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DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS FOR

COOPER POINTE

REC'D
REGISTERED
CLERK
HAMILTON COUNTY, INDIANA
OCT 22 1990

THIS DECLARATION (hereinafter called "the Declaration" or "this Declaration") made this 22 day of October, 1990, by Fogelsong, Incorporated, an Indiana corporation (hereinafter called "Declarant").

WITNESSETH:
This Instrument Recorded
Sharon K. Cherry, Recorder, Hamilton County, IN
10-22-1990

WHEREAS, Declarant is the owner of the real estate in Hamilton County, Indiana, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Original Real Estate"); and

WHEREAS, declarant is in the process of creating on the Original Real Estate a residential community with public streets, walls, fences, and landscaped areas, and other common facilities, for the benefit of such residential community, to be known as Cooper Pointe, which community shall be developed to the extent the same is to be included in the Property (hereinafter defined) substantially in accordance with the preliminary site plan drawing ~~attached hereto as Exhibit "B"~~ and incorporated herein by reference (hereinafter referred to as the "Site Plan"); and

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WHEREAS, Declarant desires to provide for the preservation and enhancement of the value and amenities in such community and the common facilities (if any) therein contained, and to this end, Declarant desires to subject the Original Real Estate to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Original 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 the common facilities (if any) located on the Property, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereinafter performing certain maintenance, repairs and replacements of buildings as hereinafter provided, and promoting the health, safety and welfare of the owners of the Property, and all parts thereof; and

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

NOW, THEREFORE, Declarant hereby declares that the

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Property 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 Property, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and of each of the lots situated therein, and which shall run with the Property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I.

DEFINITIONS

Section 1. The following words when used in this Declaration or supplemental declaration (unless the context shall prohibit) shall have the following meanings:

- A. "Applicable Date" shall mean the "Applicable Date" as defined and determined in accordance with Section 3.B. of Article III hereof.
- B. "Association" shall mean Copper Pointe Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused, or will cause, to be incorporated

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under said name or a similar name, its successors and assigns.

C. "Board" or "Board of Directors" shall mean the board of directors of the Association.

D. "Common Area" or "Common Areas" shall mean (i) those portions, if any, of the Original Real Estate which is shown upon any recorded subdivision plat of the Original Real Estate and which is not identified as individually numbered lots on any such plat, other than portions thereof which are dedicated to or owned by the public or a governmental agency, whether such plat is heretofore or hereafter recorded, including all improvements and structures constructed or to be constructed thereon, (ii) to the extent hereinafter established, such portions of the Property as are herein declared to be Common Area even though located on or constituting part of one or more individually numbered lots on any such plat, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, or under, across or through the Property as are herein declared to be Common Area whether located, installed or established entirely or partially on lots or portions of the Property which are not lots, or both, and (iv) such portions of the Property (if any) as are hereafter declared to be "Common Area" by an instrument executed and recorded by Declarant, whether or not such areas comprise part of all of a lot or lots shown upon any recorded subdivision plat of the Property.

E. "Declarant" shall mean Fogelsohn, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, to any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of (or by acceptance of a deal in lieu of foreclosure of), a mortgage executed by Declarant; provided, however, that any such mortgagee so acquiring title by virtue of foreclosure agreement (or acceptance of a deal in lieu of foreclosure from) the Declarant shall not be deemed to have assumed any prior obligations or liabilities of the Declarant hereunder.

F. "Living unit" shall mean a residential housing unit consisting of a group of rooms and hallways which are designed or intended for as living quarters for one family or housekeeping unit. Except as herein otherwise provided, for the purpose of determining membership in the Association, each living unit as initially constructed on a lot by Declarant or others shall be considered as a separate and individual unit. In addition, living unit shall be deemed to include any enclosed garage, enclosed or covered porch or patio appurtenant to such living unit.

G. "Lot" shall mean and refer to any and each plot of land at any time included in the Property (with the exception of Common Area) designed and intended for use as a building site for, or developed and improved for use as, a Living Unit

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(which shall be deemed to include any other buildings or improvements appurtenant to such Living Unit), as designated by Declarant by its deed of the same to another Person; provided, however, for purposes of this Declaration a "Lot" will not necessarily be the same as any one (1) numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Original Real Estate for purposes hereof a "Lot" may be (1) any one (1) such numbered parcel of land identified as a lot on such plat, (11) part of such a numbered parcel of land. The determination of what portion of the Property constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land which is a part of the Property and which is conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Living Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Living Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion of the Property by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Property so originally conveyed to such Person as a "Lot", then the determination of what portion of the Property constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances to and between Declarant

and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" conveyed to Declarant shall, upon such re-conveyance, lose its character as part of a "Lot" and may hereafter be conveyed by Declarant as part of another Lot. The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason.

H. "Member" shall mean any person or entity holding membership in the Association as provided in Article III hereof.

I. "Mortgage" shall mean any mortgage or other security instrument by which a lot or any part thereof or any structure thereon is encumbered.

J. "Mortgagee" shall mean any person or entity named as the Mortgagee under any Mortgage or any successors or assigns to the interest of such person or entity under such Mortgage prior to acquisition of the fee simple title to the property encumbered by such Mortgage.

K. "Original Real Estate" shall mean the parcel or parcels of real estate in Hamilton County, Indiana, described in Exhibit "A" attached to and incorporated in this Declaration.

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

M. "Person", whether appearing in upper case or lower case form, shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

N. "Property" shall mean and refer to the Original Real Estate as has, from time to time, been subjected to, and also, at any time, subject to this Declaration.

O. "Site Plan" shall mean and refer to the preliminary site plan reflecting Declarant's present proposed development of the Original Real Estate, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference

P. "Zoning Covenants" shall mean and refer to the written covenants or commitments heretofore entered into by Declarant or its predecessors in title to the Original Real Estate in connection with the zoning of the same, in ordinance No. 92-12-89 by the Common Council of the City of Noblesville, Indiana and which zoning is incorporated herein by reference as the same may hereinafter be amended in accordance with their terms or as permitted by law.

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

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ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION:

Declarant hereby expressly declares that the Property shall be held, transferred, sold, conveyed and occupied subject to all the terms, covenants, conditions, restrictions and provisions of this Declaration. As of the date of execution of this Declaration, the Property consists solely of the Original Real Estate. The Owner of any Lot at any time subject to this Declaration and all other Persons having any right, title or interest therein, by (i) acceptance of a right, title or interest thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or the acceptance of any right, title or interest therein or thereto, or (ii) by the act of occupancy of any Lot, shall accept such deed, execute such contract, accept such right, title or interest, and undertake such occupancy subject to all of this Declaration. By acceptance of such deed, execution of such contract, acceptance of such right, title or interest, or undertaking such occupancy, each Owner and all other such Persons acknowledge the rights and powers of Declarant and of the Association with respect to or under this Declaration, and, for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Association, and the Owners and subsequent Owners of each of the Lots affected by this Declaration, to

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keep, observe, perform and comply with the terms and provisions of this Declaration:

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership. Every Owner of a Lot subject to assessment, except as herein provided to the contrary, shall be entitled and required to be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be a member. An Owner of more than one Lot shall be entitled to, and there shall be required, one membership for each such Lot. Each such membership or memberships shall be appurtenant to the Lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the title of that Lot. Except as herein otherwise expressly provided, no person or entity other than an Owner or Declarant may be a member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of title to a Lot.

Section 2. Transfer. Memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of the record title of a Lot and then only to such transferee, by assignment, succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of

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each Owner, upon becoming entitled to membership, to so notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a member, in its sole discretion. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the memberships registered in his name to the transferee of title of such Lot, the Association shall have the right to record the transfer upon the books of the Association and issue new memberships to the transferee, and thereupon the old memberships outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 3. Voting. The Association shall have two (2) classes of voting membership, as follows:

A. Class A. Class A members shall be all Owners of Lots, with the exception of the Declarant prior to termination of Class B membership, and shall be entitled to one (1) vote for each Lot owned with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one person holds title to 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 (1) vote be cast with respect to any one Lot. There can be no split vote. Prior to or at the time of any meeting at which a vote is to be

taken, each co-Owner or other person entitled to vote at such meeting shall file with the Secretary of the Association the name of the voting co-Owner or other person entitled to vote at such meeting, unless such co-Owner or other persons have filed a general voting authority with the Secretary applicable to all votes until rescinded.

B. Class B. Class B members shall be the 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 Association. Each Class B member shall be entitled, on all matters requiring a vote of the membership of the Association, to (i) five (5) votes for each Lot owned by it, (ii) five (5) votes for each numbered parcel of land shown upon, and identified as a lot on, any recorded plat of the Original Real Estate, any part of which lot has not been conveyed by Declarant to another Person, but which is not identified as a lot on a recorded plat of any portion thereof and which is owned by it. The Class B membership shall cease and terminate upon the first occur of (a) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association; (b) one hundred twenty (120) days after seventy-five percent (75%) of the Lots in the Property have been conveyed to Owners other than Declarant; provided, however, that for

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the purpose of making any determination under this subsection (b) it shall be assumed that there are 22 Lots in the Property whether or not there are in fact such number of Lots in the Property at any time; (c) three (3) years after the date of recording of the first conveyance of a Lot to an Owner other than Declarant.

From and after the termination of Class B membership, Declarant shall be entitled to one (1) Class A membership for (i) each lot of which it is the Owner, (ii) each numbered parcel of land shown upon, and identified as a lot on, any recorded plat of the Original Real Estate any part of which lot is owned by Declarant.

Section 4. Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's right to vote as a member of the Association shall be suspended and shall remain suspended and shall remain suspended until all payments are brought current and all defaults remedied.

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ARTICLE IV.

PROPERTY RIGHTS

Section 1. General Provisions.

A. All easement's described in this Declaration are

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permanent easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the Owner and the Mortgagee from time to time of any lots and the owner and mortgagee, if any, from time to time of the Common Area, and their respective heirs, successors, personal representatives or assigns.

There are strips of ground as shown on the within plat marked "Sewer Easement" or "SE", strips of ground marked "Utility Easement" or "UE", strips of ground marked "Drainage Easement" or "DE", strips of ground marked "Landscape Easement" or "LE" and strips of ground marked "Association Easement" or "AE", either separately or in any combination of the five. Such easements are reserved for the use of the public utility companies, governmental agencies, Declarant and the Homeowners Association, as follows:

1. "Sewer Easement", or "SE's", are created for the use of the public utility company or governmental agency having responsibility for the maintenance, repair and upkeep of the sanitary sewer mains and other facilities, and storm water sewers and other facilities, serving this Addition, for the installation, maintenance, repair and replacement of such facilities; in addition, so long as any such sewer facilities are private and are owned by the Declarant or the Association, Declarant and the Association shall have the right to the use and benefit of such "Sewer Easements" for such purpose;
2. "Drainage Easements", or "DE's", are created

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to provide paths and courses and a system for natural area and local storm drainage, either overland or in appropriate underground installations, to serve the needs of this and adjoining ground and the public drainage systems; the owners of lots are and shall be required to keep the natural drainage free of obstructions, including both structures and plant material, so that the flow of water will be unimpeded;

3. "Utility Easements", or "UE's", are created for the use of all public utility companies, not including transportation companies, for the installation including transportation mains, ducts, drains, maintenance of underground mains, pipes, wires and other utility installations for the purposes of furnishing utility services. Such Utility Easements may also be used for all purposes for which Sewer Easements may be used hereunder.

4. "Landscape Easements", or "LE's", are created and reserved for the use and benefit of Declarant and the Association for the installation, maintenance, repair and replacement of walls, fences and other screening material (including landscaping); in addition to the "Landscape Easements" specifically marked on the within plat. Declarant and the Association may use any part of the "Blocks" of Common Areas for such purposes, and all of the same shall constitute "Landscape Easements" in their entirety; and

5. "Association Easements", or "AE's", are created

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and reserved for the use and benefit of Declarant and the Association as areas for the installation, maintenance, repair, replacement and providing, either directly or by contract, license or other agreement with third parties, of other amenities or appurtenances for the benefit of the Addition such as, but not limited to, walls, fences and other screening material (including landscaping), pedestrian paths and walks, street signs, street lighting and other items; in addition to the "Association Easements" specifically marked on the within plat, Declarant and the Association may use, or permit other to use, any part of the "Blocks" of Common Area.

B. The covenants and restrictions contained in this Declaration shall run with and bind the land and shall insure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any lot subject to this Declaration, their respective personal representatives, heirs, successors and assigns, for an initial term commencing on the date this Declaration is recorded and ending December 31, 2020, after which time the covenants and restrictions shall be automatically renewed for successive periods of ten (10) years each, as the same may be amended or modified as herein permitted and provided.

Except as hereinafter provided, this Declaration may be amended during the initial term provided above by an instrument signed by not less than ninety percent (90%) of

the Owners and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Owners.

Section 2. Right of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area, Limited, however, to and for the uses and purposes for which any portion of the Common Area is designed and intended, which right and easement shall include, but not be limited to, use and enjoyment of open spaces and all other parts of the Common Area. Such right and easement 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 pass reasonable rules, with respect to the Common Area, for the health, comfort, safety and welfare of persons using the same;

B. The right of the Association to suspend the voting rights and right to the use of recreational facilities, if any, situated upon the Common Area (but not rights of access to lots) by an Owner for any period during which any assessment against his lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations;

C. The right of the Association to levy assessments as provided in this Declaration; and

D. The rights of the Association and Declarant reserved under Sections 4 and 5 of this Article IV or elsewhere in this Declaration.

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Section 3. Delegation of Enjoyment. Any Owner may delegate, in accordance with the By-laws of the Association, his right of enjoyment to the Common Areas to residents of his Lot, including the members of his family, his tenants, or contract purchasers.

Section 4. Association's Rights.

A. The Association shall have the right to manage, repair, maintain, improve and operate the Common Area (including by way of example, but not limited to, landscaping thereof).

B. The Association shall have the right to mortgage all or any portion of the Common Area for the purpose of securing a loan of money to be used for any of the purposes specified in subsection 4.A. next hereinabove, provided that the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners under this Declaration.

C. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any government subdivision or public agency or utility, and to grant permits, licenses, and easements over the Common Area for utilities and other purposes necessary or useful for the proper maintenance or operation of the project.

D. The Property shall be subject to easements of record on the date the various portions thereof become subject to this Declaration, and to any easements in the Common Area which may at any time be granted by Declarant or the Association to any public or private utilities or

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governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewers or water pipes, coaxial cable, or any other utility services serving any lots or the Common Area.

E. Anything herein apparently to the contrary notwithstanding, except as otherwise expressly herein provided for, no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or other common property or any part thereof shall be effective unless it shall have received prior written approval.

Section 5. Declarant's Rights. Declarant shall have the same rights as any other Owner as to lots and other portions of the Property owned by it from time to time, except as otherwise specified herein. In addition, until the last numbered parcel of land shown upon, and identified as a lot on, any recorded plat of the Original Real Estate is conveyed to an Owner other than Declarant, or until the Applicable Date (whichever event shall first occur), Declarant shall have the right and easement over the Common Area for the completion of improvements and making repairs to improvements (whether on the Common Area, or upon unseparated lots, or upon other portions of the Original Real Estate and the right to maintain and use facilities (including, but not limited to, model living units) and signs upon the Common Area and any other portions of the Property (other than lots owned by an Owner other than Declarant)) for the purpose of marketing units, and to invite and escort the public thereon

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for such purpose.

Section 6. Non-Dedication to Public Uses. Nothing contained in this Declaration or in any subdivision plat of any part of the Original Real Estate shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to the public or to or for any public use or purpose whatsoever, all of such Common Area being reserved to Declarant, the Owners and the Association as provided in this Declaration, but subject, however, to the rights of the Association and the Declarant to thereafter dedicate portions of such Common Area to the public or to or for public uses or purposes but only to the extent, and upon all of the conditions, set forth in this Declaration.

Section 7. Easement for Unintentional Encroachment. Notwithstanding any other provisions contained herein, in the event that any Living Unit or any structure containing one or more Living Units or any improvements to any Living Unit encroaches upon any part of the Common Area, as a result of construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, then a perpetual easement appurtenant to such encroaching Living Unit shall exist for the continuance of any such encroachment on the Common Area.

Section 8. Landscaping Rules. Each lot contains or will contain parking areas (including garages) for the use of its Owner as required by Zoning Ordinances.

Section 9. Improvement and Transfer of Common Area.
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A. Declarant hereby covenants that, to the extent the same are to be included in the Property, it will construct or provide as Common Areas the following items required by, and in accordance with, the Zoning Ordinance. Common Area "Blocks" as shown on the Site Plan primarily as open spaces with landscaping and/or walk-way easements to reach Blocks as shown.

B. Conveyance of Common Area to Association. Declarant hereby covenants that it shall convey and transfer the Common Area included in and constituting a part of the Original Real Estate (if any) to the Association prior to the first conveyance of a Lot within the Original Real Estate to an Owner other than Declarant. Each such portion of the Common Area so conveyed by Declarant to the Association shall, at the time of such conveyance, be subject to any dedication or public street or road rights-of-way affecting the same and all easements, covenants, conditions, limitations and restrictions then of record, but shall be free and clear of all liens and financial encumbrances other than the lien of the then current non-delinquent installment of real estate taxes and assessments and subsequent installments thereof, which shall thereafter be paid when due by the Association.

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ARTICLE V.
ASSESSMENTS

Section 1. Personal Obligations. Each Owner of a lot hereby covenants and agrees by acceptance of a deed or other instrument of conveyance herefor, whether or not it shall be so expressed therein, shall be and is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, which shall be payable in regular instalments, for the payment or provision of all expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other expenses incurred or to be incurred by the Association for or in connection with the performance by the Association of its duties, obligations and responsibilities under this Declaration, which expenses may include, but shall not be limited to, the expenses and costs of hazard and liability insurance for Common Areas and any other common property; snow removal, trash removal, sewer charges and water charges (if payable by the Association); street lighting (if provided by the Association); and an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area and any other property that must be maintained, repaired or replaced on a periodic basis and which the Association may be obligated to maintain and (b) special assessments for capital improvements, such assessments to be established and

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collected as hereinafter provided. Any assessments authorized herein, together with interest, costs and reasonable attorneys' fees, shall be a continuing lien from the first day of January (for annual assessments) and from the date the first installment is payable (for special assessments) against the lot assessed. Such annual assessments shall be due and payable in advance in twelve equal monthly installments on the first day of each and every month or, if so determined by the Association, in such other periodic installments as may be specified by the Association. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such lot on the date said assessment became due and payable. Said personal obligation of an Owner shall not pass to his successors in title or interest unless expressly assumed by them or unless, prior to such transfer, a written notice of the lien for such assessments shall have been recorded in the office of the Recorder of the Hamilton County, Indiana. No Owner shall escape liability for the assessments which fall due while he was the Owner by reason of non-use of the Common Area or non-use, transfer of abandonment of his lot or Living Unit.

ARTICLE III
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 Owners and residents of the Property, to construct, manage, improve, maintain, repair and administer the Common Area, and

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For payment of any other costs and expenses incurred by the Association in connection with the performance of its duties, obligations and responsibilities hereunder. An adequate reserve fund shall be maintained for working capital and for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area and any other property that must be replaced on a periodic basis. Such reserve fund shall be maintained out of the regular annual assessments.

Section 3. Annual Assessments. Until December 31, 1991, the maximum annual assessment shall be at the monthly rate of Five Dollars (\$5.00) per lot for each Lot.

- A. From and after December 31, 1991, the maximum annual assessments may be increased each year not more than 10% above the maximum assessments permitted for the previous year, on a cumulative basis, without a vote of the membership.
- B. From and after December 31, 1991, the maximum annual assessments may be increased more than 10% above the maximum assessments permitted for the previous year by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting called for this purpose.
- C. The Board of Directors may fix the annual assessments at any amount not in excess of the maximum permitted hereby.

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Section 4. Special Assessments. 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, (A) the cost of any construction, reconstruction, repair, or replacement of capital improvement upon or which is deemed hereunder to be a part of the Common Area, including fixtures and personal property related thereto, and other buildings located on the Property, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the total votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum. Written notice of any meeting of members called for the purpose of taking any action authorized under Article V, Sections 3 or 4, shall be sent to all Members not less than ten (10) days not more than sixty (60) days in advance of the meeting. At the opening of such meeting, the presence in person or by proxy of Members entitled to cast sixty percent (60%) of the total votes of the 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 any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots. Annual assessments shall be collected on a monthly basis (or other periodic basis, if and as determined by the Board) and special assessments shall be collected as the Board determines. The provisions of this Section 6 are subject to the provisions of Section 13 of this Article V as to all Lots and other portions of the Property owned by Declarant.

Section 7. Commencement of Initial Annual Assessments. The annual assessments provided for herein shall commence as to all Lots subjected to this Declaration on the first day of the month of recording of the instrument by which such Lots became a part of the Property. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year for which such assessment is imposed.

Section 8. Commencement of Annual Assessments. By November 1 of each year the Board shall fix the amount of annual assessments against each lot for the following calendar year and shall send written notice thereof to each Owner. The due date for payment of annual assessments shall be as set by the Board. At the time the Board fixes the amount of annual assessments it shall adopt a budget for the following calendar year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

Section 9. Proof of Payment. Upon written demand of an Owner or Mortgagee, at any time and for a reasonable charge, the Association shall furnish a written certificate signed by

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an officer of the Association setting forth whether there are any then unpaid annual or special assessments levied against such Owner's or Mortgagee's Lot. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.

Section 10. Nonpayment of Assessments. Any assessment which are not paid when due shall be deemed delinquent. If an assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate of twenty percent (20%) per annum and shall become a continuing lien in favor of the Association on the Lot against which assessed and the improvements thereon and the Association may bring an action at law or in equity against the person personally obligated to pay the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in such action, and the Association may also enforce and foreclose any lien it has or which may exist for its benefit.

Section 11. Recording and Enforcement of Liens. To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same and a description of the Lot. Such a notice shall be signed by an officer of the Association and it or a notice of lien or

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adverse claim thereof may be recorded in the office of the Recorder of Hamilton County, Indiana. No notice of lien shall be recorded until there is a delinquency in payment of an assessment for thirty (30) days, the Association shall proceed promptly to enforce the lien or, in its discretion, to sue the person personally liable to pay the lien for the delinquency. Such lien shall be enforced by action in the same manner in which mortgages on real property may be foreclosed in Indiana. In any such foreclosure, the person personally obligated to pay the lien shall be required to pay all costs of foreclosure including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The person personally obligated to pay the lien shall also be required to pay to the Association any assessments against the lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the foreclosed interest in the lot as the Owner thereof.

The Association shall, upon written request, report to any Mortgagee of a lot any assessments remaining unpaid for longer than thirty (30) days after the same shall become due with respect to such lot, provided, however, that such Mortgagee under which it claims and its notice address.

Section 12. Subordination of Lien. The lien of the
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assessments provided for herein shall be subordinate to the lien of any first Mortgage ("First Mortgage") and to tax liens and liens for special assessments in favor of any taxing and assessing unit of government. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or remedies provided in a First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to charges which were payable prior to such sale or transfer. No such sale or transfer shall relieve a person from liability for any assessments hereafter becoming payable or from the lien thereof or shall relieve the person personally obligated to pay the same from personal liability for assessments payable prior to such sale or transfer or acquisition. Any delinquent assessments the lien for which is extinguished by reason of this provision may be reallocated and assessed to all lots as a common expense.

Section 13. Limitations on the ordinary Declarant. Notwithstanding any provisions or contained herein, there shall be no assessments on undeveloped lots; but, Declarant shall bear the burden of maintenance, property taxes and liability insurance thereon.

Section 14. Initial Working Capital and Start-Up Fund. At the closing of the initial sale of each lot by Declarant to an Owner other than Declarant, the purchaser of such lot shall pay to the Association, the sum of Fifty Dollars (\$50.00), which amount shall be held and used by the Association as a

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working capital fund and start-up fund for the initial period of operation of the Property and the Association, to enable the Association to have cash available to pay those expenses which must be prepaid, to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. However, such payment shall not be considered as an advance payment of any regular annual assessments. On or before sixty (60) days after the date of recording of the instrument by which any lots became a part of the Property and thereby subject to this Declaration, Declarant shall pay to the Association the required contribution to the Association's working capital fund and start-up fund for all of such lots then owned by it which remain unsold, which amount Declarant shall then be entitled to recover directly from subsequent purchasers of such unsold lots, who shall pay the same to Declarant for Declarant's own account in lieu of making payment thereof to the Association.

ARTICLE VI

ARCHITECTURAL CONTROLS

Section 1. Architectural Control Committee Authority.

No exterior additions, removals or alterations (including changes in color appearance) to any building on the Property, additional fences or exterior lighting, changes in existing fences or exterior lighting, fences, walls, walkways and other structures, shall be commenced, erected or maintained

5/11/2024

except such as are installed or approved by the Declarant in connection with the initial construction of the living units and other buildings and improvements on the Property, until the written plans and specifications showing in reasonable detail the nature, kind, shape, height, materials (including color), located and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings in the Property by an architectural committee (the "Architectural Committee") composed of the four of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days after said written plans and specifications have been submitted to it, or if it fails to enjoin the making of such additions, alterations or changes or to force the cessation thereof has been commenced within sixty (60) days of such submission, such approval will be deemed to have been given. If no such submission has been to the Architectural Committee, it to enjoin or force the removal of such additions, alterations or changes may be instituted at any time by the Association or any Owner. During the time which the Association has a Class B member, the decisions of the Architectural Committee must have the written approval of the Declarant. The approvals of the Architectural Committee required hereunder shall be in addition to, and not in lieu

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of, any approvals as to such matters required to be obtained from any other persons or governmental agencies pursuant to the terms of any subdivision plat, statute, law, ordinance, or other governmental regulation or otherwise.

Section 2. Restoration in Accordance with Original Plans. Any restoration or repair of the Common Area, after a partial condemnation or damage due to fire or other casualty, shall be performed substantially in accordance with this Declaration and the original plans and specifications for the same, unless other action is approved by eligible holders holding First Mortgages on lots which have at least fifty-one percent (51%) of the value of lots subject to eligible holders of First Mortgages.

ARTICLE VII.

OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Area. The Association, subject to the rights and obligations of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all improvements (if any) thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of lots) shall include, but not be

limited to, the following: maintenance and repair of the Common Area improvements, if any, and all other improvements or material located within or used in connection with the Common Area. The Association shall mow, trim, water and otherwise care for and maintain all grass, trees, shrubbery, plants and other landscaping located on Common Areas which have been installed. All maintenance and repair of the individual living Units and any other buildings shall be the sole obligation of and shall be performed at the sole cost and expense of the individual Owner.

Section 2. Services. The Association may obtain and pay for the services of any person or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration or any proceedings or controversy in which the Board determines it is necessary or advisable to have professional advice. The Association shall, or may arrange with others to, furnish trash collection and such other common services to each lot as it deems desirable, including, without limitation, snow removal from individual driveways

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and front sidewalks serving Living Units on a basis consistent with recognized Guidelines for normal and customary property management. Any agreement for professional management of the Property, or any other contract providing for services by Decendant, or an entity owned or controlled by the same persons as Decendant, must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice and by either party for cause upon thirty (30) days or less written notice and shall have a maximum contract term of one (1) year, but may be renewable by agreement of the parties for successive one-year terms.

Section 3. Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a Lot, provided that an Owner may delegate his right of enjoyment of such personal property (if any) to residents of his lot. A transfer of title to a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a lot under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed lot.

2016/1/28

Section 4. Utilities. The Association shall pay as a common expense all charges for electricity, water, sewer and other utilities used upon the Common Area.

Section 5. Hazard and Liability Insurance for Common Property. The Association shall procure fire and extended coverage insurance on insurable Common Areas and other common property on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement cost); and shall use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable Common Areas and other common property, including insured improvements. The cost of such insurance shall be assessed as provided in Article V above. Holders of First Mortgages ("First Mortgages") on Living Units, jointly or singly, may pay overdue premiums on hazard insurance policies, or may secure new hazard insurance coverage on the lapse of a policy for the Common Areas and other common property, and First Mortgages making such payments shall be owed immediate reimbursement therefore from the Association. The Association is authorized to enter into an agreement in favor of all First Mortgagees of Living Units establishing entitlement to such reimbursement.

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ARTICLE VIII.

OWNERS' MAINTENANCE

Section 1. Upkeep and Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his Living Unit, patio or porch, and all other areas, features or parts of his Lot.

Section 2. Real Estate Taxes. Real estate taxes are to be separately taxed to each lot. Improvements on Common Areas which are owned by the Association shall be assessed and taxed separately and the tax shall be paid by the Copper Pointe Homeowners Association.

ARTICLE IX.

GENERAL RESTRICTIONS, OBLIGATIONS AND RIGHTS

APPLICABLE TO PROPERTY

Section 1. Living Unit and Lot Restrictions. No more than one Living Unit shall be erected or maintained on each Lot. No Living Unit shall be used for purposes other than as a single family residence, nor shall any trade or business of any kind be carried on within a Living Unit or upon a Lot, nor shall any Lot or any part thereof be leased, sublet, assigned or suffered to be used for hotel or transient occupancy, provided that none of the following activities shall be considered a violation of this covenant:

- A. The maintenance of model Living Units and business and sales offices by Declarant during the

construction and sale periods.

B. The maintenance of offices by the Association or its designated manager for purpose of management of the Property.

C. Lease, rental or use of a Living Unit for purposes consistent with this Section.

D. The use of a living Unit by an Owner for incidental office purposed to the extent permitted by applicable zoning ordinances.

Section 3. Common Area Restrictions. No industry,

business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area, nor shall any "for sale" or "for rent" signs or any window display advertising be maintained or permitted on any part thereof, except that Declarant reserves the right for itself or its agents to maintain model living Units, business and sales offices, storage areas and construction offices on the Common Area during the construction and sales period until the last portion of the Original Real Estate on the applicable date is conveyed to an Owner other than Declarant, and to place "for sale", "for rent" or any other signs on any part of the Common Area and to use any part of the Common Area for sale or display purposes during such period. Subject to the aforesaid rights of the Declarant, Common Areas shall be used only for the purposes for which the same are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the

Board.

Section 3. **Obstructions.** There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area, without the prior written consent of the Association except construction materials and equipment during the construction period or except as specifically provided herein. Nothing shall be altered or constructed in, or removed from the Common Area except upon the prior written consent of the Association.

Section 4. **Prohibition of Damage and Certain Activities.** Nothing shall be done or kept on any lot or in any living unit or on or in any common area or any part thereof which would increase the rate of insurance on the property or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any lot or in any living unit or on or in any common area or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the common area or any part thereof or of the exterior of the property and buildings thereon shall be committed by any owner or any invitee or tenant of any owner, and each owner shall indemnify and hold the Association and the other owners harmless against all loss resulting from any such damage or waste caused by him or his invitees or tenants to the Association and other owners. No noxious, destructive or

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offensive activity shall be allowed in any Living Units, on any Lots or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Property; provided, however, that no act, conduct, activity or operation which Declarant is authorized or permitted to do hereunder shall ever be deemed to be noxious, destructive, offensive nor a nuisance for purposes of this Section 4.

Section 5. **Fences, Walls and Railings.** No Owner shall relocate, heighten, lower or otherwise move or change any fence, wall or patio upon the Property except as provided in Article VI hereinabove.

Section 6. **No Unsanitarily Uses.** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on any portion of the Common Area, or on a lot so as to be visible from outside the lot. The Common Area shall be kept free and clear of all rubbish, debris and other unsanitary materials.

Section 7. **Animals.** No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept in or on any lot or on the Common Area or any part thereof, except that household pets may be kept on lots, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purposes; provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently

Sec. 12.12.8

removed from the Property subject to these restrictions upon three days' written notice from the Board, and provided further, that upon written request of 25% of the voting power of the Association, the Board of Directors shall have the authority to: and shall order the removal of, any pet.

Section 8. Prohibited Structures. No structure of a temporary character, trailer, boat, motorcycles, tent, or shack shall be maintained on any lot outside of a garage or other approved structure, nor shall any garage or other building except a permanent residence be used on any lot at any time as a residence or sleeping quarters, either temporarily or permanently.

Section 9. Storage. Outside storage of any items, shall not be allowed unless screened from view by enclosures so as to be effectively screened from view outside the lot upon which the same are located. The design of such screened enclosure must be approved by the Association in accordance with the architectural control provisions hereof. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing of any noxious or illegal weed or other natural substance, and the boring of the source of any noise or activity

which disturbs the peace, comfort or serenity of residents is prohibited. Usual household trash and garbage shall be regularly collected and may be put out the night before pick-up day. Notwithstanding the foregoing, no boats, snowmobiles, recreational vehicles, trailers, camping

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vehicles, buses, mobile homes, tractor/trailers, trucks, motorcycles, mini-bikes, mopeds, unlicensed or inoperable vehicles, or any other vehicles of any descriptions other than normal passenger automobiles (including station wagons and small trucks such as pickups and vans) shall at any time be stored or parked on the common areas temporarily or permanently nor on the Property for more than 48 hours.

Section 10. Signs. No signs of any kind (other than designations, in such styles and materials as the Association shall by rule or regulation approve, of street addresses and names of occupants) shall be displayed to the public view on any lot or Common Area, except that a "Builder", "For Sale" or "For Lease" sign may be displayed on a lot which is being offered for sale or lease provided that it is in such form, style and location as the Board may require, and except that Declarant shall be permitted to erect and maintain upon the Property such signs as it deems appropriate to advertise the development during the construction and sale periods. Temporary signs (Garage Sale, Open House, etc.) are limited to 48 hours and must be removed at the conclusion of the event.

Section 11. Antennae. Except with the prior written approval the authorization of the Board, no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements or structures to be located upon the Property, or on the Property itself.

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Section 12. Trash. No owner in the development shall burn of permit the burning out of doors of garbage or other refuse.

Section 13. Mailboxes. Mailboxes will be installed by the developer, per U.S. Post Office regulations and maintained by the owner.

Section 14. Landscaping. A lot must have three (3) trees growing on it at all times and maintain, repair and replace other landscaping as per landscaping requirements per lot.

Section 15. Rentals. Any lease between an Owner and a lessee shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing. No living Unit or Lot may be leased for a period of less than 30 days. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease his living Unit.

Section 16. Rules and Regulations. The Board may adopt, and may amend, modify, rescind and cancel, such other rules and regulations from time to time governing the use and enjoyment of the Property, including the Common Area, as the Board in its sole discretion deems appropriate or necessary.

Section 17. Compliance with Zoning Ordinance. So long as the Zoning Ordinance is in effect, no use shall be made of

7/12/2018

any part of the Property which violates, and all Owners, members of their families, their guests, tenants, invitees and all occupants or other parties entitled to use or who may use any part of the Property shall at all times fully comply with, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Ordinance. Notwithstanding anything to the contrary contained herein or otherwise, this Section 17 may not be amended or modified in any manner whatsoever without the prior written consent of Declarant (so long as it owns any part of the Original Real Estate and of any and all parties who, at any time, may have the right to enforce or prevent violations of, or the right to approve any change, in, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Ordinance.

ARTICLE X.
GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions and of the provisions contained in the Articles of Incorporation and By-Laws of the Association may be by any proceeding at law or in equity instituted by the Association or by any Owner against any person (including the Association) violating or attempting to violate any covenant or restriction, either to restrain violation, to compel

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compliance, or to recover damages, and against the land, to enforce any lien created by these covenants; and failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Attorneys' fees and costs of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any persons violating the terms contained herein.

Section 2. Mergers. Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions herein and hereby established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or additions to the covenants established by this Declaration within the Property, except as hereinabove provided.

Section 3. Severability. Invalidity of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provision which

7/26/28

shall remain in full force and effect.

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Elizabeth C. Fogelsong and Gale R. Fogelsong, the President and Secretary, respectively, of FOGELSONG, INCORPORATION, an Indiana corporation, who acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 11th day of Oct., 1990.

NOTARY PUBLIC
Commission Expires: 7-27-91
OFFICE: 1000 N. STATE ST. INDIANAPOLIS, IN 46202
My Commission Expires: DEC 12 1990
Elizabeth C. Fogelsong
Notary Public

Elizabeth C. Fogelsong
Elizabeth C. Fogelsong

Elizabeth C. Fogelsong

Elizabeth C. Fogelsong
This Instrument prepared by Fogelsong, Inc., 102 Wilshire Ct., P.O. BOX 345
Noblesville, Indiana 46060
Scaloria

EXHIBIT A

LEGAL DESCRIPTION:

Part of the Southwest Quarter of Section 14, Township 19 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the said Quarter Section; thence South 89 degrees 48 minutes 22 seconds East along the North line of the said Quarter Section, 133,88 feet; thence North 00 degrees 11 minutes 38 seconds East 13,71 feet to a point on the center line of Carrigan Road, as now established, said point being the beginning of a curve having a radius of 636,62 feet, the radius point of which bears South 00 degrees 08 minutes 08 seconds West (the next four courses are along the center line of said Carrigan Road): (1) thence Southeasterly along the said curve 827,78 feet to a point which bears North 74 degrees 38 minutes 08 seconds East from the said radius point; (2) thence South 15 degrees 21 minutes 52 seconds East 221,33 feet to a curve having a radius of 954,93 feet, the radius point of which bears North 74 degrees 38 minutes 08 seconds East; (3) thence Southeasterly along said curve 190,58 feet to the Point of Beginning, said point bears South 63 degrees 12 minutes 03 seconds West from said radius point; (4) thence continuing along said curve having a radius of 954,93 feet Southeasterly 611,68 feet to a point which bears South 26 degrees 30 minutes 01 seconds West from the said radius point, said point being on the Northerly right of way line of Clarendon Drive as per Instrument #25557 recorded July 28, 1981 in Miscellaneous Indiana, (the next three courses are along the said Northerly right of way line); (1) thence South 25 degrees 00 minutes 00 seconds West 243,38 feet to a curve having a radius of 225,00 feet, the radius point of which bears North 65 degrees 00 minutes 00 seconds West; (2) thence Southwesterly along said curve 412,33 feet to a point which bears South 40 degrees 00 minutes 00 seconds West from the said radius point; (3) thence North 50 degrees 00 minutes 00 seconds West 24,97 feet to the Northeast corner of North Harbour-Section Twenty-two the Record Plat of which is recorded as Instrument #26148 in Plat Book 9, page 13 thru 15 in the said Recorder's Office; thence along the Northerly line thereof North 50 degrees 00 minutes 00 seconds West 43,61 feet to a point on a curve having a radius of 1279,93 feet, the radius point of which bears South 40 degrees 00 minutes 00 seconds West; thence Northwesterly along said curve 78,19 feet to a concrete monument which bears North 36 degrees 30 minutes 00 seconds East from said radius point, said concrete monument is referred to in Warranty Deed conveyed by The Shorewood Corporation to Morse Lake Golf Club, Inc., recorded May 16, 1979 as Instrument #5930 in Deed Record J12, page 235 in the said Recorder's Office (the next two courses are along said property); (1) thence North 36 degrees 30 minutes 00 seconds East 105,00 feet to a concrete monument; (2) thence North 08 degrees 00 minutes 00 seconds East 550,37 feet to the point of beginning, containing 5,152 acres, more or less.

This Instrument Recorded 10/22 1980
Sharon K. Cherry, Recorder, Hamilton County, IN

CITIZEN TITLE

7-26-28

INSTR

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9112055

FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR COPPER POINTE

This Amendment made this 12th day of May, 1991, by COPPER
POINTE INC., an Indiana corporation (hereinafter called "Declarant").

WITNESSETH:

Whereas, Declarant is the owner of the real estate known as
COPPER POINTE, recorded as a secondary plat on October 25, 1990 as
Instrument No. 9026584 in P.C. #1, Slide No. 135 in the Office of the
Recorder of Hamilton County, Indiana and said real estate is subject
to the "Declaration of Covenants, Conditions, Restrictions and
Agreements for Copper Pointe" recorded on October 22, 1990 as
Instrument No. 9026584.

Whereas, a commitment of this development has revealed the need
to amend the above mentioned "Declaration",

And whereas, the structures to be constructed will be located
along and coincident with one of the side yards of each lot,

And whereas, the process of constructing a structure requires
working space around the structure and space to install underground
utilities,

This Instrument Recorded 5-22 1991
Sherri K. Cherry, Recorder, Hamilton County, IN

MAY 22 1991
AD: 23

Therefore, the following restrictions are ADDED to the said "Declaration", and said additions shall be in force and effect in the same manner as if they were included originally,

1. ZERO LOT LINE - A dwelling located on any lot in this development may be located with a sideyard (on one interior side yard only) of zero (0) feet setback. The dwelling unit setback on the other interior side lot line shall be a minimum of ten (10) feet, excluding connecting elements such as fences, etc. No openings such as windows of any kind shall be installed on the structure wall which lies on the lot line and or within the required side yard. The roof overhang of a structure may extend into an adjoining lot side yard to a maximum of twenty-four (24) inches.

2. EASEMENTS FOR ENCROACHMENTS AND SUPPORT - Notwithstanding any other provisions contained in this Declaration, in the event that any Living Unit or structure encroaches upon any Lot other than the Lot upon which such Living Unit, structure or improvement is primarily located, as a result of construction, reconstruction, repair, shifting, settlement or movement of any part of the Property, or if any such Living Unit, structure or improvement requires lateral or subjacent support from property adjoining the lot upon which such Living Unit, structure or improvement is primarily located, then the following perpetual rights and easements shall exist and are hereby granted and created:

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A. A perpetual easement appurtenant to such encroaching living Unit, structure or improvement for the continuance of any such encroachment on the property encroached upon, including the right to reconstruct, repair or replace the same to the extent of the encroachment as it may exist immediately upon completion of the original construction of such living Unit, structure or improvement; and

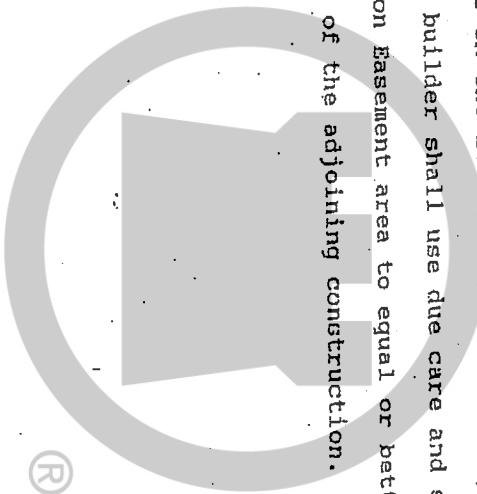
B. A perpetual right and easement appurtenant to each living Unit structure or improvement requiring lateral or subjacent support from property adjoining the lot upon which such living Unit, structure or improvement is primarily located, for such lateral or subjacent support as is required upon and by such adjoining property.

3. NON-ACCESS EASEMENT - All lots shall only be accessed from the interior streets of this subdivision. The plat of COPPER POINTE contains five foot wide non-access easements located on the several lots abutting the perimeter Public Street.

4. UTILITY EASEMENTS FOR SERVICE TO LIVING UNITS (L.U.) - A nine (9) foot wide Utility Easement (U.F.L.U.) is hereby created and established and located in the same location on each Lot where a Maintenance Easement (M.E.) is located on any plat of COPPER POINTE, overlaying said Maintenance Easement and located adjacent and coincident with the lot line adjacent, which said Utility Easement is established for purposes of underground installation and maintenance of public utilities to provide such service to the adjacent living Unit.

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5. Construction Easement - The Declarant and/or builder shall have a nine (9) foot wide easement on any lot adjoining a Zero Lot Line Living Unit or structure being constructed, repaired or reconstructed, which said easement is created for the purposes necessary for access for the adjoining construction. Where a Living Unit exists on the lot on which this easement is granted, the Declarant/ builder shall use due care and shall return the Construction Easement area to equal or better condition upon completion of the adjoining construction.



CHICAGO TITLE

9112055

The undersigned, FOGELSONG INCORPORATION, as the original signators, hereby acknowledge and consent to the within amendments.

FOGELSONG INCORPORATION

COPPER POINTE INC.

By: Gale R. Fogelsong
Gale R. Fogelsong, President

By: Gale R. Fogelsong
Gale R. Fogelsong, President

By: Elizabeth C. Fogelsong
Elizabeth C. Fogelsong, Secretary

By: Paul Goeke, Jr.
Paul Goeke, Jr., Treasurer

STATE OF INDIANA)
COUNTY OF HAMILTON) SS:

Before me, a Notary Public in and for said County and State, personally appeared Gale R. Fogelsong and Elizabeth C. Fogelsong, the President and Secretary, of FOGELSONG INCORPORATION, and, also, Gale R. Fogelsong and Paul Goeke, Jr. of COPPER POINTE INC., the President and Treasurer who acknowledge the execution of the above and foregoing instrument for and on behalf of said Indiana Corporations for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 12th day of May, 1991.

CHICAGO
Notary Public
HOTLY J. Lee

My Commission expires: My County of Residence:

April 1, 1992

Marion



The Instrument Recorded 5-22-1991
Sharon K. Cherry, Recorder, Hamilton County, IN

9112055

This Instrument prepared by Paul I. Cripe, Inc.

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200100083171
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
10-03-2001 02:25 PM
AMEND DECL 32.00

EXHIBIT B

**THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
for
COPPER POINTE**

This Third Amended and Restated Declaration of Covenants Conditions, Restrictions and Easements, for Copper Pointe is made this 15 day of Sept, 2001.

Whereas, the undersigned are the owners of ninety percent (90%) of all of the lots located in Copper Pointe Subdivision in Hamilton County, Indiana, (sometimes herein referred to as "Subdivision") which subdivision was recorded as Instrument No. 9026587 in the office of the Recorder of Hamilton County; and
148 127

Whereas, the first amendment was recorded in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 9112055 on the 22nd day of May, 1991; and

Whereas, the second amendment was recorded in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 94 _____ on the _____ day of _____, 1994; and

Whereas, the original declaration of Covenants, Conditions, Restrictions and Easements for Copper Pointe ("Covenants") can be amended by ninety percent (90%) of the owners of lots in Copper Pointe; and

Whereas, the Owners are now desirous of amending the above described Covenants for a third time, and to restate the Covenants in their amended form.

Now Therefore, the Covenants shall be amended for a third time so that they read in their entirety as set forth in the "THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE" which are attached hereto as "Exhibit A."

The undersigned in owners, being the owners of more than ninety percent (90%) of the lots in Copper Pointe hereby acknowledge and consent to this THIRD AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE.

Signature: [Signature] Printed: W. COLE SMITH
Printed: DAVID MARSHALL Printed: 210 clark street
Lot No: 285 Lot No: 716-01
Date: 7-18-01 Date: 7-16-01

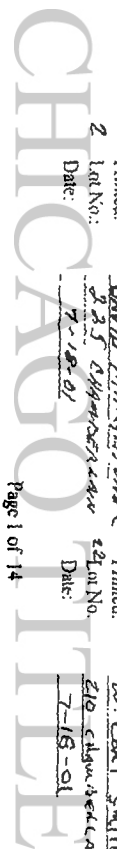


Exhibit B

Signature:
Printed:
20 Lot No.:
Date:

David M. McGee
DAVID MCGEE
233
7/19/01

Signature:
Printed:
7 Lot No.
Date:

J.A. Han B & Hotel
J.A. Han B & Hotel
232 Glenview Circle
7/19/01

Signature:
Printed:
8 Lot No.:
Date:

Tom Ryan
Tom Ryan
3 & 9
7-19-01

Signature:
Printed:
4 Lot No.
Date:

John W. MacBride
John W. MacBride
235 Sherman & Chicago
7-19-01

Signature:
Printed:
9 Lot No.:
Date:

Lawrence J. Brown
Lawrence J. Brown
Lew Brown
311
7/19/01

Signature:
Printed:
5 Lot No.
Date:

Arny Nickson
Arny Nickson
274 Chamberlain
7/19/01

Signature:
Printed:
1 Lot No.:
Date:

D.W. Halcomb
D.W. Halcomb
811
7-19-01

Signature:
Printed:
11 Lot No.
Date:

Diana Stucke
Diana Stucke
2741 Franklin
7/19/01

Signature:
Printed:
10 Lot No.:
Date:

Ernest Johnson
Ernest Johnson
10
9-19-01

Signature:
Printed:
12 Lot No.
Date:

Gregory S. Willis
Gregory S. Willis
124 Apple Lane
7/19/01

Signature:
Printed:
3 Lot No.:
Date:

Denise Roberts
Denise Roberts
3
7-19-01

Signature:
Printed:
6 Lot No.
Date:

Craig W. Brock
Craig W. Brock
283
8/7/01

Signature:
Printed:
21 Lot No.:
Date:

David Heiderick
David Heiderick
21
7-19-01

Signature:
Printed:
Lot No.
Date:

Gale R. Foskams Pres
Gale R. Foskams Pres
1314 18th Ave
9/12/01

Signature:
Printed:
15 Lot No.:
Date:

Greg Sheiner
Greg Sheiner
111 Allen Lane
7-19-01

Signature:
Printed:
Lot No.
Date:

Cassandra Applegate
Cassandra Applegate
111 Allen Lane
9-15-01



Exhibit 9

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared David Markstone owner of lot 2 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 18th day of July 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public



My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared K. Cory Smith owner of lot 22 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 18th day of July 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public
Patricia A. Bigham
(Printed Name)

My County of Residence: Hamilton

(Printed Name)

Exhibit B

STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared David McCoy owner of lot 28 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER PONTITE to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)



STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Tom Ryan owner of lot 8 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER PONTITE to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)



Exhibit B

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared
owner of lot 9 who acknowledged the execution of the above
Thomas Brown
and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR COPPER POINT: as his/her voluntary, act and deed this 19 day of
July 2001.

My Commission Expires:
10/15/01

Patricia A. Bigham
Notary Public

My County of Residence:
Marion

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
)
COUNTY OF HAMILTON)

SS:
Before me a Notary public in and for said county and State, personally appeared
owner of lot 1 who acknowledged the execution of the above
D. W. Holcomb
and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR COPPER POINT: to be his/her voluntary act and deed this 19 day of
July 2001.

My Commission Expires:
10/15/01

Patricia A. Bigham
Notary Public

Patricia A. Bigham
(Printed Name)

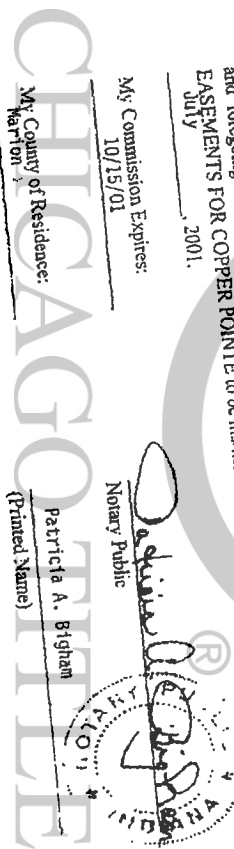


Exhibit B

STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Everitt Adams owner of lot 10 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINT to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Notary Public



My County of Residence: Marion

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Denise Roberts, owner of lot 3 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINT to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Notary Public



My County of Residence: Marion

Patricia A. Bigham
(Printed Name)

Exhibit B

STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared David Henderson owner of lot 21 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER PONTNE to be his/her voluntary act and deed this 19 day of July 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Marion

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Greg Steiner owner of lot 15 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER PONTNE to be his/her voluntary act and deed this 19 day of July 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Marion

Patricia A. Bigham
(Printed Name)

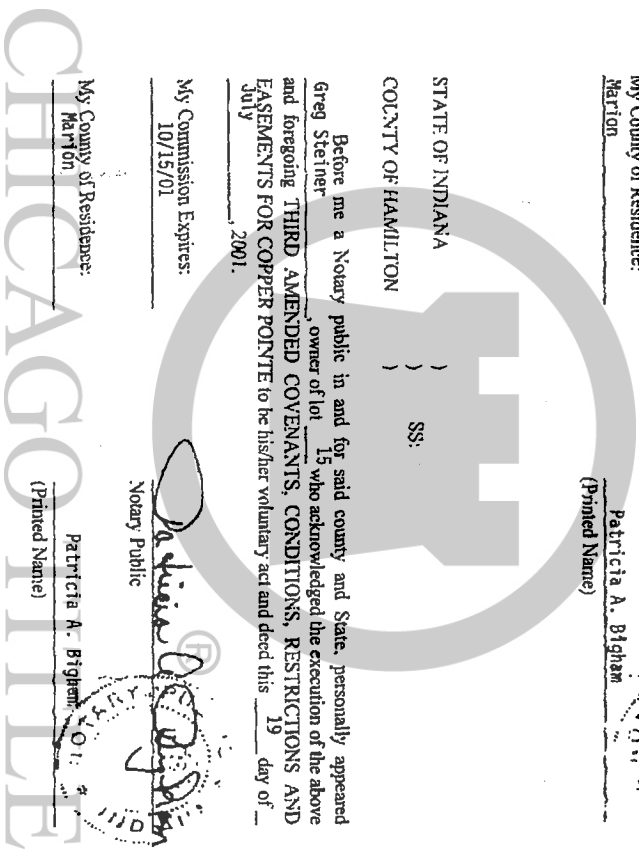


Exhibit B

STATE OF INDIANA)
)
COUNTY OF HAMILTON)

SS:

Before me a Notary public in and for said county and State, personally appeared Jo Ann Bechtel owner of lot 7 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
)
COUNTY OF HAMILTON)

SS:

Before me a Notary public in and for said county and State, personally appeared John Walder owner of lot 4 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this day of July, 2001.

My Commission Expires: 10/15/01

Patricia A. Bigham
Notary Public

My County of Residence: Marion

Patricia A. Bigham
(Printed Name)

Exhibit B

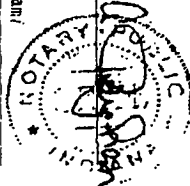
STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Any Nickson owner of lot 5 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)



STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Diann Arnylo owner of lot 11 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

Notary Public

Patricia A. Bigham
(Printed Name)



Exhibit B

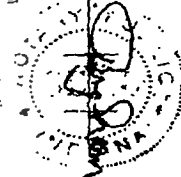
STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Gregory S. Willis owner of lot 12 who acknowledged the execution of the above and foregoing **THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE** to be his/her voluntary act and deed this 19 day of July, 2001.

My Commission Expires: 10/15/01

My County of Residence: Hamilton

Patricia A. Bigham
Notary Public
(Printed Name)



STATE OF INDIANA)
)
) SS:
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Clyff W. Brock owner of lot 6 who acknowledged the execution of the above and foregoing **THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE** to be his/her voluntary act and deed this 7th day of August, 2001.

My Commission Expires: 10/15/01

My County of Residence: Hamilton

Patricia A. Bigham
Notary Public
(Printed Name)



Exhibit B

STATE OF INDIANA)
)
) SS:
)
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Gale R. Fogelsong, owner of lot 13, 14, 15 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 28th day of June, 2001.

My Commission Expires:

Notary Public

My County of Residence: Hamilton

Patricia A. Bigham
(Printed Name)

STATE OF INDIANA)
)
) SS:
)
COUNTY OF HAMILTON)

Before me a Notary public in and for said county and State, personally appeared Gayle R. Fogelsong, owner of lot 13, 14 who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 12th day of September, 2001.

My Commission Expires: 10/15/01

Notary Public

My County of Residence: Hamilton


Patricia A. Bigham
(Printed Name)

STATE OF INDIANA))
COUNTY OF HAMILTON)) SS:

Before me a Notary public in and for said county and State, personally appeared Carol Steiner Applegate, owner of lot 15, who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this 13th day of September, 2001.

My Commission Expires: 10/15/01

My County of Residence: Marion

Patricia A. Bigham
Notary Public

Patricia A. Bigham
(Printed Name)

Page 12 of 14

~~STATE OF INDIANA)))
COUNTY OF HAMILTON))) SS:~~

~~Before me a Notary public in and for said county and State, personally appeared owner of lot who acknowledged the execution of the above and foregoing THIRD AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR COPPER POINTE to be his/her voluntary act and deed this day of , 2001.~~

~~My Commission Expires:~~

~~My County of Residence:~~

~~Notary Public
(Printed Name)~~

Page 13 of 14

