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EXHIBIT TO AUBURN MEADOWS TERRANCE
Filed in the State of Indiana, County of Lake
By Recorder: MORRIS W. CARTER

Declaration
Of
Condominium Ownership
Of
Auburn Meadow Terrace Homes



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MORRIS W. CARTER
RECORDER

STATE OF INDIANA
LAKE COUNTY
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PETER BENJAMIN
LAKE COUNTY AUDITOR

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**Declaration Of Condominium
Of
Auburn Meadow Terrace Homes**

Affecting the land and all improvements thereon known as

Auburn Meadow Terrace Homes

A Condominium, lying and being in the County of Lake and State of Indiana and described on the Legal Description Rider, which Rider is attached to and made a part of this Declaration (the Property).

RECITALS, INTENT AND PURPOSES

WHEREAS, AUBURN MEADOW DEVELOPMENT, LLC hereinafter referred to as the "Declarant", is owner in fee simple of the Property, which shall consist of a maximum one hundred seventy-six (176) Condominium Units and other appurtenances and facilities, all as hereinafter described; and

WHEREAS, by this Declaration it is intended that the above described real estate, hereinafter referred to as the "Property", in accordance with the provisions herein contained, shall nevertheless be subject to the benefits and burdens of a condominium and subject to the "Horizontal Property Law of the State of Indiana, the same being I.C. 32-1-6-1, et seq., as amended, supplemented, and replaced;"

WHEREAS, a condominium is a method or ownership which when applied to a multi-family dwelling, provides for a separate title to each residential unit, which title shall consist of a Condominium Unit and an undivided interest in and to all the Property that remains other than Condominium Units; and

WHEREAS, notwithstanding such separation of title, however, the owners, by placing the condominiums plan into effect, will own with others Common Areas and Elements, including, without intending to limit the same to such elements thereof as the corridors, parking lots, landscaped areas and related facilities used and controlled in a manner consistent both with the needs and desires of the residents and the community in which the Property is located; and

WHEREAS, it is desirable, therefore, that this Declaration provide the basic requirements for such needs and provide for proper use of the Property, and that within these basic requirements, the Association hereinafter referred to, and its Board of Directors shall have the right and duty to effect the purposes of the condominium; NOW THEREFORE,

DECLARATION

Declarant hereby declares on behalf of itself, its successors, grantees and assigns to its grantees and their respective heirs, successors and assigns as well as to any and all persons having, acquiring or seeking to have or acquire any interest of any nature whatsoever in and to any part of the Property, as follows:

Lots 64-75 inclusive in Auburn Meadow Planned Unit Development, pursuant to the plat thereof, recorded on November 5, 2001 as Instrument No. 2001-089135 in Plat Book 91, Page 6, in the Office of the Recorder of Lake County, Indiana.

The Property from and after the date of the recording of this Declaration in the Office of the Recorder of Lake County, Indiana, shall be and continue subject to each and all of the terms hereof until this Declaration is terminated, amended, or abandoned in accordance with the provisions herein elsewhere contained.

ARTICLE I

DEFINITIONS

As used herein or elsewhere in the Condominium Documents, unless otherwise provided, or unless the context requires otherwise, the following terms shall be defined as in this article provided.

1. Condominium Unit: An enclosed space consisting of one or more rooms occupying all or a part of a floor or floors in a Building of one or more floors or stories and designed for residential use and separately described and designated on the floor plans filed in the Office of the Recorder of Lake County, Indiana.
2. Condominium Owner: A natural person, or corporation or trustee whose estates or interests individually and collectively aggregate fee simple ownership of a Condominium Unit within the Building and an undivided interest in fee simple estate of the Common and Limited Common Areas.
3. Assessment: That portion of the cost of maintaining, repairing and managing the Property which is to be paid by each Condominium Owner, which respective portion is equivalent to such Condominium Owner's share as hereinafter defined, in the percentage established and specified in this Declaration as herein specifically otherwise provided, and is set forth in Exhibit "C", Articles of Incorporation and in Exhibit "D", the Bylaws of the Association, and the cost of the Community Assessment.
4. Association: The AUBURN MEADOW TERRACE HOMES, INC. and its successors, a non profit corporation, organized under the laws of the State of Indiana, and copies of the

Articles of Incorporation and of the Bylaws of said corporation are annexed hereto and made a part of hereof as Exhibit "C" and "D", respectively.

5. Building: A structure to be located on the Property, eleven (11) total to be constructed on the initial phase, which will be built substantially in accordance with the Plans and Specifications filed with the Recorder of Lake County, Indiana, and containing four Condominium Units.
6. Common Areas and Facilities or Common Elements: Means all of the Property, except the Condominium Units and includes without limiting the foregoing:
 - A. The land on which the Building is located;
 - B. The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways and entrances and exits of the Building.
 - C. The yards, parking areas, streets, entry walks, walks, common lights, and recreational facilities;
 - D. Facilities and installations providing electricity, gas, sanitary and storm sewers, water and communication lines;
 - E. All other parts of the Property necessary and convenient to its existence, maintenance and safety, or normally in common use.
7. Common Expenses: The actual and estimated cost of:
 - A. Maintenance, management, operation, repair and replacement of the Common Areas and Facilities and those parts of the Condominium Units as to which, pursuant to other provisions hereof, it is the responsibility of the Association to maintain, repair and replace;
 - B. Management and administration of the Association, including without limiting the same, to compensation paid by the Association to a managing agent, accountants, attorneys and other employees if any;
 - C. All sums lawfully assessed against the Condominium Owners by the Association;
 - D. All sums lawfully assessed against the Condominium Owners and the Association by Auburn Meadow Community Association, Inc. for maintenance of common areas owned by Auburn Meadow Community Association, Inc. for use and enjoyment by Condominium Owners.
 - E. Expenses agreed upon as Common Expenses by the Association;

- F. Any other items held by or in accordance with other provisions of this Declaration, the Condominium Documents, or required by statute.
8. Condominium Documents: This Declaration and the Exhibits annexed hereto as the same from time to time may be amended. Said Exhibits are as follows:
- Exhibit "A"- Site Plan
- Exhibit "B"- Floor Plan: Condominium Plan prepared and filed for record in the Office of the Recorder of Lake County, Indiana, on the _____ day of _____, 2001, as Instrument No. _____.
- Exhibit "C"- Articles of Incorporation of AUBURN MEADOW TERRACE HOMES, INC.
- Exhibit "D"- Bylaws of AUBURN MEADOW TERRACE HOMES, INC.
- Exhibit "E"- Rules and Regulations of said Association.
- Exhibit "F"- Deed form.
- Exhibit "G"- Percentage Attributable to each Condominium Unit on a per Building basis.
- Exhibit "H"- Percentage Attributable to each Condominium Unit.
- Exhibit "I"- Percentage Attributable after Expansion.
- Exhibit "J"- Architect Verified Statement.
9. Declaration: This instrument by which the Property is submitted to the provisions of the Horizontal Property Law of the State of Indiana and as such Declaration from time to time may be lawfully amended and supplemented.
10. Developer: AUBURN MEADOW DEVELOPMENT, L.L.C., its assigns and successors.
11. Limited Common Areas and Facilities or Limited Common Elements: Means and includes those parts of the Common Areas and Facilities or Common Elements which shall be deemed to serve the use of one Condominium Unit to the exclusion of the other Condominium Units and shall include the following:
- A. A portion of the Common Elements contiguous to and serving exclusively a single Condominium Unit or adjoining Condominium Unit as an inseparable appurtenance thereto, including specifically, but not by the way of limitation, balconies, patios, terraces and such portions of the perimeter walls, floors and

ceilings, doors, vestibules, windows and entry ways and of all associated fixtures and structures therein as lie outside the Condominium Unit boundaries, including also, even if not contiguous to or adjoining a single Condominium Unit; the air conditioning compressor or compressors serving a single Condominium Unit;

- B. The Association may, from time to time, designate other portions of the Common Elements as Limited Common Elements, including but not limited to rubbish collection areas, and such heating, cooling, plumbing and electrical fixtures and all associated pipes, ducts and wiring as may serve exclusively a single Condominium Unit or group of contiguous Condominium Units.
12. Majority: The Condominium Owner or Condominium Owners with 51% or more of the votes in accordance with the percentages assigned in the Declaration to the Condominium Units for voting purposes.
 13. Plans and Specifications: The plans and specifications referred to in Article I, Section I, as Exhibit "B" hereof.
 14. Person: A natural person, or natural persons, trustee or corporation capable of holding title to real property.
 15. Property: Means and includes the land described in the Legal Description Rider, Building, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto, including the easement to use and enjoy the common areas owned by Auburn Meadow Community Association, Inc.
 16. Share: The percentage attributable to each Condominium Unit as set forth in Exhibit "H".
 17. Community Assessment: Community Assessment shall mean and include the actual and estimated expenses of operating the Community Association; the costs of owning, maintaining, repairing or replacing the Community Areas which include a clubhouse, pool, walking trail and other improvements which are owned by the Community Association for the benefit of all owners within the Auburn Meadow Development of the Declarant.
 18. Community Areas: Community Areas shall mean those parts of parcels within the Auburn Meadow Development of the Declarant which are owned by the Community Association, Auburn Meadow Community Association, Inc., for the benefit of the Condominium Owners and for the benefit of the owners within Auburn Meadow Townhome Association, Inc. and Auburn Meadow Paired Cottage Association, Inc.
 19. Community Association: Community Association shall mean and refer to Auburn Meadow Community Association, Inc., an Indiana non-profit corporation, and its successors and assigns.

20. Community Association Delegates: Community Association Delegates shall mean two (2) members of the Board of Directors of the Association elected by the Board designated as the Community Association Delegates, to act pursuant to the Auburn Meadow Community Association Declaration.

ARTICLE II

USE OF COMMON AND LIMITED COMMON AREAS AND FACILITIES

The Common and Limited Common Areas and Facilities shall be used in accordance with and subject to the following provisions:

1. Covenant against Partition: In order to effectuate the intent hereof and to preserve the Condominium and the condominium method of ownership, the Property shall remain undivided and no person, irrespective of the nature of his interest in the Property, shall bring any action or proceeding for partition or division of the Property or any part thereof until the termination of the Declaration in accordance with provisions herein elsewhere contained or until the Building is no longer tenantable, whichever first occurs.
2. Rules and Regulations Promulgated by Association: No person shall use the Common Areas or Facilities or any part thereof in any manner contrary to or not in accordance with such rules and regulations pertaining thereto as from time to time may be promulgated by the Association. Without in any manner intending to limit the generality of the foregoing, the Association shall have the right but not the obligation, to promulgate rules and regulations limiting the use of the Common Areas and Facilities to members of the Association and their respective families, guests, invitees and servants.
3. Repair of Common and Limited Common Areas and Facilities: Maintenance, repair, management and operation of the Common and Limited Common Areas and Facilities shall be the responsibility of the Association, but nothing herein contained, however, shall be construed so as to preclude the Association from delegating to persons, firms or corporations of its choice, such duties as may be imposed upon the Association by the terms of this Article II and as are approved by the Board of Directors of the Association.
4. Collection of Expenses: Expenses incurred or to be incurred for the maintenance, repair, management, and operation of the Common and Limited Common Areas and Facilities shall be collected from the Condominium Owners as assessed, in accordance with provisions contained elsewhere herein.
5. Use of Common and Limited Common Areas and Facilities: Subject to the rules and regulations from time to time pertaining thereto: (a) All Condominium Owners may use the Common Areas and Facilities in such manner as will not restrict, interfere with or impede the use thereof by other Condominium Owners; (b) All Condominium Owners

having an interest in Limited Common Areas and Facilities in such manner as will not restrict, interfere with or impede the use of Limited Common Elements or Common Elements by other Condominium Owners.

6. Alterations and Improvements: The Association shall have the right to make or cause to be made such alterations and improvements to the Common and Limited Common Areas and Facilities as may be deemed necessary, provided the making of such alterations and improvements are first approved by the Board of Directors of the Association, and if required by law or contract, the approval of the first Mortgagees of individual Condominium Units shall be obtained. In the event Condominium Owners or Condominium Owners request that alterations or improvements be made, the cost of making such alterations and improvements shall be assessed as Common Expenses, unless in the judgment of not less than eighty percent (80%) of the Board of Directors, such alterations and improvements are exclusively or substantially exclusively for the benefit of the Condominium Owner or Owners requesting the same, in which case such requesting Condominium Owners or Condominium Owners shall be assessed therefore in such proportions as they approve jointly and failing such agreement, in such proportions as may be determined by the Board of Directors of the Association.
7. Shares of Condominium Owners: The shares of the Condominium Owners in the Common and Limited Common Areas and Facilities shall be as stated herein and in Exhibit "H" annexed hereto and may be altered only by amendment hereof executed in form of recording by all of the Condominium Owners and first Mortgagees of such Owners. No such alteration shall affect the lien of prior recorded mortgages unless written consent of the holder of such mortgage is obtained and recorded.
8. Auburn Meadow Community Association, Inc.: The Auburn Meadow Community Association, Inc. owns Community Areas which are for the use and enjoyment of Condominium Owners, subject to rules and regulations pertaining thereto, which are not Common Areas and Facilities under this Declaration.

ARTICLE III

MAINTENANCE AND REPAIR OF CONDOMINIUM UNITS

1. By the Association: The Association, at its expense, shall be responsible for the maintenance, repair and replacement of:
 - (a) All portions of the Condominium Unit which contribute to the support of the Building, excluding, however, plaster or wall board on interior walls and ceilings, and floor surfaces, and including, without intending to limit the same, to outside walls of the Building, including glass, structural slabs, walls of the Building, and that part of the wall between Condominium Units (excepting plaster and floor surfaces,) and load-bearing walls;

- (b) All conduits, ducts, plumbing and wiring and facilities for the furnishing of utility and communication services which may be contained in the Condominium Unit but excluding therefrom, appliances, plumbing fixtures, hot water tank, and air conditioning and heating units;
- (c) All lines and conduits located outside of the Condominium Unit but within the perimeter of the outside of the outside walls of the Building which lines and conduits serve the air conditioning units provided for each Condominium Unit on the outside of the Building;
- (d) All of the electrical system up to but not including the circuit breaker panel of each Condominium Unit; and the Condominium Owner shall be responsible for the electrical system from and including said panel;
- (e) All incidental damage caused to a Condominium Unit by such work as may be done or caused to be done by the Association in accordance herewith.

2. By the Condominium Owner: The responsibility of the Condominium Owner shall be as follows:

- (a) To maintain, repair and replace at his expense, all portions of the Condominium Unit except the portions of each to be maintained, repaired and replaced by the Association; provided that the Owner shall secure the prior written approval of the Association as to the person, firm or corporations elected by the owner to perform the maintenance, repair or replacement on behalf of the Owner;
- (b) To perform his responsibilities in such manner so as not to unreasonably disturb other persons residing within the Building;
- (c) To promptly report to the Association or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Association;
- (d) Not to make any alterations in the portions of the Condominium Unit or the Building which are to be maintained by the Association or to remove any portions thereof, or make any additions or alterations thereto, including the removal, without replacing, carpeting, or do anything which would or might jeopardize or impair the safeness, soundness or soundproofing of the Building without first obtaining the written consent of the Board of Directors of the Condominium Unit if required by law or contract, the first Mortgagee of the individual Unit, nor shall any Condominium Owner impair any easement without first obtaining the written consents of the Association and of the Condominium Owner or Owners for whose benefit such easements exists.

- (e) To maintain, repair and replace at his expense the air conditioning unit servicing his Condominium Unit together with any lines and conduits serving such Condominium Unit within the Condominium Unit or outside of the outside perimeter of the walls of the Building.
3. Limitations as to Damages: Nothing herein contained, however, shall be construed so as to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. Further, damages shall be limited to repair and replacement.

ARTICLE IV

CONDOMINIUM UNITS SHALL BE CONSTITUTED AS FOLLOWS

1. Real Property: Each Condominium Unit, together with the space within it as shown on the Plans and Specifications attached hereto as Exhibit "B" and together with all appurtenances thereto, shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration.
2. Boundaries: Each Condominium Unit shall be bounded as to both horizontal and vertical boundaries as shown on the Plans and Specifications attached as Exhibit "B", subject to such encroachments as are contained in the Building whether the same exist now or are created by construction, settlement or movement of the Building, or permissible repairs, reconstructions or alterations. Said boundaries are intended to be as follows:
 - (a) Horizontal Boundaries:
 - (i) The face surface of the plaster or wallboard ceiling above and abutting the Condominium Unit;
 - (ii) The top of the concrete slab below and abutting the Condominium Unit;
 - (b) Vertical Boundaries:
 - (i) The face surfaces of the vertical boundary wall of each Condominium Unit.
3. Appurtenances: Each Condominium Unit shall include and the same shall pass with each Condominium Unit as an inseparable appurtenance thereto, whether or not separately described, conveyed or encumbered, all of the rights, title and interest of the Condominium Owner in the Property, which shall include but not be limited to:

- (a) An undivided share of the Common and Limited Common Areas and Facilities, such undivided share to be in that portion set forth in Exhibit "B";
- (b) The air conditioning unit, including ducts and lines appurtenant to such unit, which unit is located outside of the Building and designed to serve each separate Condominium Unit;
- (c) The Garage Parking Space or Spaces;
- (d) Easements for the benefit of the Condominium Unit;
- (e) Association Membership and funds and assets held by the Association for the benefit of the Condominium Owner;
- (f) All such appurtenances, however, shall be and continue to be subject to the easements for the benefit of other Condominium Units;
- (g) In addition to and not in derogation of the ownership of the space described on the Plans and Specifications attached hereto as Exhibit "B" an exclusive easement for the use of the space not owned by the Condominium Owner and which is occupied by the Condominium Unit, which easement shall exist until the earlier of such time as this Declaration is terminated in accordance with provisions herein elsewhere contained, or the Building is no longer tenantable;
- (h) The following easements from each Condominium Owner to each other Condominium Owner and to the Association:
 - (i) Ingress and Egress: Easements through the Common Areas and Facilities for ingress and egress for all persons making use of such Common Areas and Facilities in accordance with the terms of the Condominium Documents;
 - (ii) Maintenance, Repair and Replacement: Easements through the Condominium Units and Common Areas and Facilities for maintenance, repair and replacement of the Condominium Units and Common Areas and Facilities. Use of these easements, however, for access to the Condominium Units will be limited to reasonable hours, except that access may be had at any time in case of emergency;
 - (iii) Structural Support: Every portion of a Condominium Unit, which contributes to the structural support of the Building, shall be burdened with an easement of structural support for Common Areas and Facilities;
 - (iv) Utilities: Easements through the Condominium Units and Common Areas and Facilities for all Facilities for the furnishing of utility and

communication services within the Building, which facilities shall include, but not be limited to, conduits, ducts, plumbing and wiring; provided, however, that the easements for such facilities through a Condominium Unit shall only be substantially in accordance with the Plans and Specifications of the Building;

- (v) **Emergency Easements of Ingress and Egress:** Easements or all patios and balconies whenever reasonably required for emergency ingress and egress Condominium Owners shall install or allow to be installed locks, security devices or other things which will or might impair such easements only in accordance with the rules and regulations as may be promulgated by the Association.

ARTICLE V

USE RESTRICTIONS

In order to provide for a congenial occupation of the Building and to provide for the protection of the values of the Condominium Units, the use of the Property shall be restricted to and be in accordance with the following provisions:

1. **Use of Condominium Units:** The Property shall be used only for residential, personal, recreational and related purposes as may more particularly be set forth in this Declaration and amendments thereto. The Association, acting through the Board of Directors, shall have standing and the power to enforce use restrictions contained in any such declaration as if such provisions were a regulation of the Association.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Condominium Units shall continue, it shall be expressly permissible for Declarant to maintain and carry on 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 Condominium Units owned by the Declarant 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 1 shall be terminated upon the earlier of eight (8) years from the date this Declaration is recorded, or upon the Declarant's recording a written statement that all sales activity has ceased.

2. **Use of Common and Limited Common Areas and Facilities:** The Common Areas And Facilities shall be used for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of the Condominium Units.

3. Restriction as to Occupancy: The use and occupancy shall be limited only to four (4) persons.
4. Nuisances: No nuisances shall be allowed upon the Property nor shall any use or practice be allowed which is a source of annoyance to residents or which interfere with the peaceful possession and the proper use of the Property by its residents.
5. Lawful use: No immoral, improper, offensive, or unlawful use shall be made of the Property nor any part thereof and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The respective responsibilities of Condominium Owners and the Association of complying with the requirements of governmental bodies which require maintenance, modification or repair of the Property shall be the same as hereinabove provided for the maintenance and repair of that portion of Property subjected to such requirements.
6. Interpretation: In interpreting deeds, mortgages and plans existing physical boundaries of the Condominium Unit or of a Condominium Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed mortgage or plan, regardless of settling or lateral movement of the Building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the Building.
7. Regulations: Regulations concerning use of the Property may be promulgated by the Association as herein above set forth to each Condominium Owner prior to the time that the same become effective. The initial regulations, which shall be deemed effective until amended by the Association, are attached hereto and made a part hereof as Exhibit "E". Such regulations shall not impair or limit the rights of mortgages, as elsewhere cited.

ARTICLE VI

ADMINISTRATION

The administration of the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

1. Organization of Association: The Association shall be incorporated under the name appearing in the definition of "Association" in Article I hereof.
2. Bylaws of Association: The Bylaws of the Association shall be in the form attached as Exhibit "D" until such are amended in the manner therein provided.
3. Powers of Association: The duties and powers of the Association shall be those set forth in this Declaration, the Articles of Incorporation and the Bylaws, together with those reasonably implied to effect the purposes of the Association and this Declaration:

provided, however, that if there are conflicts or inconsistencies between this Declaration and either the Articles of Incorporation or the Bylaws, the terms and provisions of this Declaration shall prevail and the Condominium Owners covenant to vote in such a way to remove such conflicts or inconsistencies. The powers and duties of the Association shall be exercised in the manner provided by the Articles of Incorporation and the Bylaws and any duties or rights of the Association which are granted by or agreed to be exercised in accordance with the provisions of this Declaration, shall be so exercised except that wherever this Declaration requires the act or approval of the Board of Directors of the Association, such act or approval must be that of the Board done or given in accordance of the Bylaws.

4. Notices: Notices or demands, for any purpose, shall be given by the Association to Condominium Owners and by the Condominium Owners to the Association and other Condominium Owners in the manner provided for the notices to members of the Association by the Bylaws of the Association.
5. Title to Funds: All funds and titles of all properties acquired by the Association and the proceeds thereof after deducting therefrom the costs incurred by the Association in acquiring the same shall be held for the benefit of the Condominium Owners for the purposes herein stated.
6. Use of Income: All income received by the Association from the rental or licensing of any part of the Common Areas and Facilities (as well as such income anticipated) shall be used for the purpose of reducing prospective Common Expenses prior to establishing the annual assessment for Common Expenses.

ARTICLE VII

INSURANCE

The Board shall have the authority to and shall obtain insurance for the Property as follows:

1. Physical damage insurance on the Property (but excluding additions, alterations, improvements and betterments to the Condominium Units) subject to the following conditions:
 - (a) Such insurance shall be "bare wall" insurance with respect to the Condominium Units;
 - (b) The Property shall be insured for an amount not less than one hundred percent (100%) of its full insurable replacement cost on a blanket basis;
 - (c) Replacement cost values are to be reviewed annually by an independent appraiser and the insurance policy or policies shall be endorsed with an agreed amount

clause. The cost of any and all appraisals for insurance purposes shall be Common Expenses;

- (d) Perils to be covered by such policies shall be no less than "all risk" or "Special form" on real property and "broad form" named perils on personal property and such other perils as may be deemed appropriate by the Board;
 - (e) Such insurance shall contain the following endorsements: (i) special Condominium Endorsement, (ii) Inflation Guard Endorsement, (iii) Construction Code Endorsement and (iv) Steam Boiler and Machinery Coverage Endorsement; and
 - (f) Such insurance shall have a maximum deductible amount of the lesser of (i) Ten Thousand and No/100 Dollars (\$10,000) or (ii) one percent (1%) of the policy face amount.
2. Commercial General Liability insurance covering personal injury and property damage insuring against hazards of premises/operation, products and completed operations, contractual liability, personal injury liability (with exclusions (a) and (c) deleted), independent contractors and other extensions as deemed necessary by the Board. Such insurance shall provide limits of liability as deemed desirable by the Board, but in no event for less than One Million Dollars (\$1,000,000) with respect to each occurrence. Such policy shall be endorsed to cover cross-liability claims of one insured against the other.
3. Umbrella Liability insurance in excess of the required Comprehensive General Liability and Employer Liability policies in an amount deemed desirable by the Board, but in no event less than Two Million Dollars (\$2,000,000) with respect to each occurrence. Such policy shall be no less than "following form" coverage of the primary liability policies.
4. Worker's Compensation and Employer Liability as necessary to comply with applicable laws.
5. A fidelity bond insuring the Association, the Board and the Condominium Owners against loss of funds as a result of the fraudulent or dishonest acts of any employee of the Association or its management agent or of any other person handling the funds of the Association, the Board or the Condominium Owners in such amounts as the Board shall deem necessary but not less than the greater of (A) fifty percent (50%) of the annual operating expenses of the Association, including reserves and (B) the maximum amount of funds that will be in the custody of the Association at any time. The premium for such fidelity bond shall be a Common Expense. Such bond shall contain waivers of any defense based on the exclusion of a person who served without compensation from any definition of "employee" or similar expression. Such bond shall provide that it may not be canceled for non-payment of any premiums or otherwise substantially modified

without thirty (30) days prior written notice to the Association and all holders of first mortgages on record. The fidelity bond shall name the Association as the obligee.

6. Directors and Officers Liability insurance in such amounts as the Board shall determine to be reasonable.
7. Such other insurance, which may include, without limitation, any or all of the following, in such amounts as the Board shall deem desirable; Errors and Omissions coverage for the Directors of the Board; and Medical Payments coverage for members of the public (not Condominium Owners) injured on the Property, without regard to liability of the Board or the Association;
 - (a) The premiums for the above described insurance and bond, except as otherwise provided in this Section on Insurance, shall be Common Expenses.
 - (b) All insurance provided for in this Article VII shall be effected under valid and enforceable policies issued by insurance companies authorized and licensed to transact business in the State of Indiana and holding a current Policyholder's Alphabetic and Financial Size Category Rating of not less than B/III according to Best's Insurance Reports or a substantially equivalent rating from a nationally recognized insurance rating service. All such policies shall provide a minimum of sixty (60) days, advance notice of cancellation in writing to the insured thereunder and all holders of first mortgages of record unless such cancellation is for non-payment of premium in which case ten (10) days, advance written notice shall be sufficient.
 - (c) All policies of insurance of the character described in clauses (1) and (2) of this Article VII: (i) shall name as insured: the Declarant and Developer, so long as they have an insurable interest; the Board, as trustees for the Condominium Owners, in the percentages established and shall also name as an insured the Insurance Trustee described in subparagraph Article VII (f) (ii), as the respective interests of all of such insureds may appear; (ii) shall be without contribution as respects other such policies of insurance carried individually by the Condominium Owners whether such other insurance covers their respective Condominium Units and the additions and improvements made by such Condominium Owners to their respective Condominium Units; (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the event the Condominium Owners elect to sell the Property or remove the Property from the provisions of the Act; and (iv) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the Mortgagee of each Condominium Unit. Policies of insurance of the character described in clause (1) of the first paragraph of this Article VII may contain an endorsement extending coverage so as to include the payment of Common Expenses with respect to damaged

Condominium Units during the period of reconstruction thereof. Notwithstanding the issuance of standard mortgage clause endorsements under the policies of insurance of the character described in clauses (1) and (2) of the first Paragraph of this Article VII, any losses under such policies shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed, in accordance with the provisions of this Declaration.

- (d) All policies of insurance of the character described in clauses (2), (3), (4), and (5), of this Article VII shall name as insureds the Association, the Board, its managing agent, and the other agents and employees of such Association, Board and managing agent and the Declarant and Developer in their respective capacities as a Condominium Owner and Board member and shall also provide coverage for each Condominium Owner (but as to the insurance described in Article VII Paragraph (3) hereof, only with respect to those portions of the Property not reserved for their exclusive use). In addition, all policies of insurance of the character described in clauses (1), (2) and (3), of this Article VII shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its Officers, members of the Board, the Declarant, the managing agent, their respective employees and agents, and the Condominium Owners and Occupants.
- (e) The Association, for the benefit of the Condominium Owners and the Mortgagee of each Condominium Unit, shall pay the premiums and obtain a binder on the policies of insurance described in the first Paragraph of the Article VII at least thirty (30) days prior to the expiration date of the respective policies, and upon written request therefrom, shall notify the Mortgagee of each Condominium Unit of such payment within ten (10) days after the date on which payment is made.
- (f) Loss, if any, under any policies of insurance of the character described in paragraphs (1), (2) and (3) of Article VII shall be adjusted with the Board, and the insurance proceeds on account of any such loss shall be paid and applied as follows:
 - (i) To the Board, as trustee for each of the Condominium Owners in their respective percentages of ownership in the Common Elements as established in this Declaration, in the case of any one loss, of Fifty Thousand Dollars (\$50,000) or less in the aggregate, which insurance proceeds, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, shall be applied to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Condominium Unit and the Common Elements having the same vertical and horizontal boundaries as before, free from vendor's, mechanic's, material supplier's and other similar liens; or

- (ii) In the case of any one loss exceeding Fifty Thousand Dollars (\$50,000) in the aggregate, then the insurance proceeds shall be paid to MERCANTILE NATIONAL BANK, which corporation is hereby designated by the Declarant to act as trustee for the Board (the "Insurance Trustee") pursuant to the Act for the purpose of collecting and disbursing the insurance proceeds described in this subparagraph (ii). If such entity (or its successor appointed pursuant hereto) shall fail or cease for any reason to act as the Insurance Trustee, then the Board shall, pursuant to the Act, appoint as successor an Insurance Trustee, a corporation qualified to accept and execute trusts in the State of Indiana and having a capital of not less than Five Million Dollars (\$5,000,000). Such proceeds, less the actual cost, fees, and expenses, if any, incurred in connection with the adjustment of the loss, and the fees of the Insurance Trustee, shall be applied by the Insurance Trustee to the payment of the cost of restoring the Property to substantially the same condition as it existed immediately prior to such damage or destruction, with each Condominium Unit and the Common Elements having the same vertical and horizontal boundaries as before. Such proceeds shall be paid by the Insurance Trustee to or for the account of the Association, from time to time as work progresses, in such manner as shall be required to facilitate the restoration of the Property in accordance with the provisions of the Act. The Association and the Insurance Trustee may, prior or subsequent to any such loss, enter into an insurance trust agreement further implementing the provisions of the Act and this Declaration with respect to the collection and disbursement of proceeds of insurance by the Insurance Trustee.
- (g) Each Condominium Owner shall be responsible for (i) physical damage insurance on the personal property in the Condominium Owner's Condominium Unit and elsewhere on the Property, and any additions, alterations and improvements to the Condominium Owner's Condominium Unit (whether installed by such Condominium Owner or any prior Condominium Owner or whether originally in the Condominium Unit); (ii) the Condominium Owner's personal liability to the extent not covered by the policies of liability insurance obtained by the Board for the benefit of all of the Condominium Owners as above provided; and (iii) the Condominium Owner's additional living expense. All policies of casualty insurance carried by each Condominium Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board for the benefit of all of the Condominium Owner as above provided. For the purposes of Article VIII (g) and (h) hereof, "additions, alterations and improvements" shall mean any property (excluding personal property readily removable without damage to the Condominium Unit) attached to the Condominium Unit, including without limitation: carpeting, flooring, wall covering, paint and paneling.
- (h) The Board shall not be responsible for obtaining physical damage insurance on any additions, alterations and improvements to a Condominium Unit or any

personal property of a Condominium Owner or any other insurance for which a Condominium Owner is responsible pursuant to Article VIII (g) thereof.

- (i) Each Condominium Owner hereby waives and releases any and all claims which the Condominium Owner may have against any other Condominium Owner, the Association, its Officers, members of the Board, Declarant, Developer, the manager and managing agent of the Property, if any, and their respective employees, partners and agents, for any damage to the Common Elements, the Condominium Units, or to any personal property located in the Condominium Unit or Common Elements caused by fire or other casualty to the extent that such damage is covered by insurance for which such Condominium Owner is responsible pursuant to Article VIII (g) hereof.
- (j) Insurance required by Article VIII first Paragraph hereof shall be endorsed to include substantially the following clause:

"This insurance shall not be prejudiced (i) by any act or neglect of any Condominium Owner or occupant of the Building when such act or neglect is not within the control of the named insured (or Condominium Owners collectively), or (ii) by failure of the named insured (or Condominium Owners collectively) to comply with any warranty or condition with regard to any portion of the Building over which the named insured (or Condominium Owners collectively) has no control."
- (k) The Board shall have the right to select substantial deductibles to the insurance coverage required or permitted under this Article VIII if the economic savings justifies the additional risk and if permitted by law. The deductibles shall be on a per occurrence basis irrespective of the number of insureds suffering injury or damage. Expenses included within the deductible amount arising from insurable loss or damage shall be treated as Common Expenses.

ARTICLE VIII

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

1. If any part of the Common Areas and Facilities shall be damaged by casualty, the determination of whether or not to reconstruct or repair the same shall be made as follows:
 - (a) Partial: In case of fire or any other casualty or disaster, other than complete destruction of all Condominium Units, the improvements shall be reconstructed and the insurance proceeds applied to reconstruction of the improvements.

- (b) Total: In the event of complete destruction of the Building, the Building shall not be reconstructed, except as otherwise provided, and the insurance proceeds, if any, shall be divided among the Condominium Owners in percentage by which each owns an undivided interest in the Common Areas and Facilities or proportionately according to the fair market value of all the Condominium Units immediately before the casualty as compared with all other Condominium Units, as specified in the Bylaws of the Condominium and the property shall be considered to be removed from the Condominium unless by a vote of two-thirds (2/3rds) of all the Condominium Owners a decision is made to rebuild the Building, in which case the insurance proceeds shall be applied and any excess of construction costs over insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the Building. A determination of total destruction of the Building containing Condominium Units shall be determined by a vote of two-thirds (2/3rds) of all Condominium Owners at a special meeting of the Association of Condominium Owners called for that purpose.
- (c) Reconstruction: Any such reconstruction or repair shall be substantially in accordance with the plans.
- (d) Continuation of Encroachments: Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Condominium Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the Plans and Specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.
- (e) Certificate: The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged Property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

2. Responsibility: If the damage is only to those parts of one Condominium Unit for which the responsibility of maintenance and repair is that of the Condominium Owner, then the Condominium Owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

- (a) Estimate of Costs: Immediately after a casualty causing damage to Property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged Property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

- (b) Assessments: Where the insurance proceeds are not sufficient to cover the cost of reconstruction and the Property is not to be removed from the Property regime, the Condominium Owners shall contribute the balance of any such costs in the percentage by which a Condominium Owner owns an undivided interest in the Common Areas and Facilities as expressed in the Declaration. Such amount shall constitute a lien from the time of assessment.
- (c) Construction Funds: The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Association from the assessment against Condominium Owners, shall be disbursed in payment of such costs in the following manner:
- (i) Association: If the amount of the estimated costs of reconstruction and repair exceeds the total annual assessments for Common Expenses made during the year in which the casualty occurred, then the sums paid upon assessments to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse the same in payment of the costs of reconstruction and repair.
- (ii) Insurance Trustee: The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against Condominium Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:
- (a) Condominium Owner: The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Condominium Owner; to such contractors, suppliers and personnel as do the work or supply the materials or services required for such reconstruction or repair, in such amounts and at such times as the Condominium Owner may direct, or if there is a Mortgagee endorsement, then to such payees as the Condominium Owner and the first Mortgagee jointly direct. Nothing contained herein, however, shall be construed so as to limit or modify the responsibility of the Condominium Owner to make such reconstruction of the improvements.
- (b) Association: Lesser Damage. If the amount of the estimated costs of reconstruction and repair is less than the total of the annual assessments for Common Expenses made during the year in which the casualty occurred, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request of a Mortgagee which is a

beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damages.

- (c) Association: Major Damage. If the amount of the estimated costs of reconstruction and repair of the Building or other improvement is more than the total of the annual assessments for Common Expenses made during the year in which the casualty occurred then the construction fund shall be disbursed in payment of such in the manner required by the Board of Directors of the Association and upon the approval of an architect qualified to practice in Indiana and employed by the Association to supervise the work.
 - (d) Surplus: It shall be presumed that the first moneys disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed jointly to the Condominium Owners and their Mortgagees who are the beneficial owners of the land.
 - (e) When the damage is to both Common Areas and Facilities and Condominium Units, the insurance proceeds shall be applied first to the costs of repairing the Common Areas and Facilities and the balance to the Condominium Units in the shares above stated.
- (d) Insurance Adjustments: Each Condominium Owner shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association except in any case where the damage is restricted to one Condominium Unit, subject to the rights of Mortgagees of such Condominium Owners.

ARTICLE IX

TAXES AND SPECIAL ASSESSMENTS

1. Assessment of Taxes: Taxes, assessments, and other charges of the State of Indiana, or any political subdivision, or of any special improvement district, or of any other taxing or assessing authority shall be assessed against and collected on each individual Condominium Unit and shall be paid by each owner.
2. Payment by Association: During the period of time the taxes and specials assessments and other charges upon the Property or any portion thereof are not assessed to individual

Condominium Owners as aforesaid, the taxes, assessments and other charges not separately assessed to Condominium Owners shall be paid by the Association. The Association shall assess each Condominium Owner in accordance with the percentage of ownership specified herein.

ARTICLE X

ASSESSMENTS

Assessments against the Condominium Owners shall be made or approved by the Board of Directors of the Association and paid by the Condominium Owners to the Association in accordance with the following provisions:

1. Share of Expenses: Each Condominium Owner shall be liable for his share of the Common Expenses, and any common surplus shall be owned by each Condominium Owner in like share.
2. Assessments other than Common Expenses: Any assessments, the authority to levy which is granted to the Association or its Board of Directors by the Condominium Documents, shall be paid by the Condominium Owners to the Association in the proportions set forth in the provisions of the Condominium Documents authorizing the assessment.
3. Accounts: All sums collected by the Association from the assessment may be co-mingled in a single fund but they shall be held for the Condominium Owner in the respective shares in which they are paid and shall be credited to accounts from which shall be paid the expenses for which the respective assessments are made. Such accounts shall be as follows:
 - (a) Common Expense Account: To which shall be credited collections of assessments for all Common Expenses as well as payments received for defraying costs of the use of Common Areas and Facilities;
 - (b) Alteration and Improvement Account: To which shall be credited all sums collected for alterations and improvement assessments;
 - (c) Reconstruction and Repair Account: To which shall be credited all sums collected for construction and repair assessments;
 - (d) Emergency Account: To which shall be credited all sums collected for emergencies.
 - (e) Start Up Costs: The Developer may contribute money to the Association to pay for "start up" costs and to pay for expenditures of the Association and purchase

any equipment or services during the "start up" phase of the Association. Any amounts advanced by the Developer shall not be considered as advanced payments of regular assessments, but as a loan to the Association which must be repaid. At the time of the initial sale of each Condominium Unit at the closing, the Purchaser of the Condominium Unit shall pay to the Association the amount equal to two times the first full monthly assessment for each such Condominium Unit, and the Association shall utilize these start up assessments to reimburse the Developer for funds the Developer advanced to the Association to pay for start up costs and other expenditures during the start up phase. All sums collected by the Association for start up costs from the Purchasers which remain after fully reimbursing the Developer, shall be retained by the Association as a working capital fund and shall not be refunded or applied as a credit against the Condominium Owners monthly assessments. In addition, at the time of the initial sale of each Condominium Unit is closed, the Purchaser of the Condominium Unit shall pay to the Association the amount equal to two times the monthly assessment to be deposited into a capital reserve account. A Condominium Owners obligation to pay monthly assessments shall commence at the time of closing the purchase and sale of a Condominium Unit.

- (f) Capital Reserve; Supplemental Budget Account: The Association shall segregate and maintain a special reserve account to be used solely for making capital expenditures in connection with the Common Elements (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Common Elements and equipment owned by the Association as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Elements or the purchase of equipment to be used by the Association in connection with its duties hereunder. Each budget shall disclose that percentage of the annual assessment which shall be added to the Capital Reserve and each Condominium Owner shall be deemed to make a capital contribution to the Association equal to such percentage multiplied by each installment of the annual assessment paid by such Condominium Owner. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of any contingency reserve or Capital Reserve, as applicable, which remains unallocated. If the estimated Common Expenses contained in the budget prove inadequate for any reason or in the event a nonrecurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or nonrecurring expense for the remainder of such year, copies of which supplemental budget shall be furnished to each Condominium Owner, and thereupon a special or separate assessment shall be made to each Condominium Owner for the Condominium Owner's proportionate share of such supplemental budget. All Condominium Owners shall be personally liable for and obligated to pay their respective adjusted monthly amount. Any such special or separate assessment, if it involves proposed expenditures resulting in a total payment

assessed to a Condominium Unit equal to the greater of (i) five (5) times the Condominium Unit's most recent monthly assessment or (ii) One Thousand Dollars (\$1,000.00), shall be subject to the affirmative vote of at least two-thirds (2/3) of the total ownership of the Common Elements at a meeting specifically called for approving such special or separate assessment.

4. Assessment for Common Expenses: Assessments for Common Expenses shall be paid by each Condominium Owner on a quarterly basis; the amount so paid shall be set by the Board of Directors and shall be based upon the amount of the estimated or projected Common Expenses for the year computed by the Treasurer of the Association, consonant with the yearly budget; the amount to be paid to the treasurer of the Association; the total amount each individual Condominium Owner shall pay shall be based upon the share interest of each Condominium Unit as set forth in Exhibit "G".
5. Other Assessments: Other assessments shall be made in accordance with the provisions of the Condominium Documents and if the time of payment is not set forth in the Condominium Documents, the same shall be determined by the Board of Directors of the Association.
6. Assessments for Emergencies: Assessments for Common Expenses of emergencies which cannot be paid from the Common Expense account shall be made only by the Board of the Directors of the Association.
7. Assessments for Liens: All liens of any nature including taxes and special assessments levied by governmental authority which are a lien upon more than one Condominium Unit or upon any portion of the Common Area and Facilities, shall be paid by the Association in accordance with the shares of the Condominium Units concerned or charged to the Common Expenses Account, whichever in the judgment of the Board of Directors is appropriate.
8. Assessment Roll: The assessments against all Condominium Owners shall be set forth upon a roll of Condominium Units which shall be available in the Office of the Association for inspection at all reasonable times by Condominium Owners or their duly authorized representatives. Such roll shall indicate for such Condominium Unit the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate made by the Association as to the status of a Condominium Owners assessment account shall limit the liability of any person for whom made other than the Condominium Owner. The Association shall issue such certificate to such persons as a Condominium Owner may request in writing.
9. Liability for Assessment: The Owner of a Condominium Unit and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of conveyance but without prejudice to the rights of the grantee therefore. Such liability may not be avoided by a waiver of the use or enjoyment of any Common Areas and Facilities or by abandonment of the Condominium Unit for which the assessments are

made. A purchaser of a Condominium Unit at a judicial or foreclosure sale or a first Mortgagee who accepts a deed in lieu of foreclosure shall be liable only for the assessments coming due after acquisition of title and for that portion of due assessments prorated to the period after the date title is acquired. Such a purchaser as aforesaid shall be entitled to the benefit of all prepaid assessments paid beyond the date such purchaser requires title.

10. Lien for Assessments: The unpaid portion of an assessment which is due shall be secured by a lien upon

- (a) The Condominium Unit and all appurtenances thereto, and shall constitute a lien from the time of assessment of such Common Expenses prior to all other liens except only
 - (i) tax liens on the Condominium Unit in favor of any assessing unit and special district; and
 - (ii) all sums unpaid on a first mortgage of record.
- (b) The Board of Directors shall perfect such lien by filing notice of the same within sixty (60) days from the date of such assessment was due and may foreclosure the lien under the laws of the State of Indiana governing mechanics and material men's liens. In any such foreclosure, the delinquent owner may be required to pay a reasonable rental for the Condominium Unit, and the Association in such Foreclosure shall be entitled to the appointment of a receiver to collect such delinquent assessment. The Association may, in addition to such foreclosure action, file suit to recover a money judgment for unpaid Common Expenses and such action shall not constitute a waiver of the lien securing such unpaid assessment.
- (c) If the Board of Directors determine to file foreclosure to collect such unpaid assessments, the Board of Directors acting on behalf of the Association shall have the power to bid on the Condominium Unit at foreclosure sale, and to acquire, and hold, lease, mortgage and convey the same.

11. Application of Payments:

- (a) Interest, Application of Payments: Assessments and installments thereof paid on or before eight (8) days after the date when due shall not bear interest but all sums not paid on or before twenty (20) days after the date when due shall bear interest at the rate of eight per cent (8%) per annum from the date due until paid. All payments upon account shall be applied first to interest and then to the assessment payment first due. All interest collected shall be credited to the Common Expense Account.

- (b) **Suit and Collection Costs:** The Board of Directors of the Association at its option may enforce collection of delinquent assessments by actions at law or by foreclosures of the liens securing the assessments or by any other competent proceedings and the delinquent Owner shall be assessed interest at the rate of eight per cent (8%) per annum and all costs, including collection fees, reasonable attorneys' fees and the cost of the suits or proceedings.

12. Community Assessments:

- (a) The Association shall pay the Community Assessments collected by it from the Condominium Owners on a yearly basis to the Community Association, unless the Community Association notifies the Association of a different method of payment of Community Assessments.

ARTICLE XI

COMPLIANCE AND DEFAULT

Each Condominium Owner shall be governed by and shall comply with the terms of the Condominium Documents and Regulations adopted pursuant thereto and said Documents and Regulations as they may be amended from time to time. A default shall entitle the Declarant, Developer, Association or other Condominium Owners to the following relief:

- (a) Legal Proceedings: Failure to comply with any of the terms of the Condominium Documents and Regulations adopted pursuant thereto, shall be ground for relief which may include, without intending to limit the same, to an action to recover sums due for damages, injunctive relief, foreclosure or lien or any combination thereof and which relief may be sought by the Declarant, Developer, Association or if appropriate, by an aggrieved Condominium Owner.
- (b) Liability of Owner: All Condominium Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or of his or their guests, employees, agents, or lessees, but only to the extent that such expenses is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates, occasioned by use, misuse, occupancy, or abandonment of any Condominium Units or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.
- (c) Costs and Attorneys' Fees: In any proceedings arising because of an alleged default by a Condominium Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorneys' fees as may be determined by the Court.

- (d) No Waiver of Rights: The failure of the Declarant, Developer, Association or of the Condominium Owners to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Declarant, Developer, Association or Condominium Owner to enforce such right, provision, covenant or condition in the future.
- (e) No Election Of Remedies: All rights, remedies and privileges granted to the Declarant, Developer, Association or any Condominium Owner pursuant to any terms provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Condominium Documents or at law or in equity.
- (f) Rights of Town: If the Property is, or becomes part of a town of the State of Indiana, in addition to the rights of the Association and of a Condominium Owner, such towns may enforce by equitable action the provisions of this Declaration and the terms and conditions of the Indiana Horizontal Property Law of 1977, as amended, same being IC. 32-1-6-1 et. seq.

ARTICLE XII

AMENDMENT

1. Until 100% of the Condominium Units have been sold and conveyed by the Declarant, the consent of the Developer shall be required for the amendment of any Condominium Documents. The Condominium Documents may be amended (with the consent of the Developer, if required, as aforesaid) in the following manner:

Declaration: Amendments to the Declaration shall be proposed and adopted as follows:

- (a) Notice: Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the Notice of any meeting at which a proposed amendment is considered.
- (b) Resolution: A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the Condominium Owners meeting as members of the Association and after being proposed and approved by either of such bodies, must be approved by the other. Directors and Condominium Owners not present at the meeting considering such amendment may express their approval by writing or proxy. Such approvals must be by not less than seventy-five percent (75%) of the Directors, and seventy-five percent

(75%) of the Condominium Owners and their Mortgagees provided that any amendment so approved by seventy-five percent (75%) of the Condominium Owners and Directors but not by seventy-five percent of the Mortgagees shall be valid and binding except as to any non-consenting Mortgagees and their successors and assigns, including any successor in interest to such Mortgagee and their successors whether by:

- (i) Purchase of the Condominium Unit at a mortgage foreclosure sale resulting from the foreclosure of such Mortgagee's mortgage,
 - (ii) Purchase of such Mortgagee's interest in such mortgage, or
 - (iii) Purchase of the Condominium Unit from such Mortgagee in the event such Mortgagee acquires title by deed in lieu of foreclosure.
- (c) Recording: A copy of each amendment shall be certified by at least two (2) officers of the Association having been duly adopted and shall be effective when recorded in the office of the Recorder of Lake County, Indiana. Copies of the same shall be sent to each Condominium Owner and his Mortgagee in the manner elsewhere provided for the giving of notices but the same shall not be provided for the giving of notices but the same shall not constitute a condition precedent to the effectiveness of such amendment.

2. Associations, Articles of Incorporation and Bylaws: The Articles of Incorporation and the Bylaws of the Association shall be amended in the manner provided by such documents.
3. Amendments by Declarant: Notwithstanding any other provision of the Declaration, and in addition to any other right to amend elsewhere set forth herein, the Declarant alone may amend this Declaration, with the Articles of Incorporation, By-laws, and Rules and Regulations, without the consent of the Condominium Owners, the Association, the Board of Directors or any mortgagee, or any other person, (i) to correct scrivener's errors, minor defects, or omissions which do not materially or substantially alter the rights of the Condominium Owners and mortgagees set forth herein; or (ii) to comply with the requirements of Indiana law; or (iii) to comply with the requirements of any governmental agency, public authority, or title insurance company; or (iv) to comply with the requirements of Federal Home Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or other public, quasi-public or private entity which performs functions similar to those currently performed by each such entity; or (v) to amend the Exhibits to include additional Buildings constructed on the Property. This Paragraph shall be coupled with an irrevocable special power of attorney to Declarant on behalf of all owners, mortgagees, and any and all other persons having an interest of any kind in the Property for so long as Declarant owns any Condominium Unit

or until the expiration of five (5) years from the date on which this Declaration is recorded, whichever is later.

ARTICLE XIII

TERMINATION

The Condominium shall be terminated, if at all, in the following manner:

1. By Agreement: The termination of the Condominium may be effected by the agreement of all Condominium Owners and first Mortgagees, which agreement shall be evidenced by an instrument or instruments executed in the manner required for conveyances of the land. The termination shall become effective when such agreement has been recorded in the Office of the Recorder of Lake County, Indiana.
2. Destruction: If it is determined in the manner elsewhere proceeded that the Property shall not be reconstructed after casualty, the Condominium Plan of Ownership will be terminated and the Condominium Documents revoked. The determination not to reconstruct after casualty shall be evidenced by certificate of the Association certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the Office of the Recorder of Lake County, Indiana.
3. Shares of Condominium Owners After Termination: After termination of the Condominium, the Condominium Owners shall own the Property as tenants in common in undivided shares and the holders of the mortgages and liens against the Condominium or Condominium Units formerly owned by such Condominium Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Owners. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held jointly for the Condominium Owners and their first Mortgagees in proportion to the amount of the assessments paid by each Condominium Owner. The costs incurred by the Association in connection with the termination shall be a Common Expense.
4. Sale after Termination: Following termination, the Property may be partitioned and sold upon the application of any Condominium Owner. If the Association following a termination, by not less than a three-fourths vote of the Owners, determines to accept an offer for the sale of the Property, each Condominium Owner shall be bound to execute such deeds and other documents reasonably required to affect such sale at such times and in such forms as the Board of Directors directs. In such event, any action for partition or other division of the Property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.
5. Agents of Owners: The members of the Board of Directors acting collectively as agents for all Condominium Owners, shall continue to have such powers as in this Article are

granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

ARTICLE XIV

COVENANTS RUNNING WITH THE LAND

All provisions of the Condominium Documents shall be construed to be covenants running with the land and with every part thereof and interest therein including but not limited to every Condominium Owner and claimant of the Property or any part thereof or interest therein, and his heirs, executors, administrators, successors and assigns shall be bound by all the provisions of the Condominium Documents.

ARTICLE XV

LIENS

1. Protection of Property: All liens against a Condominium Unit other than for permitted mortgages, taxes or special assessments will be satisfied or otherwise removed within thirty (30) days from the date of the lien attaches. All taxes and special assessments upon a Condominium Unit shall be paid before becoming delinquent.
2. Notice of Lien: A Condominium Owner shall give notice to the Association of every lien upon his Condominium Unit other than for permitted mortgages, taxes and special assessments within five (5) days after the attaching of the liens.
3. Notice of Suit: Condominium Owners shall give notice to the Association of every suit or other proceedings which will or may affect the title to his Condominium Unit or any other part of the Property, such notice to be given within five (5) days after the Condominium Owner receives notice thereof.
4. Effect: Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.
5. Register of Mortgages: The Association shall maintain a register of all permitted mortgages.

ARTICLE XVI

JUDICIAL SALES

1. **Foreclosures:** In the event proceedings are instituted to foreclose any mortgage on any Condominium Unit, the Association on behalf of one or more Condominium Owners, shall have the right to redeem from the mortgage for the amount due thereon or to purchase such Condominium Unit at the foreclosure sale for the amount set forth to be due by the Mortgagee in the foreclosure proceedings, and should the mortgagor fail to redeem from such mortgage, and in case of such redemption by the Association, the Association thus redeeming shall take and have absolute fee simple title to the Property redeemed, free from any claim or right of any grantee, his heirs or assigns or such mortgagor, and every person claiming by, through or under such mortgagor, Nothing herein contained shall preclude a mortgage institution from owning a mortgage on any Condominium Unit, and such lending institution shall have an unrestricted, absolute right to accept title to the Condominium Unit in settlement and satisfaction of said mortgage or to foreclose the mortgage in accordance with the terms thereof and the laws of the State of Indiana and to bid upon said Condominium Unit at the foreclosure sale, provided said lending institution owning said mortgage shall give to the Association, its successors or assigns, written notices by certified mail of the said default mailed at least thirty (30) days prior to the Institution of foreclosure proceedings during which 30 days the Association shall have the right to cure such default by payment to such Mortgagee of all sums due upon such default and following such payment, such Mortgagee shall be required to waive such default, and if such default is not cured as aforesaid, and should the Association or any member thereof individually or collectively fail to purchase such mortgage, together with any costs incident thereto, from such Mortgagee, or fail to redeem such mortgage, then and in that event the Mortgagee taking title on such foreclosure sale or taking title in lieu of foreclosure sale, may acquire such Condominium Unit and occupy the same and let, relet, sell and resell the same without complying with the restriction limiting the occupation of said Property to persons approved by the Association. If the Association or any members as aforesaid, redeems such mortgage or cures such default, it shall have a lien against the Condominium Unit for all sums expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

ARTICLE XVII

PROVISIONS PERTAINING TO DEVELOPER

For so long as the Declarant continues to own any of the Condominium Units or has not constructed all of the Buildings, the following provisions shall be deemed to be in full force and effect in accordance with the Condominium Documents.

1. Controlled by Developer: Until all of the Condominium Units have been sold and conveyed by the Declarant to the purchasers, all the members of the Board of Directors of the Association shall be elected by the vote of the Developer and such members as may be elected by the Developer need not be residents or owners of the Condominium Units. Until the sale of the last Condominium Unit, the Developer and its agent shall have the full right and authority with respect to the Property: (a) to maintain all advertising articles and signs thereon, together with lighting, if any; (b) the rights of ingress and egress; (c) to conduct sales of Condominium Units; (d) to maintain and exclusively use its models; and (e) to maintain and exclusively use its sales offices. The Developer shall have the right to use any Condominium Unit which is owned by the Declarant as a model and for use as a sales office. The Developer shall have the full authority regarding the number, size, location and relocation of any sales or model unit.
2. Declarant's Mortgagee: In the event the Declarant has executed a mortgage secured by the Property, and if said Mortgagee, whose consent would be attached to this Declaration, or the successors or assigns of such Mortgagee should acquire a deed in lieu of foreclosure, then in any such event, the Mortgagee or its successors and assigns shall succeed to all of the rights of the Developer under the Articles of Incorporation and Bylaws of the Association.
3. Absence of Warranty: The Declarant and Developer specifically disclaim any intent to have made any warranty or representation in connection with the Property or the Condominium Documents except as specifically set forth therein and no person shall rely upon any warranty or representation not so specifically made therein. The estimates of Common Expenses are deemed accurate, but no warranty or guarantee is made nor intended, nor may one be relied upon.
4. Exemption: As long as the Declarant retains title and the Developer is offering a Condominium Unit for the first time for sale, the Declarant and Developer shall not be responsible for contributing toward the Common Expenses or any other charges whatsoever, including Assessment or Community Assessments which exemption commences on the date that this Declaration is recorded and terminates two (2) years after the date of the closing of the sale of the first Condominium Unit occurs.
5. Models and Offices: Developer shall be entitled to maintain sales offices, management offices, and model Condominium Units, which shall not exceed four condominium units for the above purposes, subject to Developer's right to relocate them from time to time. Such Condominium Units shall be pursuant to the Plans and Specifications.
6. Easements Reserved to Declarant and Developer: Non-exclusive easements are hereby reserved to Declarant, Developer, their contractors, subcontractors, agents, successors and assigns, over and upon the Property and Common Areas and Facilities (a) for purposes of constructing the improvements for which provision is made in this Declaration (the forty-four (44) Buildings consisting of one hundred seventy-six (176) Condominium Units); (b) for the purpose of making repairs; (c) for driveways, walkways, parking areas, water

lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electrical power line and other public utilities; and (d) for all other easements necessary in conjunction with the orderly development of the Property.

7. Dedication Rights Reserved: In addition to all easements and rights previously granted by the recorded documents against the Property, Declarant hereby reserves the right at its sole discretion to dedicate or otherwise convey portions of the Property (but not those portions on which a Condominium Unit is situated) to any public agency or governmental authority or quasi-public utilities for purposes of streets, roads, roadways, utilities, recreation areas, storm detention basins, storm out fall, storm trunk piping, water, sidewalks and other benefits and improvements, and rights-of-way and easements therefore. Such dedications or conveyances shall not require the consent, approval or signatures of either the Board or any other Condominium Owner, and such dedication or conveyance shall be considered fully accomplished and conclusively binding upon each of said Condominium Owners and upon the Association when set forth in writing which has been recorded in the Office of the Recorder of Lake County, Indiana, provided, however, that nothing in this paragraph shall be construed in any manner to require or obligate Declarant to make any such conveyance or dedication. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted to Declarant as agent and attorney-in-fact, to grant such easements or make such dedications or conveyances.

8. Litigation or Claim Against Developer: The Association shall not commence any litigation against the Declarant or Developer until at least seventy-five percent (75%) of the Members have approved of that action at a meeting of the Members with a written consent of the Members.

ARTICLE XVIII

INVALID OR UNENFORCEABLE PROVISIONS

If any term, covenant, provision, phrase or other element of the Condominium Documents is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, provision, covenant or element of the Condominium Documents, and such invalid or unenforceable term, etc. shall be stricken from the Condominium Documents to the least extent possible to make the Condominium Documents wholly valid and enforceable.

ARTICLE XIX

CONDOMINIUM UNIT DEEDS

Any transfer of a Condominium Unit shall include all appurtenances thereto whether or not specifically described.

ARTICLE XX

CAPTIONS

Captions used in the Condominium Documents are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the Condominium Documents.

ARTICLE XXI

GENDER, SINGULAR, PLURAL

Whenever the context so permits, the use of the plural shall include the singular, the plural and any gender shall be deemed to include all genders.

ARTICLE XXII

SEVERABILITY

If any provision of this Declaration, or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is in conflict with the controlling law, the validity of the remainder of this Declaration and the application of the remaining provisions, sections, sentences, clauses, phrases or words shall not be affected thereby.

ARTICLE XXIII

EXPANSION

The Property subject to this Declaration shall be considered an expandable condominium, and the general plan for development showing the Property subject to the horizontal property regime and the areas to which expansion may be made is attached hereto as Exhibit "H", reflection the various sites. The maximum number of Condominium Units for the entire Property, including any additional phases, is one hundred seventy-six (176). The Property subject to this amendment

consists of various sites, each site containing a Building consisting of four (4) units pursuant to the floor plan attached hereto as Exhibit "B". After expansion, each Condominium Unit has an undivided interest in the Common Areas and Facilities pursuant in Exhibit "I", which is located on the parcel of Property containing that Condominium Building. All such additional phases shall be added to the horizontal property regime within ten (10) years. The method of calculation a Condominium Owner's share of Common Expense shall be calculated as in Exhibit "G".

IN WITNESS WHEREOF, the Declarant has executed this Declaration this 25 day of APRIL, 2002.

Auburn Meadow Development, LLC

BY: Frederick A. Oltorf
ITS: PRES

Attest:

Trust Officer

STATE OF INDIANA)
) SS
COUNTY OF LAKE)

ACKNOWLEDGMENT

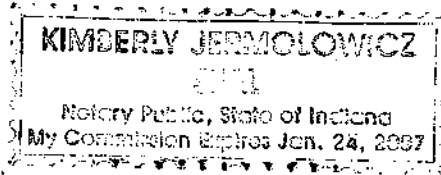
Before me, the undersigned Notary Public in and for Lake county, State of Indiana, personally appeared Frederick A. Oltorf who, being duly sworn upon his oath, acknowledged that he is the Agent of Auburn Meadow Development, LLC and that they are authorized and empowered so to do, executed the above and foregoing Condominium Declaration.

DATED this 25th day of April, 2002.

Kimberly Jermolowicz
NOTARY PUBLIC

My commission Expires:

1/24/07



This instrument was prepared by Greg Bouwer, of Koransky & Bouwer, P.C.

EXHIBIT "C"

**ARTICLES OF INCORPORATION
OF
AUBURN MEADOW TERRACE HOMES, INC.**

The undersigned incorporator or incorporators, desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of the Indiana Nonprofit Corporation Act (hereinafter referred to as the "Act"), execute the following Articles of Incorporation:

**ARTICLE I
NAME**

The name of the Corporation is Auburn Meadow Terrace Homes, Inc.

**ARTICLE II
PURPOSES**

The purposes for which the Corporation is formed are:

- (a) A Condominium known as AUBURN MEADOW TERRACE HOMES, INC., is being constructed upon some real estate located in Lake County, Indiana.
- (b) The Documents creating the Condominium provide for the ownership, operation, management, maintenance and use of the Condominium Unit as described in said Documents. This Corporation is organized for the purpose of providing a convenient means of administering the Condominium by the owners thereof.
- (c) The Corporation shall not engage in any activities for the profit of its members, and shall conduct its affairs in such fashion and for such purposes other than for the personal pecuniary gains of its members, directors, officers or incorporators.
- (d) The Corporation shall have all the common law and statutory powers of a nonprofit corporation which are not in conflict with the terms of these Articles.
- (e) The Corporation shall have all the powers reasonably necessary to implement the purpose of the Corporation, including but not limited to the following:
 - (1) Make and collect assessments against members to defray the cost of the Condominium.
 - (2) To use the proceeds of assessments in the exercise of its powers and duties.
 - (3) The maintenance, repair and replacement of operation of the Condominium property.
 - (4) The reconstruction of improvements after casualty and the further improvements of the Property.
 - (5) To make and amend regulations respecting the use of the Property in the Condominium.
 - (6) To enforce by legal means the provisions of the Condominium Documents, these Articles, the Bylaws of the Corporation, and the regulations for the use of the property in the Condominium.

- (7) To contract for the management of the Condominium and delegate to such contractor all powers and duties of the Corporation except such as are specifically required by the Condominium Documents to have the approval of the Board of Directors or of the members of the Corporation.
 - (8) All funds and the titles of all properties acquired by the Corporation and the proceeds thereof shall be held only for the benefit of the members in accordance with the provisions of the Condominium Documents.
 - (9) The powers of the Corporation shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium.
- (f) Lots 64 - 75 inclusive of Auburn Meadow Planned Unit Development pursuant to the plat thereof, recorded on 11/5/01 in Plat Book 9/1, Page 6, as Instrument No 2001087135 in the Office of the Recorder of Lake County, Indiana.

ARTICLE III
PERIOD OF EXISTENCE AND TYPE OF CORPORATION

- Section 1: The period during which the Corporation shall continue is perpetual.
- Section 2: The Corporation shall be a mutual benefit corporation.

ARTICLE IV
RESIDENT AGENT AND PRINCIPAL OFFICE

- Section 1: Resident Agent. The name and address of the Corporation's Resident Agent for service of process is Frederick A. Olthof, 1945 Harder Court, Schererville, Indiana.
- Section 2: Principal Office. The post office address of the principal office of the Corporation is 1945 Harder Court, Schererville, Indiana.

ARTICLE V
MEMBERSHIP

The Corporation shall have members.

- Section 1. Every owner or owners of Condominium Units in the Condominium shall be members of the Corporation, and no other person or entity shall be entitled to membership.

Membership in the Corporation shall be established by recording in the Office of the Recorder of Lake County a deed and other instruments establishing a change of Record Title to a Condominium Unit in the Condominium and the delivery to the Corporation of a certified copy of such instrument. The new owner shall be entitled to membership and the membership of the previous owner shall be terminated.

- Section 2. Voting Rights of Classes: Each Owner or Owners, by virtue of membership in the Corporation shall be entitled to vote and participate in all affairs of the Corporation. In the event the Condominium Units are

owned by more than one person or entity, as governed by the Condominium Documents, voting rights shall be limited to one vote for each Condominium Unit (Voting Member).

ARTICLE VI DIRECTORS

Section 1. Number of Directors: The initial Board of Directors is composed of three members. If the exact number of Directors is not stated, the minimum number shall be three (3) and the maximum number shall be five (5). Provided, however, that the exact number of Directors shall be prescribed from time to time in the Bylaws of the Corporation; and provided further that under no circumstance shall the minimum number be less than three (3).

Section 2. Names and Post Office Addresses of the initial Board of Directors are:

Name	Address	City	State	Zip
Frederick A. Olthof	1945 Harder Court	Schererville	IN	46375
Todd M. Olthof	1945 Harder Court	Schererville	IN	46375
Scot F. Olthof	1945 Harder Court	Schererville	IN	46375

ARTICLE VII INCORPORATORS

Section 1. Names and Post Office Addresses of the incorporator of the Corporation is as follows:

Name	Address	City	State	Zip
Frederick A. Olthof	1945 Harder Court	Schererville	IN	46375

ARTICLE VIII STATEMENT OF PROPERTY (IF ANY)

A statement of the property, and an estimate of the value thereof, to be taken over by the Corporation at or upon its incorporation are as follows:

NONE

ARTICLE IX PROVISIONS FOR REGULATION AND CONDUCT OF THE AFFAIRS OF THE CORPORATION

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of the Corporation, and creating, defining, limiting or regulating the powers of the Corporation, the Directors or the members of any class or classes of members are as follows:

(a) The share of the member and the funds and the assets of the Corporation cannot be assigned, hypothecated, or

transferred in any manner except as an appurtenance to the Condominium Unit in the Condominium.

- (b) The affairs of the Corporation, its management and operation shall be governed by the terms and provisions of the "Horizontal Property Law" of the State of Indiana, the same being I.C. 32-1-6-1, et. seq., as amended.
- (c) Directors of the Corporation shall be elected at the annual meeting of the members in the manner determined by the Bylaws except the Declarant and/or the Developer shall have the right to elect all of the Directors as provided in the Declaration, who need not be residents or owners of the Condominium Units.
- (d) Every Director and every officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Corporation, or any settlement thereof, whether or not he is a director or officer such expenses are incurred, except such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of this duty; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approved such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

ARTICLE X

DISTRIBUTION OF ASSETS UPON TERMINATION OR DISSOLUTION

Upon termination or dissolution, the Corporation shall distribute its assets pursuant to I.C. 23-17-21, 23-17-22, 23-17-23, and 23-17-24.

IN WITNESS WHEREOF, we the undersigned do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 25 day of APRIL, 2002.


FREDERICK A. OLTHOF

This instrument was prepared by Greg Bouwer, of Koransky & Bouwer, P.C.

Exhibit "D"

Bylaws of Auburn Meadow Terrace Homes, Inc.

I

IDENTITY

These are the Bylaws of Auburn Meadow Terrace Homes, Inc., a non-profit corporation, under the laws of the State of Indiana (the Association). The Association has been organized for the purpose of administering a Condominium upon the lands of Lake County, Indiana legally described in Article VIII hereof.

1. The office of the Association shall be at 1945 Harder Court, Schererville, Indiana 46375 until the Declarant under the Declaration of Condominium recorded on the above real estate has sold and conveyed the last Condominium Unit whereupon the office of the Association shall be located on the real estate described in Article VIII hereof.
2. The fiscal year of the Association shall be the calendar year.
3. These Bylaws shall be subject to the Declaration of Condominium recorded with respect to the above real estate in the Recorder's Office of Lake County, Indiana, to which a copy of these Bylaws have been attached as an Exhibit.

II

MEMBERS

1. The annual members' meeting shall be held at the office of the Association, or at such other place designated in the notice, at the date and time therein specified, for the purpose of electing Directors and transacting any other business authorized to be transacted by the members.
2. Special meetings of Members shall be held whenever called by the President or Vice-President or by a Majority of the Board of Directors and must be called by such officers upon receipt of a written request from one-third of the entire membership.
3. Notices and notices of meeting required to be given herein may be delivered either personally or by mail to the persons entitled to vote at such meetings, addressed to each such person at the address given by him, in writing, to the Board of Directors for the purpose of service of such notice or to the Condominium Unit of the Condominium Owner with respect to which such voting right appertains, if no address has been given to the Board. Notice of meeting shall be delivered and shall specify the date, time and place of the meeting, and if a special meeting, of the matters to be considered. Notices addressed as above shall be deemed delivered when mailed by United States Registered or Certified Mail or when delivered in person, upon the affidavit of the person making such delivery.
4. A quorum at members' meeting shall consist of persons entitled to cast one-third (1/3) of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such member for the purpose of determining a quorum.
5. There shall be one person with respect to each Condominium Unit and such person shall be entitled to one vote on any issue or in any election. Such person is hereinafter sometimes referred to as a "Voting Member". Such

Voting Member may be the Condominium Owner or one of the group composed of all of the Condominium Owners of a single Condominium Unit, or may be same person designated by such Condominium Owner or Condominium Owners to act as proxy on his or their behalf and who need not be a Condominium Owner. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the Condominium Owner or Condominium Owners. Any or all of such Condominium Owners may be present at any meeting of the Voting Members and (those constituting a group acting unanimously) may vote or take any other action as a Voting Member, either in person or by proxy. The Developer shall be the Voting Member with respect to any Condominium Unit owned by the Declarant.

6. Proxies. Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.
7. Approval or disapproval of a Condominium Owner upon any matter, whether or not the subject of an Association meeting, shall be the same person who is entitled to cast the vote of such owner in any Association meeting.
8. Adjourned meetings. If any meeting of the members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, with the quorum requirement being reduced by fifty percent (50%) for each following meeting.
9. The order of business at annual members' meetings, and, as far as practical at all other members' meetings, shall be:
 - (a) Election of Chairman of the meetings
 - (b) Calling of the roll and certifying of proxies;
 - (c) Proof of notice of meeting or waiver of notice;
 - (d) Reading and disposal of any unproved minutes;
 - (e) Reports of Officers;
 - (f) Reports of Committees;
 - (g) Election of Directors (after Declarant control);
 - (h) Unfinished business;
 - (i) New Business;
 - (j) Adjournment.

III

DIRECTORS

1. Until the annual meeting immediately succeeding the time at which all of the Condominium Units have been sold and a conveyance thereof made by the Declarant, the Board of Directors shall consist of three (3) persons and thereafter the Board of Directors shall consist of five (5) persons. Each member of the Board of Directors shall be one of the Condominium Owners, provided, however, that in the event an Condominium Owner is a corporation or trust, then any officer or Director of such corporation or beneficiary of such trust shall be eligible to serve as a member of the Board of Directors provided, further, that such person need not be the Owner of a Condominium Unit if elected to the Board of Directors by the Developer.
2. Election of the Directors shall be conducted in the following manner:
 - (a) Members of the Board of Directors shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

- (b) Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors.
 - (c) Anything herein contained to the contrary notwithstanding, until all of the Condominium Units have been sold and conveyed by the Declarant, the Developer shall have the right to elect all of the Directors.
3. So long as the Developer has the right under the Declaration to elect all Directors, the term of each Directors' service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided. At the time five (5) Directors are first elected, two (2) shall be elected for one (1) year, and three (3) shall be elected for two (2) years. Thereafter, each Director shall be elected for a two year term to serve until the second annual meeting following his election and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.
 4. The organization meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary provided a quorum shall be present.
 5. Regular meetings of the Board of Directors may be held at such time and place shall be determined, from time to time, be a Majority of Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or facsimile at least three (3) days prior to the day named for such meeting unless such notice is waived.
 6. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third of the votes of the Board. Not less than three (3) days prior of the meeting shall be given personally or by mail, telephone or facsimile, which notice shall state the time, place and purpose of the meeting.
 7. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.
 8. A quorum at a Directors' meeting shall consist of the Directors entitled to cast a Majority of votes of the entire Board; the acts of the Board approved by a Majority of votes present shall constitute the acts of the Board except as specifically otherwise provided in the Declaration of the Condominium. If at any meeting of the Board of Directors there be less than a quorum present, the Majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.
 9. The presiding officer of Directors' meeting shall be the President. In the absence of the presiding officer, the Vice-President shall preside.
 10. Directors' fees, if any shall be determined by the members of the Association.
 11. Community Association Delegates. The Board of Directors shall elect from its Members two (2) directors who shall represent the Association on the Community Association's Board of Directors. Community Association delegates shall continue to act in that capacity until they are replaced or removed by the Board of Directors, from time to time. In the absence of appointment or election by the Board of Directors, the President and Vice President of the Association shall serve as the Community Association Delegates.

IV

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association shall be exercised by the Board of Directors including those existing under the common law and statutes, the Articles of Incorporation of the Association, and the documents establishing the Condominium. Such powers and duties of the governors shall be exercised in accordance with the provisions of the Declaration of Condominium which governs the use for the land, and shall include but shall not be limited to the following:

1. To make and collect assessments against members to defray the costs of the Condominium.
2. To use the proceeds of assessments in the exercise of its powers and duties.
3. The maintenance, repair, replacement and operation of the Condominium Property.
4. The reconstruction of improvements after casualty and the further improvement of the Property.
5. To make and amend regulations respecting the use of the Property in the Condominium.
6. To enforce by legal means the provisions of the Condominium Documents, the Articles of Incorporation, the Bylaws of the Association, and the regulations for the use of the Property in the Condominium.
7. To contract for management of the Condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the Condominium Documents to have approval of the Board of Directors or the membership of the Association.
8. To pay taxes and assessments which are liens against any part of the Condominium other than individual Condominium Units and the appurtenances thereto, and to assess the same against the Condominium Unit subject to such liens.
9. To carry insurance for the protection of the Condominium Owners and the Association against casualty and liabilities.
10. To pay the cost of all power, water, sewer, and other utility services rendered to the Condominium and not billed to Owners of an individual Condominium Unit.
11. To employ personnel for reasonable compensation to perform the services required for proper administration of the purposes of the Association.

V

OFFICERS

1. The executive officers of the Association shall be a President, who shall be Director, a Vice-President, who shall be a Director, a Treasurer, a Secretary and an assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a vote of the Directors at any meeting, any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate the powers and duties as the board shall find to be required to manage the affairs of the Association.

2. The President shall be the chief executive officer of the Association. He shall have all the powers and duties which are usually vested in the Office of the President of the Association, including but not limited to the power to appoint committees from among the members from time to time, as he or she may be in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.
3. The Vice-President shall, in the absence or disability of the President, exercise the Powers and perform the Duties of the President. He or she shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
4. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He or she shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He or she shall keep the records of the Association, except those of the treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the Directors or President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.
5. The Treasurer shall have the custody of all property of the Association, including funds, securities and evidences of indebtedness; he or she shall keep the assessment rolls and accounts of the members; he or she shall keep the books of the Association in accordance with good accounting practices; and he or she shall perform all other duties incident to the office of the Treasurer.
6. The compensation to all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association nor preclude the contracting with a Director for the management of the Condominium.

VI

FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

1. Assessment roll. The assessment roll shall be maintained in a set of Accounting Books in which there shall be an account of each Condominium Unit. Such an account shall designate the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment come due, the amounts paid upon the account and the balance due upon Assessments.
2. Budget.
 - (a) The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including but not limited to the following items:
 - (i) Common Expense budget:
 - (a) Maintenance and operation of Common Elements; landscaping, streets and walkways, parking areas, and elevators; assessments of Auburn Meadow Community Association, Inc.
 - (b) Utility Services
 - (c) Casualty insurance
 - (d) Liability insurance
 - (e) Administration
 - (f) Fire alarm telephone and security monitoring
 - (g) Taxes

- (ii) Proposed assessments against each member:
 - (a) Alteration and improvement account
 - (b) Reconstruction and repair account
 - (c) Emergency account
- (b) Copies of the proposed budget and proposed assessments shall be transmitted to each member on or before the start of the year for which budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished to each member concerned.
- 3. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of the moneys from such accounts shall be only by checks signed by such persons as are authorized by the Directors.
- 4. An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than April 1st of the year following the year for which the report is made.
- 5. Fidelity bonds shall be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds, the amount of such bonds shall be determined by the Directors, but shall be at least the amount of the total annual assessment against members of Common Expenses. The premiums of such bonds shall be paid by the Association.

VII

AMENDMENTS

Amendments to the Bylaws and Articles of Incorporation shall be proposed and adopted in the following manner:

- 1. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.
- 2. A resolution adopting a proposed amendment must receive approval of two-thirds of the votes of the entire membership of the Board of Directors and seventy-five (75%) of the votes of the entire membership of the Association. Directors and members not present at the meeting considering the amendment may express their approval in writing.
- 3. Initiation. An amendment may be proposed by either the Board of Directors or by the membership of the Association, and after being proposed and approved by one of such bodies it must be approved by the other.
- 4. Effective date. An amendment when adopted shall become effective only after being recorded in the Public Records of Lake County, Indiana.
- 5. These Bylaws shall be amended, if necessary, so as to make the same consistent with the provisions of the Declaration.

VIII

PROPERTY

The Property affected by these Bylaws, under the authority and power of this Association, is as follows:

See Legal Description Rider, which is attached to the Declaration of Condominium.

The foregoing were adopted as Bylaws of Auburn Meadow Terrace Homes, Inc.