement as it relates to the existing street elevation and adjoining land(s). As drawn, prepared and sealed by either a registered land surveyor, engineer or architect.

(c) Landscaping plan drawn to scale setting forth the nature, kind, shape, height of all materials to be used; sod and seed areas.

(d) Soil erosion and sedimentation control plan; include soil survey.

(e) Drainage, grading and site plan indicating topography and proposed plans for handling of on-site drainage, including but not limited to, sump pump discharge, gutter drains, driveway drains, ditches, swales, sedimentation basins or berms; show physical features such as existing plant life, tree group, creeks, etc.

(f) Copies of all permits, plans and design relating to the construction of a sanitary sewer service line.

(g) Resume of builder evidencing quality experience and demonstrated achievements including references. Also include proof of builder's financial capability.

In addition, a building permit must be obtained from the City of Valparaiso subsequent to Committee approval but prior to any improvements.

Section 11.4 Power of Disapproval. The Board or appropriate committee may refuse to grant approvals required under this Article when:

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

(b) The design or color scheme of a proposed exterior repainting, modification or improvement is not in harmony with the general surroundings of the Lot or Townhome Unit, with adjacent buildings or structures, or with Community-Wide standards, all as determined in the sole discretion of the Committee.

(c) The proposed improvement, construction or modification, or any part thereof, would be contrary to the interests, welfare or rights of all or part of the Owners, all as determined in the sole discretion and opinion of the Board or applicable committee; and/or

(d) In the event that the Board or appropriate committee has not acted upon the submission within thirty (30) days by the issuance of a written approval, the submission will be deemed to have been denied.

Section 11.5 Hold Harmless. Neither the Association, its directors, and committee created by the Board, nor any member thereof, shall be liable for any damage, loss or prejudice suffered or claimed by any Owner or contractor who submits such plan on account of (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions; (b) any structural or other defects in any work done according to such plans and specifications; (c) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (d) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; and (e) the development of any property within Lakepointe Gardens. Any person submitting plans to either or both of such Committees shall hold the Developer, the Association, its Directors, the Committees, and any member thereof, harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorneys' fees incurred.

Section 11.6 Inspection. The Board or their duly authorized agents, may inspect work being performed with their permission to assure compliance with these Restrictions, the requirements of the applicable Supplemental Declaration and any applicable regulations of the Association.

Section 11.7 Declarant Improvements. The Board shall have no powers with respect to any construction, improvements or modifications undertaken by the Declarant, its agents, contractors, suppliers or subcontractors (or any assignee of Declarant if the Declarant has approved the plans therefor).

Section 11.8 Remedies for Failure to Obtain Approval. In the event any construction or modifications are made without first obtaining approval of the Board or appropriate committee as required herein, the Association and the applicable committee shall have the powers of enforcement granted to the Association generally for purposes of this Declaration and may require any modifications, construction, changes or improvements undertaken or installed without the approval of the applicable committee to be removed or renovated by whatever means the Association and/or applicable committee deems appropriate, with all the costs thereof, including costs of collection and attorneys' fees to become a lien against the defaulting Owner's Lot or Townhome Unit in the manner described in Section 10.5 hereof.

Section 11.9 Power to Grant Variances. The Board may allow reasonable variances or adjustments of the Restrictions where literal application, in the sole discretion of the Board, would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of the Restrictions, and no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots or Townhome Units in the Development.

ARTICLE XII

MORTGAGEE RIGHTS

Section 12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder), will, upon payment of the reasonable expenses of the Association associated therewith, be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) condemnation, damage or destruction to the Development or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
- (c) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of eligible holders.

Section 12.2 Rights of Mortgagees. Except to the extent otherwise provided herein, no breach of these Restrictions shall defeat or render invalid the lien of any mortgage now or hereafter executed upon any portion of the Real Estate; provided, however, that if all or any portion of said Real Estate is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to these Restrictions. Notwithstanding any other provision of these Restrictions, neither the Owners nor the Association shall have any right to make any amendment to these Restrictions which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate at the time of such amendment.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 Duration. The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law.

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

Section 13.2 Amendment. (a) This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) at Declarant's option, if such amendment is reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) at Declarant's option, if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal Housing Administration, the Federal National Mortgage Association or Federal Home Loan mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration or (iv) at Declarant's option, if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant owns any property in the Development or any property capable of being annexed thereto, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not adversely affect in a material magnitude, the substantive rights of any then present Lot

and Townhome Unit Owners hereunder, nor shall it substantially affect marketability of title to any Lot or Townhome Unit without the consent of the affected Lot or Townhome Unit Owner.

(b) In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of a majority of the Owners and the consent of the Declarant, so long as Declarant has an unexpired option to subject property to this Declaration, as set forth at Article VIII.

Amendments to this Declaration shall become effective upon recordation in the Porter County, Indiana records, unless a later effective date is specified therein.

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

Section 13.4 Easement for Utilities. There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Development for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Development or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system or security system which the Association might decide to have installed to serve the Development. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables, and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

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

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

Section 13.7 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

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

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

Section 13.10 Mailing Address. Each Owner of a Lot in Lakepointe Gardens shall file the correct mailing address of such Owner with Developer and shall notify Developer promptly in writing of any subsequent change of address. Developer shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Developer or

Association shall be sufficient and proper notice to such Owner wherever notices are required in this Declaration. Once the Developer transfers control of the Association to the Owners, any filing of correct mailing address or subsequent change shall be to the Association which will make same available to the Developer as the Developer's interests may require.

ARTICLE XIV

ENFORCEMENT

Section 14.1 In General. Any party to whose benefit these Restrictions inure, including Declarant, the Association and any Owner, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Declarant nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

Notwithstanding any other provision in this Declaration of Covenants, Conditions, Easements and Restrictions to the contrary, the Association acting through its Board of Directors may elect to enforce any provision of the Declaration, the Association's By-Laws, the Rules and Regulations by self help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both. In any such action, to the maximum extent permissible, the Owner or occupant responsible for a violation for which abatement is sought or for which other action shall be taken shall pay all costs including attorneys' fees actually incurred.

In addition thereto, any judgment for monetary damages arising from any such enforcement action, if not paid within thirty (30) days from the due date, shall constitute a lien on such Owner's lot in favor of the Association. Said lien shall have the same priority as a lien for assessment set forth in Section 10.5 of this Declaration and shall be subject to foreclosure and such other provisions of Section 10.6 of this Declaration not inconsistent with this section.

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

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

ARTICLE XV

PRIVATE AMENITIES AND SERVICES

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

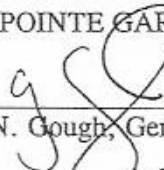
ARTICLE XVI

LIMITATIONS ON DEVELOPER'S LIABILITY

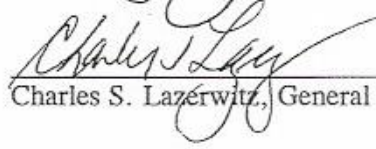
Section 16.1 Limitation on Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot or Townhome Unit and becoming an Owner acknowledges and agrees, the neither Developer (including without limitation any assignee of the interest of Developer hereunder) nor any director, officer or shareholder of Developer (or any partner, officer, director or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or the Association except, in the case of Developer (or its assignee), to the extent of its interest in the Property; and, in the event of a judgment, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets of the judgment debtor.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration
this _____ day of _____, 1994.

OWNER and DEVELOPER:
LAKE POINTE GARDENS PARTNERSHIP



Larry N. Gough, General Partner



Charles S. Lazerwitz, General Partner

EXHIBIT A

A parcel of land in the Southwest Quarter of Section 7, Township 35 North, Range 5 West of the Second Principal Meridian in the City of Valparaiso, Porter County, Indiana; the parcel described as follows:

Commencing at a point on the South line of said Southwest Quarter which is 267.19 feet East of the Southwest corner of said Southwest Quarter; thence S 89 degrees 30' 24" E along said South line 571.00 feet to the POINT OF BEGINNING; thence N 0 degrees 12' 24" E 696.02 feet; thence S 89 degrees 30' 24" W 171.00 feet to the West line of Lot 6 in Vale Park, and Addition to the City of Valparaiso as per plat thereof, recorded in Miscellaneous Record "L", page 1, in the Porter County, Indiana Recorder's Office; thence N00 degrees 12' 24" E along said West line 296.58 feet to the North line of said Lot 6; thence N 89 degrees 30' 24" E along said North line and along the North line of Lot 7 and Lot 8 in said Vale Park Addition 660.80 feet to the East line of said Vale Park Addition; thence S 00 degrees 12' 24" W along said East line 992.60 feet to the South line of said Southwest Quarter; thence S 89 degrees 30' 24" W along said South line 489.56 feet to the point of beginning.

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, a Notary Public, in and for said County and State, this 20 day of December, 1994, personally appeared Larry N. Gough, and knowledgeable the execution of the foregoing instrument to be his free and voluntary act.

Notary Public: Linda M. Sims

My Commission Expires:
4-26-95

Printed: Linda M Sims
County of Residence: Porter

(SEAL)

Before me, a Notary Public, in and for said County and State, this 20 day of December 1994, personally appeared Charles S. Lazerwitz, and knowledgeable the execution of the foregoing instrument to be his free and voluntary act.

Notary Public: Linda M. Sims

My Commission Expires:
4-26-95

Printed: Linda M. Sims
County of Residence: Porter

(SEAL)

This Instrument Prepared By:

H. Jonathon Costas
COSTAS & NORMAN
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Valparaiso, Indiana 46383
Telephone: (219) 462-5104