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DECLARATION OF CONDOMINIUM  
AND OF  
EASEMENTS, RESTRICTIONS, AND COVENANTS  
FOR  
BISHOPS POND CONDOMINIUM,  
a condominium

CRAWFORDSVILLE PARTNERS LLC  
an Indiana limited liability company,  
and  
BRUCE A. GUNSTRA BUILDERS, INC.,  
an Indiana corporation,  
as Declarants

MARTIN A. MARTIN  
93741 OCT-03  
SUBJECT TO THE RECORDS OFFICE  
FOR TRANSFER

APPROVED THIS 6th  
DAY OF October 2003  
TOWNSHIP ASSESSOR  
DRAFTSMAN [Signature]



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**DECLARATION OF CONDOMINIUM  
AND OF  
EASEMENTS, RESTRICTIONS, AND COVENANTS  
FOR  
BISHOPS POND CONDOMINIUM**

This Declaration is for the establishment of a condominium under the Indiana Condominium Act, IC 32-25-1-1, *et seq.* ("Condominium Act"), made this 30th day of Sept., 2003, by **CRAWFORDSVILLE PARTNERS LLC** ("Declarant Owner"), an Indiana limited liability company, and **BRUCE A. GUNSTRA BUILDERS, INC.** ("Declarant Builder"; Declarant Owner and Declarant Builder will in the aggregate be referred to as "Declarant" unless otherwise noted), an Indiana corporation.

1. *DEFINITIONS.* The following terms, as used in this Declaration, unless the context clearly requires otherwise, will mean the following:
  - 1.1 "*Applicable Date*" means the date determined pursuant to Section 13.4 of this Declaration.
  - 1.2 "*Architectural Review Committee*" has the meaning set forth in Section 16 of this Declaration.
  - 1.3 "*Articles*" or "*Articles of Incorporation*" means the Articles of Incorporation of the Association, dated Sept. 30, 2003, executed by Thomas R. McCully, as Incorporator of the Association, on file and to be filed with the office of the Indiana Secretary of State, as they may be further amended from time to time. The Articles of Incorporation are incorporated herein by reference.
  - 1.4 "*Assessment*" means, collectively, the Regular Assessment and the Special Assessment.
  - 1.5 "*Association*" means the Bishops Pond Condominium Homeowners Association, an Indiana nonprofit corporation, an incorporated association of the Declarant and Owners of Bishops Pond Condominium, established by the Articles, operated pursuant to the Bylaws, and more particularly described in Section 13 of this Declaration.
  - 1.6 "*Board of Directors,*" or "*Board,*" means the governing body of the Association, being the Initial Board or the subsequent Board of Directors to be elected from time to time by the Owners in accordance with the Bylaws. The term "Board of Directors" or "Board" as used in the Articles, Bylaws, and this Declaration are synonymous with the term "Board of Directors" as used in the Nonprofit Act and Condominium Act.

- 1.7 “*Building*” means any or all of eight (8), two (2)-story structures on the Property in each of which six (6) Units are located; one (1), two (2)-story structures on the Property in each of which four (4) Units are located; and /or eighteen (18) two (2)-story structures on the Property in each of which seven (7) Units are located. The Buildings are more particularly described and identified on the Plans and in Section 5 of this Declaration.
- 1.8 “*Bylaws*” means the Bylaws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Condominium Act and Nonprofit Act. A true copy of the Bylaws is attached to this Declaration as **Exhibit B** and incorporated in this Declaration by this reference.
- 1.9 “*Class A Member(s)*” have the meaning set forth in Section 13 of this Declaration.
- 1.10 “*Class B Member(s)*” have the meaning set forth in Section 13 of this Declaration.
- 1.11 “*Code*” means the Internal Revenue Code of 1986, as amended.
- 1.12 “*Common Areas*” mean the common areas and facilities appurtenant to the Property as defined in Section 7 of this Declaration.
- 1.13 “*Common Expense(s)*” means expenses of administration of the Association and expenses for the upkeep, maintenance, repair, and replacement of the Common Areas as provided in this Declaration and the Bylaws, all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners, and all sums lawfully assessed against the Owners by the Association or as declared by the Condominium Act, this Declaration, or the Bylaws.
- 1.14 “*Condominium*” has the meaning provided under the Condominium Act.
- 1.15 “*Condominium Act*” means the Condominium Act of the State of Indiana (IC §32-25-1-1, *et seq.*), as it is amended from time to time.
- 1.16 “*Condominium Interest*” will mean the following:
- 1.16.1 Fee simple title to a Unit;
  - 1.16.2 An undivided Interest, together with all other Owners in the Common Areas in the Property;
  - 1.16.3 An exclusive right to use the areas described in this Declaration, Plans and accompanying documents as “Limited Areas,” the use of which is restricted to the use of the Owner’s respective Unit; and

- 1.16.4 A membership in the Association, as subsequently defined, and subject to this Declaration, the Bylaws of said Association and all governing documents of said Association.
- 1.17 "*Declarant*" will mean and refer to Declarant Builder and Declarant Owner, and any successors and assigns whom it designates in one or more written recorded instruments to have the rights of Declarant under this Declaration, including, but not limited to, any mortgagee acquiring title to all or any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant. A mortgagee acquiring title by virtue of foreclosure against the Declarant does not assume the prior obligations or liabilities of the Declarant. Declarant Builder will cease being the Declarant hereunder when the Declarant Builder is no longer the exclusive builder of the Buildings hereunder.
- 1.18 "*Declarant Builder*" or "*Builder*" will mean and refer to Bruce Gunstra Builders, Inc., an Indiana corporation, the entity to which Declarant Owner has conveyed a portion of the Property for the purpose of construction of a Building, exclusive of any other such builders and will retain the rights and obligations under the title Declarant Builder or Builder so long as such entity maintains such exclusivity.
- 1.19 "*Declarant Manager*" has the meaning set forth in Section 13.7 of this Declaration.
- 1.20 "*Declarant Owner*" will mean and refer to Crawfordsville Partners LLC, an Indiana limited liability company, and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant Owner hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant Owner.
- 1.21 "*Declaration*" means this DECLARATION OF CONDOMINIUM AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS FOR BISHOPS POND CONDOMINIUM, dated Sept. 30, 2003.
- 1.22 "*Director(s)*" means a member of the Board.
- 1.23 "*Guaranteed Charge*" has the meaning set forth in the Bylaws.
- 1.24 "*Initial Board*" has the meaning set forth in the Bylaws.
- 1.25 "*Interest*" means the portion of undivided interest in the title to the Common Areas appertaining to each Unit as specifically expressed in this Declaration in Section 9.3.

- 1.26 "*Limited Areas*" means the portion of the Common Areas which are in use by certain Owners as defined in Section 8 of this Declaration.
- 1.27 "*Managing Agent*" has the meaning set forth in Section 13.7 of this Declaration.
- 1.28 "*Management Agreement*" has the meaning set forth in Section 13.7 of this Declaration and is more particularly described in the Bylaws.
- 1.29 "*Member(s)*" means, individually, or collectively Class A Members and Class B Members of the Association.
- 1.30 "*Mortgagee*" means the holder, insurer, or guarantor of a first mortgage lien on a Unit.
- 1.31 "*Owner(s)*" means a person who owns the fee simple title to a Unit, including the Interest inherent therein.
- 1.32 "*Nonprofit Act*" means the Indiana Nonprofit Corporation Act of 1991, Ind. Code § 23-17-1 *et seq.*, as it is amended from time to time.
- 1.33 "*Percentage Vote*" means that percentage of the total vote accruing to all of the Units which is appurtenant to each particular Unit and accrues to the Owner of such Unit. The Percentage Vote to which each Member will be entitled on any matter upon which all of the Members are entitled to vote will be the same as the Interest appurtenant to such Owner's Unit.
- 1.34 "*person*" means an individual, firm, limited liability company, corporation, partnership, association, trust, or other legal entity or any combination thereof.
- 1.35 "*Plans*" means the plans and survey more particularly described in Section 5 of this Declaration.
- 1.36 "*Property*" means the real estate and improvements as defined in Section 4 of this Declaration.
- 1.37 "*Regular Assessment*" has the meaning set forth in Section 13 of this Declaration and more particularly determined under the Bylaws.
- 1.38 "*Rules and Regulations*" means those rules and regulations which may be adopted from time to time by the Board.
- 1.39 "*Unit*" means any one of the single-family dwelling units constituting Bishops Pond Condominium. Each Unit will be a separate freehold estate as provided in the Condominium Act consisting of the space within the boundaries of such Unit and being more particularly described and identified on the Plans and in this



Declaration. For purposes of the application of the Condominium Act to the Bishops Pond Condominium, the term "Unit" as used in this Declaration and all attending documents will be deemed to be synonymous with the term "Condominium Unit" used in the Condominium Act. Wherever the term "Condominium Unit" is used in the Condominium Act, the name will be deemed to apply to the term "Unit" as used in the documents of the Bishops Pond Condominium.

- 1.40 "*Bishops Pond Condominium*" means the "Bishops Pond Condominium, a condominium."
- 1.41 "*Bishops Pond Condominium, a condominium*" means the name by which the Property and the Condominium established thereon will be known.
- 1.42 "*Special Assessment*" has the meaning set forth in Section 13 of this Declaration and more particularly determined under the Bylaws.

2. *DECLARATION AND SUBMISSION OF REAL ESTATE UNDER TERMS AND CONDITIONS OF THE INDIANA CONDOMINIUM LAW.*

The Declarant, as an owner of fee simple title to the Property, does on this 30th day of September, 2003, create, submit, subject, and declare the Property to and as a "Condominium" under the Condominium Act, to be known as "Bishops Pond Condominium."

Further, the Declarant hereby expressly declares that the Property will be held, conveyed, and transferred in accordance with the provisions of this Declaration.

3. *INDIANA CONDOMINIUM LAW.* Declarant further states and expressly declares that the Condominium Act is incorporated into and made a part of this Declaration by this reference.

4. *DESCRIPTION OF PROPERTY.* The "Property" subject to this Declaration is certain real estate located in Marion County, Indiana, more particularly described in Exhibit A, together with the buildings, improvements, and appurtenances located or to be located thereon as shown and depicted on the Plans. The Property, as it is subjected to the Condominium Act in creation of a Condominium, includes the Units, the Buildings, improvements, recreational facilities, appurtenances, and property of every kind and nature whatsoever, real, personal, and mixed, located upon the Property and used in connection with the operation, use, and enjoyment of Bishops Pond Condominium, but expressly does not include the personal property of the Owners or their tenants.

5. *DESCRIPTION OF PLANS AND BUILDINGS.* The "Plans" referred to in this Declaration are the floor plans, building plans, and elevations of the Buildings and Units on the Property, and the site plan and survey of the Property as it is improved, certified as true and correct by Roger C. Ward, Jr., Professional Engineer Number PE19800489, under date of

Sept. 30, 2003, and filed in the Office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File N/A, as of Oct. 8, 2003, as Document Number 2003-0213747. Such Plans are incorporated into and made a part of this Declaration by this reference.

The Plans show and depict the Buildings as placed upon the Property, set forth the relation of the Buildings to the lot lines, and establish the placement of all other improvements upon the Property and in the Buildings. The Plans further establish the location or locations of the Units within the Buildings. Accordingly, the unit numbers and floor level designating the Units within the Building are set forth on the floor plans of the Buildings submitted with this Declaration, and said floor plans further designate the dimensions, layout, and locations of the respective Units.

There are, or will be, up to eight (8), two (2)-story structures on the Property in each of which six (6) Units are located; one (1), two (2)-story structures on the Property in which four (4) Units are located; and /or eighteen (18) two (2)-story structures on the Property in each of which seven (7) Units are located, as shown on the Plans. In each Building, Units are located as shown on the Plans. No other buildings on the Property contain any Units.

Further details, terms and use conditions for all the Buildings and appurtenances, including, but not limited to the storage areas, recreational areas, parking areas and other Common Areas, including the Limited Areas, are set forth in and further delineated on the Plans.

6. *DESCRIPTION OF UNITS.*

6.1 *Identification for Title Purposes.* Each Unit is identified and located on the Plans by unit number. A sufficient legal description of each Unit for all purposes will consist of the identifying number of the Unit, the Building in which the Unit is located, the name of the Condominium, and reference to the recording information of this Declaration. By way of example: Unit A of the Bishops Pond Condominium may be formally described, conveyed, and referred to as:

“Unit Number A, Building 1, in the Bishops Pond Condominium according to the DECLARATION OF CONDOMINIUM AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS FOR BISHOPS POND CONDOMINIUM, dated September 30, 2003, recorded as Document No. 2003-0213747 on Oct. 8, 2003, in the Office of the Recorder of Marion County, Indiana.”

6.2 *Appurtenances.* Each Unit will consist of all space within the boundaries thereof, as hereinafter defined, all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and

exclusively for the enjoyment, use and benefit of the Unit wherein the same are located, or to which they are attached, but excluding therefrom that designated, designed or intended for the use, benefit, support, safety or enjoyment of any other Unit or which may be necessary for the safety, support, maintenance, use and operation of any part of the Buildings or which are normally designed or designated for common use; provided, however, that all fixtures, equipment and appliances designated, designed or intended for the exclusive enjoyment, use and benefit of a Unit will constitute a part of such Unit, whether or not the same are located within or partly within the boundaries of such Unit. Also, the interior sides and surfaces of all doors and interior and exterior sides and frames of all windows in the perimeter walls of the Unit, whether or not located within or partly within the boundaries of the Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Unit are considered part of the Unit.

6.3 *Boundaries.* The boundaries of each Unit will be as shown on the Plans measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Unit because of inexactness or construction, settling after construction, or for any other reasons, the boundary lines of each Unit will be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use will exist in favor of the Owner of each Unit in and to such space lying outside of the actual boundary lines of the Unit, but within the appropriate wall, floor or ceiling surfaces of the Unit.

6.4 *Condominium Interest.* Each Unit will carry with it a Condominium Interest, and the Condominium Interest will be inseparable from said Unit and will pass with the fee interest to said Unit as an integral part of such Unit.

7. *COMMON AREAS AND FACILITIES.* "Common Areas" mean, consist of, and include any and all portions of the Property and the improvements located on the Property, excluding the Units as defined and provided for in this Declaration, the Bylaws, and the Plans, except as otherwise provided. Common Areas will include but may not be limited to the following:

- 7.1 The Property (excluding the Units);
- 7.2 The foundations, columns, girders, beams, supports, and exterior surfaces of the roofs of the Buildings;
- 7.3 The driveways, parking areas, yards, sidewalks, pond with aqua swirls and structures containing only parking spaces, maintenance and storage facilities;

- 7.4 All facilities providing central electricity, gas, water supply systems, and sanitary sewer and mains serving the Buildings unless separately metered to a particular Unit;
- 7.5 Exterior lighting fixtures and electrical service lighting exterior of the Buildings unless such fixtures electrical service is separately metered to a particular Unit (in such instance the Owner of the particular Unit is responsible for such fixtures and such electrical service);
- 7.6 Pipes, ducts, electrical wiring, and conduits and public utilities lines;
- 7.7 Roofs, floors, ceilings, and perimeter walls, except the interior surface thereof as defined in boundaries of individual Units;
- 7.8 All facilities and appurtenances located outside of the boundary lines of the Units, except those areas and facilities expressly defined as part of a Unit, but including those classified and defined as Limited Areas;
- 7.9 Any other portions of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except to the extent specifically included within the boundaries of the Units;
- 7.10 All streets in the Bishops Pond Condominium;
- 7.11 All street lighting fixtures and electrical service for such fixtures; and
- 7.12 An entrance identification wall sign plus accompanying landscaping on the south side of the Bishops Pond Boulevard entrance to the Bishops Pond Condominium just west of Coffman Road.

8. *LIMITED COMMON AREAS AND FACILITIES.* The limited common areas, facilities, systems, and equipment (collectively, "Limited Areas") will be those portions of the Common Areas which are limited in their use and enjoyment to fewer than all the Owners. The designation of the Limited Areas and the Unit or Units they serve is set forth and depicted on the Plans and as further described and defined in this Declaration. Such right to use will pass with title to the Unit even though not expressly mentioned in the document passing title. Limited Areas and those Units to which use thereof is limited are as follows:

- 8.1 *Mechanical Equipment.* Air conditioning equipment, heating equipment, ventilation equipment, ducts, pipes, wires, bathroom plumbing facilities and fixtures, kitchen plumbing facilities and fixtures, and hot and cold water systems (including water heaters), will be Limited Areas reserved for the use of the Units respectively served by such equipment, facilities and fixtures. The costs of upkeep, maintenance, replacement, and management of the Limited Areas will be

charged to the Owners of the Unit or Units served by such equipment as Unit expenses in the manner provided in the Bylaws.

- 8.2 *Window Frames, Door Frames, Entrances, Walks, and Steps.* Window frames, door frames, entrances, walks, and steps upon or through which access to a Unit is obtained are limited to the use and enjoyment of the Unit or Units served by such improvements. The exterior sides and surfaces of doors, windows, and frames surrounding the same in the perimeter walls of each Unit will be limited to the exclusive use of the Unit to which they appertain and the expense for maintaining or replacing same will be borne by the Owner of the Unit.
- 8.3 *Utilities and Improvements Serving Individual Units.* All utilities lying within the exterior dimensions of the perimeter walls of any Unit and exclusively serving a particular Unit or Units within a Building will be deemed to be Limited Areas, and will be restricted to the use and enjoyment of the Unit or Units which they serve. Such utilities will expressly be deemed to include, but will not be limited to all water, sewer, gas, electrical, TV, telephone, and heating and air conditioning lines, ducts, improvements, and facilities of every type or nature whatsoever. Except as may otherwise be expressly provided, such utilities and all portions thereof lying outside the exterior perimeters of any Unit will be deemed to be and remain Common Areas. In addition to those facilities established as Limited Areas above, all heating and air conditioning facilities lying within or without the exterior perimeters of any Unit and serving any particular Unit within any such Building will be deemed to be Limited Areas, and will be restricted to the use and enjoyment of the Unit which they serve. The cost of maintaining and replacing such facilities will be borne by the Unit served by such equipment, and the Owner will be personally responsible for such maintenance replacement and costs. Such heating and air conditioning facilities will include all heating and air conditioning ducts, lines, and improvements lying within the exterior or interior perimeters of the Building, all air condenser units located or lying outside any Unit and all lines, ducts, or facilities connecting any such condenser with any of the said lines, ducts or improvements within the perimeters of a Building.
- 8.4 *Deck(s), if any, Patio(s), if any, and Parking Spaces.* The Owner of a Unit will have an easement to and the exclusive right to use the deck(s) and/or patio(s), if any, exclusively serving such Owner's Unit and located adjacent thereto whether or not such deck and/or patio is part of the Unit or located in the Common Areas. The Owner of a Unit will have an easement to and an exclusive right to use the driveways and sidewalks exclusively serving such Owner's Unit and nonexclusive right to use the sidewalks and driveways serving more than one Unit, whether or not such sidewalks or driveways are part of the Unit or located in the Common Areas. In the event that the Association decides to liquidate, dissolve or transfer all the Common Areas to any public agency, the Association will, prior to such action, convey to the Owner of each Unit the deck(s), patio(s),

driveways and sidewalks which are designated for such Unit under the terms of this Section.

- 8.5 *Limited Areas Depicted on Plans.* All other areas and facilities designated and shown on the Plans as Limited Areas will be limited to the Unit or Units to which they appertain and serve as shown on the Plans.

9. *USE AND OWNERSHIP OF COMMON AREAS, INTEREST AND VOTING RIGHTS.*

- 9.1 *Use.* Each Owner of a Unit may use the Common Areas in accordance with this Declaration, the Bylaws, and Rules and Regulations, and for the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners.
- 9.2 *Reservation for Benefit of Declarant.* Within the Common Areas, Declarant reserves the right, without the obligation, to build or cause to be built recreational facilities, if any, as Declarant deems appropriate.
- 9.3 *Ownership.* Each Owner will have an undivided right, title, and easement of enjoyment in and to the Common Areas with all other Owners, as tenants-in-common, equal to his Interest as stated in this Declaration. This undivided right, title and easement of enjoyment will pass with title to each Unit, subject to the provisions of this Declaration as provided by the Condominium Act.

The Interest in the Common Areas applicable to each Unit will be determined in accordance with the Formula set forth below. The Interest in the Common Areas currently pertaining to each Unit is 1/115.

Except as provided in this Declaration in the event of an expansion, the Interest appertaining to each separate Unit in the Common Areas will be permanent and will not be altered or changed without the unanimous written consent of all the Owners and then only if in compliance with all requirements of the Condominium Act.

The Owner of each Unit will have a Interest appurtenant to his Unit Ownership based upon the number of Units owned by that Owner divided by the total number of all of the Units existing in the Bishops Pond Condominium at that time in accordance with the Condominium Act ("Formula"). In order to determine the Interests in accordance with the Formula, the total number of all of the Units in the Bishops Pond Condominium will be taken from the Plans, which are filed herewith, as such Plans may be amended from time to time. This method of calculating Interest will result in an equal Interest to each Unit. The total Interests will at all times equal "one" as is mathematically possible.

- 9.4 *Restrictions on Use of Common Areas.* The Common Areas will be held in common for the use and enjoyment of all of the Owners subject to, but not limited to, the following:
- 9.4.1 The right of the Association to charge reasonable admission and other fees for use of any recreational facility.
  - 9.4.2 The right of the Association to suspend any Owner from the right to use any recreational facility for any period during which any Regular or Special Assessment against such Owner's Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Board's published Rules and Regulations.
  - 9.4.3 The right of the Association, upon approval by a written instrument signed by two-thirds (b) of all Class A Members, two-thirds (b) of all Class B Members, and by two-thirds (b) of all first Mortgagees, to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such Common Areas' purposes and subject to such conditions as may be agreed by the Association.
  - 9.4.4 The right of the Association or its Board to determine the time and manner of use of recreational facilities, if any, by the Owners.
  - 9.4.5 The right of the Board to adopt such Rules and Regulations regarding the Common Areas as it deems necessary.
  - 9.4.6 The Common Areas will be conveyed to or owned by the Association at the time of the Applicable Date with Declarant Owner reserving the right of earlier conveyance.
- 9.5 *Delegation.* Any Owner may delegate, in accordance with provisions of this Declaration and the Rules or Regulations promulgated by the Association, his right of enjoyment, and use of the Common Areas to members of his family, his tenants or contract purchasers who reside in any Unit.

10. *ENCROACHMENTS AND EASEMENTS FOR COMMON AREAS.* If by reason of the location, construction, settling, or shifting of a Building, any Common Areas now encroach or will subsequently encroach upon any Unit, then in such event, an easement will be deemed to exist and run to the Owners and the Association for the maintenance, use, and enjoyment of such Common Areas.

Notwithstanding any other provision in this Declaration to the contrary, each Owner will have an easement in common with another Owner or Owners to use all pipes, wires, ducts, cables, conduits, utility lines, and other common facilities of any kind or nature located in or running through any of the other Units and serving his Unit.

Each Owner will have an easement over, across and through the Common Areas for the purpose of ingress and egress from his Unit, and to use all Common Areas wherever located, and such easement will be perpetual and appurtenant to the Unit.

In the event the Building, the Unit, or any adjoining Common Areas will be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Areas upon any Unit, or of any Unit upon any other Unit or upon any portion of the Common Areas, due to such rebuilding, will be permitted, and valid easements for such encroachments and the maintenance of such encroaching Common Areas or Unit will exist so long as such Building will stand.

The Board will be authorized and empowered to give, convey, transfer, cancel, relocate, and otherwise deal with utility and other easements located on or within the Common Areas.

All public and quasi-public vehicles, including but not limited to police, fire, and other emergency vehicles, trash and garbage collection, post office vehicles, and privately owned delivery and maintenance vehicles, will have the right to enter upon the streets and Common Areas in the performance of their duties and services. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing, and maintaining of such utilities, including but not limited to water, sewer, gas, telephones, cable television and communications, and electricity on the Property; provided, however, nothing in this Declaration will permit the installation of sewers, electric lines, water lines, telephone lines, cable television lines, or other utilities, except as initially designed and approved by Declarant or as subsequently may be approved by the Board. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the property and to affix and maintain electric and telephone wires, circuits, and conduits on, above, across, and under the roofs and exterior walls of the Buildings. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant Owner will have the right to grant such easement on such Property, without conflicting with the terms of this Section. The easements granted herein will in no way affect any other recorded easement on the Property. An easement is also granted to the Association, its Directors, officers, agents and employees and to any Managing Agent selected by the Association to enter in or to cross over the Common Areas to perform its duties.

11. *REAL PROPERTY TAXES AND ASSESSMENTS.* Real property taxes and assessments are to be separately assessed and taxed to each Unit as provided in the Condominium Act. In the event that for any year real property taxes and assessments are not separately assessed and taxed to each Unit, but are assessed and taxed on the Property as a whole, then each Owner will pay his proportionate share of such taxes and assessments to the extent attributable to the Property in accordance with his respective Interest.

12. *UTILITIES.* Each Owner will pay for the Owner's own utilities which are separately metered to his Unit. Utilities that are not separately metered will be treated as and



paid as part of the Common Expenses, unless otherwise agreed by a majority of the Percentage Vote of the Members.

13. *ASSOCIATION: FUNCTIONS, MEMBERSHIP, VOTING, AND ORGANIZATION.*

- 13.1 *Functions.* The Association has been or will be formed for the purpose of providing for the following: the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Areas; the maintenance, repair and replacement of such exterior portions of the Units as designated in this Declaration; the payment of real and personal property taxes and assessments assessed against and payable with respect to the Common Areas; the payment of any other necessary expenses and costs in connection with the Common Areas; and the performance of such other functions as may be designated for it to perform under this Declaration.
- 13.2 *Organization.* Following filing of this Declaration with the office of the Recorder of Marion County, Indiana, Declarant will cause the organization of the Association with the office of the Indiana Secretary of State through the filing of the Articles. The Association's organization and operation will be controlled by and subject to the terms of the Articles, Bylaws, Rules and Regulations, Condominium Act, Nonprofit Act, and this Declaration, as they are amended from time to time. The terms of such Articles, Bylaws, and Rules and Regulations, as they are amended from time to time, are incorporated herein by this reference.
- 13.3 *Membership in Association.* Declarant and each other person who owns a Unit (automatically upon becoming an Owner) will be and become a "Member" of the Association and will remain a Member until such time as his ownership of a Unit ceases. Membership will terminate when such person ceases to be an Owner, and will be transferred to the new Owner of his Unit. Any person who holds the interest of an Owner in a Unit merely as security for the performance of an obligation will not be a Member until and unless he realizes upon his security, at which time he will automatically be and become an Owner and a Member of the Association. Membership will be appurtenant to each Unit and may not be separated from ownership of any such Unit.
- 13.4 *Classes and Voting Rights of Members.* The Association will have two (2) classes of membership, with the following voting rights:
- (a) Class A. "Class A Members" will be all Owners, except Class B Members. Each Class A member will be entitled to one (1) vote for each Unit of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A members are entitled to vote. When more than one

(1) person constitutes the Owner of a particular Unit, all such persons will be Members of the Association, but all of such person will have only one (1) vote for such Unit, which vote will be exercised as they among themselves determine, but in no event will more than one (1) vote be cast with respect to any such Unit.

(b) Class B. "Class B Members" will be Declarant Owner, Declarant Builder, and all successors and assigns of the given Declarant designated by such Declarant as Class B Members in a written notice mailed or delivered to the resident agent of the Association. Each Class B Member will be entitled to FOUR (4) VOTES FOR EACH UNIT SHOWN ON THE PLANS WHETHER OR NOT A FINAL DETAILED PLANS HAVE BEEN FILED FOR SUCH BUILDING/UNIT of which it is the Owner on all matters requiring a vote of the Members of the Association. The Class B membership will cease and terminate upon the "Applicable Date," which will be the first to occur of:

- (1) THE DATE UPON WHICH THE WRITTEN RESIGNATION OF THE CLASS B MEMBERS AS SUCH IS DELIVERED TO THE RESIDENT AGENT OF THE ASSOCIATION;
- (2) THIRTY (30) DAYS AFTER THE DATE WHEN THE TOTAL VOTES OUTSTANDING IN THE CLASS A MEMBERSHIP EQUAL OR EXCEED EIGHTY PERCENT (80%) OF THE TOTAL VOTES OUTSTANDING IN THE CLASS A MEMBERSHIP AND CLASS B MEMBERSHIP IN THE AGGREGATE; OR
- (3) December 31, 2018.

When more than one person is an Owner of a Unit, all such persons will be Members, but their total vote will not exceed one (1) per Unit owned, and such vote will be cast as one (1) unit in such manner as the majority of the Owners of

such Unit may agree. In the event such Owners fail to reach agreement, they will not be entitled to vote and will be considered as abstaining. In the event one (1) or more of the Owners of a Unit do not attend the meeting, in person or by proxy, the Owner(s) of a Unit who are in attendance, in person or by proxy, will be considered as the sole Owner of the Unit.

- 13.5 *Power of Attorney.* Each Member, by acceptance of a deed to a Unit, or by acquisition of any interest in a Unit by any type of juridical acts, inter vivos or causa mortis, or otherwise, will be deemed to have appointed Declarant Owner as such Member's agent, attorney-in-fact and proxy, which will be deemed with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Member's right to vote as a Member, and to vote as Declarant Owner determines, on all matters as to which members of the Association are entitled to vote under this Declaration, the Articles, the Bylaws or otherwise; provided, however, this right to vote granted to Declarant Owner will not extend to votes of Members (if a vote is required) on matters of Special Assessments, mortgaging Common Areas or merger/consolidation of the Association with another corporation. This appointment of Declarant Owner as such Member's agent, attorney-in-fact and proxy will not be affected by incompetence of the Member granting the same.
- 13.6 *Board of Directors.* The business and affairs of the Association will be governed and managed by the Board as provided in the Articles and Bylaws. The powers and duties of the Board will include, but are not limited to the setting of Regular Assessments and Special Assessment of the Members to fund the operations of Association as more particularly set forth in the Bylaws.
- 13.7 *Managing Agent.* The Board has entered or will hereafter enter into a "Management Agreement" with Declarant Owner (or with a corporation or other entity affiliated with Declarant Owner or Declarant Builder or designated by Declarant Owner) ("Declarant Manager") pursuant to which it will serve as "Managing Agent" in connection with the management of the business and affairs of the Association as set forth in the Bylaws.

14. *MAINTENANCE, REPAIRS, AND REPLACEMENTS.* The Association will furnish maintenance, repairs, replacements and upkeep of the Common Areas, as a part of its duties, and the cost thereof will constitute a part of the Common Expenses.

In addition to maintenance upon the Common Areas, the Association will provide exterior maintenance upon each Unit as follows: paint, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces. Such exterior maintenance will not include glass surfaces, screens and screen doors, door and window fixtures and other hardware, and such other items as the Board may so designate (unless specifically designated in this Declaration as the Association's obligation) so long as such items of exception will apply to all Units equally.

However, the Association will be responsible for staining or painting of the outside surface of exterior doors. Each Owner will be responsible for maintaining and keeping his Unit and all improvements thereon in a good, clean and sanitary condition and will do all work thereon which is not required hereunder to be performed by the Association, including without limitation repairing and maintaining garage door openers and springs, deck and patio areas, and any deck and patio fences, including painting and staining the outside or exterior surfaces of deck and/or patio fences, if any.

Notwithstanding any obligation or duty of the Association to repair or maintain any Unit or the Common Areas, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family, or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage will be caused, or if maintenance, repairs or replacements will be required thereby which would otherwise be a Common Expense, then such Owner will pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association the cost of repairing such damage will be added to and become a part of the Regular Assessment to which such Owner's Unit is subject.

If any Owner will fail so to maintain and keep his Unit, Limited Areas exclusive to his Unit, or any part thereof in a good, clean and sanitary condition, the Association may perform any work necessary to do so and charge the Owner thereof for such cost, which cost will be added to and become a part of the Owner's Regular Assessment, and such cost will be immediately due, and will be secured by the Association's lien on the Owner's Unit.

So long as the Property is subject to this Declaration each Owner, by his acceptance of a deed to any Unit, irrevocably grants to the Association, its agents and employees, the right to enter upon, across and over the Unit owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair or other work contemplated herein.

15. *ALTERATIONS, ADDITIONS AND IMPROVEMENTS.* Except as may be otherwise provided in this Declaration or Bylaws, no Owner will make any alterations or additions to any Common Areas or Limited Areas without the prior written approval of the Architectural Review Committee, nor will any Owner make any alterations to the Owner's respective Unit and within the boundaries of the Owner's Unit which would affect the safety or structural integrity of the Building in which the Unit is located.

Declarant reserves the right to change the interior design and arrangement of all Units and alter the boundaries between Units so long as Declarant owns the Units so altered. No such change will increase the number of Units or change the Interest applicable to such Unit. If Declarant will make such changes in the Units so authorized, such changes will be reflected by a supplement to the Plans and such supplement to the Plans need not be approved by the Association or any other Owners.

Any two (2) Units may be interconnected through a common wall, provided the title to the two (2) Units is in the name of one (1) person, or husband and wife, or corporation, or other legal entity. The plans creating the opening and joinder of two (2) Units must be approved by the Declarant and if the Declarant owns no further Units, such approvals must be given by the Architectural Review Committee of the Board which will not be unreasonably withheld provided the integrity of the Building is not compromised.

Owner will be responsible for the exterior maintenance of any approved additions such as sunrooms, screened porches, decks or patios.

16. *ARCHITECTURAL CONTROL.*

- 16.1 *The Architectural Review Committee.* As a standing committee of the Association, there will be, and hereby is, established an Architectural Review Committee consisting of three (3) or more persons as may, from time to time, be provided in the Bylaws. The Architectural Review Committee will be the Initial Board and whomever they appoint thereafter until the last Unit capable of being subjected to this Declaration is conveyed to a purchaser other than one of the Declarants. The Board will thereafter appoint the Architectural Review Committee.
- 16.2 *Purposes.* The Architectural Review Committee will regulate the external design, appearance, use, location and maintenance of the Units, Buildings, Common Areas, and any other improvements on the Property in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.
- 16.3 *Conditions.* No improvements, alterations, repairs, change of colors, excavation, changes in grade or other work which in any way alters the exterior of any Unit, Building, Common Areas, or any other improvement on the Property from its natural or improved state existing on the date such Unit was first conveyed in fee by the Declarant Owner to Declarant Builder or by Declarant Builder to any Owner will be made or done without the prior approval of the Architectural Review Committee. Except as otherwise expressly provided in this Declaration, no Building, fence, wall, Unit, or other structure will be commenced, erected, maintained, improved, altered, made or done on the Property without the prior written approval of the Architectural Review Committee.
- 16.4 *Procedures.* In the event the Architectural Review Committee fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) has been given to it, approval will be deemed granted by the Architectural Review Committee. A decision of the Architectural Review Committee may be appealed to the Board which may reverse or modify such decision by a two-thirds (b) vote of the

Directors then serving. The Architectural Review Committee may establish committees consisting of two (2) or more of its members, which committees will exercise such powers of the Board as may be delegated to them.

- 16.5 *Maintenance of Architectural Control.* The Association may not waive or abandon the procedure for regulating and enforcing the architectural design or exterior appearance of the Units nor for maintaining the exterior of the Buildings or the Common Areas (including the upkeep of common fences, driveways, lawns and plantings) without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board in accordance with the provisions of this Declaration.

17. *INSURANCE.* The Owners, through the Association, will purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Property in an amount consistent with the full replacement value, excluding land, of the improvements which, in whole or in part, comprise the Buildings, Units, and Common Areas. If the Board can obtain such coverage for reasonable amounts, they will also obtain "all risk" coverage. The Board will be responsible for reviewing at least annually the amount and type of such insurance and will purchase such additional insurance as is necessary to provide the type of insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal will be a Common Expense. Such insurance coverage will be for the benefit of each Owner and, if applicable, the Mortgagee of each Owner upon the following terms and conditions: All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association will be paid to the Association or to the Board, who will act as the insurance trustees and hold such proceeds for the benefit of the insured parties. The sole duty of the insurance trustee will be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated in this Declaration, and for the benefit of the Owners and their respective Mortgagees. The proceeds will be used or disbursed by the Association or Board, as appropriate, only in accordance with the provisions of this Declaration. The interest of each damaged Owner in the trust fund of insurance proceeds will be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by an event insured under the said master casualty insurance policy. Such master casualty insurance policy, and "all risk" coverage, if obtained, will (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board, its agents and employees, Owners, their respective agents, and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board is able to obtain such insurance upon reasonable terms, (i) that the insurer will not be entitled to contribution against casualty insurance which may be purchased by individual Owners as permitted in this Declaration, and (ii) that notwithstanding any provision in this Declaration giving the insurer an election to restore damage in lieu of a cash settlement, such option will not be exercisable in the event the Owners do not elect to restore pursuant to Section 18 of this Declaration. The Owners, through the Association, will also purchase a master comprehensive public liability insurance policy in such an amount or amounts as the Board will deem appropriate from time to time. Such comprehensive public liability insurance policy will cover the Association, the Board, any

committee or organization of the Association or Board, any Managing Agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to all Owners of Units and all other persons entitled to occupy any Unit or other portions of the Owners, through the Association, will also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation insurance, and such other insurance as the Board will from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned by the Association and officers' and directors' liability policies. Such insurance coverage will also provide for and cover cross liability claims of one insured party against another insured party. Such insurance will inure to the benefit of each Owner, the Association, the Board, and any Managing Agent acting on behalf of the Association. Each Owner will be deemed to have delegated to the Board his right to adjust with the insurance companies all losses under policies purchased by the Board. The premiums for all such insurance described above will be paid by the Association as part of the Common Expenses. When any such policy of insurance described above has been obtained by or on behalf of the Association, written notice of the obtainment of such policy, and of any subsequent changes or termination of such policy, will be promptly furnished to each Owner or Mortgagee whose interest may be affected, which notice will be furnished by the officer of the Association who is required to send notices of meetings of the Association. In no event will any distribution of proceeds be made by the Board directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any remittances will be to the Owner and the Owner's Mortgagee jointly. Each Owner will be solely responsible for and may obtain such additional insurance as the Owner deems necessary or desirable at the Owner's own expense affording coverage upon the personal property, the contents of the Owner's Unit (including but not limited to, all floor, ceiling and wall coverings and fixtures, betterments, and improvements installed by the Owner) and the Owner's personal property stored elsewhere on the Property, and for the Owner's personal liability, but all such insurance will contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at the Owner's own expense upon the Owner's Unit, but such insurance will provide that it will be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this Section due to pro-ration of insurance purchased by an Owner under this Section, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as provided in this Declaration.

18. *CASUALTY AND RESTORATION.*

- 18.1 Except as subsequently provided, damage to or destruction of any Building due to fire or any other casualty or disaster will be promptly repaired and reconstructed by the Association, and the proceeds of insurance, if any, will be applied for that purpose; provided, however, that repair and reconstruction will not be compulsory in the event of "complete destruction of all of the Buildings" (as that phrase is defined below), and will only be done in accordance with the provisions of this Section. As used in this Section, the term "complete destruction of all of the

Buildings” means a determination, made by a vote of two-thirds (2/3) of all Owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association will be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all of the Buildings has not been made within such ninety (90) days period, then it will be conclusively presumed that the Owners determined that there was not a complete destruction of all of the Buildings, and the Association will proceed with repair and reconstruction as provided in this Section.

- 18.2 If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, and if the Property is not to be removed from the Condominium, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs in excess of insurance proceeds received, if any) will be paid by all of the Owners of Units in proportion to the ratio that the Interest of each Unit bears to the total Interest of all Units. Any such amounts payable by the Owners will be assessed as part of the Common Expenses, and will constitute a lien from the time of assessment as provided herein and in the Condominium Act.
- 18.3 For purposes of Subsections 18.1 and 18.2 above, repair, reconstruction, and restoration will mean construction or rebuilding of the Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.
- 18.4 If, under Subsection 18.1 above, it is determined by the Owners at the special meeting of the Association that there has been a complete destruction of all of the Buildings, the Owners will, at the same special meeting, vote to determine whether or not such complete destruction of the Buildings will be repaired and reconstructed. The Buildings will not be reconstructed or repaired if it is the determination of the Owners at said special meeting that there has been a complete destruction of all of the Buildings unless by a vote of two-thirds (2/3) of all of the Owners a decision is made to rebuild, reconstruct, and repair the Buildings. If two-thirds (2/3) of all of the Owners vote and decide that the Buildings are to be rebuilt, reconstructed, and repaired, the insurance proceeds, if any, received by the Association will be applied and any excess of construction costs over insurance proceeds, if any, received by the Association will be contributed and paid as provided in Subsections 18.1 and 18.2.



- 18.5 If, in any case of the complete destruction of all of the Buildings, less than two-thirds (2/3) of all of the Owners vote in favor of the rebuilding, reconstruction, and repair of the Buildings, the Buildings will not be rebuilt, reconstructed or repaired, and in such event, the Property will be deemed and considered as to be removed from the provisions of the Condominium Act and in accordance with the Condominium Act:
- 18.5.1 The Property will be deemed to be owned in common by the Owners;
  - 18.5.2 The undivided interest in the Property owned in common which will appertain to each Owner will be the percentage of undivided interest previously owned by such Owner in the Common Areas;
  - 18.5.3 Any liens affecting any of the Units will be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owner in the Property; and
  - 18.5.4 The Property will be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, will be considered as one (1) fund and will be divided among all the Owners equal to the Interest owned by each Owner in the Property, after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner.
- 18.6 Immediately after a fire or other casualty causing damage to any property for which the Board or the Association has the responsibility of maintenance and repair, the Board will obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desire.
- 18.7 The proceeds of insurance collected on account of any such casualty, and the sums received by the Board from collections of assessments against Owners on account of such casualty, will constitute a construction fund which will be disbursed, if the Building or Buildings are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:
- 18.7.1 If the amount of the estimated cost of reconstruction and repair is less than Twenty Thousand Dollars (\$20,000.00), then the construction fund will be disbursed in payment of such costs upon order of the Board; provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund will be disbursed in the manner provided in the following Section 18.7.2.

- 18.7.2 If the estimated cost of reconstruction and repair of the Buildings or other improvements is more than Twenty Thousand Dollars (\$20,000.00), then the construction fund will be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board to supervise such work, payment to be made from time to time as the work progresses. The architect will be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, sub-contractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (i) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (ii) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (iii) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of construction fund remaining after payment of the sum so requested.
- 18.7.3 Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair will not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments will be allowed to continue in existence for so long as the Buildings stand.
- 18.7.4 In the event that there is any surplus of monies in the construction of after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board, it may be distributed to the Owners in the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board in proceeding to repair or reconstruct damage will not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

In the event of the condemnation of all or any part of the Common Areas or all or any part of the Building(s) or Unit(s), the Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Areas, Buildings or Units. For the purpose of such negotiation and/or contest of such award to the Board as to Buildings and Units, the

Board is hereby declared to be the agent and attorney-in-fact of any Owners affected by the condemnation. This appointment of the Board will be deemed coupled with an interest and will be irrevocable. Nothing contained herein, however, will preclude any Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board.

19. *PARTY WALLS.*
- 19.1 *General Rules of Law to Apply.* Each wall which is built as a part of the original construction of any Building upon the Property and which connects two (2) Units will constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions will apply thereto.
- 19.2 *Sharing of Repair and Maintenance.* The cost of reasonable repair and maintenance of a party wall will be shared by the Owners who make use of the wall, proportionately.
- 19.3 *Destruction by Fire or other Casualty.* If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by any of the Owners who make use of such party wall, and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they will contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions.
- 19.4 *Weatherproofing.* Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements will bear the whole cost of furnishing the necessary protection against such elements.
- 19.5 *Right of Contribution Runs with Land.* The right of any Owner to contribution from any other Owner under this Article will be appurtenant to the land and will pass to such Owner's successors in title.
- 19.6 *Arbitration.* In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party will choose one arbitrator, and such arbitrators will choose one additional arbitrator, and the decision will be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor from another party the Board

will select an arbitrator for the refusing party.) The cost of the arbitrators will be borne equally by the parties.

20 *MORTGAGES*

- 20.1 *Notice to Association.* Any Owner who places a first mortgage lien upon his Unit, or the Mortgagee, will notify the secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address will be maintained by the secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise will be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the Bylaws or otherwise will be required and no Mortgagee will be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association will, upon request of a Mortgagee who has furnished the Association with its name and address as herein above provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days.

- 20.2 *Certificate of Assessment Account.* The Association will, upon ten (10) days prior written request and payment of a reasonable fee (to be established from time to time by the Board, in its sole discretion) of a Mortgagee, a proposed Mortgagee, or a proposed purchaser who has a contractual right to purchase a Unit, furnish to such Mortgagee or purchaser a statement setting the amount of the unpaid Regular Assessment or Special Assessments or other charges against the Unit, which statement will be binding upon the Association and the Owners, and any Mortgagee or grantee of the Unit will not be liable for nor will the Unit conveyed be subject to a lien for any unpaid Regular Assessment or Special Assessments or charges in excess of the amounts set forth in such statement or as such Assessments may be adjusted upon adoption of the final annual budget, as referred to in the Bylaws.
- 20.3 *Right of Mortgagee to Pay Real Estate Taxes or Insurance Premium.* Mortgagees will have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Areas that are in default and (2) to pay any overdue premiums on hazard insurance for the Common Areas or to secure new hazard insurance for the Common Areas on the lapse of a policy. The Association will owe any Mortgagee making such payment reimbursement immediately.

- 20.4 *Notice of Condemnation or Casualty Loss.* Mortgagees will be timely notified of any condemnation loss that affects a material portion of Bishops Pond Condominium or any Unit. Mortgagees will also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Association.
- 20.5 *Notice to Insurers and Guarantors.* Any guarantor of a first mortgage or any insurer will, upon notification and request to the Association, receive the same notices as are required to be given to Mortgagees.

21. *COVENANTS AND RESTRICTIONS.* The following covenants and restrictions on the use and enjoyment of the Units, Buildings, and Common Areas will be in addition to any other covenants or restrictions contained herein and in the Plans, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and will run with the land and inure to the benefit of and be enforceable by any Owner or by the Association. Present or future owners or the Association will be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and will, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there will be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- 21.1 All Units will be used exclusively for residential purposes and each will be occupied by a single family.
- 21.2 Nothing will be done or kept in any Unit, or on any Unit, or on the Common Areas that will cause an increase in the rate of insurance on any Unit or the contents thereof or on any Common Areas. No Owner will permit anything to be done or kept in his Unit or on his Unit or on any of the Common Areas which will result in a cancellation of insurance on any Unit or any part of Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- 21.3 No nuisance will be permitted and no waste will be committed in, on, or to any Unit, Common Areas, or Building. The Board determination as to what is a nuisance will be conclusive.
- 21.4 No Owner will cause or permit anything to be hung or displayed on the outside of the windows of his Unit or placed on the outside walls of any Building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing will be affixed to or placed upon the exterior walls or roofs or any other parts of any Building without the prior consent of the Architectural Review Committee.
- 21.5 No animals, livestock or poultry of any kind will be raised, bred or kept in any Unit or on any Unit or any of the Common Areas, except that pet dogs, cats or

customary household pets may be kept in a Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets will be taken outdoors only under leash or other restraint and while attended by its owner and an Owner will be fully liable for any injury or damage to persons or property, including the Common Areas, caused by his pet. The tethering of pets in any area outside an Owner's fenced deck or patio does not constitute "attended." The Board may adopt such other Rules and Regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, will be permanently removed from the Property within ten (10) days after written notice from the Board to the respective Owner to do so.

- 21.6 All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles will be kept from view of neighboring homes and streets. All rubbish, trash or garbage will be stored in closed sanitary containers in areas within enclosed garage of the Unit. Trash containers may be set out for pick-up no earlier than 6:00 p.m. the evening before the day of pickup. Trash will be regularly removed from the premises, and will not be allowed to accumulate on any part of the Property. All clotheslines will be confined to deck or patio areas and will be below the height of the deck or patio fence. No clothes, sheets, blankets, rugs, laundry or other things will be hung out or exposed so as to be visible from any part of the Common Areas. The Common Areas will be kept free and clear of rubbish, debris and other unsightly materials.
- 21.7 No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, will be conducted, practiced or permitted on the Property, except those home occupations which are permitted by applicable zoning regulations in Marion County, Indiana.
- 21.8 One real estate sign shall be allowed in a front window of the Unit visible from the street. No additional "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display will be maintained or permitted on any part of the Property, any Unit or any Unit by an Owner without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Property in connection with any unsold or unoccupied Units and Units.
- 21.9 All Owners and members of their families, their guests, or invitees, and all occupants of any Unit or other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, will observe and be governed by such Rules and Regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas.
- 21.10 No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles, trucks (larger than ½ ton), motorcycles, mini-bikes, or mopeds will be

permitted, parked or stored anywhere within the Property except as otherwise specifically permitted by the Board. No parking will be permitted on any streets except in designated parking areas. Vehicles parked on streets other than in designated parking areas or blocking access to streets or drives, are subject to towing at vehicle owner's expense. No repair work, including changing of oil, filters or tires, will be done on the Property on any vehicles, including passenger automobiles.

- 21.11 No Owner will be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board.
- 21.12 Common Areas will be used and enjoyed only for the purposes for which it is designed and intended, and will be used subject to the Rules and Regulations from time to time adopted by the Board.
- 21.13 No Owner may rent or lease his Unit for transient or hotel purposes.
- 21.14 Any Owner who leases a Unit will lease the entire Unit and will have a written lease the form of which must be approved by the Board, which will provide that the lease is subject to the provisions of this Declaration and any failure of the lessee to comply with the terms of this Declaration, will be a default under the lease. Owner shall not lease Unit for a period of less than six (6) months. Owner shall promptly notify the Board and its agent of his intent to lease and provide a copy of lease and contact information for the Owner and lessee.

Notwithstanding anything to the contrary contained in this Declaration or in the Articles or Bylaws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant will have the right to use and maintain any Units owned by Declarant and other portions of the Property (other than individual Units owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Buildings and the sale of Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices except to the extent limited to zoning commitments of record. Declarant will have the right to relocate any or all of the same from time to time as it desires. At no time will any of such facilities so used or maintained by Declarant Builder be or become part of the Common Areas, unless so designated by Declarant Owner, and Declarant Owner will have the right to remove the same from the Property at any time.

## 22. *AMENDMENT OF DECLARATION*

- 22.1 *Generally.* Except as otherwise provided in this Declaration, amendments to this Declaration will be proposed and adopted through the procedures detailed in the ordinance of Marion County, Indiana. Any changes to this Declaration or the

Corporation documents may be initiated only by a majority of the Owners. For the purposes of this Section, multiple Owners of a single Unit will be considered a single Owner and the Declarant will be considered a single Owner until all the Units are sold.

- 22.2 *Adoption Procedures.* Amendments to this Declaration will be proposed and adopted in the following manner:
- 22.2.1 *Notice.* Notice of the subject matter of any proposed amendment will be included in the notice of the meeting at which the proposed amendment is to be considered.
- 22.2.2 *Resolution.* A resolution to adopt a proposed amendment may be proposed by the Board or Owners having in the aggregate at least a majority of the votes of all Owners.
- 22.2.3 *Meeting.* The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.
- 22.2.4 *Adoption.* Any proposed amendment to this Declaration must be approved by a vote of not less than fifty percent (50%) in the aggregate of all Owners; provided, that any such amendment will require the prior written approval of the Declarant Owner so long as the Declarant Owner or any entity related to the Declarant Owner owns any Unit within and upon the Property. In the event any Unit is subject to a first mortgage, the Mortgagee will be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of the Corporation in accordance with the provisions of this Declaration.
- 22.3 *By Declarant Owner.* Declarant Owner hereby reserves the right, so long as Declarant Owner or any entity related to Declarant Owner owns any Unit within and upon the Property, to make any amendments to this Declaration, without the approval of any other person or entity, for any purpose reasonably deemed necessary or appropriate by the Declarant Owner, including without limitation: to bring Declarant Owner or this Declaration into compliance with the requirement of any statute, ordinance, regulation or order of any public agency having jurisdiction thereof, to conform with zoning covenants and conditions; to 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 Veterans Administration or any other governmental agency or to induce any of such agencies to make, purchase, sell, insure or guarantee first mortgages; or to correct



clerical or typographical errors in this Declaration or any amendment or supplement hereto; Provided that in no event will Declarant Owner be entitled to make any amendment which has a material adverse effect on the rights of any Mortgagee, or which substantially impairs the rights granted by this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner.

22.4 *Grant of Power of Attorney by Owners to Declarant Owner.* In furtherance of the foregoing Subsection 22.3, a power coupled with an interest is hereby reserved and granted to the Declarant Owner to vote in favor of, make, or consent to any amendments described in this Section on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof will be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant Owner to vote in favor of, make, execute and record any such amendments. This right of the Declarant Owner to act pursuant to rights reserved or granted under this Section will terminate at such time as the Declarant Owner no longer holds or controls title to any part or portion of the Property.

22.5 *Recording.* Each amendment to this Declaration will be executed by Declarant Owner only in any case where Declarant Owner has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary of the Association; provided that any amendment requiring the consent of Declarant Owner will contain Declarant Owner's signed consent. All amendments will be recorded in the Office of the Recorder of Marion County, Indiana, and no amendment will become effective until so recorded.

22.6 *Amendment Prior to the Applicable Date.* Notwithstanding anything to the contrary contained herein or in this Declaration, there will be no amendment of this Declaration prior to the Applicable Date without the consent and approval of Declarant Owner.

23. *ACCEPTANCE AND RATIFICATION.* All present and future Owners, Mortgagees, tenants and occupants of the Units will be subject to and will comply with the provisions of this Declaration, the Articles, Bylaws, and Rules and Regulations as adopted by the Board as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Unit will constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and Rules and Regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions will be covenants running with the land and will be binding on any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnership, trusts, associations, or other legal entities

who may occupy, use, enjoy or control a Unit or Units or any part of the Property in any manner will be subject to this Declaration, the Articles, the Bylaws, and the Rules and Regulations applicable thereto as each may be amended or supplemented from time to time.

24. *NEGLIGENCE.* Each Owner will be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's negligence or by that of any member of the Owner's family or guests, employees, agents, or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner will pay the amount of any increase in insurance premiums occasioned by the Owner's use, misuse, occupancy or abandonment of his Unit or its appurtenances or of the Common Areas.

25. *EXPANDABLE CONDOMINIUM AND DECLARANT'S RESERVED RIGHTS.* The individual Buildings of the Bishops Pond Condominium are and will be developed on the Property in Phases (i.e., not all Buildings will be or being built at the same time). To the extent relevant, the Bishops Pond Condominium is and will be an "expandable condominium," as defined in the Condominium Act. Declarant expressly reserves the right and option to expand the Bishops Pond Condominium to include any and all future Buildings to be constructed on the Property, as proposed in the Plans, and in accordance with the provisions of the Condominium Act and the following provisions:

- 25.1 Buildings 1 thru 15, 26 & 27 as shown on the Plans are being subjected to the Condominium by this Declaration and constitutes Phase I of the general plan of development of the Bishops Pond Condominium. Buildings 16 thru 25 shown on the Plans are Buildings which may be built and included in the Bishops Pond Condominium upon the recording to the necessary Plans, as amended to include such Buildings as built. In any event, the maximum number of Units which may be developed on the Property will be one hundred seventy-eight (178). Subject to said limit as to the maximum number of Units to be developed on the Property, Bishops Pond Condominium may be expanded by Declarant to include additional Buildings in one or more additional phases by the execution and recording of one (1) or more amendments or supplements to the Plans, and this Declaration, if required. Such right and option of expansion may be exercised by Declarant from time to time as to so long as such expansion is done on or before ten (10) years from the date of this Declaration. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise will require Declarant to build Buildings 16 thru 25 which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration by amendments or supplements to the Plans and this Declaration as provided above.
- 25.2 The Interest which will appertain to each Unit in Bishops Pond Condominium, as Bishops Pond Condominium may be expanded from time to time by Declarant in accordance with the terms hereof, (including the Interest which appertains to each of the Units included in this original Declaration) will be one divided by the total

number of Units which from time to time have been subjected and submitted to this Declaration and then constitute a part of Bishops Pond Condominium.

- 25.3 Such amendments or supplements to this Declaration will also include provisions reallocating Interests so that the Units depicted on such new Plans will be allocated to Interests in the Common Areas on the same basis as the Units depicted in the prior Plans. Such reallocation of Interests will vest when the amendment or supplement to this Declaration incorporating those changes has been recorded.
- 25.4 When the amendment or supplement to this Declaration incorporating the addition of Units and reduction of Common Areas, or both, is recorded, all liens including, but not limited to, mortgage liens will be released as to the Interests in the Common Areas described in this Declaration and will attach to the reallocated Interests in the Common Areas as though the liens had attached to those Interests on the date of the recordation of the mortgage or other lien. The Interest appertaining to additional Units being added by the amendment or supplement to this Declaration are subject to mortgage liens upon the recordation of the amendment or supplement to this Declaration. In furtherance of the foregoing, a power coupled with an interest is granted to the Declarant, as attorney-in-fact, to shift the Interest in the Common Areas appurtenant to each Unit to the percentages set forth in each such amendment or supplement to this Declaration recorded pursuant to this Section. Each deed, mortgage, or other instrument with respect to a Unit and the acceptance of such deed will be deemed a grant and acknowledgment of and consent to such power to said attorney-in-fact, and will be deemed to reserve to said attorney-in-fact the power to shift and reallocate from time to time the percentages of ownership in the Common Areas appurtenant to each Unit to the percentages set forth in each such recorded amendment or supplement to this Declaration. Each Owner of a Unit by acceptance of a deed, further acknowledges, consents, and agrees, as to each such amendment or supplement to this Declaration that is recorded as follows:
- 25.4.1 The portion of the Property described in each such amendment or supplement to this Declaration will be governed in all respects by the provisions of this Declaration.
- 25.4.2 The Interest in the Common Areas appurtenant to each Unit will automatically be shifted and reallocated to the extent set forth in each such recorded amendment or supplement to this Declaration and upon the recording of each such amendment or supplement to this Declaration, will be deemed to be released and divested from such Owner and reconveyed and reallocated among the other Owners as set forth in each such recorded amendment or supplement to this Declaration.

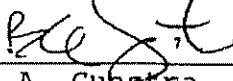
- 25.4.3 Each deed, mortgage, or other instrument affecting a Unit will be deemed given subject to the conditional limitation that the Interest in the Common Areas appurtenant to each Unit will, upon the recording of each amendment or supplement to this Declaration, be divested *pro tanto* to the reduced percentage set forth in such amendment or supplement to this Declaration and vested among the other Owners, mortgagees, and others owning an interest in the other Units in accordance with the terms and percentages of each such recorded amendment or supplement to this Declaration.
- 25.4.4 A right of revocation is reserved by the grantor in each such deed, mortgage, or other instrument of a Unit to so amend or reallocate the Interest in the Common Areas appurtenant to each Unit.
- 25.4.5 Any additional Buildings will reduce the Common Areas. Each deed, mortgage, or other instrument affecting a Unit will be deemed given subject to the conditional limitation that any and all interest in the portion of the Common Areas appurtenant to the Units added by the expansion will upon the recording of each amendment or supplement to this Declaration, be divested from the other Owners, mortgagees, and others owning an interest in the other Units in accordance with the terms and percentages of each such recorded amendment or supplement to this Declaration and vested in the Declarant for the purposes of transfer of the newly established Units.
- 25.4.6 The recording of any such amendment or supplement to this Declaration will not alter the amount of the lien for expenses assessed to or against a Unit prior to such recording.
- 25.4.7 Each Owner, by acceptance of the deed conveying his Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each amendment or supplement to this Declaration are and will be deemed to be in accordance with the Condominium Act and for purposes of this Declaration and the Condominium Act, any changes in the respective Interest in the Common Areas as set forth in each such amendment or supplement to this Declaration will be deemed to be made by agreement of all Owners.
- 25.4.8 Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Section to comply with the Condominium Act as it may be amended from time to time.

26. MISCELLANEOUS.

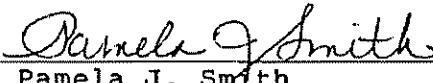
- 26.1 *Costs and Attorneys Fees.* In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Bylaws, or the Rules and Regulations adopted pursuant to the Bylaws, as each may be amended from time to time, the Association will be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure including all administrative costs, collection costs and court costs.
- 26.2 *Waiver.* No Owner may become exempt from liability for such Owner's contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Owner's Unit.
- 26.3 *Severability Clause.* The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration or the Bylaws will not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the Bylaws.
- 26.4 *Pronouns.* Any reference to the masculine, feminine, or neuter gender will, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine, and neuter genders. Words in the singular will include and refer to the plural, and vice versa, as appropriate.

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed the day and year first above written.

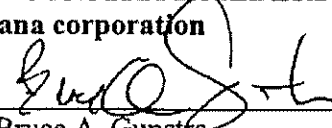
**CRAWFORDSVILLE PARTNERS, LLC**  
an Indiana limited liability company

BY:   
B.A. Gunstra  
ITS: Member

ATTEST:

BY:   
Pamela J. Smith  
ITS: Asst. Secretary

**BRUCE GUNSTRA BUILDERS, INC.**  
an Indiana corporation

BY:   
Bruce A. Gunstra  
ITS: President

ATTEST:

BY:   
Pamela J. Smith  
ITS: Assistant Secretary

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared B. A. Gunstra and Pamela J. Smith, the Member and Asst. Secretary, respectively, of Crawfordsville Partners, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, a condominium, for and on behalf of said limited liability company and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 30th day of Sept., 2003.

Mariann J. Reinhardt

Printed: Mariann J. Reinhardt

County of Residence: Marion My Commission Expires: June 17, 2011

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Bruce A. Gunstra and Pamela J. Smith, the President and Assistant Secretary, respectively, of BRUCE GUNSTRA BUILDERS, INC., an Indiana corporation, who acknowledged the execution of the foregoing Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, a condominium, for and on behalf of said corporation and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 30th day of Sept., 2003.

Mariann J. Reinhardt

Printed: Mariann J. Reinhardt

County of Residence: Marion My Commission Expires: June 17, 2011

This instrument was prepared by: Thomas R. McCully, Esquire, and Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin, The Life Building, 300 Main Street, Suite 800, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: [trm@stuartlaw.com](mailto:trm@stuartlaw.com) or [mmo@stuartlaw.com](mailto:mmo@stuartlaw.com)

#313708v1



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Part of the East Half of the Southeast Quarter of Section 36, Township 17 North, Range 2 East in Marion County, Indiana, more particularly described as follows:

Commencing at a railroad spike found marking the Southeast corner of said quarter section; thence North 00 degrees 46 minutes 00 seconds West along the East line of said quarter section 70.03 feet; thence South 87 degrees 40 minutes 47 seconds West parallel with the South line of said quarter section 639.46 feet; thence North 14 degrees 42 minutes 03 seconds East 98.36 feet; thence North 25 degrees 01 minutes 53 seconds East 144.03 feet; thence North 00 degrees 46 minutes 00 seconds West 228.30 feet; thence North 04 degrees 20 minutes 26 seconds West 116.83 feet to the beginning point of this description; thence North 84 degrees 18 minutes 20 seconds East 203.74 feet; thence North 05 degrees 41 minutes 40 seconds West 145.52 feet to point of curvature of a curve concave southeasterly, having a radius of 15.00 feet; thence northeasterly along said curve through a central angle of 94 degrees 55 minutes 40 seconds an arc length of 24.85 feet to the point of tangency, said curve being subtended by a chord bearing North 41 degrees 46 minutes 10 seconds East 22.11 feet; thence North 89 degrees 14 minutes 00 seconds East 337.16 feet to the west right-of-way of Coffman Road; thence North 00 degrees 46 minutes 00 seconds West 46.00 feet along said west line; thence South 89 degrees 14 minutes 00 seconds West 199.50 feet; thence South 76 degrees 01 minutes 25 seconds West 70.02 feet; thence South 89 degrees 14 minutes 00 seconds West 108.32 feet to a point on a non-tangent curve concave easterly having a radius of 212.00 feet; thence southerly along said curve through a central angle of 3 degrees 13 minutes 17 seconds an arc distance of 11.92 feet, said curve being subtended by a chord bearing South 04 degrees 06 minutes 23 seconds West 11.92 feet; thence North 89 degrees 52 minutes 04 seconds West 175.68 feet; thence South 06 degrees 14 minutes 21 seconds West 13.06 feet; thence South 04 degrees 20 minutes 26 seconds East 187.05 feet to the point of beginning, containing 1.215 acres, more or less.

**EXHIBIT B**  
**BY-LAWS**

(See attached.)

BYLAWS  
OF  
BISHOPS POND CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

ARTICLE I  
Definitions

All terms used in these Bylaws and not defined herein will have the meanings set forth in the Articles of Incorporation of the Bishops Pond Condominium Homeowners Association, Inc. ("Association"), an Indiana nonprofit corporation, and the Declaration of Condominium and of Easements, Restriction, and Covenants for Bishops Pond Condominium, dated September 30, 2003 ("Declaration"), by Crawfordsville Partners, LLC ("Declarant Owner"), an Indiana corporation, and Bruce A. Gunstra, Inc. ("Declarant Builder"; Declarant Owner and Declarant Builder are referred to collectively as "Declarant"), an Indiana corporation.

ARTICLE II  
Members

Section 1. Membership. Declarant and each other person who owns a Unit (automatically upon becoming an Owner) will be and become a Member of the Association and will remain a Member until such time as his ownership of a Unit ceases. Membership will terminate when such person ceases to be an Owner, and will be transferred to the new Owner of his Unit. Any person who holds the interest of an Owner in a Unit merely as security for the performance of an obligation will not be a Member until and unless he realizes upon his security, at which time he will automatically be and become an Owner and a Member of the Association. Membership will be appurtenant to each Unit and may not be separated from ownership of any such Unit.

Section 2. Two Classes of Membership; Voting Rights. The Association will have two (2) classes of membership, with certain voting rights, as set forth in the Articles and Declaration. The Board may suspend the voting rights of a Member during any period in which such Member will be in default in payment of any Assessment levied by the Association.

Section 3. Membership Certificates. If the Association elects to issue certificates, each Member will receive a certificate signed by the President or Vice-President and Secretary or Assistant Secretary, stating that he is a Member of the Association. Membership will be automatically transferred upon change of ownership of a Unit, but the Association will not be obligated to alter its membership records until notified in writing of such change of ownership. Except for such changes in ownership, neither membership in the Association nor membership certificates will be transferable.

Section 4. Annual Meeting. The annual meeting of the Members will be held within ten (10) months after the close of the fiscal year of the Association, at a time and place fixed by the Board. If for any reason the annual meeting of Members will not be held at the time and place herein provided, it will be held as soon as practicable thereafter. At the annual meeting, the Members will elect the Directors of the Association for the following year and will adopt a budget for the following year as described in Article VII of these Bylaws. The Members may also transact such other business as may properly come before the meeting.

Any action required or permitted to be taken by the members at a regular or special meeting of the members, may be taken without such a meeting if such action is approved by members holding at least eighty percent (80%) of the votes entitled to be cast in regard to the action. Such approval must be evidenced by the written consent of such members.

Under this provision, a request for such a written consent on any action will be made to all members.

The approval of any action must be evidenced by at least one (1) written consent describing the action that meets the following conditions:

- (1) Is signed by the members representing at least eighty percent (80%) of the votes entitled to be cast on the action; and
- (2) Is delivered to the corporation for inclusion in the minutes or filing with the corporation's records.

The record date for determining members entitled to take action without a meeting is the date the first member signs the aforementioned written consent.

A consent signed under this section has the effect of a meeting vote; and may be described as such in any document.

An action taken under this provision is effective when the last member necessary to meet the eighty percent (80%) requirement signs the written consent unless a prior or subsequent effective date is specified in the consent.

Section 5. Special Meetings. Special meetings of the Members will be called upon the order of the President or a majority of the Board or upon presentation to the Secretary of a petition signed by at least twenty percent (20%) of the Members entitled to vote by the Articles. No business will be transacted at a special meeting except as stated in the notice of that meeting. If a special meeting is called upon a petition by at least twenty percent (20%) of the Members as provided for above, the Secretary of the Association will promptly issue notice of said special meeting which will set forth the purpose of the meeting as described in the petition.

Section 6. Notice of Meetings. Notice of annual and special meetings will be mailed to each Member at the address which appears on the records of the Association not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. All notices will state the date, time and place of the meeting, and notice of a special meeting will also state the purpose for which the meeting is called. In the case where several Members have the same address as shown on the records of the Association, one (1) notice will be sufficient.

Section 7. Quorum. At all meetings of Members, the presence in person or by proxy of Members representing twenty percent (20%) of the outstanding voting rights will constitute a quorum for the transaction of business. A majority vote at any such meeting will decide all questions unless a greater plurality is required by the Nonprofit Act, Property Act, Declaration, Articles, or these Bylaws. If at any meeting of Members there be less than a quorum present, the majority or those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

Section 8. Proxies. Votes may be cast in person or by proxy. All proxies will be in writing and filed with the Secretary prior to the commencement of the meeting in which they are to be voted. No proxy will be valid for a period of more than eleven (11) months unless a longer time is expressly provided in the proxy, and every proxy will automatically cease upon sale by the Owner of his Unit.

Section 9. Power of Attorney. Each Owner, by acceptance of a deed to a Unit, or by acquisition of any interest in a Unit by any type of juridical acts, inter vivos or causa mortis, or otherwise, will be deemed to have appointed Declarant Owner as such Owner's agent, attorney-in-fact, and proxy, which will be deemed with an interest and irrevocable until the Applicable Date, to exercise all of said Owner's right to vote as a Member, and to vote as Declarant Owner determines, on all matters as to which Members are entitled to vote under the Declaration, the Articles, these By-Laws or otherwise; provided, however, this right to vote granted to Declarant Owner will not extend to votes of Members (if a vote is required) on matters of Special Assessments, mortgaging Common Area, or merger/consolidation of the Association with another corporation. This appointment of Declarant Owner as such Owner's agent, attorney-in-fact and proxy will not be affected by incompetence of the Owner granting the same.

### ARTICLE III Board of Directors

Section 1. Number and Qualifications. Except for the Initial Board, the number of Directors of the Association will in no event be less than three (3) or greater than five (5). Also, except for the members of the Initial Board, each Director must be a Member of the Association.

Section 2. Initial Board. The members of the Initial Board will be the following persons:

<u>Name:</u>	<u>Address:</u>
Jeffrey Bourff	8383 Craig St., Suite 100, Indianapolis, IN 46250
James Keene	2150 Market Square, Lafayette, IN 47905
Pamela J. Smith	2150 Market Square, Lafayette, IN 47905

All members of the Initial Board have been or will be appointed by Declarant Owner.

Notwithstanding anything to the contrary contained in, or any other provisions of the Declaration, the Articles, or these By-Laws:

(a) the members of the Initial Board will hold office until the Applicable Date or until removed by Declarant Owner who may remove any member of the Initial Board without cause, and

(b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy will be filled by a person appointed by Declarant Owner, who will thereafter be deemed a member of the Initial Board.

Each person serving on the Initial Board whether as an original member thereof or as a member thereof appointed by Declarant Owner to fill a vacancy, will be deemed a Member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board and for no other purpose. No such person serving on the Initial Board will be deemed or considered a Member of the Association nor an Owner of a Unit for any other purpose (unless he is actually the Owner of a Unit and thereby a Member of the Association).

Section 3. Additional Qualifications for Directors. Where a Member consists of more than one (1) individual or is a partnership, corporation, trust or other legal entity, then one (1) of the individuals constituting the multiple Member or a partner or an officer or trustee will be eligible to serve on the Board, except that no single Unit may be represented on the Board by more than one (1) person at a time.

Section 4. Election, Term of Office, and Vacancy. Subject to the provisions of Section 2 of this Article, one (1) member of the Board will be elected at each annual meeting of the Association. The Initial Board will be deemed to be elected and re-elected as the Board at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board will be elected for a term of three (3) years, except that at the first election after the Applicable Date one (1) member of the Board will be elected for a three (3) year term,

one (1) for a two (2) year term, and one (1) for a one (1) year term so that the terms of one-third (1/3) of the members of the Board will expire annually. There will be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director will hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article as to the Initial Board, any vacancy or vacancies occurring in the Board will be filled by a vote of a majority of the remaining members of the Board or by vote of the Members if a Director is removed in accordance with Section 13 of this Article. The Director so filling a vacancy will serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting of the Members following any such vacancy, a Director will be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

The Directors will be elected at the organizational meeting of the Association and thereafter at an annual or special meeting of Members by a majority of the votes cast by Members entitled to vote, for such terms and in such manner as is provided in the Declaration, Articles, and these Bylaws.

Section 5. Regular Meetings. A regular meeting of the Board will be held within ten (10) days following the annual meeting of Members and at such other intervals and upon such notice as may be fixed from time to time by resolution of the Board.

Section 6. Special Meetings. Special meetings of the Board will be held when called by the President of the Association or by any two Directors after not less than seven (7) days notice to each Director. Notice of any meeting of the Board may be waived in writing or by attendance at such meeting.

Section 7. Quorum. At all meetings of the Board, a majority of the voting Directors will constitute a quorum for the transaction of any business. A majority vote of the Directors present at any such meeting will decide all questions unless a greater plurality is required by law. If at any meeting of the Board there is less than a quorum of voting Directors present, the majority of those present may adjourn the meeting from time to time until a quorum can be obtained. Any business which might have been transacted at the meeting as originally called may be transacted at any adjournment thereof without further notice.

Section 8. Action by Unanimous Written Consent Without a Meeting. Any action which is required or permitted to be taken at a meeting of the Board or any committee thereof may be taken without a meeting if, prior to such action, a written consent setting forth the action to be taken is signed by all Directors or all Members of said committee as the case may be. A copy of the consent will be filed with the minutes of the meetings of the Board.

Section 9. Powers. The Board will manage the affairs of the Association and will have such powers as are given to it by law, Declaration, Articles, and these Bylaws, including, but not limited to, the general powers:

- (a) To call special meetings of the Members whenever it deems necessary;
- (b) To appoint and remove at its pleasure all officers, agents and employees of the Association, to prescribe their duties and to require of them such security or fidelity bond as it may deem expedient;
- (c) To establish, levy, assess and collect all the various Assessments or charges which under the terms and provisions of law, Declaration, Articles, and these Bylaws, the Association is empowered or required to establish, levy, assess or collect. The Board may designate and retain a collecting agent to collect such Assessments or charges;
- (d) To exercise for the Association all powers, duties and authorities vested in or delegated to the Association; and
- (e) To contract for, or to provide directly, services for the common benefit of all Members, consistent with the purpose of the Association, the cost of which will be a Common Expense.

The Board more specifically will have the following powers:

- (a) To employ a Managing Agent to assist the Board in performing its duties;
- (b) To purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (d) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;



(f) To open and maintain a bank account or accounts in the name of the Association;

(g) To promulgate, adopt, revise, amend and alter from time to time such Rules and Regulations with respect to maintenance, repairs, use, occupancy, operation and enjoyment of the Property and the Common Areas as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such Rules and Regulations so adopted by the Board will be promptly delivered or mailed to all Members;

(h) To grant permits, licenses and easements over the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of Bishops Pond Condominium; and

(i) To enter any Unit in case of any emergency whether the Owner is present at the time or not and in the case of non-emergency repairs to enter the Unit provided the request is made in advance and is at a time reasonably convenient to the Owner.

Section 10. Duties. The Board of Directors will be the governing body of the Association representing all of the Members and being responsible for the functions and duties of the Association, including, but not limited to, providing for the following: the administration of the Property; the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility or duty of Owners); the maintenance, repair, upkeep and replacement of such exterior portions of the Units as designated in this Declaration; and the collection and disbursement of the Regular and Special Assessments collected by the Association. Further, it will be the duty of the Board:

(a) To cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting held for such purpose;

(b) To keep detailed, accurate records in chronological order, of receipts and expenditures;

(c) To establish Assessments by using generally accepted accounting principles applied on a consistent basis.

(d) To supervise all officers, agents, and employees of the Association and to see that their duties are properly performed; and

(e) To carry out all other obligations and duties imposed on the Association by the Declaration.

Section 11. Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts will be limited to contracts involving a total expenditure of less than Five Thousand Dollars and No Cents (\$5,000.00) adjusted annually based on the cost of living index or equivalent inflationary index without obtaining the prior approval of a majority of the Members, except that in the following cases such approval will not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Members at the annual meeting; and

(c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Members.

Section 12. Compensation. The Directors will receive no compensation for their services as Directors but will be reimbursed for their actual expenses incurred in the discharge of their duties as Directors.

Section 13. Death, Resignation and Removal. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the owners duly called and constituted for such purpose. In such case, his successor will be elected at the same meeting from eligible Members nominated at the meeting. A Director so elected will serve until the next annual meeting of the Members and until his successor is duly elected and qualified. In the event of death or resignation of a Director, his successor will be selected by the remaining Directors and will serve until the next annual meeting or special meeting of the Members, whichever occurs first, at which time the vacancy will be filled by the Members.

Section 14. Attendance by Conference Telephone. Any or all Directors may participate in any regular or special meeting of the Directors by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means will be deemed to be present in person at the meeting.

ARTICLE IV  
Officers

Section 1. Designation. The officers of the Association will be a President, a Secretary, a Treasurer and such other officers as the Board may from time to time by resolution designate.

Section 2. Election. The election of the officers will take place at the first meeting of the Board and at each regular meeting following each annual meeting of the Members.

Section 3. Term. The officers will be elected annually by the Board and each will hold office for one (1) year and until his successor is elected and qualified, unless he will sooner resign, be removed or become otherwise disqualified.

Section 4. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation will take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation will not be necessary to make it effective.

Section 5. Multiple Offices. Any two (2) or more offices may be held by the same individual except for the offices of President and Treasurer which must be held by two different individuals.

Section 6. President. The President will be the chief executive officer of the Association and will preside at all meetings of the Board and Members and will have such other powers and perform such other duties as are delegated to him by the Board.

Section 7. Secretary. The Secretary will keep the minutes of all meetings of the Board and the Members. He will have charge of such books and papers as the Board may direct and will perform such other duties as may be from time to time imposed upon him by the Board.

Section 8. Treasurer. The Treasurer will keep complete and accurate books of account in accordance with the accounting methods adopted by the Board, showing the financial condition of the Association and the results of its operations. He will have custody of all monies of the Association and will disburse such funds as directed by the Board. He will assist in the preparation of an annual budget and a statement of income and expenditures to be presented to the Members at their annual meeting.

Section 9. Fidelity Bonds. The Board may provide blanket fidelity bonds and may require the Managing Agent (if any), Treasurer and such other Directors and officers of the Association, as the Board deems necessary, to provide blanket fidelity bonds, indemnifying the

Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board. Such fidelity bonds will name the Association as an obligee. Such bonds will not be less than the estimated maximum amount of funds in the custody of the Association at any given time during the term of each bond. Any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. Such bonds shall also contain waivers of all defenses based on the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The expense of any such bonds will be a Common Expense. The bonds will provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days' prior written notice to the Association.

#### ARTICLE V Committees

The Board will appoint such committees as it deems appropriate in the management of the affairs of the Association.

#### ARTICLE VI Managing Agent

Section 1. Managing Agent. The Board will from time to time, on behalf of the Association, employ a reputable and recognized professional property management agent ("Managing Agent") pursuant to a written agreement, the terms of which the Board finds, in its discretion, reasonable and customary ("Management Agreement"); provided any such Management Agreement will be for a term of three (3) years or less and the other terms provided under this Article. Any decision to not employ a professional property management agent will require the prior consent of the Members of at least sixty-seven percent (67%) of the vote and fifty-one percent (51%) of the vote of Mortgagees registered with the Association.

Section 2. Declarant Owner as Managing Agent. The Board has entered or will hereafter enter into a Management Agreement with Declarant Owner (or with a corporation or other entity affiliated with Declarant Owner or Declarant Builder or designated by Declarant Owner) (collectively, "Declarant Manager") pursuant to which it will serve as Managing Agent. Notwithstanding anything to the contrary contained herein, so long as a Management Agreement between the Association and Declarant Manager is in effect, Declarant Manager will have and is reserved by Declarant Owner for the benefit of Declarant Manager, the exclusive right to manage the Property and perform all the functions of the Association. Each Member, by acceptance of a deed to a Unit, or by acquisition of any interest in a Unit by any type of juridical acts, inter vivos or causa mortis, or otherwise, will be deemed to authorize the Association and the Board of

Directors and its officers to enter into such a Management Agreement with Declarant Manager and to adhere to and abide by the same.

Section 3. Duties. Each Managing Agent will provide supervision, management and maintenance of the Common Areas; to the extent the same is not otherwise the responsibility of Owners of individual Units, the maintenance of Units; and, in general, perform all of the duties and obligations of the Association. The Managing Agent, if one is employed, will assist the Board in carrying out its duties, which include, but are not limited to:

(a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Units; provided, however, that this duty will not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) procuring of utilities in connection with the Buildings and Units, removal of garbage and waste, and snow removal from the Common Areas;

(c) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Areas, and such exterior portions of the Buildings and Units as hereinafter designated in this Declaration. Maintenance of lawns will include and be limited to the fertilizing, mowing and replanting when necessary of the grass; and the care, fertilizing, trimming, removal and replacement of trees planted by the Declarant Owner. It will not include the care and maintenance of shrubs and trees which were not planted by Declarant Owner or Declarant Builder, flowers or other plants on any Unit. In the event there is any landscaping placed in a utility easement on a Unit or Common Areas, it will be the responsibility of the relevant Owner to replace such landscaping which is damaged or destroyed as a result of any work conducted in such easement to maintain, repair, or replace the utilities in such easement;

(d) surfacing, paving and maintaining any off-street parking spaces constituting a part of the Common Areas;

(e) removal of trash and waste from the Property on a basis of not less than weekly, provided further that only the Board or Managing Agent will contract for such service and no Member will contract for such service;

(f) snow removal from the public streets dedicated to the public by the final detailed plan and if funding exists, for the removal of snow from driveways to the Units if in the Board's sole determination the accumulation of snow justifies such removal;

(g) assessment and collection from the Members of each Member's respective share of the Common Expenses (i.e., Regular Assessments and Special Assessments);

(h) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Member prior to the annual meeting;

(i) preparing and delivering annually to the Members a full accounting of all receipts and expenses incurred in the prior year; such accounting will be delivered to each Member within sixty (60) days of the close of each fiscal year;

(j) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations) will be available for examination by a Member, Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours;

(k) procuring and maintaining for the benefit of the Association and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

(l) paying taxes assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and

(m) to furnish upon request of any Mortgagee, insurer or guarantor of first mortgage, an financial statement for the immediately preceding fiscal year.

Section 4. Renewal. The term of any Management Agreement may be renewed by the parties for additional terms of three (3) or less years or a new Management Agreement with different parties may be executed under similar terms and conditions.

Section 5. Termination. Any Management Agreement is or will be subject to termination by either party at any time prior to expiration of its term, upon ninety (90) days written notice to the other party. Upon termination of any Management Agreement, the Board, on behalf of the Association, will thereupon and thereafter resume performance of all of its duties and obligations.

Section 6. Compensation. The Managing Agent, if any is employed, will be entitled to reasonable compensation for its services, the cost of which will be a Common Expense.

Section 7. Payment of Assessments to Managing Agent. So long as such Management Agreement (or similar agreement) remains in effect, the Regular Assessment will be paid by Members to Managing Agent.

Section 8. Authorization. Each Member hereby authorizes the Association and the Board and its officers to enter into the aforesaid Management Agreement and to adhere to and abide by the same.

## ARTICLE VII Assessments

Section 1. Purpose of Assessments. The Association will provide for the ownership and maintenance of the Common Areas, and will perform such other duties as are authorized or required by the Declaration. The cost thereof will constitute part of the Common Expense.

Notwithstanding any obligation or duty of the Association to repair or maintain certain areas upon the Common Areas, if due to the willful, intentional or negligent acts or omissions of an Owner or of a member of such Owner's family or a guest, tenant, invitee or other occupant or visitor of such Owner, damage will be caused, or if maintenance, repairs or replacements will be required thereby which would otherwise be a Common Expense, then such Owner will pay for such damage and such maintenance, repairs and replacements as may be determined by the Association. If not paid by such Owner upon demand by the Association, the cost of repairing such damage will be added to and become part of the Assessment to which such Owner's Unit is subject.

Each Owner will be responsible for maintaining and keeping such Owner's Unit in a good, clean and sanitary condition at such Owner's expense. If any Owner will fail to maintain and keep such Owner's Unit in a good, clean and sanitary condition, the Association may perform any work necessary to do so and charge the Owner of such Unit for such cost, which cost will be added to and become a part of the Assessment to which such Owner's Unit is subject.

The Assessments levied by the Association will be used exclusively to promote the recreation, health, safety and welfare of the residents in the Real Estate and for the costs and expenses incident to operation of the Association.

Section 2. Annual Accounting. Annually, within sixty (60) days after the close of each fiscal year of the Association, the Board will cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant or firm of certified public accountants then servicing the Association, which statement will show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 3. Proposed Annual Budget. Annually, before the date of the annual meeting of the Association, the Board of Directors will cause to be prepared a proposed annual budget in a manner that corresponds to the matters attributable to the Regular Assessment, as hereafter defined for the current fiscal year estimating the total amount of the Common Expenses for the current fiscal year and will furnish a copy of such proposed budget to each Member at or prior to the annual meeting. The annual budget will be submitted to the Members at the annual meeting of the Association for adoption, and, if so adopted, will be the basis for the Regular Assessment for the current fiscal year. At the annual meeting of the Members, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Members; provided, however, that in no event will the annual meeting of the Members be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessment and all sums assessed by the Association will be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and such exterior portion of the Units as designated in this Declaration from the Regular Assessment, which replacement reserve fund (if established) will be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and such exterior portion of the Units as designated in this Declaration will be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Indiana selected from time to time by the Board. The funds from Regular Assessment attributable to usual and ordinary care, maintenance, replacement and insurance responsibilities expenses will be maintained in a separate bank from that of the replacement reserve account.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Members will not constitute a waiver or release in any manner of the obligations of the Members to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Members as herein provided for such current fiscal year, the Members will continue to pay the Regular Assessment based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.



Section 4. Regular Assessment. The Regular Assessment addresses the care, maintenance, replacement and insurance responsibilities of the Association in this Declaration for any and all improvements made by the Builder in each Building, including but not limited to, the exterior portions of the Units pursuant to the terms and conditions of this Declaration, landscaping within the Common Areas (including the streets, driveways, decks, and patios) as detailed in this Declaration and the Plans. The Regular Assessment also addresses the care and maintenance of the infrastructure, defined herein of Bishops Pond Condominium, not otherwise covered by viable maintenance bonds of record under the applicable zoning ordinances of Marion County, Indiana, which include the identification sign at the entranceway, (including entranceway landscaping) and the Common Areas as shown on the Plans.

The annual budget as adopted by the Members will, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed Assessment against each Unit, which the Regular Assessment will be the same amount for each Unit. Immediately following the adoption of the annual budget, each Member will be given written notice of such Regular Assessment against his respective Unit. In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment will be revised, within fifteen (15) days following adoption of the final annual budget by the Members, to reflect the Regular Assessment against each Unit based upon such annual budget as finally adopted by the Members. The aggregate amount of the Regular Assessment will be equal to the total amount of expenses attributable to the Regular Assessment matters as provided and included in the final annual budget, including reserve funds as herein above provided. The Regular Assessment against each Unit will be paid in advance in equal monthly installments commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of such fiscal year. Payment of the monthly installments of the Regular Assessment will be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Members may elect to pay Regular Assessments quarterly, semi-annually or annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget, and:

(a) if the Regular Assessment based upon the *final* annual budget adopted by the Members exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due will be paid with such next payment, and any payments thereafter during such fiscal year, will be increased so that the Regular Assessment as finally determined will be paid in full by the remaining payments due in such fiscal year, or

(b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the *final* annual budget adopted by the Members, such excess will be credited against the next payment or payments

of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if any Member had paid his Regular Assessment either quarterly, semi-annually or annually in advance, then the adjustments set forth under (a) or (b) above will be made by a cash payment by, refund to, or credit on account of, the Member by first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Members.

The Regular Assessment for the current fiscal year of the Association will become a lien on each separate Unit as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that a Member who has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Unit or any interest therein, will not relieve or release such Member or his successor as Owner of such Unit from payment of the Regular Assessment for such Unit as finally determined, and such Owner and his successor as Owner of such Unit will be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid Regular Assessments furnished by the Association prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made will state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon will be bound by such final determinations. Monthly installments of the Regular Assessment will be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association will be responsible for providing any notice or statements to Owners for the same.

Section 5. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that such Assessment will have the assent of two-thirds (b) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that the Declarant will not be any Owner's agent, attorney-in-fact or proxy in this vote pursuant to Section 13.4 of the Declaration, the Board of Directors will have the full right, power and authority to make special Assessments which upon resolution of the Board, will become a lien on each Unit, prorated in equal shares ("Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in the Declaration. Further, Special Assessments may be made by the Board of Directors from time to time to pay for non-

emergency and non-essential expenditures of such a nature that the Owners would suffer reduction or elimination of services if such Special Assessments were not made.

Section 6. Assessments Prior to the Applicable Date. The purpose of this Section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the Association to perform its duties and functions.

(a) Annual Budget, Regular Assessments and Special Assessments.

Notwithstanding any other provision contained in the Declaration, the Articles or these Bylaws or otherwise, prior to the Applicable Date, the annual budget and all the Regular Assessment and the Special Assessments will be established by the Initial Board without any meeting or concurrence of the Members; provided, however, the Regular Assessment will be determined in accordance with the provisions contained in this Section.

(b) Replacement Reserve Account.

That portion of the Regular Assessment collected by Declarant prior to the Applicable Date designated for any replacement reserve account which Declarant may create and will if created and funded be held by the Initial Board and if required, applied to the replacement of Common Areas or those portions of Units obligated to be repaired and replaced by the Association. To the extent that any such replacement reserve is not so applied, the balance thereof will be retained by the Association at the Applicable Date.

(c) Payment Dates.

Payment of Regular Assessment prior to the Applicable Date with respect to each Unit (that is not owned by Declarant) will commence on the date of conveyance by Declarant Owner or Declarant Builder to an Owner other than Declarant Builder. The first payment will be payable on the date of conveyance prorated to the first day of the next calendar month next ensuing. Thereafter, payment of the Regular Assessment will be paid the first day of each calendar month during the period prior to the Applicable Date. THE DECLARANT WILL PAY TO MANAGEMENT AGENT THE UNPAID BALANCE AFTER THE PAYMENTS OF ALL OTHER OWNERS OF THE AMOUNT OF THE REGULAR ASSESSMENT.

Section 7. Guaranteed Charge. Declarant will guarantee that until the earlier of:

(a) the termination of the Management Agreement with the Declarant Manager, or (b) one (1) year after the date of recording of the Declaration with the office of the Marion County Recorder, the monthly Regular Assessment will not exceed One Hundred Dollars and No Cents (\$100.00) ("Guaranteed Charge"). After this date (assuming that said Management Agreement with the Declarant Manager) and so long thereafter as said Management Agreement (or similar agreement) remains in effect and Declarant Manager continues to perform such functions, Declarant guarantees that the monthly Regular Assessment will not exceed the amount of the

Guaranteed Charge plus a maximum of a twenty percent (20%) increase in the Guaranteed Charge for each year. Such adjustments to the Guaranteed Charge (up to a twenty percent (20%) increase as determined by the Board) will be made annually on January 1 of each year so long as said Management Agreement remains in effect and Declarant Manager continues to perform such functions. Such monthly charge will during such guaranteed period entirely defray the Member's obligation for his share of Common Expenses or will be the Member's entire Regular Assessment. Declarant will be responsible for any operating deficit, in Regular Assessment, during such guarantee period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations. Such expenditures will be covered through Special Assessments, or, if sufficient, the replacement reserve fund, if any such fund exists. Any operating deficiency prior to the Applicable Date will be the responsibility of the Declarant Owner and Declarant Builder.

Section 8. Failure of Owner to Pay Assessments. No Owner (including Declarant Builder) may exempt himself from paying the Regular Assessment and Special Assessments or from contributing toward the Common Expense or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Areas or by abandonment of the Unit belonging to him. Each Owner will be personally liable for the payment of all Regular and Special Assessments. If any payment of a Regular Assessment or Special Assessment is received by the Association more than ten (10) days after its due date, Owner will pay to the Association a late charge in the amount of the greater of Fifty Dollars (\$50.00) or fifty percent (50%) of payment which will be immediately due and will accompany such payment when made. Where the Owner constitutes more than one person the liability of such person will be joint and several. If any Owner will fail, refuse, or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such Regular Assessment or Special Assessment on the Owner's Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Association as a mechanic's lien on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due the Board may in its discretion accelerate the entire balance of unpaid Regular Assessment or Special Assessments in such event the Owner and any occupant of the Unit will be jointly and severally liable for the payment to the Association of reasonable rental for such Unit and the Board will be entitled to the appointment of a receiver for the purpose of preserving the Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessment or Special Assessments. The Board may at its option bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same or turn the account over to a collection agency. In actions to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Association will be entitled to recover from the Owner of the respective Unit costs including late charges and expenses of such action incurred (including, but not limited to, reasonable attorneys' fees, administration fees and collection fees) and interest from the date such Regular Assessment and/or Special Assessments were due until paid at the rate equal to the

publicly announced prime interest rate then being charged by Bank One, N.A. to its largest and best corporate customer (or if said bank is no longer in existence then such rate charged by another national bank in Indiana selected by the Board of Directors). The lien of the Regular Assessment and/or Special Assessments provided for herein will be subordinate to the lien of any first mortgage.

Section 9. Subordination of the Regular Assessment and/or Special Assessment Lien to Mortgage. Notwithstanding anything contained in the Declaration, the Articles or the By-Laws, any sale or transfer of a Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures will extinguish the lien of any unpaid installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien will not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance will relieve the Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of the Regular Assessment or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessment or Special Assessments, the lien for which has been divested as aforesaid will be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Unit from which it arose).

Section 10. Non-Waiver. The failure or delay of the Association to assess or notify the Owner of any Assessment will not constitute a waiver or release of the Owner's obligation to pay any Assessment as herein provided whenever the same will be determined and, in the absence of any annual estimate or Assessment, the Owner will continue to pay the Assessment at the then existing monthly rate established for the previous year until the Assessment will have been established. No Owner may exempt himself from liability for the Assessment imposed by the restrictive Covenants and these Bylaws.

Section 11. Certificate of Assessment Account. Upon ten (10) days written notice to the Association and payment of a reasonable fee, any Member will be furnished a certificate of his account setting forth the amount of any unpaid Assessment or other charge due or owing from such Member. Any purchaser of a Unit may rely on the accuracy of such certificate and such purchaser will not be liable for, nor will the Unit conveyed be subject to a lien for, any unpaid Assessments against the Member which were incurred prior to the date of such certificate and which are in excess of the amount therein set forth or as such Assessments may be adjusted upon adoption of the final annual budget, as referred to in the Bylaws.

ARTICLE VIII  
Business Management

Section 1. Contracts. The Board may authorize any officer or agent to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, will be signed by such officer or agent of the Association and in such manner as will from time to time be determined by resolution of the Board.

Section 3. Deposits. All funds of the Association not otherwise employed will be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

Section 4. Insurance. The Association, as a Common Expense, may purchase and maintain insurance as determined by the Board.

Section 5. Fiscal Year. The fiscal year of the Association will commence on January 1 and end on December 31 of each year.

Section 6. Books and Records. The Association will keep books of account of its receipts and expenditures specifying and itemizing the maintenance and repair expenses and any other expenses incurred.

Section 7. Bond. The Board of Directors may provide blanket fidelity bonds for the Managing Agent (if any), the treasurer of the Association, and such other officers or directors of the Association that handle or are responsible for funds indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sum and with such sureties as may be approved by the Board of Directors (provided, however, in no event will the aggregate amount of the bond be less than a sum equal to three (3) months aggregate Assessments on all Units) and any such bond will specifically include protection for any insurance proceeds received for any reason by the Board. Fidelity bonds will name the Association as an obligee and will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. Such bonds will provide that they may not be canceled or substantially modified for any reason without at least ten (10) days prior written notice to the Association. The expense of any such bonds will be a Common Expense.

ARTICLE IX  
Amendments

The power to adopt, alter, amend, add to and repeal these Bylaws will be vested in the Board, subject to the subsequent approval of at least fifty-one percent (51%) of the Members of the Association at any annual or special meeting of Members.

The above Bylaws were adopted by the Board and approved by at least fifty-one percent (51%) of the Members on the 30th day of September, 2003.

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MARTHA A. WOMACKS  
MARION COUNTY CLERK

518442 MAR 30 8

ONLY IN FORCE AS TO TRANSACTION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TAXES ETC

FIRST AMENDMENT  
OF  
DECLARATION OF CONDOMINIUM  
AND OF  
EASEMENTS, RESTRICTIONS, AND COVENANTS  
FOR  
BISHOPS POND CONDOMINIUM,  
a condominium

This First Amendment of Declaration (the "Declaration") is for the expansion of a condominium under the Indiana Condominium Act, IC 32-25-1-1, et seq. (the "Condominium Act"), made this 19th day of March, 2004, by **CRAWFORDSVILLE PARTNERS LLC** (the "Declarant Owner"), an Indiana limited liability corporation, and **BRUCE A. GUNSTRA BUILDERS, INC.** (the "Declarant Builder"; Declarant Owner and Declarant Builder will in the aggregate be referred to as "Declarant" unless otherwise noted), an Indiana corporation.

Declarant is the owner of fee simple title to certain Units in a condominium (the "Bishops Pond Condominium"), that was originally established by Declaration of Covenants and Restrictions of Bishops Pond Condominium, dated September 30, 2003, by the Declarant, filed for record on October 8, 2003, with the Office of the Recorder of Marion County, Indiana, as Document Number 2003-0213748, and the Plans recorded therewith, as amended (the "Prior Declaration"). The property subject to the Prior Declaration is located in Pike Township, Marion County, Indiana, and is more particularly described in Exhibit A that is attached hereto and made part hereof by this reference.

The Prior Declaration provided for the expansion of the Bishop Pond Condominium from time to time pursuant to the Condominium Act of the State of Indiana, §32-25-1-1, et seq., as it is amended from time to time, the "Condominium Act."

Declarant now desires to expand the Bishop Pond Condominium and submit Building 14 to Condominium, as it is defined under the Condominium Act, as a part of the Bishops Pond Condominium.



APPROVED THIS 29th  
DAY OF March 2004  
PIKE TOWNSHIP ASSESSOR  
DRAFTSMAN Tyla McBrady

03/30/04 02:58PM WANDA MARTIN MARION CNTY RECORDER  
Inst # 2004-0066020  
JDM 20.00 PAGES: 5



Under the Prior Declaration, so long as Declarant owns any Unit (as defined by the Prior Declaration) within and upon the Property, Declarant has the right to make any amendments to the Prior Declaration, without the approval of any other person or entity, for any purpose reasonably deemed necessary or appropriate by the Declarant.

1. DECLARATION AND SUBMISSION OF THE BUILDING 14 UNDER TERMS AND CONDITIONS OF THE CONDOMINIUM ACT. The Declarant does on this 19th day of March, 2004, create, submit, subject, and declare Building 14 to and as a "Condominium" under the Condominium Act.

2. DECLARATION AND SUBMISSION OF BUILDING 14 UNDER TERMS AND CONDITIONS OF THE PRIOR DECLARATION. The Declarant does on this 19th day of March, 2004, in order to expand Bishops Pond Condominium, submit and subject Building 14 to the Prior Declaration, as it is modified and amended herein.

Further, the Declarant hereby expressly declares that Building 14 will be held, conveyed, and transferred in accordance with the provisions of the Prior Declaration, as amended.

3. MODIFICATIONS OF PRIOR DECLARATION IN REGARD TO BUILDING 14. Declarant further states and expressly declares that Prior Declaration applies to Building 14 except to the extent they are amended and modified as provided in this Declaration. In the event that there is a conflict between the terms of this Declaration and the Prior Declaration, this Declaration will control as to Building 14.

PLANS. Recorded herewith is the Final Plat of Bishops Pond Condominium, First Amendment, Tract Two, a condominium, that includes the floor plans, building plans, and elevations of Building 14 and its Units, and the site plan and survey of the Property as it is improved, certified as true and correct by Roger C. Ward, Registered Professional Engineer Number PE19800489, under date of March 19, 2004, and filed in the Office of the Recorder of Marion County, Indiana, in, as of MARCH 30<sup>TH</sup>, 20 04, as Document Number 2004-0066019 (the "First Amendment Expansion Plans").

Such First Amendment Expansion Plans amend, modify and supplement the Final Plat, dated September 30, 2003, filed for record on October 8, 2003, with the Office of the Recorder of Marion County, Indiana, as Document Number 2003-0213747, to add Building 14 (the "Original Plans"). The Original Plans are incorporated into and made a part of this Declaration by this reference.

4. DESCRIPTION OF UNITS. Each Unit is identified and located on the Plans by unit number. A sufficient legal description of each Unit for all purposes will consist of the identifying number of the Unit, the Building in which the Unit is located, the name of the Condominium, and reference to the recording information of the Declaration.

For Building 14: By way of example: Unit 14-A of the Bishops Pond Condominium may be formally described, conveyed, and referred to as:

*"Unit Number 14-A, Building 14, in the Bishops Pond Condominium, a condominium, according to the FIRST AMENDMENT OF DECLARATION OF CONDOMINIUM AND OF EASEMENTS, RESTRICTIONS, AND COVENANTS FOR BISHOPS POND CONDOMINIUMS, a condominium, dated March 19, 2004, recorded as Document No. 2004-0066019 on MARCH 30<sup>TH</sup>, 2004, in the Office of the Recorder of Marion County, Indiana."*

5. MODIFICATION TO PRIOR DECLARATION IN REGARD TO INTEREST. The second paragraph of Section 9.3 of the Prior Declaration is replaced in its entirety with the following: "The Interest in the Common Areas applicable to each Unit will be determined in accordance with the Formula set forth below. The Interest in the Common Areas currently pertaining to each Unit is 1/12."

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed the day and year first above written.

CRAWFORDSVILLE PARTNERS LLC  
an Indiana limited liability company


BY: \_\_\_\_\_

  
Bruce A. Gunstra, President  
Bruce Gunstra Builders, Inc.

ITS: Member

BRUCE GUNSTRA BUILDERS, INC.  
an Indiana corporation

BY: \_\_\_\_\_

  
Pamela J. Smith

ITS: Assistant Secretary

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION

Before me, a Notary Public in and for said County and State, personally appeared Bruce A. Gunstra, its Member, of CRAWFORDSVILLE PARTNERS LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing First Amendment of Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, for and on behalf of said corporation and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 19<sup>th</sup> day of March, 2004.

Mariann J Reinhardt

Printed:

Mariann J. Reinhardt

County of Residence: Marion

My Commission Expires: June 17, 2011

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION

Before me, a Notary Public in and for said County and State, personally appeared Pamela J. Smith, the Assistant Secretary, of BRUCE GUNSTRA BUILDERS, INC., an Indiana corporation, who acknowledged the execution of the foregoing First Amendment of Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, a condominium, for and on behalf of said corporation and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 19 day of March, 2004.

Mariann J Reinhardt

Printed:

Mariann J. Reinhardt

County of Residence: Marion

My Commission Expires: June 17, 2011

This instrument was prepared by: Thomas R. McCully, Esquire, and Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin LLP, The Life Building, 300 Main Street, Suite 900, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: trm @stuartlaw.com or mmo@stuartlaw.com

#338324v3<iManage> -G&L (Bishops Pond) - First Amendment to Declamatio

EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

Part of the East half of the Southeast quarter of Section 36, Township 17 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at a railroad spike found marking the Southeast corner of said quarter section; thence North 00 degrees 46 minutes 00 seconds West along the East line of said quarter section 70.03 feet; thence South 87 degrees 40 minutes 47 seconds West parallel with the south line of said quarter section 639.46 feet; thence North 14 degrees 42 minutes 03 seconds East 98.36 feet; thence North 25 degrees 01 minutes 53 seconds East 144.03 feet; thence North 00 degrees 46 minutes 00 seconds West 174.73 feet to the beginning point of this description; thence North 00 degrees 46 minutes 00 seconds West 54.07 feet; thence North 04 degrees 20 minutes 26 seconds West 116.83 feet; thence North 84 degrees 18 minutes 20 seconds East 203.74 feet; thence South 05 degrees 41 minutes 40 seconds East 39.06 feet; thence South 00 degrees 48 minutes 51 seconds East 149.09 feet; thence South 89 degrees 11 minutes 06 seconds West 199.18 feet to the point of beginning. Containing 0.830 acres, more or less.



reasonably deemed necessary or appropriate by the Declarant.

1. DECLARATION AND SUBMISSION OF THE BUILDING 3 UNDER TERMS AND CONDITIONS OF THE CONDOMINIUM ACT. The Declarant does on this 26th day of July, 2004, create, submit, subject, and declare Building 3 to and as a "Condominium" under the Condominium Act.

2. DECLARATION AND SUBMISSION OF BUILDING 3 UNDER TERMS AND CONDITIONS OF THE PRIOR DECLARATION. The Declarant does on this 26th day of July, 2004, in order to expand Bishops Pond Condominium, submit and subject Building 3 to the Prior Declaration, as it is modified and amended herein.

Further, the Declarant hereby expressly declares that Building 3 will be held, conveyed, and transferred in accordance with the provisions of the Prior Declaration, as amended.

3. MODIFICATIONS OF PRIOR DECLARATION IN REGARD TO BUILDING 3. Declarant further states and expressly declares that Prior Declaration applies to Building 3 except to the extent they are amended and modified as provided in this Declaration or the First Amendment. In the event that there is a conflict between the terms of this Declaration, the Prior Declaration, and the First Amendment, this Declaration will control as to Building 3.

PLANS. Recorded herewith is the Final Plat of Bishops Pond Condominium, Second Amendment, Tract Two, a condominium, that includes the floor plans, building plans, and elevations of Building 3 and its Units, and the site plan and survey of the Property as it is improved, certified as true and correct by Roger C. Ward, Registered Professional Engineer Number PE19800489, under date of January 22, 2004, and filed in the Office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File \_\_\_\_\_, as of July 29<sup>th</sup>, 2004, as Document Number 2004-0148631 (the "Second Amendment Expansion Plans").

Such Second Amendment Expansion Plans amend, modify and supplement the Final Plat, dated September 30, 2003, filed for record on October 8, 2003, with the Office of the Recorder of Marion County, Indiana, as Document Number 2003-0213747, to add Building 3 (the "Original Plans"). The Original Plans are incorporated into and made a part of this Declaration by this reference.

4. DESCRIPTION OF UNITS. Each Unit is identified and located on the Plans by unit number. A sufficient legal description of each Unit for all purposes will consist of the identifying number of the Unit, the Building in which the Unit is located, the name of the Condominium, and reference to the recording information of the Declaration.

For Building 3: By way of example: Unit 3-A of the Bishops Pond Condominium may be formally described, conveyed, and referred to as:

*"Unit Number 3-A, Building 3, in the Bishops Pond Condominium, a condominium, according to the SECOND AMENDMENT OF DECLARATION OF CONDOMINIUM AND OF EASEMENTS,*

*RESTRICTIONS, AND COVENANTS FOR BISHOPS POND  
CONDOMINIUMS, a condominium, dated*

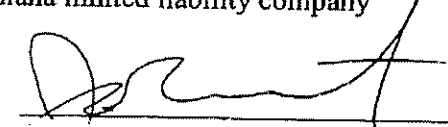
*\_\_\_\_\_ , recorded as Document No.  
2004-0148631 on July 29<sup>th</sup>, 20 04, in the  
Office of the Recorder of Marion County, Indiana."*

5. MODIFICATION TO PRIOR DECLARATION IN REGARD TO INTEREST.  
The second paragraph of Section 9.3 of the Prior Declaration is replaced in its entirety with the following: "The Interest in the Common Areas applicable to each Unit will be determined in accordance with the Formula set forth below. The Interest in the Common Areas currently pertaining to each Unit is 1/19th."

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed the day and year first above written.

CRAWFORDSVILLE PARTNERS LLC  
an Indiana limited liability company

BY:

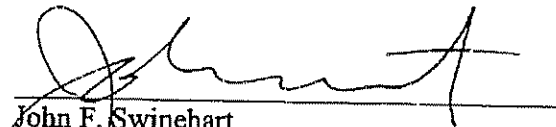


ITS:

JOHN F. SWINEHART  
CFO

BRUCE GUNSTRA BUILDERS, INC.  
an Indiana corporation

BY:



ITS:

John F. Swinehart  
Assistant Secretary

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State, personally appeared John F. Swinehart its CFO, of CRAWFORDSVILLE PARTNERS LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing First Amendment of Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, for and on behalf of said corporation and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day of July, 2004.

Marriann J. Reinhardt

Printed: Marriann J. Reinhardt

County of Residence: Marion My Commission Expires: June 17, 2011

STATE OF INDIANA )  
 ) SS:  
COUNTY OF TIPPECANOE )

Before me, a Notary Public in and for said County and State, personally appeared Jonh F. Swinehart, the Assistant Secretary, of BRUCE GUNSTRA BUILDERS, INC., an Indiana corporation, who acknowledged the execution of the foregoing First Amendment of Declaration of Condominium and of Easements, Restrictions, Covenants and Bylaws for Bishops Pond Condominium, a condominium, for and on behalf of said corporation and who, having been duly sworn stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day of July, 2004.

Marriann J. Reinhardt

Printed: Marriann J. Reinhardt

County of Residence: Marion My Commission Expires: June 17, 2011

This instrument was prepared by: Thomas R. McCully, Esquire, and Marianne Mitten Owen, Esquire, of the firm of Stuart & Branigin LLP, The Life Building, 300 Main Street, Suite 900, Lafayette, Indiana 47902-1010. Telephone: (765) 423-1561; Facsimile: (765) 742-8175; E-mail: trm@stuartlaw.com or mmo@stuartlaw.com

#338324v3<Manage> -G&L (Bishops Pond) - First Amendment to Declamatio



EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

Part of the East half of the Southeast quarter of Section 36, Township 17 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at a railroad spike found marking the Southeast corner of said quarter section; thence North 00 degrees 46 minutes 00 seconds West along the East line of said quarter section 70.03 feet; thence South 87 degrees 40 minutes 47 seconds West parallel with the South line of said quarter section 15.01 feet to the West right-of-way line of Coffman Road; thence continue South 87 degrees 40 minutes 47 seconds West along the described course 624.45 feet; thence North 14 degrees 42 minutes 03 seconds East 98.36 feet; thence North 25 degrees 01 minutes 53 seconds East 144.03 feet; thence North 00 degrees 46 minutes 00 seconds West 174.23 feet; thence North 89 degrees 11 minutes 06 seconds East 199.18 feet; thence North 00 degrees 48 minutes 51 seconds West 117.60 feet to the beginning point of this description and point of curvature of a curve concave southeasterly and having a radius of 15.00 feet; thence northeasterly along said curve through a central angle of 90 degrees 02 minutes 51 seconds an arc length of 23.57 feet to the point of tangency, said curve being subtended by a chord bearing North 44 degrees 12 minutes 35 seconds East 21.22 feet; thence North 89 degrees 14 minutes 00 seconds East 150.88 feet to the point of curvature of a curve concave southwesterly and having a radius of 15.00 feet; thence southeasterly along said curve through a central angle of 90 degrees 00 minutes 00 seconds an arc distance length of 23.56 feet, said curve being subtended by a chord bearing South 45 degrees 46 minutes 00 seconds East 21.21 feet; thence North 89 degrees 14 minutes 00 seconds East 24.00 feet; thence North 00 degrees 46 minutes 00 seconds West 134.98 feet; thence South 89 degrees 14 minutes 00 seconds West 213.83 feet; thence South 05 degrees 41 minutes 40 seconds East 103.88 feet; thence South 00 degrees 48 minutes 51 seconds East 31.49 feet to the point of beginning. Containing 0.585 acres, more or less.