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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS & EASEMENTS
FOR LATITUDE**

Dated December 16, 2019

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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS & EASEMENTS
FOR LATITUDE**

This **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS & EASEMENTS FOR LATITUDE** (this "Declaration") is made as of this 16th day of December, 2019 by Latitude Development, LLC, an Indiana Limited Liability Company (hereinafter referred to as "Declarant").

RECITALS

1. All capitalized terms used herein shall have the meaning ascribed to them at the first time they are used herein or in the definition set forth in ARTICLE I hereinafter.

2. Declarant intends to, and by recording this Declaration does, subject and submit to the provisions of this Declaration the Submitted Parcel as legally described on Exhibit "A" attached hereto. The Development Area is the site of a residential development and from time to time Declarant may, but is not required to, subject additional portions of the Development Area to the provisions of this Declaration as Added Property, as more fully described in Article XVII hereof. Those portions of the Development Area which are not made subject to the provision of this Declaration may be used for any purposes not prohibited applicable by law. Nothing herein shall preclude Declarant from subjecting other property adjacent to or in the vicinity of the Development Area to the provisions of this Declaration.

3. In order to provide for the necessary administration, preservation, maintenance and enhancement of those portions of the Development Area and any other land subject to the provisions of this Declaration, Declarant will form the Association which shall be responsible for the maintenance of the areas described in Article IV hereof and each Owner of a Residential Unit which is subject to this Declaration (excluding the Declarant) shall be assessed for such Owner's share of the cost thereof by the Association.

4. Declarant intends by this Declaration to impose upon the portions of the Development Area subject to the provisions of this Declaration mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Submitted Parcel made subject to this Declaration and amendments thereto by the recording of this Declaration. Declarant seeks to provide a flexible and reasonable procedure for the development of the Submitted Parcel, and to establish a method for the administration, maintenance, enhancement, preservation, use and enjoyment of the Submitted Parcel and Development Area.

5. Declarant shall retain certain rights set forth in this Declaration. Prior to the Turnover Date, Declarant shall retain the right to appoint all Members of the Board and the right to use the Submitted Parcel for the purposes set forth in Section 16.06 of ARTICLE XVI hereof.

NOW, THEREFORE, Declarant hereby declares that the real property legally described in Exhibit "A", and referred to herein as the Submitted Parcel, and such additions thereto, referred to herein as Added Property, as may hereafter be made pursuant to Article XVII hereof is and shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, burdens, uses, privileges, charges and liens which shall exist at all times

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hereafter among all parties having or acquiring any right, title or interest in or to any portion of the Submitted Parcel, which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration, and which shall be binding on all parties having any right, title or interest in the described Submitted Parcel or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

The following terms or words, when used in this Declaration, shall have the meanings attributed below:

Section 1.01. “Added Residential Units” shall mean the Residential Units (or Lots upon which single-family dwellings are being completed) comprising the Added Property submitted to the provisions of this Declaration by a Supplemental Amendment in accordance with Article XVII hereof.

Section 1.02. “Added Property” shall mean any portion of the Development Area submitted to the provisions of this Declaration in accordance with Article XVII hereof.

Section 1.03. “Assessments” shall mean Assessments for Common Expenses provided for herein or by any Supplemental Amendment or by any other amendment hereof pursuant to Article XIII hereof which shall be used for the purposes of promoting the health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Residential Units, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized below.

Section 1.04. “Association” shall mean and refer to Latitude Property Owners Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns. The “Board of Directors” or “Board” shall be the elected body of the Association having its normal meaning under applicable Indiana law. The Association shall be organized and governed in accordance with the Certificate of Incorporation and By-Laws, attached hereto as Exhibits “B” and “C”, respectively. In addition, the Board may adopt Rules and Regulations for the Association and Subdivision.

Section 1.05. “Common Area” shall mean (i) all real property (including but not limited to detention ponds) and personal property owned or controlled by the Association and available for the common benefit and/or use of Owners (including but not limited to Outlots A, B, C, D, E and F on the Plat); (ii) the ingress and egress easements shown on the Plat and the improvements therein; (iii) landmark signage with associated landscaping features, identifying the Subdivision, if installed by Declarant or the Association; and (iv) all other improvements located on or within the Submitted Parcel owned or controlled by the Association; and available for the common benefit and/or use of the Owners or for the maintenance or management of any part of the Development Area.

Section 1.06. “Common Expenses” shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of

Incorporation of the Association.

Section 1.07. “Community-Wide Standard” shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Development Area. Such standard may be more specifically determined and set forth by the Architectural Review Committee, or by the Board of Directors.

Section 1.08. “Cottage Home” shall mean a Residential Unit planned to be constructed on each of the smaller Lots 90 through 143, inclusive.

Section 1.09. “Cottage Home Reserve” shall mean the reserve funded solely by the Assessments of Owners of Cottage Homes to be used solely for the maintenance of the grounds of the Lots with Cottage Homes, but only to the extent described in Sections 4.01(a) and (e).

Section 1.10. “Declarant” shall mean Latitude Development, LLC, an Indiana Limited Liability Company, and its successors and assigns in specifically acting as Declarant hereunder, but to the exclusion of any transfer of a Lot from Declarant to an Owner or other third party.

Section 1.11. “Development Area” shall mean the real estate described on Exhibit “A” attached hereto with all improvements thereon and any additional real estate, provided only that (a) any portion of the real estate from time to time added to the scheme of this Declaration shall be contiguous to, or across the street from, real estate then subject to the scheme of this Declaration; (b) any portion of such real estate shall, at the time of addition to the scheme of this Declaration, be platted as residential Lots or outlots; (c) said plat of added real estate shall dedicate, or commit to dedicate, the Common Area of said plat of real estate; and (d) upon addition of the real estate to the scheme of this Declaration, the owners of the real estate therein shall be and become subject to this Declaration, and shall have all privileges and obligations set forth in this Declaration, including assessment by the Association.

Section 1.12. “Insurance Trustee” shall mean the Association and its successors, unless the Association shall have appointed another entity as Insurance Trustee pursuant to Section 5.06 hereof.

Section 1.13. “Lot” shall mean and refer to any lot in the Subdivision herein described, together with any and all improvements thereon, as shown on the plat or plats thereof and designated thereon with a number for identification on which residential Structures could be constructed, whether or not such Structures have been constructed. Lots 1 through 89, inclusive, are planned to be single family home Lots, and Lots 90 through 143, inclusive, are planned to be smaller Lots for single family Cottage Homes.

Section 1.14. “Member” shall mean and refer to a person or entity entitled to Membership in the Association, as provided herein.

Section 1.15. “Mortgage” shall include a deed of trust, as well as a mortgage.

Section 1.16. “Mortgagee” shall include a beneficiary or holder of a deed or trust, as well as a mortgagee.

Section 1.17. “Mortgagor” shall include the trustor of a deed of trust, as well as a mortgagor.

Section 1.18. “Occupant” shall mean and refer to one (1) or more Persons which may at any time be entitled to the use and possession of a Residential Unit, or any part thereof, by leave, license, contract or any other means, whether or not lawful, and shall include, without limitation, Owners, tenants, subtenants, and their guests and invitees.

Section 1.19. “Owner” shall mean and refer to one (1) or more Persons who hold the record title to any Lot or Residential Unit which is part of the Development Area, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot or Residential Unit is sold under a recorded contract of sale, the purchaser (rather than the fee owner) will be considered the Owner.

Section 1.20. “Person” means a natural person, a corporation, a partnership, limited liability company, trustee or other legal entity.

Section 1.21. “Plat” shall collectively mean the real estate legally described in attached Exhibit “A” hereto under the “Development Area” subheading.

Section 1.22. “Residential Unit” shall mean a Lot and the single-family dwelling constructed thereon, which is part of the subdivision intended for independent ownership for use and occupancy as a single-family residence. The boundaries of Residential Units shall be the boundary lines of the Lot conveyed by Declarant to the Owners. For the purposes of this Declaration, a Residential Unit shall come into existence when the dwelling on the Lot is substantially complete or upon the issuance of a Certificate of Occupancy by the appropriate agency of the Town of Winfield, Indiana.

Section 1.23. “Structure” shall mean any building, pool, driveway, breezeway, accessory building or fixture that is permanent.

Section 1.24. “Subdivision” shall mean and refer to all such existing real property, and additions thereto and less and excepting any retractions therefrom, as are subject to this Declaration, and any Supplemental Amendments thereto, and shall initially include the real property described in Exhibit “A” attached hereto.

Section 1.25. “Submitted Parcel” shall mean that portion of the Development Area which is described on Exhibit “A” attached hereto, as Exhibit “A” may be amended from time to time, together with all rights appurtenant thereto.

Section 1.26. “Supplemental Amendment” shall mean a supplement to this Declaration to submit Added Property to this Declaration in accordance with Article XVII hereof. Such Supplemental Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the Added Property submitted by that Supplemental Amendment to the provisions of this Declaration.

Section 1.27. “Turnover Date” shall mean the date on which the right of Declarant to select and designate all of the members of the Board of Directors is terminated pursuant to Section 16.01 hereof.

ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration, is located in Winfield, Lake County, Indiana, and comprises all of the Lots, tracts and easements shown and/or platted within or upon the property legally described as the Submitted Parcel on Exhibit "A" attached hereto.

Section 2.02. Subdivision Restrictions. Declarant shall be entitled at any time and from time to time, to plat, replat or vacate existing plattage of all or any part of the real estate subjected to this Declaration, and to file Subdivision restrictions and/or amendments thereto with respect to any undeveloped portion, or portions of, or additions to the Subdivision.

Section 2.03. Retractable Real Estate. At the sole election of the Declarant, all of the real estate specifically described in Section 2.01 of this ARTICLE II and subject to this Declaration may be withdrawn from submission hereunder at one (1) time, or portions thereof at different times; provided, however that no real estate may be withdrawn which has been developed. All Owners and mortgagees are hereby deemed to consent to the vacation, and waive all right to remonstrate thereto, of any portion of the plat of the Subdivision not developed in which the Declarant has withdrawn from this Declaration.

Section 2.02. Easements. There are platted on the Plat of the Subdivision certain easements which shall be and are hereby reserved for the installation, construction, maintenance, repair or replacement of any and all public utilities and drainage and their poles, ducts, wires, pipelines, lines, conduit, sewers, manholes or other related utility or drainage facility. No permanent Structure shall be erected or allowed to be maintained on any easement. Declarant also reserves for itself and its designees (including, without limitation, the Town of Winfield and any utility) the non-exclusive right and power to grant, modify or expand such specific easements as may be necessary, in Declarant's sole discretion, in connection with the orderly development of the Subdivision, and such easements may include easements upon, across, over and under the Lots for ingress, egress, installation, replacing, repairing and maintaining cable television systems, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity. Without limiting the generality of the foregoing, there are hereby reserved for the Town of Winfield and utility companies' easements across all Lots for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. These reserved rights of easement may be assigned by Declarant by written instrument to the Association, and the Association shall accept the assignment upon such terms and conditions as are acceptable to Declarant. If this reserved easement is assigned to the Association, the Board shall, upon written request, grant such easements as may be reasonably necessary for the development of the Subdivision and/or Development Area.

Section 2.03. Non-Exclusive Common Area Easements. Declarant hereby declares the following non-exclusive easements are hereby created with respect to the Common Area, if any:

- (a) Each Owner and their respective guests, invitees and employees shall

have a non-exclusive easement for use and enjoyment in and to the Common Area subject to the following: (i) right of the Association to pass reasonable rules and regulations relating to such use and enjoyment; (ii) the right of the Association to suspend an Owner's right to use or enjoy such easement for any period during which such Owner may be in violation of this Declaration; (iii) the right of the Association to levy assessments as herein provided; and (iv) any and all rights reserved to Declarant and the Association as herein provided.

(b) A non-exclusive easement for the installation and maintenance of drainage facilities and utility easements is hereby granted to the Association and reserved by the Declarant over, under, across and through the Common Area. If any such drainage or utility facilities are not installed or in any easements for such purposes are not created with respect to a Lot or Residential Unit or any portion thereof prior to delivery of a Deed to an Owner, said Owner hereby grants to the Declarant and the Association a power of attorney to execute and record any such easements with respect to any Lots or Residential Units owned by said Owner for the benefit of the Subdivision. The foregoing power of attorney is hereby coupled with an interest and is therefore irrevocable.

The Declarant, Association and any of their respective agents, employees and independent contractors shall have the right to enter upon the Common Area and any Lot or Residential Unit to the extent necessary for the purpose of maintaining, repairing and replacing the Common Area as herein provided or for performing any of their respective obligations herein provided. In any such case, the Declarant, Association, or any of their agents, employees or independent contractors shall not be guilty of trespass.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Membership and Meetings. Every Owner shall be deemed to have a Membership in the Association. No Owner, whether one (1) or more persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) person or entity, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast for each Lot, subject to the provisions of Section 4.02 herein.

The first annual meeting of the Association shall not be held until such time as the rights of the Declarant to appoint Directors and to thereby control the Association shall have expired as provided in Section 3.03 of this Declaration, or at such earlier time or times as may be solely determined by the Declarant. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board of Directors. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting, elect the Board of Directors of the Association in accordance with the provisions of the By-Laws and transact such other business as may properly come before the meeting.

Section 3.02. Voting. The Association shall have two (2) classes of Members who shall collectively vote on all matters presented for Member vote, as follows:

(a) Class A - Class A Members shall be all Owners of Lots with the exception of the Declarant; and

(b) Class B - Class B Member shall be the Declarant.

The Class A Members shall be entitled on all issues to one (1) vote for each Lot in which they hold an interest required for membership by Section 3.01 hereof. When more than one (1) Person holds such interest in any Lot as the case may be, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advisement, , the vote for such Lot vote shall be suspended in the event more than one (1) Person seeks to exercise it.

The Class B Member shall be entitled on all issues to five (5) votes for each Lot in which it holds title. The Class B membership for a given Lot shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first: (i) upon conveyance of the title to a Lot to an unrelated third party Owner, or (ii) whenever the Class B Member elects to do so.

The voting rights of Members shall be subject to the Declarant's rights pursuant to the provisions of ARTICLE XVI and ARTICLE XVII hereof.

Section 3.03. Number Terms and Selection of Board of Directors. The initial Board of Directors shall consist of three (3) Directors appointed by the Declarant who may but need not be Owners or Members of the Association, and who shall serve those terms of office as established by the By-Laws. The Declarant shall have the right to select and designate all of the Directors, and accordingly therefore the right to operate and control the Association, until the Turnover Date. Thereafter, Directors shall be elected as otherwise required by the Articles of Incorporation and By-Laws of the Association and must be Members of the Association.

Notwithstanding any other provision of this Declaration, the Articles of Incorporation, or the By-Laws, from and after the date of the recording of the Declaration until the Turnover Date, the Association shall be governed by the Board of Directors appointed from time to time by Declarant. Such Board of Directors so appointed shall exclusively hold all rights and powers which a Board of Directors or the Association would have under this Declaration, the Articles of Incorporation, or the By-Laws, except as specifically limited herein. Such Board of Directors may appoint from time to time from among the Owners of Lots, one (1) or more committees to advise and assist it in the performance of its functions. The rights and powers of such Board of Directors shall be limited as follows:

(a) All assessments shall be made in accordance with this Declaration.

(b) Such Board shall have no power to reallocate the voting power among the Members in any manner contrary to this Declaration.

(c) Such Board shall not take any action requiring the vote or consent of any Mortgagee unless the vote or consent of such Mortgagee is obtained.

Declarant shall have the right to waive, on behalf of the Association, the Annual Meeting and annual accounting provided for in this Declaration, so long as the Declarant retains control of the Association. At the time of turnover of control by Declarant, a meeting of the Association will be called, at which time the rights and powers of the Declarant appointed Board of Directors shall terminate and the Association shall thereafter be governed in accordance with the other provisions of this Declaration, the Articles of Incorporation and the By-Laws. Each Member shall be deemed to have given to Declarant an irrevocable proxy to vote on any and all matters on which such Member is entitled to vote under this Declaration, or under the Articles of Incorporation or the By-Laws of the Association. The proxy hereby granted to Declarant shall be deemed to be coupled with an interest and irrevocable. Such proxy shall terminate as of the Turnover Date as set forth above.

ARTICLE IV MAINTENANCE

Section 4.01. Association's Responsibility. Unless otherwise provided by an amendment to the By-Laws of the Association by a vote of two-thirds (2/3) of the votes of the Members (not two-thirds (2/3) of a quorum), the Association's responsibility for maintenance of the Submitted Parcel (except for services provided by the Town of Winfield) shall be limited to:

(a) for each Cottage Home only, the providing for grass mowing and landscape trimming for non-fenced in areas, but specifically excluding the obligation to maintain, repair or replace the irrigation system and provide water for the irrigation system, which shall be the sole responsibility of the Owner of the Lot in which such system is located as described in Section 4.02(c), below;

(b) grass mowing, maintenance, repair and replacement of the Common Areas as described in Section 4.03;

(c) maintenance, repair and replacement of any sign installed by the Association, Declarant at the entry to the Subdivision on the Submitted Parcel identifying the Subdivision;

(d) the maintenance, repair and replacement of any decorative or landscaping lighting installed by the Association, Declarant, and the payment of the ongoing utility bills for such lighting;

(e) for each Cottage Home only, the removal of the snow from private walks and driveways within twenty four (24) hours, when accumulation is two (2) inches or more, to provide access to the entry door and overhead garage door for each Cottage Home;

(f) the maintaining, repairing and replacing of United States Postal Service approved cluster mailboxes, if any, serving several Residential Units ("Cluster Mailboxes").

Notwithstanding anything contained in this Section 4.01 to the contrary, the Association shall not be responsible for repair, replacement and/or maintenance of anything which occurred as a

result of an insured loss. In addition, the Association shall not be responsible for repair, replacement and/or maintenance of any item listed in this Section 4.01 which is not due to normal wear and tear. Any repair, replacement and/or maintenance listed in this Section 4.01 which is not due to normal wear and tear shall be at the sole cost and expense of the responsible Owner. The Declarant shall be entitled to reimbursement from the Association for any Association related expenses the Declarant pays for or on behalf of the Association, including but not limited to the Association's responsibilities set forth in this Section 4.01.

Section 4.02. Owner's Responsibility. Except as provided in Section 4.01 hereof, all maintenance, repair and replacement of the Residential Unit (including Cottage Homes), its sidewalk and driveway located on the Residential Unit thereon shall be the sole responsibility of the Owner thereof who shall perform such maintenance, repair and replacement in a manner consistent with the Community-Wide Standard of the Subdivision and the applicable covenants; provided, further, the Owner shall be responsible for the following with respect to such Owner's Residential Unit:

(a) to remove snow from the rear for all Residential Units, as well as to remove snow from sidewalks and driveways for Residential Units which are not Cottage Homes;

(b) to mow any grass and care for and trim any lawn or landscaping that is located within fenced in areas, as well as such mowing, caring for and trimming for all portions of Residential Units which are not Cottage Homes;

(c) to install, maintain and repair of any irrigation systems, as well as provide for the water for such systems;

(d) to install, maintain, repair and replace the post light, the light bulbs within the post light and the dusk-to-dawn sensor on the post light on the Residential Unit;

(e) to maintain, repair and replace the Owner's mailbox to Subdivision standards, other than Cluster Mailboxes, as described in Section 4.01(f), above; and

(f) to provide the Association with the Owner's name, address, phone number and insurance company information and to keep the Association informed of any changes thereto.

Section 4.03. Detention Ponds/Common Areas. The Declarant has or will convey to the Association certain detention ponds and common areas located in the Submitted Parcel, including, but not limited to, the following real estate:

Outlots A, A1, B, C and D in Latitude - Phase 1 Planned Unit Development, an addition to the Town of Winfield, Lake County, Indiana recorded on December 16, 2019 in Plat Book 113, Page 04 as Document No. 2019-086806 in the Office of the Recorder of Lake County, Indiana.

The Association, upon delivery of the deed to such real estate, shall be responsible for the mowing of grass above the water line, the maintenance of fountains, if any, of said ponds, the walking trails, the playground equipment, entrance signage and lighting. In the event the playground equipment is replaced, said replacement must have similar function unless the

deviation is approved by the Town Administrator of the Town of Winfield, Indiana. In addition, the Association, upon delivery of the Deed, shall be responsible for any and all real estate taxes due on said real estate.

ARTICLE V
PROPERTY AND LIABILITY INSURANCE; CASUALTY LOSSES

Section 5.01. Association Insurance. The Association's Board may obtain a public liability policy covering the Common Area and the Association and its Members for all damages or injury caused by the negligence of the Association or any of its Members or agents acting for or on behalf of the Association. The public liability policy shall have at least a One Million Dollars (\$1,000,000.00) single person limit with respect to bodily injury and property damage, a One Million Dollars (\$1,000,000.00) limit per occurrence, a Two Million Dollars (\$2,000,000) limit aggregate, and a Two Hundred Fifty Thousand Dollars (\$250,000.00) minimum property damage limit.

The Association, acting through its Board, may obtain a master casualty policy affording fire and extended coverage insurance insuring the capital assets of the Association in an amount equal to the full replacement value thereof or any improvements located upon the Common Area or reserved easement herein as determined by a qualified property and casualty insurer. The amount shall be determined and the insurance renewed annually.

Premiums for all insurance required to be carried by the Association shall be Common Expenses of the Association. The policy may contain a reasonable deductible, and the amount thereof shall be added as Common Expenses attributable to insurance premiums.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance and employer's liability insurance, if and to the extent necessary, and errors and omissions insurance on Directors, Officers, Employees, and other Persons handling or responsible for Association matters. The amount of coverage shall be determined in the Board's best business judgment. Insurance may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 5.02. Owner's Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all-risk casualty insurance for all insurable improvements on the Owner's Lot against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost and any repair or reconstruction in the event of damage or destruction from any such hazard, including coverage for interior improvements constructed by Owners. Each Owner's public liability insurance policy shall have at least Five Hundred Thousand Dollars and 00/100 (\$500,000.00) limit for bodily injury and property damage. The liability insurance shall at all times also name the Association as an additional insured. Each Owner shall promptly provide to the Association a certified copy of any and all applicable insurance policies upon request of the Association.

All such insurance coverage obtained by the Owner shall be governed by the provisions hereinafter set forth.

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

(b) All policies shall be for the exclusive benefit of the Owners, subject to the additional insured requirements set forth above.

(c) Each Owner shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association, the Association's Board of Directors and the other Owners;

(ii) that no policy may be cancelled, invalidated or suspended on account of the Association or any one or more other Owners without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association or any Owner or mortgagee;

(iii) that any "other insurance" clause in any policy exclude the Association's policies from consideration; and

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

Immediately after the damage or destruction by fire or other casualty to all or any part of any Lot covered by insurance written in the name of an Owner, such Owner shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair, reconstruction and replacement of the damaged or destroyed Lot. The Owner, with the use of such insurance proceeds, shall proceed immediately with the repair, reconstruction and replacement. As used in this Section, repair, reconstruction and replacement means repairing, restoring and replacing the Lot to substantially the same condition in which it existed prior to the fire or other casualty, but subject to the approval of the Architectural Review Committee. If such proceeds are not sufficient to defray the cost of repair, reconstruction and replacement, the Owner shall be personally responsible for funding the difference.

Section 5.03. Appointment of Insurance Trustee. The Association, as Insurance Trustee, shall have the right to appoint any federal or state bank which is qualified to offer trust services to the public as Insurance Trustee hereunder, and upon such appointment shall be relieved of all liability and responsibility as Insurance Trustee hereunder.

ARTICLE VI NO PARTITION

Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of a Lot Unit, or any part thereof, nor shall any person acquiring any interest in any Lot or any part thereof seek any such judicial partition unless the Submitted Parcel has

been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring title to real property which may or may not be subject to this Declaration.

**ARTICLE VII
CONDEMNATION**

Whenever all or any part of a Lot shall be taken (or conveyed in lieu of and under threat of condemnation by the Owner) by any authority having the power of condemnation or eminent domain, each Owner damaged by such condemnation shall be entitled to pursue all available remedies against the condemning authority. Should any property owned or maintained by the Association as Common Area be affected by the condemnation, the Association shall be entitled to pursue all available remedies against the condemning authority for the damages sustained to such property.

**ARTICLE VIII
RIGHTS, OBLIGATIONS AND POWERS OF THE ASSOCIATION**

Section 8.01. Real and Personal Property for Common Use. The Association, through the actions of its Board of Directors, may acquire, own, lease, hold and dispose of real property and tangible and intangible personal property.

Section 8.02. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the operations of the Association, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may be imposed in accordance with ARTICLE XII. The Board shall also have the power to seek relief in any court for violations or to abate nuisances. In addition, the Association shall permit the Town of Winfield, Indiana, to enforce Ordinances on the Subdivision for the benefit of the Association and its Members.

Section 8.03. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**ARTICLE IX
ASSESSMENTS**

Section 9.01. Creation of Assessments. There are hereby created Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors in accordance with this ARTICLE IX. Except as provided below, Assessments shall be allocated equally among all Lots within the Association and shall be for expenses determined by the Board to be for the benefit of the Association as a whole. Each Owner, by acceptance of his or her deed or recorded contract of sale, is deemed to covenant and agree to pay these Assessments. All such Assessments, together with interest at the rate of twelve percent (12%) per annum, costs, and reasonable attorneys' fees shall be a charge on the Lot and shall be a continuing lien upon the Residential Unit against which each Assessment is made. If any Assessments are not paid within thirty (30) days of due date the same shall be deemed to be

past due and subject to collection. Notwithstanding anything to the contrary in this Declaration, no Assessments shall be levied or commence on a Lot unless and until the Declarant sells such Lot to an unrelated third party Owner (e.g., a party other than Declarant or its affiliates); provided, however, that if the Declarant repurchases a Lot from a third party Owner the Declarant, as the succeeding Owner, shall be responsible for timely payment of ongoing Assessments related to such Lot.

Each such Assessment together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance to the extent expressly assumed, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in a Mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Assessment for delinquent Owners. Unless the Board otherwise provides, the Assessments shall be paid in monthly or yearly installments as described in Section 9.02 below.

The Association is specifically authorized to enter into subsidy contracts with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 9.02. Computation of Assessment. Commencing after the Turnover Date, it shall be the duty of the Board, at least thirty (30) days before the beginning of the budget year (the budget year shall be from January 1 through December 31) and ten (10) days prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming budget year. Subject to the provisions of Section 9.05 hereof, the budget shall include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the Assessments to be levied against each Residential Unit for the following budget year to be delivered to each Owner at least seven (7) days prior to the meeting. The budget and the Assessments shall become effective when adopted by the Board of Directors.

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

The Board may not, without the vote or written consent of a majority of the votes of the Association, impose an Assessment per Residential Unit which is greater than one hundred fifty percent (150%) of the amount for the previous fiscal year, except for the Assessment levied for the first time. Subject to the foregoing sentence, prior to the Turnover Date, the Board may, in its discretion, increase or decrease Assessments without a meeting or vote of the Owners.

Upon the Declarant's sale of a Residential Unit to an unrelated third party Owner (e.g., a party other than Declarant or its affiliates), the following assessments shall be collected by and for the benefit of the Association at the time of the initial closing on the Residential Unit: (1) an initial closing assessment of Seven Hundred Fifty Dollars (\$750.00) to be allocated among (i) the Association, (ii) for the cost of the initial Residential Unit's mailbox (with such mailbox to be

installed by the Owner at the Owner's expense), and (iii) for the cost of the initial Exterior Post and Post Light (with such Exterior Post Light to be installed by Owner at the Owner's expense); (2) for each Residential Unit, a yearly Assessment of Three Hundred Dollars (\$300.00) per year or as otherwise determined herein by the Board per calendar year (prorated for the first year of ownership); and (3) for each Cottage Home, a separate monthly Assessment of One Hundred Forty Dollars (\$140.00) per month, or as otherwise determined herein by the Board, per calendar year (prorated for the first year of ownership) shall be allocated to the Cottage Home Reserve.

Thereafter, for each Residential Unit, a yearly assessment of Two Hundred Dollars (\$200.00) per year or as otherwise determined by the Board shall be due and payable to the Association on a yearly basis on or before the first day of January, or as otherwise determined by the Board. For each Residential Unit that is a Cottage Home, a separate monthly Assessment of One Hundred Thirty Dollars (\$130.00) per month or as otherwise determined by the Board shall be due and payable to the Association on a monthly basis on or before the first day of each month, or as otherwise determined by the Board, and with such separate monthly Assessment to be allocated to the Cottage Home Reserve.

Section 9.03. Special Assessments. In addition to the Assessments authorized in Section 9.01, the Association may levy a Special Assessment or Special Assessments in any year applicable to that year, provided, however, that such Special Assessment for any purpose other than as a sanction against an Owner shall have the vote or written assent of more than fifty percent (50%) of the votes of a quorum of the votes of Members entitled to vote at a meeting called for the purpose. The Association may also levy a Special Assessment as a sanction against any Owner to reimburse the Association for costs incurred in bringing an Owner and such Owner's Lot into compliance with the provisions of the Declaration, the Amendments thereto, the Articles of Incorporation, the By-Laws, and the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board.

Section 9.04. Lien for Assessments. When a notice of the lien has been recorded, such Assessment or Special Assessment shall constitute a perfected lien on each Lot prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgage or deeds of trust) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period owned by the Association, following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. A suit to recover a money judgment for unpaid Assessments and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 9.05. Capital Budget and Contributions. In the event that the Association becomes the owner of any capital asset, or is charged with the duty for the upkeep, maintenance and repair of a capital asset, the Board of Directors shall annually prepare a

capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in any amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual Assessments over the period of the budget. The capital contribution required shall be fixed by the Board and included within the budget and Assessment, as provided in Section 9.02 hereof but after the Turnover Date. A copy of the capital budget shall be distributed to each Member in the same manner as the operating budget.

Section 9.06. Subordination of the Lien to First Deeds of Trust and First Mortgages. The lien of the Assessments, including interest, late charges subject to the limitations of applicable Indiana law, and costs (including attorneys' fees) provided for herein, shall be subordinate to the lien of any bona fide first Mortgage upon any Residential Unit. The sale or transfer of any Residential Unit shall not affect the Assessment or Special Assessment lien. However, the sale or transfer of any Residential Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Residential Unit from lien rights for any Assessments or Special Assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Residential Unit obtains title, his successors and assigns shall not be liable for the share of the Assessments by the Association chargeable to such Residential Unit which became due prior to the acquisition of title to such Residential Unit by such acquirer. Such unpaid share of the Assessments shall be deemed to be Common Expense collectible from all of the Residential Units, including such acquirer, his successors and assigns.

ARTICLE X

ARCHITECTURAL STANDARDS

This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any real estate subject to this Declaration or subject to annexation to this Declaration.

Section 10.01. Objectives. The Declarant and Association's objectives are to carry out the general purposes expressed in this Declaration; and to assure that any improvements or changes to a Lot will be of good and attractive design and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

Section 10.02. Architectural Review Committee. To achieve the Declarant and Association's objectives, the Declarant shall create a three (3) Member Architectural Review Committee ("Architectural Review Committee" or "Committee") with the power to administer this Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The right to appoint and remove all Members of the Committee, or the alternative right to solely act as the Committee, shall vest solely in the Declarant, its successors and assigns, until such time as Declarant, in its sole option, at any time hereafter, relinquishes to the Association the power to appoint and remove one (1) or Members of the Committee. Matters requiring approval of the Committee shall be submitted to its Chairman, or as the Committee otherwise designates. It is the intention and purpose of this Declaration to ensure that all Structures shall be of a quality of design, workmanship and

materials which are compatible and harmonious with the natural setting of the area and other Structures within the development. Notwithstanding anything to the contrary in this Declaration, the Declarant and its affiliates shall not be subject to any of the requirements of this ARTICLE X in planning, constructing and/or completing any improvements on any Lot in the Subdivision.

Section 10.03. Materials to be Submitted. No improvements shall be constructed or placed on any Lot within the Subdivision until final plans and specifications showing the site plan and all existing or proposed improvements have been submitted to, and approved in writing by the Committee or Declarant, as the case may be. An Owner may choose to submit a preliminary concept to the Declarant or Committee, which concept, if approved, may be incorporated into final plans and specifications. If a preliminary concept is approved by the Declarant or the Committee, a final plan which is substantially similar to the preliminary concept plan shall be approved by the Declarant or the Committee as to those items submitted in the preliminary concept.

The Owner shall request architectural review in writing, and shall furnish two (2) complete copies of each of the following:

- (a) The Lot site plan or plat prepared by an Indiana registered surveyor showing elevations, setbacks, erosion control, drainage and the location and dimensions of all proposed residences, Structures and accessory buildings;
- (b) Drawings and specifications of all proposed exterior building surfaces, showing elevations and including the color, quality and type of exterior construction materials;
- (c) Any additional information reasonably required for, or requested by the Committee which shall enable the Committee to determine the location, character, design, scale and appearance of the proposed improvements, including the square footage of any proposed improvement;
- (d) A statement specifying the builder of the improvements on the Lot.

Changes in approved plans and specifications, or subsequent alterations, additions and changes to any existing improvements that affect dwelling size, placement or external appearance must be similarly submitted to and approved by the Declarant or the Committee. Plans and specifications for the repair or reconstruction of improvements after casualty or condemnation must be similarly submitted to and approved by the Declarant or the Committee.

Section 10.04. Procedure. The Committee, or Declarant, as the case may be, shall disapprove preliminary concepts or plans and specifications submitted to it in the event the same are not in accordance with this Declaration or if the concept or final plans and specifications submitted are incomplete, and shall specify the reason for such disapproval. The Committee or Declarant may also refuse to grant approval when the proposed improvement, construction or modification, or any part thereof, would be contrary to the interests, welfare or rights of all or any part of the other Owners, all as determined in the sole discretion and opinion of the Committee or Declarant. The Declarant or the Committee shall consider any request which is submitted in accordance with the terms hereof on the basis of its conformity and harmony of external design and location in relation to surrounding Structures, relation to

topography, grade and finish ground elevation of the Lot being improved to that of neighboring sites, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning and rooftop installations, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. The Declarant or the Committee shall, within thirty (30) days after the submission of such complete plans and specifications, approve or disapprove any such request in writing. In the event such plans and specifications are disapproved, the Declarant or the Committee shall specify the reasons therefor. If the Declarant or the Committee fails to so approve or disapprove such request within thirty (30) days after such plans and specifications are submitted, such request shall be deemed approved. The decision of the Declarant or the Committee shall be final, but the Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications. The Declarant or the Committee shall retain one (1) full set of each Owner's final plans for its file. The Declarant or the Committee shall have the rights, in its sole discretion, to approve the builder of the improvements on the Lot.

Section 10.05. Completion of Improvements. Upon obtaining the final plan approval of the Committee, the Owner shall, as soon as practicable, proceed diligently with the commencement and completion of all approved improvements.

Section 10.06. Variances. The Architectural Review Committee, by the written consent of two-thirds (2/3) of the Members thereof, or by the decision of Declarant, as the case may be, is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration, or any portion hereof, in order to overcome practical difficulties and to prevent unnecessary hardship in the application of the provisions contained herein; provided, however, that variances shall not materially injure any other Lot or improvements within other Lots, and shall otherwise be subject to all applicable laws, ordinances, rules and regulations of any governmental agency or political subdivision having jurisdiction over the Lot. No variance granted pursuant to the authority granted herein shall constitute a waiver of any provision of this Declaration as applied to any other Person, Owner, Occupant or Lot.

Section 10.07. Liability. Neither the Committee, Declarant, nor any member, employee or agent thereof, shall be liable to any Owner, to anyone submitting plans for approval, or to any other Person, by reason of good faith exercise of judgment or mistake or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans and specifications or for any other action in connection with its or their duties hereunder. No Committee member shall receive any compensation for serving on the Architectural Control Committee.

The Architectural Review Committee, Association and Declarant, as well as the Declarant's employees, agents and representatives, shall not be liable for any damage, loss or prejudice suffered or claimed by any Owner or contractor who submits such plans on account of (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions; (b) any structural or other defects in any work done according to such plans and specifications; (c) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (d) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; and (e) the development of any property within the Submitted Parcel. Any Person submitting plans to the Committee or Declarant shall hold the Committee, Association and Declarant harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorney fees

incurred.

Section 10.08. Remedies. If any Owner believes that:

- (a) the disapproval of any plans and specifications;
- (b) the finding of any unfulfilled declaration obligations; or
- (c) the finding of a nuisance or violation under this Declaration is arbitrary and capricious,

then the Owner must, as its sole remedy, submit the matter to final and binding arbitration pursuant to the provisions of the Indiana Uniform Arbitration Act and the rules of the American Arbitration Association not in conflict with said Act. The fees for the arbitrator and a court reporter shall be divided equally between the Owner and the Committee and/or Association. All other costs shall be borne by the party incurring same. The parties to arbitration agree to cooperate in providing the relevant documents, witnesses, employees, agents and contractors requested by the other party. No arbitrator shall vary from, or change the provisions of this Declaration.

Section 10.09. Minimum Criteria for Architectural Review. No residence shall be permitted to be constructed upon a Lot, nor shall the Committee be required to approve any construction which shall fail to comply with the following minimum requirements:

(a) Minimum Finished Floor Area. The minimum finished floor area (as hereinafter defined) of each residence on a Lot shall be as follows:

(1) All one (1) story residences shall have a minimum finished floor area of one thousand six hundred (1,600) square feet; provided, however, that all Cottage Homes shall have a minimum finished floor area of one thousand four hundred (1,400) square feet.

(2) All one and one-half (1-1/2) story residences shall have a minimum finished floor area of one thousand eight hundred (1,800) square feet.

(3) All two (2) story residences shall have a minimum finished floor area of two thousand (2,000) square feet.

(b) Requirements Applicable to all Residence Construction.

(1) All residences shall be required to have at least an attached two-(2) car garage, which garage, as indicated below, shall not be included when computing the finished floor area;

(2) At least twenty-five percent (25%) of the front exterior of the residence shall be masonry, brick, or stone, unless a variance is approved by the Architectural Review Committee. Masonry, brick and stone corners must be returned by at least two feet (2') on elevation corners to ensure that the masonry, brick or stone, as the case may be, does not stop on an outside corner and

appear as if it is "applied."

(3) All driveways and service walks shall be of concrete or brick pavers. During construction, each Owner must install, at its expense, a five foot (5') public sidewalk of poured concrete along all street frontages and within the public right-of-way as shown on the engineering plans. All public sidewalks will comply with the construction standards of the Town of Winfield.

(4) There shall be no "blank" elevations in which windows and/or doors are absent (including garage walls). Specific scrutiny will be given to this area by the Architectural Review Committee.

(5) No panel sidings, such as plywood, aluminum or masonite, may be used unless a variance is approved by the Architectural Review Committee.

(6) Each residence shall be compatible with residences on neighboring Lots and the contour of the land. Corner Lots and front elevations on main thoroughfares will have additional scrutiny to architectural detail. No building previously constructed elsewhere shall be moved upon any Lot within the Subdivision. Pre-fabricated and modular homes are prohibited, as well as all bi-level, tri-level, and quad-level style homes; provided, however that panel homes shall be allowed.

(7) All foundations shall be poured concrete.

(8) All plumbing stacks and roof vents or ventilators shall be located in the rear of the residence roof.

(9) No exposed radio or TV antennas, or satellite dish antennas over twenty inches (20") in diameter, will be allowed on any Structure or Lot which is visible from the front of such Lot without approval of the Architectural Review Committee.

(10) All Lots shall be landscaped within forty-five (45) days of issuance of an occupancy permit, weather permitting. Landscaping for winter occupancy permits shall be completed by May 15. Landscaping shall include a grass sodded front yard five feet (5') past the front elevation of the residence, as well as grass sodded or seeded side yards and rear yard. A landscaped border of no less than thirty-six inches (36") shall be maintained around the front elevation of the residence which shall consist of shrub/ flower plantings. All landscaping must conform minimally to the Town of Winfield landscape requirements.

(11) No residence shall be of the same color or the same façade materials with the same configuration of use as any other residence within three (3) houses to each side of the subject Lot.

(c) For purposes of this Section, the following definitions are applicable:

(1) A one (1) story residence is defined as a dwelling having all living

area on one (1) floor. The living area floor level is at or slightly above the exterior grade level.

(2) A one and one-half (1-1/2) story residence is defined as a dwelling having one and one-half (1-1/2) floors of living area, both above grade, with the second floor of living area consisting of approximately one-half (1/2) of the size of the ground level.

(3) A two (2) story residence is defined as a dwelling having two (2) floors of living area, both above grade and both approximately the same size.

(4) Finished floor area is defined as finished living room, bedroom, kitchen, dining room, family room, closets, utility rooms, entry ways and bath usage, but shall specifically exclude attached garages, carports, open terraces, porches, basements and breezeways. To qualify as finished floor area the interior finish must be of a manner and quality of materials in keeping with the other rooms.

(d) Any construction undertaken on any Lot shall be continued with diligence toward the completion thereof and construction of any dwelling shall be completed within twelve (12) months from the date final approval of the plans by the Declarant or Architectural Review Committee, except that such period may be extended for a reasonable time by reason of Acts of God, labor disputes or other matters beyond the Owner's control. In the event construction is not completed within this time, then Declarant shall have the right, but shall not be obligated, to purchase the home from the Owner and then complete such construction.

(e) The location and elevation of each Structure, including driveways, on a Lot shall be subject to approval in writing by the Declarant or Architectural Review Committee, giving consideration to setback lines and easements on the recorded Subdivision, provided that each Owner shall be given reasonable opportunity to recommend the suggested construction site.

(f) Grading of Lots shall be in compliance with the Town of Winfield requirements and the master grading plan prepared for this development plus grading shall be performed so as not to damage adjacent Lot or Lots. No construction debris or concrete (including wash outs) is to be placed on any Lot other than the Lot being worked on at the time. All infrastructure is the responsibility of the Lot Owner and/or such Owner's builder until the Town of Winfield accepts the Subdivision. Owners, whether legal or reserve, are to maintain their Lot(s) from debris, mowing and erosion.

(g) Street trees shall be planted as part of the individual Lot home construction. The installation will be required as part of the requirements to receive a Certificate of Occupancy in accordance with the Town of Winfield Building Code. Street trees shall be deciduous trees elected from the following list:

1. Acer Rubrum Frank Jr., - Red Pointe Maple 2-1/2"
2. Acer Griseum - Paper Bark Maple 2-1/2"
3. Tilia Americana Mck Sentry - American Sentry Linden 2-1/2"

4. Ulmus Japonica Pumilia - New Horizon Elm 2-1/2"
5. Quercus Shumardii - Shumard Oak 2-1/2"
6. Gymnoclidus Diocius Espresso JFS - Espresso Kentucky Coffee Tree 2-1/2",

and shall be a minimum of 2.5" caliper as measured four and one-half (4½) feet above ground level.

The number of trees required on each Lot shall be as follows:

- (a) Two (2) street trees shall be required on Lots 1-28, 31-74 77-89;
- (b) One (1) street tree shall be required on Lots 29, 30, 75, 76;
- (c) One (1) street tree shall be required on Lots 90-143, inclusive; and
- (d) Corner Lots shall be required to have three additional trees along in a row on the side of the house.

The exact species of tree to be planted on a particular Lot is designated on the Site Development Plan approved by the Town of Winfield.

Section 10.10. Compliance with Soil Erosion Control Plan.

(a) The Declarant has established an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 relating to Storm Water Run-off Associated with construction activity. Each Owner shall undertake all erosion control measures contained therein as the plan applies to "land distributing activity" initiated by Owner or Owner's builders, contractors and their subcontractors and to comply with the Declarant's general permit under Rule 5 as well as all other applicable state, county or local erosion control authorities. All erosion control measures shall be performed by personnel trained in erosion control practices and shall meet the design criteria, standards and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources.

(b) Each Owner shall indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by Owner, Owner's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.

(c) The Owner and the Owner's contractors and subcontractors shall fully and completely comply with the soil erosion measures required by state and local law and this Declaration and, among other things, shall install, repair or replace slit fence, clean the street near the Owner's Lot, repair any damage to the asphalt street or curbs or do any other work required to comply with the Owner's obligations for soil erosion management. Upon the Owner or its contractors failure to timely comply with this Article, the Declarant may (but shall be under no obligation to) unilaterally take soil erosion management action with respect to a Lot, and the Owner shall be responsible and shall reimburse the Declarant within thirty (30) days for any such costs incurred. If

not paid by the Owner or its contractors, this obligation shall be a lien on the Lot or Lots and the personal obligation of the Owner and shall become due and payable in all respects, together with interest, reasonable attorney's fees, and cost of collection, as provided for herein and shall be subordinate to mortgage liens as provided for herein.

(d) The Owner shall also be responsible for erosion control maintenance of their Lot from the date of contract sale. The Owner shall also be responsible for proper grading of the Lot and spoils once hauled off. In addition to the above, any Owner who does not comply with this Section shall be fined One Thousand Dollars (\$1,000.00) and may be charged an hourly rate by the Declarant to bring any Lot into conformance with this Section.

ARTICLE XI USE RESTRICTIONS

Section 11.01. Residential Restrictions. The Lots subject to this Declaration may be used for single-family Residential Units, and for no other purpose. Any and all business, trade, or similar activity is prohibited, except that an Owner or occupant residing in a dwelling on a Lot may conduct business activities within the dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling; (b) the business activity conforms to all zoning requirements; (c) the business activity does not involve door to door solicitation of residents of the Subdivision; (d) the business activity does not generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Subdivision which is noticeably greater than that which is typical of dwellings in which no business activity is being conducted; and (e) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in a full or part time manner; (ii) such activity is intended to or does generate a profit; or (iii) a license is required. The only exception hereto is any model provided by the Declarant or Declarant's affiliates to promote the sales of the Lots and/or Residential Units. The Association, acting through the Board of Directors, shall have standing and the power to enforce the use restrictions contained herein as well as those stated in the Ordinances of the Town of Winfield as if all of such provisions were regulations of the Association.

Section 11.02. Nuisances. No nuisances shall be allowed upon any Residential Unit nor shall any use or practice be allowed which would annoy residents or interfere with the peaceful possession and proper use of the Residential Units by its residents, or which will obstruct or interfere with the rights of other Owners or the Association. This provision shall not be construed to prohibit or limit the enforcement of any provision of the Declaration which does not constitute a nuisance, or to prohibit the Association from adopting Rules and Regulations prohibiting conduct which does not constitute a nuisance.

In addition, the following shall apply to all Lots and Owners:

(a) No burning of refuse shall be permitted.

(b) The use of any driveway or parking area which may be in front of or adjacent to or part of any Lot as a habitual parking place for commercial vehicles is prohibited. The term "commercial vehicles" shall include all trucks (larger than 3/4 ton), construction equipment and vehicular equipment. Commercial vehicles shall also include all limousines for hire. The habitual violation of the parking regulations set forth in this paragraph shall be deemed a nuisance. Pick-up trucks (3/4 ton or smaller) and vans (3/4 ton or smaller), with or without a commercial name, shall be an exception to this exclusion.

(c) No Structures shall be located or maintained within the utility and drainage easements within the real estate. The removal of such as required by the Town of Winfield, Lake County, Indiana, or any public utility or governmental agency, shall be at the sole cost and expense of the Lot Owner.

(d) No plants or seeds, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

Section 11.03. Immoral, Improper, Offensive and Unlawful Uses. No immoral, improper, offensive or unlawful use shall be made of any Residential Unit, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental bodies regarding the maintenance, modification or repair of Residential Units shall be the same as provided in ARTICLE IV hereof.

Section 11.04. Uses Affecting Insurance Rates. An Owner shall not permit or suffer anything to be done or kept in a Residential Unit which will increase the insurance rates on any other Residential Unit.

Section 11.05. Owner's Obligation to Maintain Lot. Each Owner of an improved Lot which is subject to this Declaration shall at all times maintain the Lot and the improvements in such a manner as to prevent the Lot and improvements from becoming unsightly, and specifically, such Owner shall: (a) for Lots other than those with Cottage Homes, mow and otherwise tend to the landscaping on the Lot as such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds six (6") inches or more in height; (b) cut down and remove dead trees; (c) remove all debris and rubbish and prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Lot; and (d) keep the exterior of the improvements in such a state of repair or maintenance as to avoid the improvements from becoming unsightly.

Section 11.06. Accessory Buildings. In order to preserve the quality and aesthetic appearance of the existing geographical areas within the Subdivision, any accessory buildings must be approved by the Declarant and/or the Architectural Review Committee, and must be in accordance with Town of Winfield ordinances and specifications. All such accessory buildings may only be erected in the rear portion of a Lot, and may not exceed a twelve feet (12') by fourteen feet (14') floor dimension. The maximum wall height shall be eight feet (8'), with a maximum roof height of twelve feet (12'). Any accessory building shall have exterior finishes that match the residence constructed on such Lot. No metal, fiberglass or "one-piece" vinyl accessory buildings shall be allowed.

Section 11.07. No Temporary Buildings. No Structure of a temporary character, such as a trailer, tent, shack, garage, barn, or other building shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 11.08. Fences. In order to preserve the quality and aesthetic appearance of the existing geographical areas within the Subdivision, any fence must be approved by the Declarant or Architectural Review Committee as to size, location, height and composition before it may be installed. Only vinyl or maintenance free, open – picket fences will be allowed, and in any and all occasions, wood, chain link fences and privacy fences are prohibited from use anywhere in the Subdivision, including dog runs and pet enclosures. All fences approved by the Declarant or Architectural Review Committee must also be located in the rear of a Lot and approved and permitted by the Town of Winfield.

Section 11.9. Swimming Pools. No above ground swimming pools shall be installed on any Lot without the prior written approval of the Architectural Review Committee or the Board of Directors of the Association. In addition, "temporary" or inflatable pools are prohibited.

Section 11.10. Prohibition of Used Structures. All Structures constructed or placed on any Lot in the Subdivision shall be constructed with substantially all new material, and no used Structures shall be relocated or placed on any Lot.

Section 11.11. Exterior Post Lights. The Declarant or Architectural Review Committee will select and designate a standard post and post light for the Subdivision, to be purchased (subject to the provisions of Section 9.02), installed and maintained by each Lot Owner at such Owner's expense. Such post lights are required on a Lot. All exterior post lights which are installed shall be illuminated from dusk to dawn, be located five (5') feet from the driveway and five (5') feet from the public sidewalk toward the middle of the Lot, and contain the illumination at a minimum of a sixty (60) watt incandescent bulb. In the event that the exterior post or exterior post light is lost, damaged, or destroyed, the Owner shall contact the Association to purchase and install a replacement exterior post and/or post light at the Owner's expense.

Section 11.12. Mailboxes. The Declarant or Architectural Review Committee will select and designate a standard mailbox and post for the Subdivision, to be purchased (subject to the provisions of Section 9.02), installed and maintained by the Lot Owner at such Owner's expense. No Owner may install or use a mailbox or mailbox post that is composed of brick, stone, plastic, rubber or wood. In the event a mailbox or mailbox post is lost, damaged or destroyed, the Owner shall contact the Association to purchase a replacement mailbox and mailbox post which the Owner shall install at the Owner's expense.

Section 11.13. Antennae. No exposed radio or television antennae shall be allowed on any Structure or on any Lot which are visible from the front of such Structure or Lot. Satellite dish antennae, the dish for which does not exceed twenty (20") inches in diameter, shall be permitted but shall be placed in a location to minimize visibility from the front of such Structure or Lot.

Section 11.14. Boats and Motor Vehicles. No: (a) recreational vehicles; (b) motor homes; (c) boats; (d) boat trailers; (e) recreational equipment and trailers; (f) trucks or vans in

excess of three-quarter ($\frac{3}{4}$) ton capacity; or (g) truck or vans in excess of one-half ($\frac{1}{2}$) ton capacity which have exterior commercial letter or designs, shall be placed, parked or stored upon any Lot for more than forty-eight (48) hours, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a fully enclosed building and totally isolated from public view.

Section 11.15. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. However, no more than three (3) dogs, cats and other common household pets collectively (with such total including no more than two (2) dogs or two (2) cats) may be kept on Lots so long as they are not kept, bred, or maintained for commercial or hobby purposes. The Association may impose a Special Assessment against any Owner for: (a) repairs or replacements required to be made to the exterior of the Residential Unit or the landscaped areas as a result of damage created by the Owner's animal, and/or (b) the Owner's failure to clean up after said pets. No animals shall be allowed to run loose at any time in the Subdivision, and they must be kept on a leash at all times whenever not in a fenced portion of the Lot. No dog shall be allowed to continuously bark, yelp, whine or howl by the Owner of any Lot in the Subdivision. No Owner may leave animals unattended outdoors for lengthy periods of time.

Section 11.16. Rubbish, Trash, Garbage and Nuisance. No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot and all trash shall be kept in sanitary containers and shall be stored inside the garage. No firewood, scrap wood, limbs, branches, compost, composters, paper, bottles, tires or similar substances, filth, rubbish trash or noxious substance shall be collected or remain on any Lot or any part thereof which causes damage, prejudice or discomfort to others or the public or creates a breeding ground for insects or vermin.

Section 11.17. Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the residence to be constructed on a Lot.

Section 11.18. Signs. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on any Lot subject to this Declaration. The Declarant, the Declarant's affiliates, or an Owner may place one professional sign on any Lot advertising the Lot for sale or rent.

Section 11.19. Destruction of Structure. No Structure which has partially or totally been destroyed by fire, windstorm or other casualty shall be allowed to remain in such state for more than four (4) months from the time of such destruction or damage.

Section 11.20. Overnight Parking. Overnight parking on any street is prohibited.

Section 11.21. House Numbers. During the construction process, house numbers shall be placed within the masonry in a prominent location facing the street. Said house numbers shall be at least four (4") inches in height, and shall be shown on the architectural plans submitted to the Architectural Review Committee.

Section 11.22. Deciduous Trees. Any deciduous trees planted on any Lot in the front, side or rear yard shall be a minimum of 2.5 inches caliper as measured four and one-half ($4\frac{1}{2}$)

feet above ground.

Section 11.23. Rules and Regulations. Rules and Regulations concerning the use of the Residential Units may be promulgated and amended by the Association acting by and through its Board of Directors each of which shall be deemed to be incorporated herein by reference and made a part hereof, as amended from time to time; provided, however, copies of all such Rules and Regulations shall be furnished to each Owner prior to the time that the same shall become effective. All Rules and Regulations promulgated from time to time shall be deemed to be reasonable and enforceable, so long as they bear any relationship to the safety, health, happiness and enjoyment of life of all of the Owners, are in furtherance of a plan to provide for the congenial occupation of the Residential Units, to promote and protect the cooperative aspects of ownership, the value of the Residential Units, and/or facilitate the administration of the community as a first class, safe, healthy, happy, quiet and restful residential community, and are not arbitrary and capricious. The Board of Directors of the Association is hereby granted the specific power and authority to enforce said rules and regulations in accordance with the provisions of ARTICLE XII.

ARTICLE XII **ENFORCEMENT**

Each Owner and Occupant of any Lot shall be governed by and shall comply with the terms of this Declaration and the Articles of Incorporation, By-Laws, and the Rules and Regulations of the Association adopted pursuant thereto as they may be amended from time to time. The Declarant shall have no personal or other liability, obligation or responsibility to enforce this Declaration, or any part thereof. A default or violation by an Owner or Occupant of a Lot shall entitle the Association or, in lieu thereof, any other Owner or Owners or the Town of Winfield to the following remedies (i.e., any other Owner or Owners or the Town of Winfield may act apart from and in place of the Association and/or the Board of Directors in administering and enforcing the provisions of this ARTICLE XII):

Section 12.01. Authority and Administrative Enforcement and Procedures.

(a) **Authority.** Lots and Residential Units shall be used only for those uses and purposes set out in this Declaration, and subject to the covenants and restrictions set forth herein, and in the By-Laws and Rules and Regulations of the Association. The Board of Directors shall have the power and authority to impose reasonable Special Assessments in accordance with Section 9.03 hereof, which shall constitute a lien upon the Owner's Lot and to suspend an Owner's right to vote, and to approve other appropriate sanctions in the event that it is determined in accordance with this ARTICLE XII that an Owner or Occupant has violated any provision of this Declaration, the By-Laws, or the Rules and Regulations as duly promulgated.

(b) **Procedure.** The Board of Directors shall not impose a Special Assessment as a sanction, suspend the right to vote, or infringe upon any other rights of an Owner or Occupant for any such violations unless and until the following procedure is followed, along with all applicable law:

(1) **Demand.** Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (a) the alleged

violation; (b) the action required to abate the violation; and (c) a time period, not less than ten (10) days, during which the violation may be abated without further sanction.

(2) Notice. If the violation continues past the period allowed in the demand for abatement without sanction, the Association shall serve the violator with written notice of a hearing. The notice shall contain: (a) the nature of the alleged violation; (b) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (c) an invitation to attend the hearing and produce any statements, evidence and/or witnesses in his/her behalf; and (d) the proposed sanction to be imposed.

(3) Hearing. The hearing shall be held in executive session by the Board of Directors pursuant to the notice affording the violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, the invitation to be heard, the written result, and statements of the sanction shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting.

(c) Sanctions. The Board of Directors' power and authority to impose sanctions shall be governed by the following provisions:

(1) All Special Assessments imposed upon a violator under this Article shall bear a reasonable relationship to the violation, considering all the circumstances, which may include, but shall not be limited to, the following:

(A) The actual costs and expenses incurred by the Board of Directors and the individual directors in the exercise of the power and authority under this ARTICLE XII (including but not limited to reasonable attorney's fees and costs), and in otherwise attempting to remedy the violation.

(B) The amount of actual damage done to other Owners and Occupants and/or their Lots and any Structures thereon and/or to the Association arising out of the violation or the efforts to remedy the effects of same.

(C) The amount which would be reasonably required to compensate the Association for the disruption of and inconvenience to, the community, the Association or any Member thereof, or Occupant of a Lot.

(D) The extent to which the violation is or was flagrant, and the extent to which the violator cooperated or hindered in any effort to remedy the violation.

(2) All Special Assessments amounts imposed hereunder as a sanction shall be deemed to be a part of the Assessment attributable to the Lot owned or occupied by the violator, and shall be assessed against said Lot and its Owner as a Special Assessment to be due and payable on the date that the next

Assessment payment would be due, and any such special Assessments which are not paid as of that date shall become a lien on such Lot, and shall be collected and enforced in the same manner as Assessments.

(3) Nothing herein contained shall be construed as granting to the Board of Directors the power or authority to impose such a Special Assessment which is punitive in nature, or to suspend an Owner's right to vote, unless the Board of Directors finds, by specific special findings of fact in accordance with the foregoing procedure, that the violator's conduct was willful, malicious, oppressive and/or outrageous in nature. Said special findings of fact shall specifically set forth all facts and circumstances.

(4) All other sanctions imposed shall be reasonably related to the violation found.

(5) The decision of the Board of Directors made in accordance with the foregoing procedures shall be final.

Section 12.02. Legal Remedies. In addition to the administrative remedies set forth in Section 12.01 hereof, the legal remedies may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, an action to enforce the sanctions imposed by administrative procedure, or any combination thereof. The prevailing party shall be entitled to recover the costs of any legal proceeding including reasonable attorneys' fees and costs.

Section 12.03. No Waiver of Rights. The failure of the Association or of an Owner or the Town of Winfield to enforce any right, provision, covenant or condition which may be granted by the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations, or by applicable law shall not constitute a waiver of the right of the Association, Owner or the Town of Winfield to enforce such right, provision, covenant or condition in the future.

Section 12.04. No Election of Remedies. All rights, remedies and privileges granted to the Association or any Owner pursuant to any terms, provisions, covenants or conditions of the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations, or by applicable law shall be deemed to be cumulative, and the exercise of any one (1) 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.

ARTICLE XIII **AMENDMENT**

The Declaration and the Articles of Incorporation, By-Laws, and Rules and Regulations may be amended in the following manner, ***subject in all events to the provisions of Section 156.263 of the Winfield Code of Ordinances:***

Section 13.01. Declaration. Subject to the provisions of ARTICLE XIV, ARTICLE XV and ARTICLE XVII, amendments to the Declaration shall be proposed and adopted as follows, provided, however, that no amendment may revoke, remove, or modify any right or privilege of the Declarant, without such party's written consent.

(a) Notice. Notice of the subject matter of any proposed amendment shall be included in the Notice of any meeting of the Board of Directors or Owners at which any proposed amendment is to be considered.

(b) Resolution. Except as provided in sub-section(d) hereof, a Resolution to amend the Declaration may be adopted by the affirmative vote in person or by proxy of not less than three-fourths (3/4) of the votes of the Members (not three-fourths (3/4) of a quorum), at any regular or special meeting of the Members called and held in accordance with the By-Laws; provided, however, that any such amendment must also be approved and ratified by not less than three-fourths (3/4) of the Board of Directors (not three-fourths (3/4) of a quorum).

(c) Recording. The amendment shall not be effective until a certified copy thereof is recorded in the Office of the Recorder of Lake County, Indiana. A copy of any such amendment shall also be sent to each Owner and his Mortgagee by registered or certified mail; provided, however, the mailing of such amendment shall not constitute a condition precedent to the effectiveness of such amendment.

(d) 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, or the Articles of Incorporation, By-Laws, and Rules and Regulations, without the consent of the Owners, the Association, the Board of Directors or any Mortgagee, or any other Person, to: (1) correct scrivener's errors, minor defects or omissions; (2) comply with the requirements of applicable Indiana law; (3) comply with the requirements of any governmental agency, public authority, or title insurance company; (4) comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by each sell, insure or guarantee first mortgages covering Residential Units; (5) induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering residential units; (6) designate additional Lots, Residential Units; and/or Outlots within the Submitted Parcel and Development Area in accordance with the Latitude Planned Development, which will then be specifically subject to the terms and conditions of this Declaration under such designations; or (7) add additional covenants, conditions and restrictions to this Declaration covering such areas of the Submitted Parcel and Development Area in which Declarant and/or its designated assigns then own and control. This sub-section (d) shall constitute an irrevocable special power of attorney to Declarant coupled with an interest on behalf of all Owners, Mortgagees, and any and all other Persons having an interest of any kind in the Submitted Parcel, for so long as Declarant owns any portion of the Development Area, and it shall become effective upon the recording of a copy thereof in the Office of the Recorder of Lake County, Indiana. A copy of such amendment shall also be sent to all Owners and their Mortgagees in the manner provided in sub-section(c) hereof.

Section 13.02. Articles of Incorporation and By-Laws. The Articles of Incorporation

and By-Laws of the Association shall be amended in the manner provided by such documents or by applicable law.

ARTICLE XIV GENERAL PROVISIONS

Section 14.01. Term. The Covenants and Restrictions of this Declaration shall run with and bind the Submitted Parcel, and shall inure to the benefit of an shall be enforceable by the Association or the Owner of any Lot or Residential Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by at least seventy-five percent (75%) of the then Owners, has been recorded within the year preceding and the beginning of each successive period of (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same.

Section 14.02. Indemnification. The Association shall indemnify every Officer and Director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any Officer or Director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors), to which he or she may be a party by reason of being or having been an Officer or Director. The Officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, or any other acts or omissions of any nature whatsoever as such Directors and Officers except for any acts or omissions found by a court of competent jurisdiction to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the Directors and each of the Officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association, or arising out of their status as Directors or Officers, unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include an indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director or Officer may be involved by virtue of such person being or having been such Director or Officer; provided, however, that such indemnity shall not be operative with respect to: (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer; or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board of Directors, there is not reasonable grounds for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer. Any right to indemnification provided for herein shall be not exclusive of any other rights to which any Officer or Director, or former Officer or Director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 14.03. Perpetuities. If any of the covenants, conditions, restrictions, easements or other provisions of this Declaration shall be unlawful, void or voidable for violation

of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of the Governor of the State of Indiana and the President of the United States of America.

Section 14.04. Re-recording of Declaration. If at any time or times the Board shall deem it necessary or advisable to re-record this Declaration, or any part thereof, in the Office of the Recorder of Deeds of Lake County, Indiana, in order to avoid the expiration hereof or of any of the covenants or other provisions herein contained, it shall subject the matter to a meeting of the Members of the Association called upon not less than ten (10) days' notice, and unless at such meeting at least two-thirds (2/3) of said Members shall vote against such re-recording; the Board shall have and is hereby granted, power to so re-record this Declaration or such part thereof, and such re-recording shall be binding upon all Owners or any part of the Submitted Parcel in every way and with all the full force and effect as though such action were taken by each of said Owners and the re-recorded document executed and acknowledged by each of them.

Section 14.05. Restrictions, Conditions, Covenants, Liens and Charges. Each grantee of Declarant, by taking title to a Lot and each purchaser under any contract for a deed of conveyance pursuant to which said grantee will take title, accepts said title subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of the Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, and the rights described in this Section or described in any other part of this Declaration shall be sufficient to create and reserve such rights to the respective grantees, mortgagees and trustees of such Lot as fully and completely as though such rights were recited fully and set forth in their entirety in any such documents.

Section 14.06. Enforcement of Covenants. Declarant and each Owner from time to time shall have the right to jointly or separately sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants and obligations herein set forth, or any of them, in addition to the right to bring a legal action for damages. Whenever there shall have been built (or whenever there is being built) on any Lot any improvement which is and remains in violation of the covenants set forth, or any of them, for a period of thirty (30) days after delivery of written notice thereof (in the manner provided in ARTICLE XII hereof) from Declarant or the Association to the Owner of any such Lot, then Declarant or the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily to abate or remove it at the expense of the Owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant and the Owners to enforce any of the covenants or obligations herein provided due to a particular violation be deemed to be a waiver of the right to do so respecting any such violation or any subsequent violation.

Section 14.07. Disclaimer of Other Entities. All Owners and the Association acknowledge and understand that their relationship under this Declaration is with the Declarant, pursuant to the written terms of this Declaration, and no other entity notwithstanding anything to the contrary in advertising, promotional or other materials. Owner and the Association

acknowledge that they have no claim against any entity including affiliates, subsidiaries, parents or otherwise under common control of Declarant, and Owner and the Association waive and release any such claims, if any.

Section 14.08. Special Amendment. Declarant hereby reserves the right and power to record a special amendment (hereafter referred to as "Special Amendment") to this Declaration at any time and from time to time which amends this Declaration: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or grant first mortgages encumbering any Lot or Residential Unit; or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto, or any supplement or amendment thereof. In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elects to record at any time and from time to time for any other purpose, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be, said power shall be irrevocable. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Residential Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record Special Amendments. Subject to the provisions of ARTICLE XIV hereof, the right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as the Declarant no longer holds title to any Lot or Residential Unit.

Section 14.09. Ownership Under a Trust. In the event that title to any Lot is conveyed to a title holding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants, obligations and undertakings chargeable or created under this Declaration against any such Lot or Residential Unit. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply, in whole or in part, against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon said Lot and the beneficiaries of such trust, notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to any such Lot.

Section 14.10. Owner's Obligation to Maintain and Repair. Each Owner shall, at Owner's sole cost and expense, maintain and repair Owner's residence and Structures keeping the same in a condition comparable to the condition of such residence and Structures at the time of its initial construction.

Section 14.11. Self Help. In addition to any other remedies provided for herein, the

Declarant, the Association, or their respective duly authorized agents shall have the power to take such remedial action, activity or otherwise perform or take such action or obligation of a defaulting Owner to bring a Lot into compliance with this Declaration. The Declarant, the Association, or their respective duly authorized agents may enter upon a Lot or any portion of the Subdivision (including Common Area) to abate or remove, using such force as may be reasonably necessary, any construction, erection, thing or condition which violates this Declaration, the Architectural Guidelines, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Declarant or the Association, as the case may be, shall give the violating Lot Owner thirty (30) days' written notice of its intent to exercise remedial activity (self help). All costs of the Declarant or the Association's remedial activity (self help), together with interest at the rate of twelve percent (12%) per annum, including attorneys' fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein. No liability shall be assumed or imposed by the Declarant and/or the Association's exercise or failure to exercise such remedial activity. Notwithstanding the foregoing, in the event of an emergency or the blockage or material impairment of the easement rights granted hereunder, the Declarant or the Association may immediately cure the same and be reimbursed by the defaulting Owner upon demand for the reasonable cost thereof together with interest as above described.

Section 14.12. Notices. Any notices required to be sent to any Owner under any provision of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the Person who appears as owner on the records of the Lake County Auditor's official property tax records at the time of such mailing.

Section 14.13. Usage. Whenever used the singular shall include the plural and singular, and the use of any gender shall include all genders.

Section 14.14. Effective Date. This Declaration, or any amendment hereto, shall become effective upon its recordation in the Office of the Recorder of Lake County, Indiana.

Section 14.15. Severability of Invalid or Unenforceable Provisions. If any term, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By Laws or the Rules and Regulations 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 terms, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By Laws or the Rules and Regulations. If any part of this Declaration, or any term, covenant, provision, phrase or other element, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Indiana, then the said laws shall be deemed controlling and the validity of the remainder of the Declaration and the application of any other term, covenant, provision, phrase or other element in other circumstances shall not be affected thereby.

Section 14.16. Captions. Captions used in this Declaration, the Articles of Incorporation, the By Laws and the Rules and Regulations 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 this Declaration, the Articles of Incorporation, the By Laws and the Rules and Regulations.

Section 14.17. Binding Effect. This Declaration shall be binding upon and inure to the

benefit of each Owner, its successor, grantees, assigns and the legal representatives thereof.

Section 14.18. Recitals. The recitals set forth at the beginning of this Declaration are hereby made a part of and incorporated into this Declaration by reference.

ARTICLE XV MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of first Mortgages on Residential Units to the extent required by law. To the extent applicable, necessary, or proper, the provisions of this ARTICLE XV apply to both this Declaration and to the By-Laws of the Association. Where indicated, these provisions apply only to "Eligible Holders," as hereinafter defined; provided, however, voting percentages set forth herein are subject to and controlled by higher percentage requirements, if any, set forth elsewhere in this Declaration for specific actions.

Section 15.01. Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request (such request to state the name and address of such holder, insurer or guarantor and the Residential Unit address), to the Association (thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) any proposed termination of the Association;
- (b) any condemnation loss or any casualty loss which affects a material portion of the Submitted Parcel or which affects any Residential Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (c) any delinquency in the payment of Assessments or charges owed by an Owner of a Residential Unit subject to the Mortgage of such Eligible Holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or
- (e) any proposed action which would require the consent of Eligible Holders, as required in Section 16.02 hereof.

Section 15.02. Mortgagee's Rights Respecting Amendments to the Declaration. To the extent possible under applicable Indiana law, and notwithstanding the provisions of ARTICLE XIII, any amendment of a material nature must be approved by Eligible Holders representing at least fifty-one percent (51%) of the votes of Residential Units that are subject to Mortgages held by Eligible Holders. An amendment to any of the following shall be considered material:

- (a) voting rights;
- (b) Assessments, Assessment liens, or subordination of Assessment liens;
- (c) responsibility for maintenance and repairs;

- (d) boundaries of any Residential Unit;
- (e) expansion of the Development Area (to include real estate not described in Exhibit "A" or not adjacent thereto nor in the vicinity thereof);
- (f) insurance or fidelity bonds;
- (g) imposition of any restrictions on an Owner's right to sell or transfer his or her Residential Unit;
- (h) restoration or repair of the Submitted Parcel (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration;
- (i) any action to terminate the legal status of the Submitted Parcel after substantial destruction or condemnation occurs, provided, however, that any action to terminate the legal status of the Subdivision for reasons other than substantial destruction or condemnation shall require the consent of Eligible Holders or Owners representing sixty-seven (67%) of the votes of Residential Units; or
- (j) any provisions that expressly benefit mortgage holders, insurers or guarantors.

Section 15.03. Special FHLMC Provision. So long as required by FHLMC, the following provisions apply in addition to and not in lieu of the foregoing two (2) Sections of this Article. Unless at least two-thirds (2/3) of the first Mortgagees or Owners provide their written consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Property shall not be deemed a transfer);
- (b) change the method of determining the obligations, Assessments, dues or other charges which may be levied against the Owner;
- (c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of any Structure;
- (d) fail to maintain fire and extended coverage insurance, as required by this Declaration; or
- (e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such.

The provisions of this Section 15.03 shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Owners where a larger percentage vote is otherwise required for any of the actions contained in this Section.

Section 15.04. Mortgagee's Right to Cure. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on casualty insurance policies, or secure new casualty insurance coverage upon the lapse of a policy, for any Common Area, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

ARTICLE XVI DECLARANT'S RIGHTS

Section 16.01. Control. Notwithstanding any of the other provisions of this Declaration or the By-Laws to the contrary, and in addition to any other right or privilege given or granted or reserved to Declarant under this Declaration, the first and all subsequent Board of Directors shall consist solely of three (3) individuals designated by Declarant, which individuals may but need not be Owners or Members until the first to occur of any of the following (the "Turnover Date"):

- (a) Thirty (30) days after Declarant has conveyed to purchasers for value all of the Residential Units proposed for the Development Area;
- (b) The expiration of twenty (20) years from the date of the recording of this Declaration; or
- (c) The date on which Declarant elects to terminate its sole control by the delivery of written notice of such election to the Owners.

Section 16.02. Absence of Warranty. THE DECLARANT SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION IN CONNECTION WITH THE SUBMITTED PARCEL OR DEVELOPMENT AREA OR THIS DECLARATION EXCEPT AS SPECIFICALLY SET FORTH HEREIN; AND NO PERSON SHALL RELY UPON ANY WARRANTY OR REPRESENTATION NOT SPECIFICALLY SET FORTH THEREIN. ANY ESTIMATES OF ASSESSMENTS ARE BELIEVED TO BE ACCURATE, BUT NO WARRANTY OR GUARANTY IS MADE OR INTENDED, NOR MAY ONE BE RELIED UPON. DECLARANT HEREBY DISCLAIMS AND EXCLUDES ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, MERCHANTABILITY, QUALITY OR FITNESS FOR PARTICULAR PURPOSE), WITH RESPECT TO THE PROPERTY, COMMON ELEMENTS AND THE LOTS OR RESIDENTIAL UNITS. THE ASSOCIATION AND ANY OWNER KNOWINGLY AGREE TO WAIVE ANY AND ALL RIGHTS THAT THEY MAY HAVE PURSUANT TO THE IMPLIED WARRANTY OF HABITABILITY. THE ASSOCIATION AND OWNERS ACKNOWLEDGE AND AGREE THAT THE SOLE WARRANTIES THAT APPLY TO THE PROPERTY, COMMON ELEMENTS AND THE LOTS AND RESIDENTIAL UNITS ARE SOLELY CONTAINED WITHIN THE PURCHASE AGREEMENT FOR THE ACQUISITION OF THE LOT OR RESIDENTIAL UNIT.

Section 16.03. Assessment Exemption. Declarant and Declarant's affiliates shall each be exempt from any Assessment levied by the Association on any or all Residential Units owned by the Declarant and/or Declarant's affiliates which are unoccupied and offered by the

Declarant or Declarant's affiliates for sale.

Section 16.04. Right to Amend Declaration. The Declarant shall have the right to amend the Declaration, and the Articles of Incorporation, By-Laws, and Rules and Regulations, in accordance with ARTICLE XIII hereof.

Section 16.05. Transfer of Rights. Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument specifically transferring such special rights and/or obligations and signed by the Declarant and duly recorded in the Office of the Recorder of Lake County, Indiana.

Section 16.06. Reserved Rights and Easements. Notwithstanding any provisions herein to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a nonexclusive, perpetual right, privilege, and easement with respect to any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel, for the benefit of Declarant or its successors, and assigns over, under, in, and/or on the real estate and any portion of the Development Area which becomes part of the Submitted Parcel, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, maintenance, repair, replacement, use and enjoyment and/or otherwise dealing with the Submitted Parcel and Development Area. The reserved easement shall constitute a burden on the title to all or any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel and specifically includes, but is not limited to:

(a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in all or any portion of the Submitted Parcel and any portion of the Development Area which becomes part of the Submitted Parcel; and the right to tie into any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel with driveways, parking areas, streets, and drainage systems; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, Internet, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over all or any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel, and in connection therewith the right to store construction equipment and materials in appropriate areas in areas owned by Declarant without payment of any fee or charge whatsoever;

(b) the right to construct, install, replace, relocate, maintain, repair, use and enjoy model units, parking spaces, signs, lighting, construction offices, business offices and sales offices as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction of improvements and sale of units in all or any portion of the Submitted Parcel and Development Area; and

(c) no rights, privileges, and easements granted or reserved herein shall be merged into the title of any Residential Unit within the Submitted Parcel and any portion

of the Development Area that becomes part of the Submitted Parcel, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit claim deed from Declarant releasing its right, privilege, or easement by express reference thereto with respect to all or any portion of the Submitted Parcel and any portion of the Development Area that becomes part of the Submitted Parcel.

This Section 16.06 may not be amended without the prior written consent of Declarant as to its rights under this Section.

Section 16.07. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IT IS EXPRESSLY AGREED, AND EACH OWNER, BY ACCEPTING TITLE TO A LOT AND BECOMING AN OWNER ACKNOWLEDGES AND AGREES, THAT NONE OF DECLARANT NOR ANY MEMBERS OR MANAGERS OF DECLARANT (OR ANY MEMBER, PARTNER, OFFICER, DIRECTOR OR SHAREHOLDER IN ANY SUCH ASSIGNEE) SHALL HAVE ANY LIABILITY, PERSONAL OR OTHERWISE, TO ANY OWNER OR OTHER PERSON, ARISING UNDER, IN CONNECTION WITH, OR RESULTING FROM (INCLUDING WITHOUT LIMITATION RESULTING FROM ACTION OR FAILURE TO ACT WITH RESPECT TO) THIS DECLARATION EXCEPT, IN THE CASE OF DECLARANT, TO THE EXTENT OF ITS INTEREST IN THE SUBDIVISION; AND, IN THE EVENT OF A JUDGMENT NO EXECUTION OR OTHER ACTION SHALL BE SOUGHT OR BROUGHT THEREON AGAINST ANY OTHER ASSETS, NOR BE A LIEN UPON SUCH OTHER ASSETS OF THE JUDGMENT DEBTOR.

ARTICLE XVII

ANNEXATION OF ADDITIONAL PROPERTY

Section 17.01. Annexation Without Approval of Membership. As the Owner thereof, or if not the Owner, with the consent of the Owner thereof, Declarant shall have the right, privilege and option, from time to time at any time until the end of the twentieth (20th) year after the recording of this Declaration, to annex, submit and subject to the provisions of this Declaration, all or any part of the Development Area, or other property adjacent to or in the vicinity of the Development Area, by recording an amendment to this Declaration ("Supplemental Amendment") as hereinafter provided. For the purposes of this Article, any portion of the Development Area which is made subject to this Declaration by a Supplemental Amendment shall be referred to as "Added Property", any Lot in the Added Property shall be referred to as an "Added Lot." Added Property may be made subject to the Declaration at different times and there is no limitation on the order in which Added Property may be made subject to this Declaration. There is no limitation on the location of improvements which may be made on Added Property and no particular portion of the Development Area must be made subject to this Declaration.

Section 17.02. Power to Amend. In furtherance of the foregoing, Declarant reserves the right to record a Supplemental Amendment, at any time and from time to time prior to twenty (20) years from the date of recording hereof, which amends those portions of this Declaration necessary to reflect the Added Property and the effect of the Added Lots.

Section 17.03. Effect of Amendment. Upon the recording of a Supplemental Amendment by Declarant which annexes and subjects Added Property to this Declaration, as

provided in this Article, then:

(a) The restrictions, conditions, covenants, reservations, lien, charges, rights, benefits and privileges set forth and described herein shall run with and bind the Added Property (including Added Lots) and inure to the benefit of and be the personal obligation of the Owners of Added Lots in the same manner, to the same extent, and with the same force and effect that this Declaration applies to the Submitted Parcel and Owners of Lots which were initially subjected to this Declaration.

(b) Subject to Section 17.03(c) and as otherwise provided in this Declaration, every Person who is an Owner of an Added Lot with a Residential Unit that is a Cottage Home shall be a Member of the Association on the same terms and subject to the same qualifications and limitations as those Members who are Owners of Lots with a Residential Unit that is not a Cottage Home.

(c) Each Owner of an Added Lot with a Residential Unit that has a Cottage Home shall pay the same monthly Assessment as the Owner of an existing Lot with a Residential Unit that has a Cottage Home, and each Owner of an Added Lot with a Residential Unit that does not have a Cottage Home shall pay the same monthly Assessment as the Owner of an existing Lot with a Residential Unit that does not have a Cottage Home; provided, however, the Owner of an Added Lot shall not be required to pay any installment of a Special Assessment levied to cover a deficit under a prior year's budget.

(d) The amount of the lien for Assessments, charges or payments levied against an existing Parcel prior to the recording of the Supplemental Amendment shall not be affected unless specifically notified by the Declarant at the time of the annexation.

Such Supplemental Amendment shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of such Supplemental Amendment unless otherwise provided herein. Declarant shall have the right to transfer to any other person the said right, privilege and option to annex such Added Property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer or builder of at least a portion of such Added Property and that such transfer is memorialized in a written, recorded instrument.

Section 17.04. Amendment. This ARTICLE XVII shall not be amended without the written consent of Declarant, so long as the Declarant owns any portion of the Development Area.

Section 17.05. Annexation of Common Areas. If, at any time pursuant to this ARTICLE XVII, property is annexed adjacent to or in the vicinity of the Development Area, including but not limited to the property described in attached Exhibit "A," and said property includes property deemed Common Area, then it shall be the responsibility of the Association to maintain, repair and replace any part of the common area including but not limited to any retention or detention ponds.

Section 17.06. Due Authorization. This Declaration has been duly authorized by the Members of Developer, and this Declaration shall be enforceable pursuant to the terms set forth herein.

Area.

Section 17.05. Annexation of Common Areas. If, at any time pursuant to this ARTICLE XVII, property is annexed adjacent to or in the vicinity of the Development Area, including but not limited to the property described in attached Exhibit "A," and said property includes property deemed Common Area, then it shall be the responsibility of the Association to maintain, repair and replace any part of the common area including but not limited to any retention or detention ponds.

Section 17.06. Due Authorization. This Declaration has been duly authorized by the Members of Developer, and this Declaration shall be enforceable pursuant to the terms set forth herein.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed as of this 16th day of December, 2019.

**Latitude Development, LLC,
an Indiana Limited Liability Company**

By: [Signature]
SCOTT T. CROOK
Its: Duly Authorized Member

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

BEFORE ME, a Notary Public in and for said County and State, personally appeared Latitude Development, LLC, an Indiana limited liability company, by SCOTT CROOK, its duly authorized Member, and acknowledged the execution of the foregoing instrument to be its free and voluntary act.

Given under my hand and notarial seal this 26TH day of DECEMBER, 2019.

T. C. K.
TODD C. KLEVEN, Notary Public

My Commission Expires: JUNE 2, 2022
County of Residence: LAKE



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

/s/ Mark R. Anderson
Printed Name: Mark R. Anderson

This instrument prepared by: Mark R. Anderson, #21524-53
Anderson & Anderson, P.C.
9211 Broadway
Merrillville, IN 46410
(219) 769-1892

EXHIBIT "A"

Submitted Parcel and Subdivision

LATITUDE - PHASE 1 PLANNED UNIT DEVELOPMENT, AN ADDITION TO THE TOWN OF WINFIELD, LAKE COUNTY, INDIANA RECORDED ON DECEMBER 16, 2019 IN PLAT BOOK 113, PAGE 04 AS DOCUMENT NO. 2019-086806 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

Development Area

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 34 NORTH, RANGE 7 WEST OF THE SECOND PRINCIPAL MERIDIAN, LAKE COUNTY, INDIANA, EXCEPTING THEREFROM THE EAST 20 ACRES THEREOF.

EXHIBIT "B"

**CERTIFICATE OF INCORPORATION
FOR
LATITUDE PROPERTY OWNERS ASSOCIATION, INC.**

**State of Indiana
Office of the Secretary of State**

Certificate of Incorporation
of
LATITUDE PROPERTY OWNERS ASSOCIATION, INC.

I, CONNIE LAWSON, Secretary of State, hereby certify that Articles of Incorporation of the above Domestic Nonprofit Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Code.

NOW, THEREFORE, with this document I certify that said transaction will become effective Thursday, February 14, 2019.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, February 14, 2019.

Connie Lawson

CONNIE LAWSON
SECRETARY OF STATE

201902141304771 / 8183714

To ensure the certificate's validity, go to <https://bsd.sos.in.gov/PublicBusinessSearch>

EXHIBIT "C"

**BY-LAWS
FOR
LATITUDE PROPERTY OWNERS ASSOCIATION, INC.**

ARTICLE I

NAME, MEMBERSHIP, APPLICABILITY AND DEFINITIONS

Section 1. Name. The name of the Association shall be Latitude Property Owners Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of Indiana shall be located at 1299 White Hawk Drive, Crown Point, Indiana 46307. The Association may have such other officers, either within or without the State of Indiana, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that Declaration of Covenants, Conditions, Restrictions & Easements for Latitude (said Declaration, as amended, renewed or extended from time to time is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

ARTICLE II

ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Membership. The Association shall have two (2) class of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting shall not be held until such time as the rights of the Declarant to appoint all of the Board of Directors and to thereby control the Association shall have expired as provided in the Declaration, or at such earlier time or times as may be determined by the Declarant. The next annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting after the Turnover Date, elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by

resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10%) of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as state in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally or by first class mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 6. Waiver of Notice. Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed a waiver by such member of notice of the time, date and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted there at unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 7. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that at least twenty-five percent (25%) of the total votes of the Association remains present in person or by proxy, and provided further that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

Section 8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

Section 9. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Lot or upon receipt of notice by the Secretary of the Board of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy.

Section 10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total number.

Section 11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of forty percent (40%) of the votes of the Members shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transaction occurring there at.

Section 13. Action without a Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members entitled to vote with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Members.

ARTICLE III

BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

Section 2. Directors During Declarant Control. The Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until such time as is specified in the Declaration, unless the Declarant shall earlier surrender this right to select Directors. The Directors selected by the Declarant need not be Owners or residents in the Subdivision. After the period of Declarant appointment, all Directors must be Members of the Association.

Section 3. Number of Directors. The Board of Directors shall consist of three (3) persons.

Section 4. Nomination of Directors. Except with respect to Directors selected by the Declarant, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than ten (10) days prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board

of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members or solicit votes.

Section 5. Election and Term of Office. Notwithstanding any other provision contained herein:

At the first annual meeting of the membership after the termination of the Declarant's right to select all of the Board of Directors and at each annual meeting of the membership thereafter, Directors shall be elected. All Directors shall be elected at-large. All Members of the Association shall vote upon the election of Directors. The term of each Director's service shall be for a period of three (3) years and extending thereafter until his successor is duly elected and qualified or until he is removed, provided, however, that the terms of the members to the initial Board of Directors shall be for periods of three (3) years, two (2) years, and one (1) year, such that there shall be only one vacancy each year on the Board of Directors occasioned by the expiration of the director's term.

Section 6. Removal of Directors and Vacancies. Unless the entire Board is removed from office by the vote of the Association Members, and individual Director shall not be removed prior to the expiration of his or her term of office, except by the votes of a majority of the votes of the Members. In the event of death or resignation of a Director, his or her successor shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of the predecessor.

Section 7. Voting Procedure for Directors. The first election of the Board shall be conducted at the first meeting of the Association after the Turnover Date. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected.

B. Meetings.

Section 8. Organization Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held as such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President, or Secretary of the Association, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) written notice by first

class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by electronic mail. All such notices shall be given or sent to the Director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or electronic mail shall be delivered, telephoned or emailed at least seventy-two (72) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meetings of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No Director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 15. Open Meeting. All meetings of the Board of Directors shall be open to all Members, but Members other than Directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

Section 16. Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 17. Action without a Formal Meeting. Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of all Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles of Incorporation or these By-Laws directed to be done and exercised exclusively by the Members.

The Board of Directors shall delegate to one of its Members the authority to act on behalf of the Board of Directors on all matters related to the duties of the managing Agent or Manager, if any, which might arise between meetings of the Board of Directors. In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making Assessments to defray the Common Expenses, establishing the means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment, provided otherwise determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month;
- (c) providing for the operation, care, upkeep, and maintenance of any Common Area;
- (d) designating, hiring, and dismissing the personnel or independent contractors necessary for the maintenance, operation, repair and replacement by the Association of its property and any Common Area, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel or independent contractors in the performance of their duties;
- (e) collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of any common area in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable to Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.

(m) make available to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage or any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, Rules and Regulations, and all other books, records, and financial statements of the Association; and

(n) permit utility supplies to use portions of the Development Area reasonably necessary to the ongoing development or operation of the Lots.

Section 19. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the power set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 18 of this Article. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee on ninety (90) days' or less written notice.

Section 20. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) cash basis accounting shall be employed;

(b) accounting and controls should conform with established AICPA guidelines and principles, which require, without limitation, (i) a segregation of accounting duties, (ii) disbursements by check requiring two (2) signatures, and (iii) cash

disbursements limited to amounts of Twenty-five Dollars (\$25.00) and under;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the Managing Agent may have in any firm providing goods and services to the Association shall be disclosed promptly to the Board of Directors; and

(f) commencing at the end of the month in which the first Residential Unit is sold and closed, quarterly financial reports shall be prepared for the Association containing:

(i) an Income and Expense Statement reflecting all income and expense activity for the preceding three (3) months on a cash basis;

(ii) a Balance Sheet as of the last day of the Association's fiscal year and an Operating Statement for said fiscal year, which shall be distributed within ninety (90) days after the close of a fiscal year;

(iii) a Delinquency Report listing all Owners who have been delinquent during the preceding three (3) month period in paying the monthly installments of Assessments and who remain delinquent at the time of the report and describing the status of any action to collect such installments which remain delinquent on the fifteenth (15th) day of each month); and

(iv) an annual report consisting of at least the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet as of the end of the fiscal year; (2) an operating (income) statement for the fiscal year; and (3) a statement of changes in financial position for the fiscal year. If said report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized office of the Association that the statements were prepared without audit from the books and records of the Association.

Section 21. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of any Common Area and facilities without the approval of the Members of the Association; provided, however, the Board shall obtain membership approval in the same manner provided in Section 10.03 of the Declaration of Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five percent (5) of the budgeted gross expenses of the Association for that fiscal year.

Section 22. Rights of the Association. With respect to any Common Areas or other Association responsibilities owned, and in accordance with the Articles of Incorporation and By-

Laws of the Association, the Association shall have the right to contract with any person for the performance of various duties and functions. Such agreements shall require the consent of two-thirds (2/3) of the total votes of all Directors of the Association.

ARTICLE IV

OFFICERS

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The Board of Directors may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. Election, Term of Office and Vacancy. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or by the President and Treasurer or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE V

COMMITTEES

Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such

powers as may be provided in the resolution. Each committee shall be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

ARTICLE VI

MISCELLANEOUS

Section 1. Fiscal Year. The calendar year shall be the fiscal year. The initial fiscal year of the Association shall be a short year ending on December 31.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution establishing modified procedures *Robert's Rules of Order*, (current edition) shall govern the conduct of Association proceedings when not in conflict with Indiana law, the Articles of Incorporation, the Declaration or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Indiana law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Indiana law, the Declaration, the Articles of Incorporation and the By-Laws (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Subdivision as the Board shall prescribe.

(b) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, first class postage prepaid:

(a) if to Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such owner; or

(b) if to the Association, the Board of Directors, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such address as shall be designated by the notice in writing to the Owners pursuant to this Section.

Section 6. Amendment. The Declarant may amend the By-Laws in accordance with the Declaration. These By-Laws may be amended otherwise only by the affirmative vote (in person or by proxy) or written consent of Members representing two-thirds (2/3) of the total votes of the Association (not a majority of a quorum).