

CHATHAM WALK
2ND SECTION

DAY OF Dec 1971
AUDITOR OF MARION COUNTY
R. M. Blair CLERK



10286
W. J. SCHNEIDER, Reg. Land Surveyor - Indiana #10286

undersigned, FALCERD HOMES CORP /INDIANA, an Indiana corporation, by Frederick J. Falcerd, its President, William R. Fox, its Vice President and the Indiana National Bank Trustee by W.B. French, Vice President and Trust Officer, being the owner of the above described realty, does hereby lay off, plat and subdivide the same into lots, common properties, easements, and other facilities for beneficial use and enjoyment thereof:

Lots designated upon the plat as lots numbered 40 through 113, inclusive, are hereby reserved for single family, residential use, and shall have erected thereon dwelling units containing not less than 600 square feet of ground floor area in the case of a one-story structure or 525 square feet of ground floor area in the case of a higher than one-story structure, exclusive of garages, open porches and patios.

Said property is hereby restricted, to residential dwellings for residential use. All buildings or structures erected upon said property shall be of new construction and no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures other than townhouse apartment buildings, being single family townhouses joined together by a common exterior wall and foundation, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said property at any time as a residence either temporarily or permanently.

Each lot shall be conveyed as a separately designated and legally described feehold estate subject to the terms, conditions and provisions hereof.

Air rights easements for wall irregularities and extension roofs, eaves, overhangs, fixtures and overalls which are a part of the initial architectural design and construction of buildings upon the lots, in this addition, are hereby reserved, however any utilization of such air right easement, following transfer of title to a single lot, shall be undertaken upon approval of the Architectural Committee, as hereinafter more particularly set forth in paragraph 10 below.

Utility easements for installation and maintenance of utilities, including storm and sanitary sewers, and drainage, gas, water, telephone, and power lines, are reserved in areas designated "Common Property" shown on the recorded plat and additional reservations may be made by separate recorded instrument. Electric and telephone utilities shall have the right to install and to maintain wires, connection and related equipment for all dwelling units with a single structure at one or more common locations designated on the plat and the exterior of such structure and shall have the right to enter upon any lot upon which the same may be located to repair, remove, replace service, and read the same for so long as such utility service shall be made available to such structure or to any replacement thereof.

No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unlighted objects, or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in any way or for any purpose which may endanger the health or safety of the neighborhood or the honor of any townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said property; provided, however, that the foregoing provisions shall not apply to the business activities, signs, and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sales period and of Chatham Walk Townhouses, Inc., a not-for-profit corporation incorporated under the laws of the State of Indiana, its successors and assigns, in furtherance of its purposes and purposes hereinafter set forth.

All closets, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept enclosed by screens, fencing or fencing no up to conceal them from the view of neighboring townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All closets shall be confined to patio areas.

Except in the individual patio areas appertaining to a townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Architectural Board of Directors or their designated representatives. Except for the right of access and egress, the owners of lots are hereby prohibited and restricted from using any of said property outside the exterior building lines, patio and carport areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this covenant is for the mutual benefit of all owners of lots in Chatham Walk Townhouses, Inc., and is necessary for the protection of said owners.

Each wall which is built as a part of the original construction of the space upon the properties and encloses two dwelling units shall constitute a party wall, and to the extent not inconsistent with the provisions of these restrictions, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Exterior alterations, additions or changes to any building situated upon the lots shown, or changes in fences, hedges, walls, structures and paved areas, shall be commenced, erected, or maintained, only on submission of plans and specifications to be approved in writing, as to harmony of exterior design and location in relation to surrounding structures and topography by an architectural committee composed of the Board of Directors of Chatham Walk Townhouses, Inc., or by three (3) or more representatives appointed by the Board, all as more particularly set forth in said Declaration of Covenants and Restrictions.

Parking, private drives and walkway easements, as shown on the plat or in the case of walkways as indicated in Common Properties, are reserved for the common use and enjoyment of the owners of lots in this addition and any neighboring sections or subdivisions within their families and families. All parking areas shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pick-ups and deliveries. All parking lots, and shall not be used for storage of disabled vehicles. No vehicles, bicycles, toys or other private property shall be allowed to obstruct any sidewalk within said parking, private drive or walkway easements, or within any common property area, nor shall same be stored in open alleys, building walls or other locations of public view.

Common properties as shown on the plat including the Community Building, are reserved for the common use and enjoyment of the owners of lots in this addition and any neighboring sections or subdivisions within their families and families, subject to rules and regulations governing such use and enjoyment as may be adopted by Chatham Walk Townhouses, Inc., its successors or assigns. All land depicted upon the plat which is not a reserved lot or otherwise specifically designated, is hereby declared a designated common property, but shall not be dedicated to public use.

Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to compel damages and against the land to enforce any lien created by these covenants or restrictions contained in said Declaration of Covenants and Restrictions; and failure by Chatham Walk Townhouses, Inc., and the Metropolitan Development Commission, its successors or assigns, or any owner to enforce any of said covenants or restrictions shall in no event be deemed a waiver of the right to do so thereafter.

Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no wise affect any other provisions which shall remain in full force and effect.

These covenants and restrictions shall run with and bind the land, and shall inure to the benefit of and be enforceable by Chatham Walk Townhouses, Inc. or the owner of any lot in this addition, their respective legal representatives, heirs, successors and assigns, for a term of 25 years from the date this plat is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the two owners of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

STATE OF INDIANA) I, Frederick J. Falcerd, a Notary Public in and said County and State personally appeared
COUNTY OF MARION) Falcerd Homes Corp./Indiana, by Frederick J. Falcerd, President, William R. Fox, Vice President and W.B. French, Trust Officer, owners and acknowledged the execution of the above foregoing instrument, as its voluntary act and deed.

DULY ENTERED FOR TAXATION
BY: Frederick J. Falcerd PRESIDENT
BY: William R. Fox VICE PRESIDENT
WILLIAM F. FOX

FALCERD HOMES CORP./INDIANA
INDIANA NATIONAL BANK, TRUSTEE
BY: W.B. French VICE PRESIDENT AND TRUST OFFICER

Witness my Signature and notarial seal 28th day of December 1971
My Commission Expires June 9, 1975

020188 JAN 15 71

NW COR NW 1/4
SEC. 31-16-5E

N 89°54'37"E - 330.00'

NORTH LINE NW 1/4 SEC. 31

RECEIVED
21 JUL 15 PM 10:48

S 00°00'15"E
450.00'

BEGINNING POINT

S 89°54'37"W - 263.34'

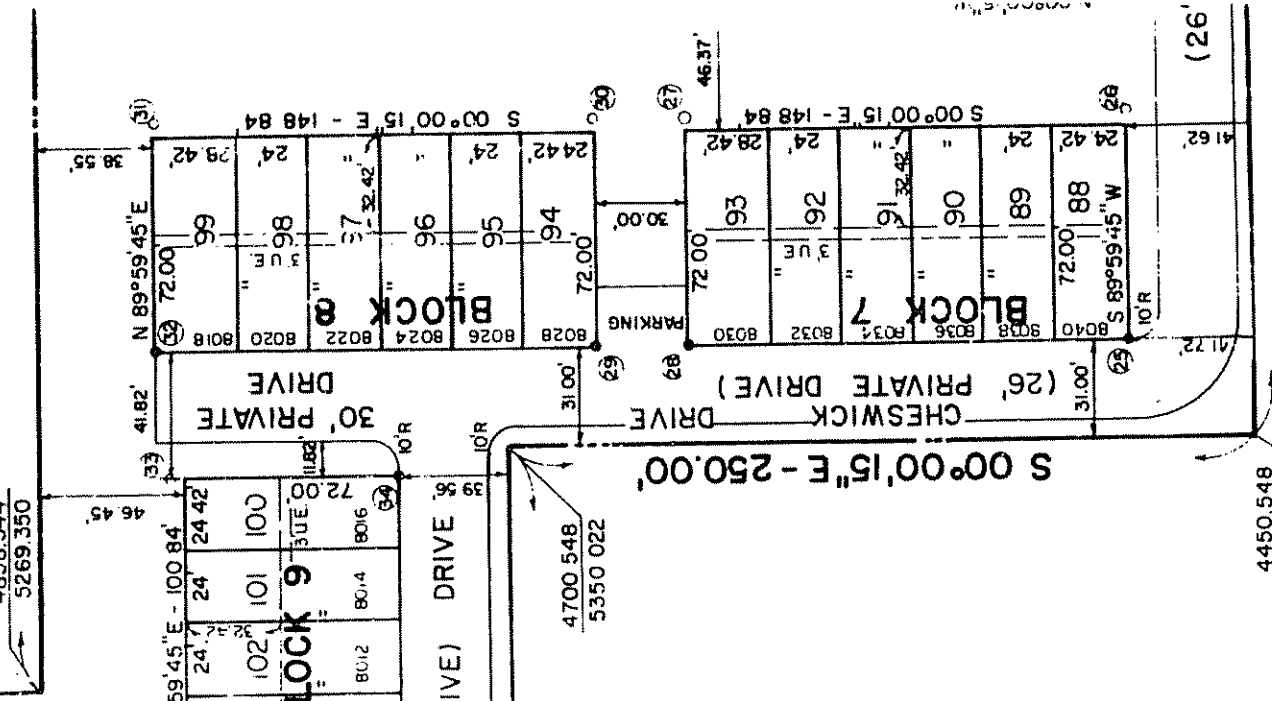
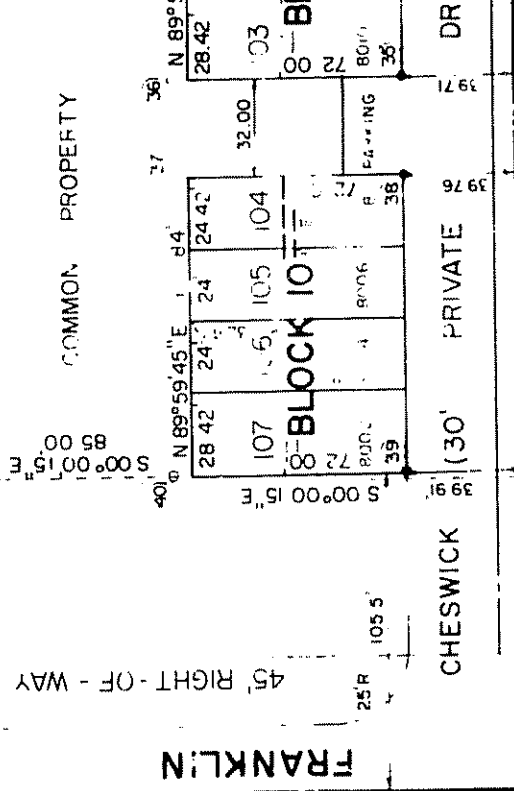
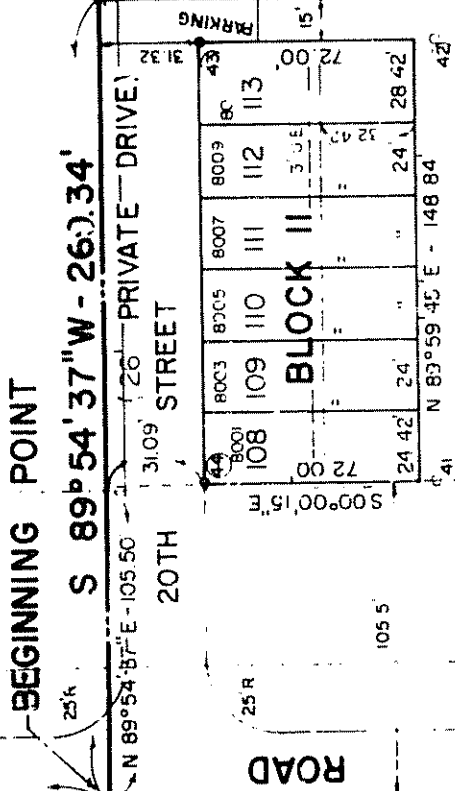
N 89°54'37"E - 105.50'

5000.424

5269.340

N 00°00'15"W
141.88'

MON. DES.	NORTHING		MON. DES.
	EASTING		
1	4835.623		10
7	6032.004		11
3	4758.623		17
4	6032.009		13
4	4758.610		14
5	5857.169		15
4	4835.610		16
5	5857.164		17
6	4830.602		8
7	5745.104		
7	4655.762		
8	5745.177		
8	4655.767		
9	5822.177		
9	4651.610		
	5857.177		



FINAL APPROVAL
PLAT COMMITTEE
METROPOLITAN POLICE DEPARTMENT CHESWICK
DRIVE

January 14 74
PROPERTY OF THE
HEARING BOARD
SECRETARY, PLAT COMMITTEE



NOTE

THE RESPECTIVE BLOCKS OF LAND DEPICTED IN THIS PLAT SHALL BE NUMBERED WITH NUMBERS ALL POINTS AS LOCATED TAKE PRIORITY OVER COURSES AND DISTANCES

CHATHA SECOND

NOTE

● - INDICATES BRASS PIN W. PLATE ON BLOCK CORNER.

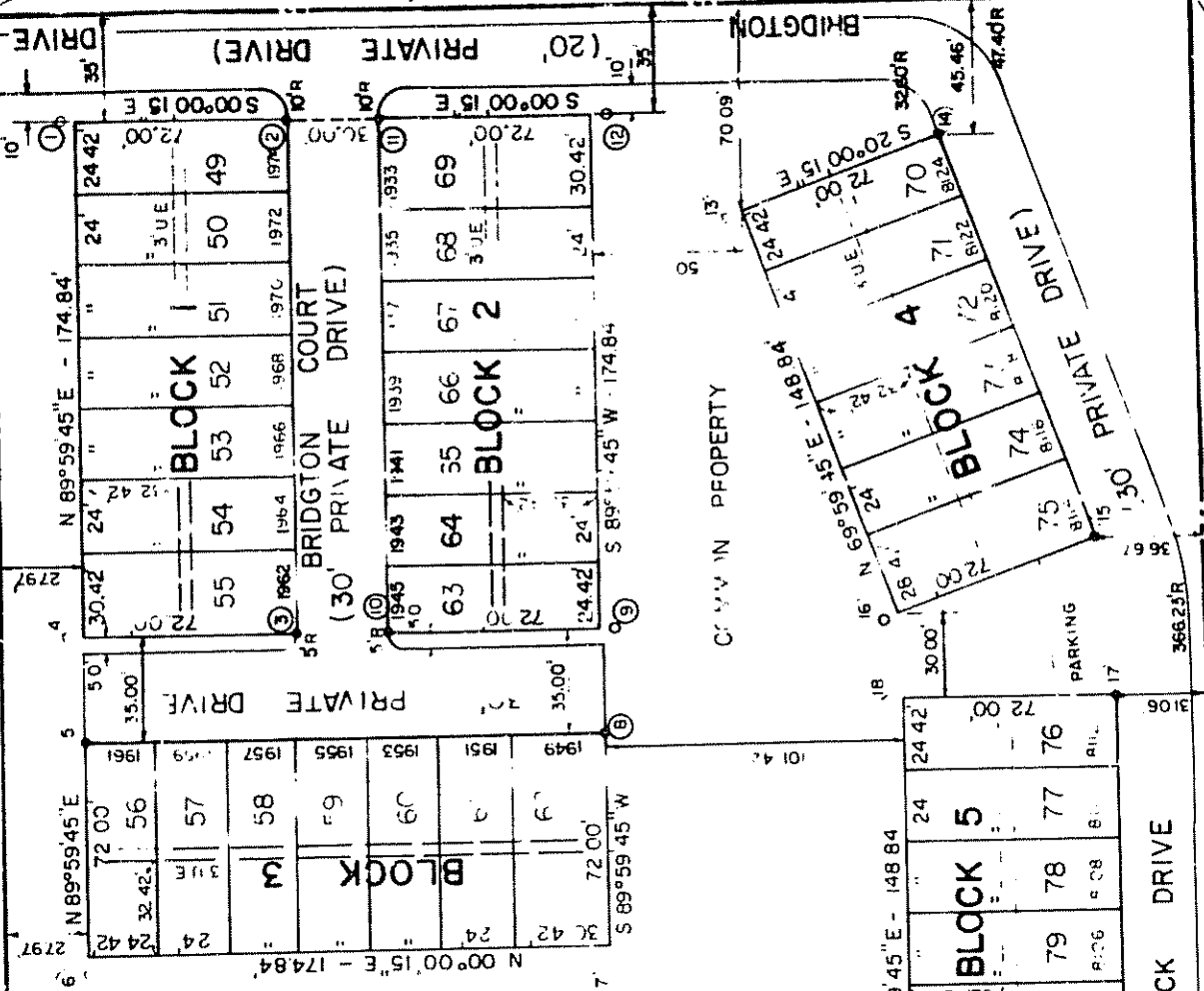
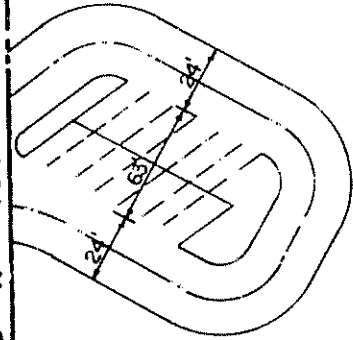
○ - INDICATES CONCRETE MONUMENT LOCATED 5 FEET OFF BLOCK CORNER

MON DES.	NORTHING EASTING
19	4559.343
20	5678.235
21	4482.343
22	5678.740
23	4482.341
24	5640.740
25	4559.341
26	5648.735
27	4559.330
28	5499.395
29	4482.330
30	5499.400
31	4492.321
32	5381.035
33	4492.326
34	5458.035
35	4641.166
36	5658.024

MON DES.	NORTHING EASTING
28	4641.161
29	5381.024
30	4671.110
31	5381.022
32	4571.166
33	5458.022
34	4870.006
35	5458.011
36	4420.001
37	5381.011
38	4817.697
39	5339.110
40	4740.090
41	5339.198
42	4740.081
43	5254.350
44	4617.083
45	5738.235

MON DES.	NORTHING EASTING
37	4817.081
38	5206.353
39	4740.081
40	5206.358
41	4740.074
42	5105.518
43	4817.074
44	5105.513
45	4892.074
46	5105.507
47	4892.085
48	5254.347
49	4969.085
50	5254.347
51	4969.074
52	5105.502

S 89°59'45" W - 797.66'



4858.602
6067.010

N 89°54'37" E - 717.00'

4451.67
6067.03

NOTE:

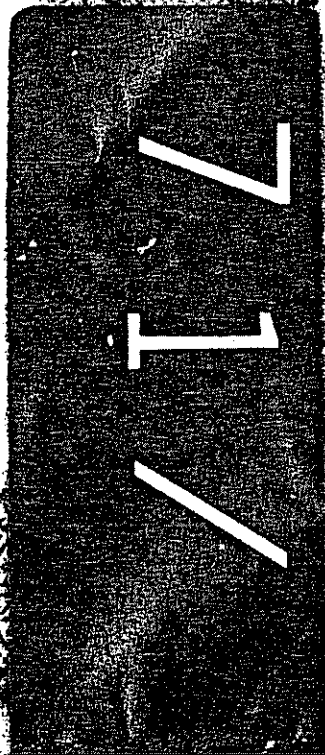
	SQ. FT.	COMMON PROPERTY
255,597.36	"	"
13,500	"	R/W
116,582.88	"	BLOCKS
385,680.24	"	TOTAL (8.854 AC.±)

WALK SECTION

e fractional Northwest Quarter of Section 31, Township 16 North of Range 5 East in Marion County.

37 seconds East upon and along the North line of said Quarter Section a distance of 390.00 feet Quarter Section a distance of 450.00 feet to the POINT OF BEGINNING OF THIS DESCRIPTION; thence to a point; thence North 88 degrees 51 minutes 37 seconds East and parallel with said North line with said West line a distance of 350.90 feet to a point; thence North 89 degrees 54 minutes 37 seconds 00 minutes 15 seconds West and parallel with said West line a distance of 406.93 feet to a North 00 degrees 00 minutes 15 seconds West and parallel with said West line a distance of 141.88 distance of 269.34 feet to the POINT OF BEGINNING, containing 8.854 acres, more or less.

ves and common property as shown on the within plat. The size of lots, common property and widths



or - Indiana #10286

Indiana National Bank Trustee by W.B. French,
properties, walkways, and other facilities for

ated thereon living units containing not less than
one-story structure, exclusive of garages, open porches and patio

any new construction and no buildings or structures

Chatham Walk - Sec 2

71 6715

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Valender Homes Corp./Indiana, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Indianapolis, County of Marion, State of Indiana:

A part of the fractional Northwest Quarter of Section 31, Township 16 North of Range 5 East in Marion County, Indiana, being more particularly described as follows, to wit:

Commencing at the Northwest corner of said Northwest Quarter Section thence North 89 degrees 54 minutes 37 seconds East upon and along the North line of said quarter section a distance of 330.00 feet to a point; thence South 00 degrees 00 minutes 15 seconds East and parallel with the West line of said quarter section a distance of 450.00 feet to the point of beginning of this description; thence South 00 degrees 00 minutes 15 seconds East and parallel with said West line a distance of 300.00 feet to a point; thence North 89 degrees 54 minutes 37 seconds East and parallel with said North line a distance of 350.00 feet to a point; thence South 00 degrees 00 minutes 15 seconds East and parallel with said West line a distance of 250.00 feet to a point; thence North 89 degrees 54 minutes 37 seconds East and parallel with said North line a distance of 717.00 feet to a point; thence North 00 degrees 00 minutes 15 seconds West and parallel with said West line a distance of 406.93 feet to a point; thence South 89 degrees 59 minutes 45 seconds West a distance of 797.66 feet to a point; thence North 00 degrees 00 minutes 15 seconds West and parallel with said West line a distance of 141.88 feet to a point; thence South 89 degrees 54 minutes 37 seconds West and parallel with said North line a distance of 269.34 feet to the point of beginning, containing 8.854 acres, more or less.

This subdivision consists of 65 lots numbered 49 through 113, both inclusive, together with private drives and common property as shown on the private plat. The size of lots, common property and widths of private drives are shown in figures denoting feet and decimal parts thereof.

RECEIVED FOR RECORD
71 FEB 16 PM 2:40
RECORDED BY
RECORDER OF MARION CO.

71 6715

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Chatham Walk Townhouses, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All areas designated "Common Area" on the

recorded plat of Chatham Walk, recorded as Document #77-2005 in the Office of the Recorder of Marion County, Indiana.

Section 5. "Lots" shall mean and refer to any plot, plots, or parts of plots of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area, upon which one dwelling unit is constructed.

Section 6. "Declarant" shall mean and refer to Falender Homes Corp./Indiana, its agents and employees, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Class I Lots" shall mean and refer to any Lot upon which there is a residence or single family unit which has been completed as evidenced by a FHA or VA notice of final inspection, or other appropriate evidence of compliance.

Section 9. "Class II Lots" shall mean and refer to any vacant Lot or Lot upon which a residence or single family unit has not been completed.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) the right of the Association to limit the number of guests of members.

(e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said properties and the rights of such mortgagee in such properties shall be sub-ordinate to the rights of the homeowners hereunder.

(f) the right of the Association, through its Board of Directors, to determine the time and manner of use of the recreation facilities by the members.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or,
- (b) on June 30, 1972

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the

Properties, hereby covenants, and each owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to the Owner, the maximum annual assessment shall be four Hundred Twenty Dollars (\$420.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the minimum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized

Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty days nor more than sixty days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum

at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Class I Lots, and Class II Lots, although the assessments on all Class II Lots shall be fixed at 14% of the assessment upon all Class I Lots.

Section 7. Date of Commencement of Annual Assessments:

Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the owner of each Lot one twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments:

Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 8 percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a lot, hereby expressly vests in the Chatham Walk Townhouses, Inc., or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as mortgage or deed of trust lien on a real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of all other Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an

insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not effect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority, the Common Area, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Indiana shall be exempt from the assessment created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy

of all such agreements shall be available to each owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled by an affirmative vote of sixty percent (60%) of the votes of each class of the Members of the Association. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings, including all townhouses, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Area, and all damage or injury caused by the negligence of the

Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual townhouses, shall be common expenses. All such insurance coverage, including insurance on individual townhouses obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhouse owners in equal proportions. Insurance on individual townhouses obtained by such townhouse owners may be written in the name of the individual Owners. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses so covered and a debt owed by the Owners, and shall be collectible by any lawful procedure permitted by the laws of the State of Indiana. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall continue to be such lien until fully paid. This lien shall be subordinate to the lien of any first mortgagee and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In addition to the aforesaid insurance required to be carried by the Owners and/or the Association, any Owner may, if he wishes, at his own expense, insure his own townhouse unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own

expense to provide, as he sees fit, homeowners liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal Governmental Agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstructions or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged townhouses in such proportions as the Board of Directors deem fair and equitable in the light of

the damage sustained by such townhouses to make up any deficiency, except that the special assessment shall be levied against all townhouse Owners, as established by Article VI, Section 4, above, to make up any deficiency for repair or rebuilding of the common area not a physical part of a townhouse unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners in such proportions as the Board of Directors deem fair and equitable in light of the damage sustained by such town houses. Such payments shall be made to all such owners and their mortgagees as their interests may then appear. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual owner, said owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the townhouse in a good workmanlike manner in conformance with the original plans and specifications of said townhouses. In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse area within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhouse in a good and workmanlike manner in conformance with the original plans and specifications of the townhouses. The owner shall upon repay

the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided above in this Section securing the payment of insurance premiums; and subject to foreclosures as above provided.

Notwithstanding the foregoing provisions of this Section 12, it is further provided that the requirement for the maintenance of insurance on a townhouse shall not apply to any townhouse acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board.

In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted

to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and connects two dwelling units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance 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 shall 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 or willful acts or omissions.

Section 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 shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.)

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. (Such exterior maintenance shall not include glass surfaces, screens and screen doors, exterior door and window fixtures and other hardware and patios.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, and not covered or paid for by insurance on such Lot, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction and no buildings or structures shall be moved from other locations onto said Property and no subsequent buildings or structures other than townhouse apartment buildings, being single family townhouse joined together by a common exterior roof and foundation, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said Property at any time as a residence either temporarily or permanently.

Section 2. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said Townhouses to maintain during the period of construction and sale of said Townhouses, upon such portion

of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 5. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sale period and of Chatham Walk Townhouses, Inc, a not-for-profit corporation incorporated or to be incorporated under the laws of the State of Indiana, its successors, and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 6. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 7. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, patio and carport areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots in Chatham Walk Townhouses, Inc., and is necessary for the protection of said Owners.

Section 8. Maintenance, upkeep and repairs of any patio, screens and screen doors, exterior door and window fixtures, and other hardware shall be the sole responsibility of the individual Owner of the Lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of

the Common Area and all exteriors and roofs of the Townhouses, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative.

Section 9. All fixtures and equipment installed within a Townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another Townhouse or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 11. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

ARTICLE IX
EASEMENTS

Section 1. Each Townhouse and the Property included in

the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouse units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over and under all of said Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by

the Association to enter in or to cross over the Common Area and any Townhouse to perform the duties of maintenance and repair of the Townhouses or Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on Said Property without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said premises.

Section 3. Underground Electric Service:

- A. Underground single phase electric service shall be available to 126 residential Townhouses on the aforesaid Lots and to the recreation building to be constructed on the Common Area, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have an easement as designated on the recorded plat thereof.
- B. For so long as such underground service is maintained, the electric service to each Townhouse and the recreation building

shall be uniform and exclusively of the type known as single Phase, 120/240 volt, 3 wire, 60 cycle alternating current.

C. Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements of the Owner located on the land covered by said easements.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation of Additional Property

A. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all Class A members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of Class A members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership are not present in person or by proxy, Class A members not present may give their written consent to the action taken thereat.

B. Additional land adjacent to Chatham Walk may be annexed by the Declarant without the consent of members within five (5) year of the date of this instrument provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veteran's Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Gender and Number. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions herein apply either to corporations or individuals, man or woman, shall in all cases be assumed as though in each case fully intended.

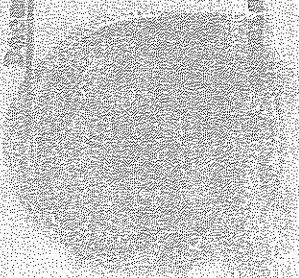
IN WITNESS WHEREOF, the undersigned this 4th day of December, 1970.

FAYWOOD MASS CON. / DEDICATED

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Falender Homes Corp./Indiana by Fredrick J. Falender, its President _____ and William R. For, Jr., its _____ Assistant Secretary _____ who acknowledged the execution of the foregoing instrument as the free and voluntary act of the Corporation.

Witness my hand and Notarial Seal this 4th day of January, 1970.



[Signature]
Notary Public

Commission expires April 1, 1974.

This instrument was prepared by D. Richard Kessler, Attorney at Law, 412 Union Federal Building, Indianapolis, Indiana. 65204.

12/5/89
890105314

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
TOWNHOMES OF CHATHAM

THIS DECLARATION made this 9th day of June, 1989, by John Irish and Jack Irish, d/b/a J & J Realty and Keith A. Peterson hereinafter collectively referred to as ("Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real estate in Marion County, State of Indiana, more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof ("Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with parking spaces, open spaces, walls, fences and other common facilities and amenities for the benefit of such residential community, to be known as the Townhomes of Chatham; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common facilities therein contained, and, to this end, Declarant desires to subject the Real Estate to certain rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the

powers of owning, maintaining and administering any common facilities located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name of Townhomes of Chatham Homeowners Association, Inc., or a similar name, as such agency for the purpose of exercising such functions.

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the lots situated therein.

ARTICLE I

Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Not-For-Profit Corporation Action of 1971, as amended;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Architectural Review Board" shall mean and refer to that Committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;
- (d) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for the Articles, By-Laws and the Declaration;
- (f) "Buildings" shall mean and refer to the structures consisting of the "Dwelling Units";
- (g) "By-Laws" shall mean and refer to the Code of By-Laws of the Corporation, as the same may be amended from time to time;
- (h) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Properties, all sums lawfully assessed against the Owners by the Corporation, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (i) "Common Properties" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not lots, (ii) to the extent herein established, such

portions of the Real Estate as are herein declared to be Common Properties even though located on or constituting part of one or more Lots, including but not limited to recreational easements, (iii) to the extent herein established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Properties whether located, installed or established entirely or partially on Lots or portions of the Real Estate which are not Lots, or both; and (iv) items deemed Common Properties for purposes of maintenance;

(j) "Corporation" shall mean and refer to Townhomes of Chatham Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused to incorporate under such name or a similar name, its successors and assigns;

(k) "Declarant" shall mean and refer to John Irish and Jack Irish, doing business as J & J Realty and Keith A. Peterson, and any successors or assigns whom they designate in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

(l) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family, whether such dwelling is detached or attached to another Dwelling Unit;

(m) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Properties) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit, as designated by Declarant by its deed of the same to another person.

(n) "Mortgagee" shall mean and refer to the holder of any recorded first mortgage lien on a Lot or Dwelling Unit;

(o) "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot, but in any event shall not include or mean to refer to a mortgagee or tenant, unless and until such mortgagee or tenant has acquired title to any Lot, in which case such mortgagee or tenant shall be an Owner;

(p) "Person" shall mean and refer to an individual, firm,

corporation, partnership, association, trust, or other legal entity, or combination thereof;

(q) "Plat" shall mean and refer to the subdivision plat or plats of the Real Estate (and any additional real estate annexed to the Real Estate) recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented;

(r) "Real Estate" shall mean and refer to "the parcel of real estate in Marion County, Indiana, described in the first recital clause of this Declaration, and defined therein as the Real Estate, or to any parcel of real estate which may become subject to this Declaration by annexation;

(s) "Restrictions" shall mean and refer to the agreements, covenants, conditions, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;

(t) "Townhome" shall mean and refer to the Dwelling Units which are a part of the Buildings.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II

Declaration: Common Properties and Rights Therein: Kasmamenta

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred, and occupied subject to the Restrictions. Subsequent owners or contract purchasers of any Lot, whether (i) by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall accept such deed or execute such contract.

subject to each Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, each Owner or contract purchaser acknowledges the rights and powers of Declarant and of the Corporation with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Corporation, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

Section 2. Easement to Owner Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Properties, subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

Section 3. Easement to Corporation. Declarant hereby grants a non-exclusive easement in favor of the Corporation for the maintenance of the Common Properties (including items deemed Common Properties for maintenance, including but not limited to Townhome lawns). Such easement shall permit the Corporation or its agents to enter onto any Lot to make emergency repairs or to do other work reasonably necessary for the property maintenance or operation of the Townhome development and to enter onto any Lot for the purpose of reconstruction and restoration in the event of casualty. Maintenance shall include, but not be limited to, maintenance of utilities which serve more than one Dwelling Unit and

utilities owned and utilized by the Corporation.

Section 4. Encroachment Easements. If any portion of the Common Properties encroaches on any Dwelling Unit or any Dwelling Unit encroaches upon the Common Properties or another Dwelling Unit or Lot as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement shall be deemed to exist and run to the Corporation or to the Owner of the encroaching Lot or improvement for the encroachment and for the maintenance thereof so long as such encroachment exists.

ARTICLE III

Obligations of Declarant

As to the Common Properties: Dedication

Section 1. Agreement to Construct and Convey Other Common Properties. Declarant has constructed or provided for, or will construct or provide for, Common Properties consisting of the following items:

- (a) installation of utility equipment, facilities and systems to serve the Townhomes and the Common Properties; and
- (b) perimeter treatment of the Real Estate, including driveways and landscaping.

Upon final construction or provision of the Common Properties described in this Section 1, and prior to the closing of the first sale of a lot subject to the Declaration, Declarant covenants to convey all of its right, title and interest in and to such Common Properties to the Corporation,

and all such right, title and interest in and to such items (whether owned in fee, by leasehold or in the nature of an easement or license) shall then be the property of the Corporation, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Properties located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein, as described in Article II, Section 2 of this Declaration.

ARTICLE IV

Corporation: Membership: Voting: Functions

Section 1. Membership in Corporation. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and member of the Corporation.

Section 2. Voting Rights. The Corporation shall have two (2) classes of membership, with the following voting rights:

(a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each such 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 Lot, all such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot.

(b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B member shall be entitled to two (2) votes for each Lot of which it is the Owner on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or (ii) December 31, 1989 (the "Applicable Date").

Section 3. Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Properties, to pay taxes assessed against and payable with respect to the Common Properties, to pay any other necessary expenses and costs in connection with the Common Properties, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE V

Board of Directors

Section 1. Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of

the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be comprised of the persons designated in the Articles, ("Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the Applicable Date, 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 shall be filled by a person appointed by Declarant, who shall 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 to fill a vacancy, shall be deemed a member of the Corporation and an Owner solely for the purpose of qualifying to act as member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot (as defined herein) and thereby a member of the Corporation).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership,

corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee thereof, shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

Section 4. Term of Office and Vacancy. Subject to Section 2 of this Article V, the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. The Board of Directors shall be elected for a term of three (3) years. Each Director shall 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 V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. 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 shall be elected at the same meeting from eligible Owners nominated at the meeting. If no eligible Owner is available, the Directors may choose to operate as a Board despite the vacancy, until a new Owner becomes eligible. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Properties (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may but shall not be required to, on behalf of the Corporation, employ a reputable property management agent ("Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) maintenance, repair, replacement and upkeep of the Common Properties (or items deemed Common Properties for purposes of maintenance);
- (b) protection, surveillance and replacement of the Common Properties, unless the same are otherwise the responsibility or duty of Owners of Lots or Dwelling Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, 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 may, but need not be, furnished;
- (c) maintenance of utilities used in connection with the Lots and Dwelling Units in the Townhome Area;
- (d) removal of trash and waste from the Real Estate as the same may be needed;
- (e) snow removal from the Common Properties and from streets dedicated to the public;
- (f) assessment and collection from the Owners of the Owner's respective share of the Common Expenses;
- (g) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (h) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (i) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Properties and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (j) procuring and maintaining for the benefit of the Corporation 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; and
- (k) paying taxes assessed against and payable with respect to the Common Properties and paying any other

necessary expenses and costs in connection with the Common Properties;

- (l) making available to Owners and Mortgagees, and to holders, insurers or guarantors of any first mortgage, current copies of this Declaration, the By-Laws or other rules concerning the Community and the books, records and financial statements of the Corporation. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances;
- (m) making available to any Mortgagee or any holder, insurer or guarantor of a first mortgage, upon request, a copy of the Corporation's audited financial statement for the immediately preceding fiscal year free of charge to the party making such request.

Section 7. Powers of the Board of Directors.

The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers shall include, but not be limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties; provided that no employment agreement with the Declarant (or any entity affiliated with the Declarant) as Managing Agent or for any other service shall be for more than three (3) years after the Applicable Date and further provided that after subject to termination by either party without cause and without payment of termination fee upon ninety (90) days written notice to the other party;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgement 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 Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors

maybe necessary for the maintenance, upkeep, repair and replacement of the Common Properties;

- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of the such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Properties (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners.

Section 8. Limitation on Board Action. The Board's powers are subject to the following limitations:

- (a) After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

- (i) contracts for replacing or restoring portions of the Common Properties damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (ii) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (iii) expenditures necessary to deal with emergency conditions for which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

(b) The Board shall not, without the prior written approval of at least Sixty Six and two thirds percent (66.66%) of the Owners (other than Declarant) and Mortgagees (whose mortgage interests have been made known to the Board of Directors) holding mortgages on Dwelling Units which have at least Sixty Six and two thirds percent (66.66%) of the votes of Dwelling Units subject to mortgages:

(i) by act or omission abandon, partition, subdivide, encumber, sell or transfer the Common Properties owned by the Corporation (provided, however, that the granting of easement for public utilities or for other public purposes shall not be deemed a transfer with the meaning of this clause);

(ii) by act or omission change, waive or abandon any scheme of regulation, or enforcement thereof, pertaining to the architectural design of the exterior appearance of Dwellings, the exterior maintenance of Dwellings, the maintenance of side walls in the Common Properties or common fences, or the upkeep of lawns;

(iii) fail to maintain fire and extended coverage insurance on Common Properties on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs; or

(iv) use hazard insurance proceeds for losses to any of the Common Properties for other than the repair, replacement or reconstruction of Common Properties.

Section 9. Compensation. No director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if one is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, actual fraud or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. Directors shall not have personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that such person is or was a Director of the Corporation, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal thereof, except as otherwise specifically provided herein. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action,

suit or proceeding against a Director, no Director shall be considered guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the fault or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Initial Management.

The Initial Board has or may enter into a management agreement with Declarant (or with an entity which may be affiliated with Declarant) for a term which will expire not later than the Applicable Date under which Declarant (or an entity which may be an affiliate of Declarant, as appropriate) will provide supervision, fiscal and general management and maintenance of the Common Properties and, in general, perform all of the duties and obligations of the Corporation. Notwithstanding anything to the contrary contained in this Declaration, so long as such Management Agreement remains in effect, Declarant (or its agent) shall have, and Declarant hereby reserves to itself or its affiliates, the exclusive right to manage the Real Estate and Common Properties and to perform all the functions of the Corporation.

ARTICLE VI

Real Estate Taxes; Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot and Dwelling Unit shall be paid by the Owner thereof. Any real estate taxes or other assessments against the Common Properties shall be paid by the Corporation and treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Corporation.

ARTICLE VII

Maintenance, Repairs and Replacements

Section 1. By Owners. Except as provided in Section 2(b) of this Article, each Owner shall, at his expense, be responsible for, and shall promptly perform as the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except (1) for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Properties for purposes for maintenance only and (2)

lawn maintenance as provided in Section 2 below. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which such Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Properties. Such maintenance and repairs include, but are not limited to, internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. Common Properties and Exteriors of Dwelling Units and Lawn.

(a) Maintenance, repairs, replacements and upkeep of the Common Properties shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

(b) In addition to maintenance of Common Properties, the Corporation, as part of its duties, and as part of the Common Expenses, shall provide for:

(i) maintenance, repairs, replacement and upkeep of the exterior of each Dwelling Unit, including, but not limited to, roofs, gutters, doors, windows (excluding glass which shall be considered a part of interior maintenance) and exterior walls shall be considered part of the Common Properties for purposes of maintenance only; and

(ii) maintenance of the lawns, which shall be considered part of the Common Properties for purposes of maintenance only. Maintenance of lawns shall include but shall not be limited to the watering, fertilizing, mowing and replanting when necessary of the grass; and the care, fertilizing, trimming, removal and replacement of trees planted by the Declarant. It shall not include the care and maintenance of shrubs, trees which were not plants by Declarant, flowers or other plants on any lot.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Properties (or items deemed Common Properties for purposes of maintenance only) as it deems necessary.

(c) Notwithstanding any obligation or duty of the Corporation to repair or maintain any of the Common Properties (or items deemed Common Properties for purposes of maintenance), if, due to the willful, intentional or negligent acts or omissions of invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Properties (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall be liable for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance and such policy has a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

(d) The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) shall be entitled to reasonable access to any lot as may be required in connection with maintenance, repairs or replacements of or to the Common Properties and items deemed as Common Properties for purposes of maintenance, including, but not limited to, access to any easements reserved by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII

Architectural Control

Section 1. The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is established an Architectural Review Board consisting of three (3) or more persons as may, from time to time, be provided in the By-Laws or by resolution of the Board of Directors. Until the Applicable Date, Declarant shall appoint the members of the Architectural Review Board. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

Section 2. PURPOSES. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Real Estate and of improvements thereon consistent with the historic character of the neighborhood and in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvement, and the natural vegetation and topography.

Section 3. Conditions. No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done with the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board; provided however, that this restriction shall not be applicable to the original construction of a Dwelling Unit or a Lot.

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (together with 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 Board, unless the request is one upon which the Indianapolis Historic Preservation Commission must act. In such case, the thirty (30) day period shall run from the date which such Commission approved such request. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a three-fourth (3/4) vote of the Directors then serving.

ARTICLE IX

Party Walls

Section 1. General Rules of Law to Apply. Any wall which is built as a part of the original construction of any Dwelling Unit upon the Real Estate and which connects two Dwelling Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, proportionately.

Section 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 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 shall contribute to the cost of restoration thereof in equal proportions; with 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.

Section 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 shall bear the whole cost of the furnishing the necessary protection against those elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator from among disinterested Owners, and such arbitrators shall choose an additional arbitrator, who need not be an Owner, and the decision shall 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 of Directors of the Corporation shall select an arbitrator for the refusing party.)

ARTICLE X

ASSESSMENTS

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall 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 serving the Corporation, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of the Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The proposed budget shall be presented at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (herein defined) for the current fiscal year. At the annual meeting of the Owners, 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 Owners; provided that any increase of more than ten percent (10%) must be approved by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy; provided further, however, that in no event shall the annual meeting of the Owners 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 Assessments and all other sums assessed by the Corporation shall be established by

using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall be drawn to include the establishment and maintenance of two replacement reserve funds for capital expenditures and replacement and repair of the Common Properties (one replacement reserve fund shall be for capital expenditures and replacement and repair of Common Properties owned by the Corporation and not deemed Common Properties for purposes of maintenance only and the other replacement reserve fund shall be for capital expenditures and replacement and repair of those items deemed Common Properties for purposes of maintenance only as defined in Article VI, Section 2(b)), which replacement reserve funds shall be used for those purposes and not for usual and ordinary repair expenses of the Common Properties. Such replacement reserve funds for capital expenditures and replacement and repair of the Common Properties shall be maintained by the Corporation in separate interest-bearing accounts with one or more banks, savings and loan associations, or other financial institution or brokerage house authorized to conduct business in Marion County, Indiana, as may be selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is not annual budget approved

by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments 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 3. Regular Assessments. The annual budget adopted by the Owners shall contain a proposed assessment against each Lot, which shall be computed as follows: all estimated Common Expenses except (i) the estimated cost of the master casualty insurance policy provided for in Article XI Section 1 and (ii) the estimated cost of maintenance to be performed by the Corporation pursuant to Article VII, Section 2(b), shall be divided by the total number of Lots to determine quotient A. The estimated cost of the master casualty insurance policy and the estimated cost of maintenance pursuant to Article VII, Section 2(b) shall each be divided on a pro-rata basis for each Dwelling Unit, to determine quotients B and C; quotients A, B and C shall be added together and the sum shall be the Regular Assessment for each Lot. The portions of the Regular Assessment attributable to the replacement reserve funds shall be computed as a part of the estimated Common Expenses. Nothing contained herein shall make Declarant, as to Lots without Dwelling Units, responsible for the expenses described in (i) and (ii) above.

Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a

particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon the annual budget finally adopted. The Regular Assessment against each Lot shall 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 Regular Assessment shall be made to the entity designated by the Board of Directors; provided however, Owners may elect to pay their assessments semi-annually or annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget:

- (a) if the Regular Assessment based upon the final annual budget adopted by the Owners 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, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall 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 Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due until the entire amount of such excess has been credited; provided, however, that if an Owner paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the

determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner 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 Lot or any interest therein, shall not relieve or release such Owner or his successor as owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Section 2 of Article XI hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall 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 shall be bound by such final determinations. Monthly installments of Regular Assessments shall be due and payable.

automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

Each Owner of a Dwelling Unit shall prepay to the Corporation at the time his Lot is conveyed to such Owner an amount equal to thirteen (13) monthly installments of the amount required to pay for the Lot Owner's pro-rata portion of the master casualty insurance policy based upon the budget for the current fiscal year and the Owner shall maintain such prepayment account at all times. The Corporation shall hold such pre-paid funds in a separate escrow account for the purchase of insurance as provided in Article XII, Section 1.

Section 4 Special Assessments.

Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, pro-rated in equal shares ("Special Assessment"); provided: that any such assessment shall have the assent of Sixty Six and two thirds percent (66.66%) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Without limiting the generality of the foregoing, 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 this Declaration.

Section 5. Failure of Owner to Pay Assessment. (a)

No Owner may exempt himself from paying Regular Assessments or Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Properties for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Properties or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular Assessments and Special Assessments. Where the Owner constitutes more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any Regular Assessments or Special Assessments, when due, the Board may in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Corporation

of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rents and any other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to, reasonable attorney's fees) and interest from the date such Assessments were due until paid, at a rate equal to the "prime interest rate" then being charged by Indiana National Bank to its largest and best corporate customers (or, if such Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board).

(b) The lien provided for herein shall be subordinate to the lien of any first mortgage. Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgage pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of

any unpaid installment of any Regular or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share, the lien for which has been divested as provided above, shall be deemed to be a Common Expenses, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

Section 6. Initial Budgets and Assessments.

Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular and Special Assessments shall be established by the Initial Board without meeting of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date, the Regular Assessments are and shall be established as follows:

From the date of the first conveyance of a Lot by Declarant to any other Person until the Applicable Date,

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(i) the Regular Assessment shall be pro-rated on a daily basis for any period of time less than a month (the amount required to fund the insurance escrow shall be in addition to the Regular Assessment), and

(ii) the Regular Assessment shall be one-half (50%) of the amount of the Regular Assessment set forth in Subparagraph (i) for each Dwelling Unit owned by Declarant.

ARTICLE XI

Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise, shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record. 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 which such Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the Mortgage, or effectively given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in 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 which such Mortgagee may otherwise be entitled shall be required.

Section 2. Notice of Certain Actions or Conditions. The Corporation shall, upon request of a Mortgagee (or insurer or guarantor) who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee (or insurer or guarantor) with written notice of:

- (i) any condemnation loss or any casualty loss which affects a material portion of the community or any Dwelling Unit on which there is a first mortgage;
- (ii) any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days;
- (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Corporation; and
- (iv) any proposed action which would require the consent or approval of Mortgagees under the terms of this Declaration or the regulations of either FNMA or FHMLC.

Section 3. Notice of Unpaid Assessments. The Corporation shall, upon request of any Mortgagee, a proposed Mortgagee, or a proposed purchaser who has a contractual right to purchase a lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the lot shall not

be liable for nor shall the lot conveyed be subject to a lien for any unpaid 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 Section 3 of Article X hereof.

Section 4. Unpaid Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which have or may become a lien against any Common Properties (excluding items deemed Common Properties for maintenance) and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for any Common Properties (excluding items deemed Common Properties for purposes of maintenance).

ARTICLE XII Insurance

Section 1. Casualty Insurance. (a) The Corporation shall purchase a master casualty insurance policy with an "agreed amount and inflation guard endorsement" and a "blanket building endorsement" affording fire and extended coverage insurance insuring each Dwelling Unit in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Dwelling Units, excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Owner and excluding any personal property owned by any Owner whether located on any Lot or elsewhere. If the Board of Directors can obtain such coverage

for reasonable amounts it shall also obtain "all risks" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed necessary or 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 shall be a Common Expense of the Owners in the Townhome Area. Such insurance coverages shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each such Owner.

(b) The Corporation shall purchase a casualty insurance policy with an "agreed amount and inflation guard endorsement" affording fire and extended coverage insurance insuring all Common Properties owned by the Corporation including, but not limited to utilities and recreational equipment in an amount consonant with the full replacement value of the improvements. If the Board of Directors can obtain such coverage for reasonable amounts it shall also obtain "all risk" coverage for such improvements. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the 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 shall be a Common Expense of all Owners. Such insurance coverage shall be for the benefit of

each Owner, and, if applicable, the Mortgagee of each Owner.

(c) All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as herein set forth shall be paid to it or to the Board of Directors. In the event that members of the Board of Directors have not posted surety bonds for the faithful performance of their duties, or if such bonds do not equal or exceed the funds which will come into their hands, and there is damage to a part or all of the Common Properties resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 15% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board in connection with any such insurance proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners of the Corporation. The proceeds shall be appropriated, only in accordance with the provisions of this Declaration.

Such casualty insurance policies, and "all risk" coverages if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its rights to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and employees, and guests, and (b) waives any defense based upon invalidity arising from the acts of the insured, and providing further, if the Board of Directors is

able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insured an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time; provided, such coverage shall be for at least Five Hundred Thousand Dollars (\$500,000) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Properties and shall be the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

Section 3. Other Insurance. The Corporation shall also

obtain any other insurance required by law to be maintained, including but not limited to worker's compensation and occupational disease insurance, and such other insurance as the Board shall from time to time deem necessary, advisable or appropriate, including but not limited to liability insurance on vehicles owned or leased by the corporation and officers' and directors' liability policies. Such insurance coverage shall also provide for any cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Corporation, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall promptly be furnished to each Owner or Mortgagee whose interest may be affected thereby, which notices shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation. All policies shall also contain an endorsement to

the effect that such policy shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice to the Mortgagee of each Lot.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance, or insurance policy or the Board has notice of a Mortgagee as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same restriction on distribution shall apply to the distribution of any condemnation awards in connection with any taking of any of the Common Properties. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds in excess of amounts needed to repair damage or pay off any first mortgage or any condemnation awards to be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

Section 5. Insurance Provisions. Each Owner shall be solely responsible for any and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his

Personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall 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 Corporation.

ARTICLE XIII

Casualty and Restoration; Condemnation; Termination

Section 1. Casualty and Restoration. In the event of damage to or destruction of the structure or exterior of any Building or Dwelling Unit, or in the event of damage to or destruction of any of the Common Properties due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Corporation 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, (i) the cost for restoring the damage and repairing and reconstructing a Building or Dwelling Unit so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares and (ii) the cost for restoring the damage and repairing and reconstructing any Common Properties (excluding items deemed Common Properties for

maintenance only) so damages or destroyed (or the cost thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Building so damaged or destroyed to as near as possible the same conditions as it existed immediately prior to the damage or destruction and with the same type of architecture.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any lot which may be created as a result of such reconstruction or repair of any Building shall not constitute a claim or basis of a proceeding or action for the Owner upon whose lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the original plans and specifications or as the Building was originally constructed.

Section 2. Total or Partial Condemnation. (a) In the

event of the condemnation of all or any part of the Common Properties or all or any part of any Building, Dwelling Unit or Lot, the Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Properties, Building or Dwelling Units. For the purpose of such negotiations and/or of contest of such award to the Board as to Building and Dwelling Units and Lots, the Board is hereby declared to be the agent and attorney-in-fact of any Owner affected by the condemnation. This appointment of the Board shall be deemed coupled with an interest and shall be irrevocable. Nothing contained herein, however, shall preclude any Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board.

(b) Awards for the taking of all or part of a Building, Dwelling Unit or Lot shall be collected by the Board and distributed to the affected Owners. To the extent possible, negotiated awards or awards resulting from a contest shall specify the allocation of the award among Owners affected. In the event that an Owner does not agree with the distribution of an award, such Owner shall be entitled to have the dispute settled by arbitration. The protesting Owner shall appoint one arbitrator, the Board acting as agent for all other affected Owners shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator. A majority decision of the arbitrators shall be binding on all Owners and shall be enforceable.

Section 3. Termination. In the event of condemnation of two thirds (2/3) or more of the Dwelling Units, the remaining Owners may terminate this Declaration and dissolve the Corporation; provided, however, that the restrictions set forth in the Plat and in Articles XIV shall remain in full force and effect in accordance with the terms of the Plat and Article XVIII of this Declaration.

ARTICLE XIV

Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on use and enjoyment of the Lots, Dwelling Units and Common Properties shall be in addition to any other covenants or restrictions contained herein or in any plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (a) All Lots and Dwelling Units shall be used exclusively for residential purposes.
- (b) Nothing shall be done or kept in any Dwelling Unit, or on any lot, or on the Common Properties which will cause an increase in the rate of insurance on any

Dwelling Unit or the contents thereof or on any Common Properties. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Properties which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(c) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.

(d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling 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 shall be affixed to or placed upon the exterior walls or roofs or any other parts of the Dwelling Unit without the prior consent of the Architectural Review Board.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any lot or any of the Common Properties, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Properties, caused by his pet. The tethering of pets in any area outside an Owner's Lot does not constitute "attended". The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that an Owner desiring to bring or maintain a pet on the Real Estate shall deposit with the Board a security deposit in an amount to be determined by the Board to cover any damage that may be caused by such pet to the Common Properties. Any such security deposit, if required, shall be returned to the owner when the pet is permanently removed from the Real Estate, except to the extent said deposit has been used or is needed to repair damage caused by such pet. Any requirement for the depositing of such security deposit shall not be deemed to relieve or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Real Estate within ten

(10) days after written notice from the Board to the respective Owner to do so.

- (f) Nothing shall be done or permitted in any Dwelling Unit or on any Lot which will impair the structural integrity of any of the Common Properties or which would structurally change any of the Common Properties. No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the Townhomes developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and including without limitation of the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.
- (g) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Properties or any public street. The Common Properties shall be kept free and clear of rubbish, debris and other unsightly materials.
- (h) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.
- (i) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Real Estate, any Lot or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allowed to be placed "for sale" or "for lease" signs on or about the Real Estate in connection with any unsold or unoccupied Lots and Dwelling Units and nothing contained herein shall be construed or interpreted to affect or restrict the activities of Declarant in the marketing, advertising or sale of Lots or Dwelling Units as a part of the development of this Townhome Community.
- (j) All Owners and members of their families, their guests, or invitees, and all occupants of any same and to use any enjoy the Common Properties or any part thereof, shall 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 Properties.

- (k) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini bikes, mopeds, or any other vehicles of any description other than normal passenger automobiles, shall be permitted, parked or stored anywhere within the Real Estate; provided; however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage. No repair work shall be done on the Real Estate on any vehicles, including passenger vehicles.
- (l) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Properties (excluding loans which are deemed Common Properties for maintenance only, except with express permission from the Board.
- (m) No Owner shall remove any tree without the written approval of the Board.
- (n) Each Owner shall keep his lot in good order, condition and repair and free of debris including, but not limited to, the pruning, trimming and cutting of all trees and shrubbery, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot shall fail to so maintain his Lot, the Corporation after notice to the Owner and approval by majority vote of all Owners, shall have the right to enter upon said Lot to correct, repair, maintain and restore the Lot. All costs incurred by the Corporation related to such correction, repair, maintenance or restoration shall be and constitute a Special Assessment against such Lot, payable by the Owner upon demand by the Corporation.
- (o) All garbage, trash and refuse shall be stored in appropriate containers inside the Dwelling Units (including garages) and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collections as are designated by the Board or the Department of Public Works.
- (p) Common Properties shall be used and enjoyed only for the purposes for which they are designated and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

Notwithstanding anything to the contrary contained herein

or in the Articles or By-Laws, including but not limited to any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain the Common Properties and any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size and at such locations as 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 and sale of Lots and Dwelling Units thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Properties, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real Estate at any time.

ARTICLE XV

Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) **Notices.** Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.
- (b) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owner having in the aggregate at least a majority of the votes of all Owners.
- (c) **Adoption.** Any proposed amendment to this Declaration must be approved by sixty six and two thirds percent (66 2/3%) of all Owners. The instrument of amendment must be signed by such Owners and recorded. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall 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 Directors in accordance with provisions hereof.
- (d) **Special Amendments.** Sixty six and two thirds percent consent required. No amendment to this Declaration shall be adopted which changes the provision thereof which establish, provide for, govern or regulate (1) the applicable share of an Owner's liability for the common expenses, or the method of determining the same, (2) Article XII of this Declaration with respect to casualty insurance to be maintained by the Corporation, (3) Article XIII of this Declaration with respect to reconstruction or repair of the Common Properties or Dwelling Units in the event of fire or any other casualty or disaster, (4) establishment of the Architectural Review Board and its functions, (5) voting rights, (6) assessments, assessments liens or subordination of such liens, (7) reserves for maintenance, repair and replacement of the Common Properties, (8) insurance and fidelity bonds, (9) rights to use of the Common Properties and the Dwelling Units, (10) boundaries of any Lot or of the Common Properties, (11) the leasing of Dwelling Units, (12) imposition of any right of first refusal or similar restrictions on the right of a Lot Owner to sell, transfer or otherwise convey such Lot or (13) the rights of mortgagees or insurers or guarantors of first mortgages on Lots; without, in each and any of such circumstances, the approval of mortgagees (whose mortgage interests have been known to the Board of Directors (whose mortgage interest have been known to the Board of Directors) holding mortgages on Lots which have at least sixty six and two thirds percent (66 2/3%) of the votes of Lots which are subject to mortgages, provided, a Mortgagee who received written notice of a proposed amendment and does not deliver or

mail a negative response to the Secretary of the Board of Directors within thirty (30) days of said notice shall be deemed to have approved the proposed amendment.

- (e) **Recording.** Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only.

Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power, acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other person, to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of a Mortgagee or of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of the agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, or (d) to correct clerical or typographical errors.

ARTICLE XVI

Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the By-Laws and the rules and regulations adopted by the Board of Directors, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the By-Laws 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 shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVII

Negligence

Each Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or Dwelling Unit or its appurtenances or of the Common Properties.

ARTICLE XVIII

Benefit and Enforcement

The Declaration and the Restrictions shall run with a bind the Real Estate for a term commencing on the date this Declaration is recorded in the Office of the Recorder of Marion County, Indiana, and expiring December 31, 2050, after which time they shall be automatically extended for successive periods of ten (10) years each unless by vote of a majority of the then Owners of the Lots it is agreed to change this Declaration or the Restrictions in whole or in part, or in terminate the same.

In the event of a violation, or threatened violation, of any of the covenants, conditions or restrictions set forth in this Declaration, Declarant (so long as Declarant remains an

owner of any part of the Real Estate), the Board, or any Owners shall have the right to enforce the covenants, conditions and restrictions contained herein and to pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof. The failure or delay at any time of Declarant, the Corporation, the Owners, or any other person entitled to enforce this Declaration and the Restrictions, to enforce any of the same shall in no event be deemed a waiver of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

ARTICLE XIX

Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 2. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.


Section 3. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 4. Interpretation. The captions and titles of the various articles, sections, sub-sections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience and reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

IN WITNESS WHEREOF, John Irish, Jack Irish, and Keith A. Peterson as Declarant, have executed this Declaration on the day and year first hereinabove set forth.


JOHN IRISH

By:


John Irish, Notary Public, State of Indiana

JACK IRISH

By:


Jack E. Irish, Notary Public, State of Indiana

KEITH A. PETERSON

By:


Keith A. Peterson

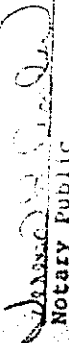
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said county and state, personally appeared John Irish, Jack Irish, and Keith A. Peterson who acknowledge execution of the foregoing Declaration of Covenants, Conditions and Restrictions of Townhomes of Chatham, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 9th day of October, 1999.

My commission expires:

May 6, 1992


Notary Public

Teresa R. Crayton

Printed Name

Morgan

County of Residence

This instrument prepared by Brian D. Williams, Attorney at Law,
COONS SAINT & BISHOP, 440 North East Street,
Indianapolis, Indiana, 46204

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CODE OF BY-LAWS
OF
TOWNHOMES OF CHATHAM HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Identification and Applicability

Section 1.01 Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of Covenants, Conditions and Restrictions, creating a Planned Unit Development and Restrictions, Chatham (hereinafter sometimes referred to as "Townhomes of Chatham") to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

Section 1.02 Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person who might use or occupy a Dwelling Unit or any part of the Property, shall be subject to the restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Act, and to any rules and regulations adopted by the Board of Directors as herein provided.

ARTICLE II

Meetings of the Association

Section 2.01 Purpose of Meetings. At least annually, and at such other times as may be necessary, a meeting of the Co-Owners shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 3.02 hereof), approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02 Annual Meetings. The annual meeting of the members of the Association shall be held on Monday of the first full week of May in each calendar year. At the annual meeting the Owners shall (subject to the provisions of Section 3.02 hereof) elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

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Section 2.03 Special Meetings. A special meeting of the members of the Association may be called by resolution of the Board of Directors or upon a written petition of Owners who have not less than a majority of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose or purposes for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

Section 2.04 Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at their designated addresses. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association, and to each Mortgagee (a) which requests in writing that such notices be delivered to it, and (b) which has furnished the Association with its name and address in accordance with Section 8.01 of these By-Laws.

Section 2.05 Waiver of Notice. A member, either before or after a meeting of the members of the Association, may waive notice of the meeting, and his waiver shall be deemed the equivalent of giving notice. Attendance at a meeting of the members, either in person or by proxy, of a person entitled to notice shall constitute a waiver of notice of the meeting unless he attends expressly for the purpose of objecting to the transaction of business on the ground that the meeting was not lawfully called.

Section 2.06 Voting.

(a) Number of Votes. Each Owner shall be entitled to cast one vote for each Dwelling Unit he owns on each matter coming before the meeting as to which he is entitled to vote.

(b) Multiple Owner. Where an Owner constitutes or consists of more than one person, or is a partnership, there shall be only one voting representative entitled to all of the Percentage Vote allocable to that Dwelling Unit. At the time of acquisition of title to a Dwelling Unit by a multiple Owner or a partnership, those persons

constituting such Owner or the partners shall file with the Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Dwelling Unit, which shall remain in effect until all of such parties constituting such multiple Owner or the partners in such partnership designate another voting representative in writing, or such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction or the Owner no longer owns such Dwelling Unit. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.06, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Dwelling Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the vote on behalf of a trust and the agent or other representative of a corporation duly empowered by the board of directors of such corporation may cast the vote to which the corporation is entitled. The secretary of the corporation or trustee of the trust so entitled to vote shall deliver or cause to be delivered, prior to the commencement of the meeting, a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) PROXY. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the owner shall duly designate his attorney-in-fact in writing, which writing shall be delivered to the Secretary of the Association prior to the commencement of any meeting.

Section 2.07. Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, the Act or the Indiana Not-For-Profit Corporation Act of 1971 (hereinafter referred to as the "Statute"), the owners representing a majority of the Percentage Vote shall constitute a quorum at all meetings. The term "majority of Owners" or "majority of Percentage Vote", as used in these By-Laws, shall mean the Owners entitled to more than fifty percent (50%) of the Percentage Vote in accordance with the applicable number of votes set forth in the Declaration, as such may be amended from time to time.

Section 2.08 Conduct of Annual Meeting. The President of the Association shall act as the Chairman of all annual meetings of the Association if he is present. At all annual meetings, the Chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(a) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a majority of the Percentage Vote.

(b) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.

(c) Budget. The proposed budget for the current fiscal year shall be presented to the Owners for approval or amendment.

(d) Election of Board of Directors. Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least seven (7) days prior to the date of the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot. The foregoing provisions are subject to the provisions of Section 3.02 hereof.

(e) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of the Voting Interests.

(f) Adjournment. Any meeting of the Association may be adjourned. Notice of the adjourned meeting, or the business to be transacted there, other than by announcement at the meeting at which the adjournment is taken, shall not be necessary. At an adjourned meeting at which a quorum is present or represented, any business may be transacted which could have been transacted at the meeting originally called.

Section 2.09 Conduct of Special Meetings. The President of the Association shall act as Chairman of any special meetings of the Association if he is present. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 2.10 Power of Attorney. Each Owner, by acceptance of an instrument of conveyance to a Dwelling Unit or time share estate, or by acquisition of any interest in a Dwelling Unit or time share estate, by any type of juridic act inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines on all matters as to which members are entitled to vote under the Declaration, these By-Laws, the Act, the Statute or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by the subsequent incompetence of the Owner granting the same.

ARTICLE III

The Board of Directors

Section 3.01 Management. The affairs of the Association of Townhomes of Chatham shall be governed and managed by a Board of Directors (herein collectively called "Board" or "Directors" and individually called "Directors"). The Board of Directors shall be composed of three (3) persons. No person shall be eligible to serve as a Manager unless he is, or is deemed in accordance with the Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 3.02 hereof.

Section 3.02 Initial Board of Directors. The Initial Board of Directors shall be herein referred to as the "Initial Board", all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws, the Declaration, the Act or the Statute (a) the Initial Board shall hold office until the later to occur of (1) December 31, 1989, or (2) one hundred twenty (120) days after the date by which sixty-six and two-thirds percent (66 2/3%) of the Dwelling Units have been conveyed to Owners (the applicable date being herein referred to as the "Applicable Date"), 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 shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board.

Section 3.03 Additional Qualification. Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner, officer or trustee shall be eligible to serve on the Board of Directors, except that no single Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

Section 3.04 Term of Office and Vacancy. Subject to the provisions of Section 3.02 hereof, one (1) member of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided in Section 3.02 hereof. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. There shall be separate nominations for the office of each Manager to be elected at such first election after the Applicable Date. Each Manager shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors, or by vote of the Owners if a Manager is removed in accordance with Section 3.05 of this Article III. The Manager so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Manager shall be elected for the balance of the term of the Manager so removed or in respect to whom there has otherwise been a vacancy.

Section 3.05 Removal of Directors. 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 Percentage Vote at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 3.06 Duties of the Board of Directors. The Board of Directors shall provide for the administration of Townhomes of Chatham, the maintenance, upkeep and replacement of the Common Areas and Limited Areas and the collection and disbursement of the Common Expense. The Board shall, on behalf of the Association, employ a reputable, professional property management firm or professional manager (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, shall assist the Board in carrying out its duties, which include, but are not limited to:

(a) protection, surveillance and replacement of the Common Areas and Limited Areas, unless the same are otherwise the responsibility or duty of Owners of Dwelling Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent 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 used in connection with Townhomes of Chatham, 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, where applicable, the Limited Areas;

(d) surfacing, paving and maintaining private streets, parking areas and sidewalks to the extent the same are not included in a Dwelling Unit or constitute Limited Areas;

(e) assessment and collection from each Owner of the Owner's share of the Common Expenses;

(f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying, itemizing and allocating the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; payment vouchers for all expenditures shall, prior to payment, be approved by a member of the Board or such other person (which may include the Managing Agent) as the Board may delegate;

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

(j) making available to Owners and Mortgagees current copies of the Declaration, By-Laws and other rules governing the Development and any other books, records and financial statements of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, By-Laws, other rules governing the Development, and the most recent annual audited financial statement, if such statement has been prepared. "Available" shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances. Upon written request by the United States Department of Housing and Urban Development, the Veterans Administration or Federal National Mortgage Association, the Association shall also prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

Section 3.07 Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Board in performing its duties; provided, that after the Applicable Date any employment agreement with the Declarant (or a corporation or other entity affiliated with the Declarant) either as Managing Agent or for any other service shall be subject to termination by either party without cause and without payment of a termination fee, upon ninety (90) days' prior written notice to the other party;

(b) to purchase for the benefit of the Owners 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 Townhomes of Chatham;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and, where applicable, the Limited Areas;

(e) to include the cost 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; and

(g) to adopt, revise, amend and alter from time to time rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.08 Limitation on Board Action. Prior to the Applicable Date all contracts or leases entered into by the Board of Directors shall provide a right of termination without cause or penalty at any time after the Applicable Date upon ninety (90) days written notice to the other party. After the Applicable Date, the authority of the Board of Directors to enter into a contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000) without obtaining the prior approval of a majority of the Percentage vote, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where 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 Owners 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 Owners.

Section 3.02 Compensation. No Manager shall receive any compensation for his or her services as a Manager, except to such extent as may be expressly authorized by a majority of the Percentage Vote. The Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 3.10 Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. The Secretary shall give notice of regular meetings of the Board to each Manager personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail, and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose or purposes for which the meeting is called. Such meeting shall be held at such place and at such time within or without Marion County, Indiana, as shall be designated in the notice.

Section 3.11 Waiver of Notice. Before any meeting of the Board, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Manager at a meeting or his subsequent consent to the action taken thereat, shall, as to such Manager, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12 Quorum. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13 Non-Liability of Managers. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by

the Board on behalf of Townhomes of Chatham or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of Townhomes of Chatham or the Association and that in all matters the Board is acting for and on behalf of the Owners as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of Townhomes of Chatham shall provide that the Board of Directors and the Managing Agent, as the case may be, are acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owner (if applicable) and then only to the extent of their Percentage Vote.

Section 3.14 Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he or she is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the Percentage Vote that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relies on the books and records of the Association or statements or advice made by or prepared by the Managing Agent of Townhomes of Chatham or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service, unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be considered or deemed to be guilty of or liable for misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of Directors.

ARTICLE IV

Officers

Section 4.01 Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more officers may be held by the same persons, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02 Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of each new Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03 The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, and shall have and discharge all the general powers and duties usually vested in the office of the President or Chief Executive Officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04 The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 4.05 The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-laws.

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Section 4.06 The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. The Treasurer shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association, and shall immediately deposit all funds of the Association coming into his or her hands in a reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 4.07 Assistant Officers. The Board of Directors may, from time to time, designate and elect from among the Owners an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

ARTICLE V

ASSESSMENTS and Maintenance and Repairs

Section 5.01 Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner an unaudited financial statement, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year. Any Mortgagee shall be entitled to have an audited financial statement prepared at its own expense.

Section 5.02 Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year, estimating the total amount of the Common Expenses for the current fiscal year, and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners for adoption at the annual meeting of the Association and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority of the percentage vote; provided, however, that in no event shall the annual meeting of the Owners 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 Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles, applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall 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 the State of Indiana, selected from time to time by the Board. The annual budget and the Regular Assessments shall also be established to include an allowance or reserve to meet unforeseen contingencies or expenditures. Any amounts to meet into this fund shall not be considered as advance payment of Regular Assessments. Each Dwelling Unit or time share Unit's share of the working capital fund will be collected at the time the sale of the Unit is closed and transferred to the Association for deposit to a segregated fund. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners 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 Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based on the last approved budget or, at the option of the Board, based upon one hundred ten percent (110%) of such last approved budget, as a temporary budget.

Section 5.03 Regular Assessments. The annual budget as adopted by the Owners shall, 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 Dwelling Unit based on the Percentage Interest of each Dwelling Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Dwelling Unit or time share estate (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Dwelling Unit based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Dwelling Unit shall be paid in

advance in equal quarterly installments, commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of each fiscal year. Payment of the quarterly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay quarterly assessments semi-annually or annually, in advance, at the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal monthly installments rather than quarterly installments. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget,

(a) if the Regular Assessment based upon the temporary budget exceeds 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 shall be paid with such next payment and such next payment, and all payments thereafter during each fiscal year, whether quarterly or monthly, shall be increased so that the Regular Assessment as finally determined shall 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 Owner, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether quarterly or monthly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Dwelling 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 an Owner 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 Dwelling Unit or any interest therein, shall not relieve or release such Owner or his successor as owner of such Dwelling Unit from payment of the Regular Assessment for such Dwelling Unit as finally determined, and such Owner and his successor as Owner of such Dwelling Unit shall be jointly and severally liable for

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the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 8.02 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall 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 shall be bound by such final determinations. Quarterly or monthly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board of the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 5.04 Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in these By-Laws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Dwelling Unit, prorated in accordance with the Percentage Interest of each Owner (herein called "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, 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.

Section 5.05 Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and, in the proper case, of the Limited Areas, of the Buildings, and toward any other expenses lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Dwelling Unit belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. The Board shall cause to be notified in writing any mortgage holder, lessor or guarantor of a Dwelling Unit which has a delinquency of sixty (60) days or more of assessments or charges. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments when due, the lien for such Assessments on the Owner's Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an

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Owner to make timely payment of any Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Dwelling Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Association, to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover interest, costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Dwelling Unit.

(b) Notwithstanding anything contained in this Section or elsewhere in the Declaration and these By-Laws, any lien for Common Expenses and Assessments becoming payable after the recordation of a first mortgage on a Dwelling Unit shall be subordinate to the first mortgage on the Dwelling Unit and any sale or transfer of a Dwelling 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 the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Dwelling Unit or time share estate, as the case may be, or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessment thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien to which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Dwelling Unit from which it arose).

Section 5.06 Initial Budgets and Assessments.
Notwithstanding anything to the contrary contained herein, in the Declaration, in the Act, in the Statute or otherwise, until

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the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Co-Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2.10 hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Section 5.07. Maintenance and Repairs. Every Owner shall promptly perform all maintenance and repair within his own Dwelling Unit which, if neglected, would affect the value of the Property. In addition, each Owner shall furnish, and shall be responsible at his own expense for, the maintenance, repairs and replacements of his Dwelling Unit and certain portions of the Limited Areas as may be established by rules which shall include the storage areas located in the basements and shown on the plans as Limited Areas, and all equipment serving the same. Such maintenance, repairs and replacements which each Owner is responsible to make personally and at his own expense include, but are not necessarily limited to, water lines, gas lines, plumbing and electric lines which service the Owner's Dwelling Unit only and are located within exterior walls of the Dwelling Unit including any lines in the area from below the floor to above the roof if they are within an extension of the exterior walls of the Condominium Unit; all partitions and interior walls, ceilings and floors; appliances, to include garbage disposals, dishwashers, stoves, ranges and refrigerators, telephones, air conditioning and heating equipment (whether located wholly or partially inside or outside the Dwelling Unit), doors, screens and windows (including exterior and interior of all glass and windows surfaces), lamps, and interior and exterior grouting and/or caulking, and all other accessories appurtenant to the Dwelling Unit or belonging to the Owner thereof.

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 or other occupant or visitor of such Owner, damage shall be caused to the Common Areas or to a Dwelling Unit or Limited Area owned by or reserved for the use of others, or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall 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. Maintenance, repairs and replacements to the Common Areas or the Dwelling Units or Limited Areas shall be subject to the rules and regulations adopted from time to time by the Board.

To the extent that equipment, facilities and fixtures within any Dwelling Unit shall be connected to similar equipment, facilities or fixtures affecting or serving other

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Dwelling Units or any Common Areas or Limited Areas, then the use thereof by the Owner of such Dwelling Unit shall be subject to the rules and regulations adopted from time to time by the Board. The authorized representatives of the Association or Board of Directors or the Managing Agent for the Association shall be entitled to reasonable access to any Condominium Unit, as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or Limited Areas or any parts thereof, or any equipment, facilities or fixtures affecting or serving other Dwelling Units or any Common Areas or Limited Areas.

ARTICLE VI

Restrictions, Entry and Rules and Regulations

Section 6.01 Restrictions on Use. The following restrictions on the use and enjoyment of the Dwelling Units, Common Areas, Limited Areas and the Property shall be applicable to Townhomes of Chatham and in addition to those set forth in the Declaration. These are as follows:

(a) All Dwelling Units shall be used exclusively for residential purposes and no Dwelling Unit may be partitioned or subdivided.

(b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration without the consent of the Board of Directors.

(c) Nothing shall be done or kept in any Dwelling Unit or in the Common Areas or Limited Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Dwelling Unit or in the Common Areas or Limited Areas which will result in a cancellation of insurance on any Building or any part of the Common Areas or contents thereof, or which would be in violation of any law or ordinance or other requirements of any insurance underwriting or rating bureau.

(d) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit, Common Area, or Limited Area.

(e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows 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 shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Building without the prior consent of the Board.

(f) No animals, livestock or poultry of any kind

shall be raised bred or kept in any Dwelling Unit or in the Common Areas or Limited Areas or on the Property, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, or does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Areas or Limited Areas, caused by his pet. The tethering of pets in any area outside an Owner's Dwelling Unit does not constitute "attended". Pets shall be walked only in an area not common to residents and pet leavings on the main grounds and walks shall be picked up by the pet's owner and disposed of in a proper receptacle. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that any Owner desiring to bring a pet on the Property shall deposit with the Board a security deposit in an amount to be determined by the Board to cover any damage that may be caused by such pet to the Common Areas. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the Property, except to the extent said deposit has been used to repair damage caused by such pet. Any requirement for the depositing of such a security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property within ten (10) days after written notice from the Board to the respective Owner to do so immediately upon notice.

(g) Nothing shall be done or permitted in any Dwelling Unit which will impair the structural integrity of any Building or which would structurally change any Building or which would affect the exterior appearance of any Dwelling Unit, except as otherwise provided in the Declaration or these By-Laws. No Dwelling Unit shall be used in any unlawful manner or in any manner which might cause injury to the reputation of Townhomes of Chatham or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limitation the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment, machines or loud persons.

(h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Areas except the areas designated Laundry Areas on the Plans. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property.

(j) No "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Property or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant to place or allow to be placed "for sale" signs on or about the Property in connection with any unsold or unoccupied Dwelling Units.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Areas and the Limited Areas or any part thereof, shall 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 Dwelling Units, the Common Areas and Limited Areas.

(l) No boats, campers, trailers of any kind, buses, mobile homes, trucks, or any other vehicles of any description other than normal passenger automobiles or passenger vans, shall be permitted, parked or stored anywhere within the Property. No repair work shall be done on the Property on any vehicles, including passenger automobiles.

(m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Areas, except with express permission from the Board.

(n) No Owner shall be allowed to place or cause to be placed in the lobbies, vestibules, stairways, hallways or areas of a similar nature and used for a similar purpose, both Common Areas and Limited Areas, any furniture, packages or object of any kind, without the consent of the Board of Directors.

(o) All garbage, trash and refuse shall be placed in dumpsters located on the Property. If no dumpsters shall exist, all garbage trash, and refuse shall be stored in appropriate containers inside the Dwelling Unit and shall be kept therein until not earlier than shutdown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.