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MARION COUNTY RECORDER

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR HISTORIC STANDISH ESTATES**

DULY DELIVERED IN PRESENCE OF  
THREE WITNESSES AND ACCEPTANCE  
FOR TRANSFER

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Exhibit "A"       Real Estate comprising Historic Standish Estates  
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**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR HISTORIC STANDISH ESTATES**

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR HISTORIC STANDISH ESTATES** is executed as of the date set forth below, by the undersigned on behalf of Historic Standish Estates Homeowners Association, Inc.

WITNESSETH:

WHEREAS, the Historic Standish Estates located in Marion County, Indiana was established by and is subject to a certain "Declaration of Covenants and Restrictions for Historic Standish Estates (hereafter "Declaration")", which was recorded on March 20, 1998 as **Instrument No. 1998-0045461** in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, the original developer of Historic Standish Estates, pursuant to the authority granted in the Declaration, caused to be incorporated under the laws of the State of Indiana a nonprofit corporation presently under the name "Historic Standish Estates Homeowners Association, Inc." (hereafter, "Corporation"), whereby all Owners in Historic Standish Estates are Members of the Association; and

WHEREAS, Paragraph 23 of the Declaration states that the Declaration's provisions may be amended by the affirmative vote of not less than Seventy-Five Percent (75%) of all Owners at a meeting of the members duly called for such purpose; and

WHEREAS, the Owners and Members within Historic Standish Estates desire to amend and restated the provisions of the Declaration; and

WHEREAS, after written notice was duly given, a Special Meeting of the Corporation was held on October 18, 2005, at which at quorum was present; and

WHEREAS, at said Special Meeting, the votes of not less than Seventy-Five Percent (75%) of all Owners cast at said meeting were cast in favor of the following amendments to the Declaration; and

**NOW, THEREFORE**, the Declaration is hereby amended and restated as set forth in the preceding Table of Contents and as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Applicable Date" means the date determined pursuant to Paragraph 10(b) of this Declaration.

(b) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by

reference.

- (c) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-Laws of the Corporation.
- (d) "Building" means any one of the separate structures which has two attached Dwelling Units.
- (e) "By-Laws" shall mean the Code of By-Laws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation. The By-Laws are incorporated herein by reference.
- (f) "Common Area" means the ground designated as such upon the Plat of Historic Standish Estates.
- (g) "Common Expense" means expenses for administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Area and such exterior portions of the Lots and Dwelling Units as designated in this Declaration, and any other costs or expense incurred by the Corporation for the benefit of the same or the Owners, and all sums lawfully assessed against the Members of the Corporation.
- (h) "Corporation" means Historic Standish Estates Homeowners Association, Inc., an Indiana nonprofit corporation, its successors and assigns, whose members shall be the Owners of Lots, or appointees as provided in Paragraph 11 of this Declaration; such Corporation being more particularly described in Paragraph 10 of this Declaration.
- (i) "Declarant" shall mean and refer to Hawthorne Indiana, Ltd., 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 any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.
- (j) "Dwelling Unit" means the living unit located upon a Lot, and the garage appurtenant thereto.
- (k) "Lot" means any plot of ground designated as such upon the recorded Plat of Historic Standish Estates and upon which one (1) Dwelling Unit is constructed, is to be constructed or has existed. When Lot is used it shall be deemed to include the Dwelling Unit located thereon.
- (l) "Member" means a member of the Corporation.
- (m) "Mortgagee" means the holder of a first mortgage lien on a Lot.
- (n) "Historic Standish Estates" means the name by which the Tract, as described in Paragraph A above, which is the subject of this Declaration and which the Corporation manages, shall be known.

(o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(p) "Plat" means the plat of the Tract prepared by Schneider Engineering Corporation, certified by Edward G. Giacoletti, a registered land surveyor, under date of March 20, 1998, and recorded as Instrument Number 98-0045462 in the office of the Recorder of Marion County, Indiana, which is incorporated herein by reference.

(q) "Tract" means the real estate described in Paragraph A above.

2. Declaration. Declarant hereby expressly declares that the Tract shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. Description of Historic Standish Estates. Historic Standish Estates consists of thirty (30) Lots numbered 1 through 30 inclusive, together with the Common Area as designated on the Plat. The Common Area and the size of the Lots are as designated on the Plat. The legal description for each Lot in Historic Standish Estates shall be in the following form:

Lot \_\_\_\_\_ in Historic Standish Estates, a subdivision in Marion County, Indiana, as per plat thereof recorded \_\_\_\_\_, 19\_\_\_, as Instrument Number \_\_\_\_\_ in the Office of the Recorder of Marion County, Indiana.

4. Lots and Easements. The boundaries of each Lot in Historic Standish Estates shall be as shown on the Plat; provided, however, in the event any vertical boundary line of any Dwelling Unit does not coincide with the actual Lot line because of inexactness of construction, settling after construction or for any other reasons, whether from the initial construction or subsequent reconstruction, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such base line outside the actual boundary line of the Lot.

5. Common Area. Common Area includes all the area designated as such on the recorded Plat of Historic Standish Estates.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the non-exclusive right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration, including but not limited to, the following:

(a) The right of the Corporation, upon approval by a written instrument signed by two-thirds of all Members by two-thirds of all first mortgagees, 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 by the Corporation.

(b) The right of the Corporation to adopt such rules and regulations regarding the Common Area as it deems necessary as provided in Paragraph 11(d).

(c) The Common Area in Historic Standish Estates shall be conveyed to or owned by the Corporation at the time of conveyance of the first Lot in Historic Standish Estates.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment, and use of the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

8. Encroachments and Easements in Common Area. If by reason of inexactness of construction, settling after construction or for any other reasons, any Common Area encroaches upon any Lot, an easement shall be deemed to exist and run to the Corporation for the maintenance, use and enjoyment of such Common Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in any other Dwelling Units or in the Common Area and serving his Dwelling Unit.

9. Easement for Utilities and Public and Quasi Public Vehicles. All public and quasi public vehicles including, but not limited to, police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles shall have the right to enter upon Common Area in the Tract in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of underground Utilities, including but not limited to water, sewers, gas, cable television, telephone and electricity on the Tract; provided, however, nothing herein shall permit the installation of sewers, electric lines, water line or other utilities, except as initially designed and approved by Declarant on the Plat or as thereafter may be approved by Declarant or by the Board of Directors. By virtue of this easement the electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Tract and to affix and maintain electrical and telephone wires, circuits and conduits on and under the exterior walls of the Dwelling Units. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant shall have the right to grant such easement on such Tract, without conflicting with the terms of this Paragraph. The easements granted herein shall in no way affect any other recorded easement on the Tract.

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the Common Area to perform its duties.

10. Corporation; Membership; Voting; Functions.

(a) Membership in Corporation. Each Owner of a Lot which is subject to assessment 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 a Member of the Corporation.

(b) Class and Voting Rights. The Corporation shall have one (1) class of membership, which shall be all. Each Member shall be entitled to one (1) vote for each Lot of which such Member is the owner with respect to each matter submitted to a vote of Members upon which the Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of 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.

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

#### 11. Board of Directors.

(a) 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.

(b) 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 Tract, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners), and the maintenance, repair, upkeep and replacement of such exterior portions of the Dwelling Units and Lots as designated in this Declaration, and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary, provided any such management agreement shall be for a term of three (3) years or less and shall provide that any such agreement may be terminated by either party with or without cause upon sixty (60) days written notice to the other party. Any decision not to employ a professional property management agent shall require the prior consent of the Owners of at least sixty-seven percent (67%) of the total number of Lots and fifty-one percent (51%) of the vote of Mortgagees whose mortgage interests have been made known to the Board of Directors pursuant to this Declaration. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(i) Protection, repair and replacement of the Common Area, unless the same are otherwise the responsibility or duty of Owners of Lots; 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 need not be furnished;

(ii) Procuring of utilities in connection with the Lots and Dwelling Units, removal of garbage and waste, and snow removal from the Common Area;

(iii) Landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Area, and such exterior portions of the Dwelling Units and/or Lots as designated in this Declaration

(iv) Surfacing, paving and maintaining any private roads constituting a part of the Common Area;

(vi) 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;

(vii) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year;

(viii) Keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Area and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, By-Laws and Rules) shall be available for examination by an Owner, Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours;

(ix) 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;

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

(xi) Furnishing, upon request of any Mortgagee, insurer or guarantor of a first mortgage, an audited financial statement for the immediately preceding fiscal year.

(d) Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

(i) 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;

(ii) To employ legal counsel, architects, engineers, 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;

(iii) 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 Area and such exterior portions of the Dwelling Units and/or Lots as designated in this Declaration;

(iv) To include the costs of all of the above and foregoing as Common Expenses of the Corporation and to pay all of such costs therefrom;



(v) To open and maintain a bank account or accounts in the name of the Corporation and to designate the signatories thereto;

(vi) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Tract, including the Lots and Common Area, provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

(e) Limitation on Board Action. The authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a Majority of Owners (as defined in Section 3.5(e) of the By-Laws) is obtained, except in the following cases:

(i) Supervision and management of the replacement or restoration of any portion of the Tract damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(ii) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; however, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

(iii) 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.

The said Five Thousand Dollar (\$5,000.00) maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price deflator or any comparable index.

(f) 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 any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(g) 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, bad faith 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. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

(h) 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 he is or was a Director of the Corporation, 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 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 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 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 falsity 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.

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

12. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Tract or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Tract or that part thereof that is assessed as a whole. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

13. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Corporation.

14. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the Common Area (including the private streets) shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

(a) Exterior Maintenance. In addition to maintenance upon the Common Area, the Corporation shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows:

(i) paint, repair, replacement and maintenance of roofs, gutters, down spouts, mailboxes, exterior lights and exterior building surfaces of the Dwelling Unit and applicable garage (except that garage doors shall be maintained only as described in (ii) immediately below). Such exterior maintenance shall not include glass surfaces, screens and screen doors, door and window fixtures and other hardware and such other items as the Board of Directors may so designate (unless specifically designated in this Declaration as the Corporation's obligation) so long as such items of exception shall apply to all Lots equally.

(ii) stain or paint the exterior of all exterior doors, including garage doors.

(iii) repair, replacement and maintenance of the party fences separating Lots with abutting Dwelling Units and the concrete walkways provided from the back of each Dwelling Unit to its applicable garage.

(iv) maintenance of lawns and ornamental trees and foundation bedding as existing at the time of purchase by original Owner, but any repair and replacement of such items shall be reasonable in amount and size at the discretion of the Board of Directors. (All exterior flowering or blooming plants shall be provided and maintained by each Owner).

(v) repair, replacement and maintenance of parking areas, driveways and sidewalks.

(vi) snow removal of parking areas, driveways and sidewalks, except within fenced areas.

(b) Owners Maintenance. Each Owner shall be responsible for maintaining and keeping his Lot and all improvements thereon in a good, clean and sanitary condition and shall do all work thereon which is not required hereunder to be performed by the Corporation, including the interiors of patio areas and patio fences. The Corporation shall be responsible for repairing and maintaining any patio fences except for painting or staining the interior unless the Board of Directors shall otherwise provide.

(c) Shared Utilities Easement. With respect to each Building, consisting of two (2) Dwelling Units, there will be certain shared underground sewer and water utility conveyance and other equipment and structures for the joint benefit of each such Dwelling Unit as well as certain sewer and water utility conveyance and other equipment and structures for the individual benefit of each Dwelling Unit. The Corporation hereby reserves unto itself and to any applicable utility companies an easement over and under each Lot for purposes of repair, replacement and maintenance of any such sewer and water utility conveyance and other equipment and structures.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any Lot or the Common Area, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage

shall be caused, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay 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 with such policy having 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.

If any owner shall fail so to maintain and keep his property or any part thereof in a good, clean and sanitary condition, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's property.

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

15. Architectural Control

(a) 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. The Architectural Review Board shall be appointed by the Board of Directors. In the absence of the Architectural Review Board, the Board of Directors shall act as such.

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, change of colors, excavation, changes in grade or other work which in any way alters the exterior of any Lot or Dwelling Units or other 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 without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration or pursuant to rules adopted by the Board of Directors. No building, fence, wall, Dwelling Unit, or other structure or improvements of any kind shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board and as required by subparagraph (f) below.

(d) 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 (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The

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

(e) Maintenance of Architectural Control. The Association may not waive or abandon the procedure for regulating and enforcing the architectural design or exterior appearance of the Lots or for maintaining the exterior of the Lots or the Common Area (including the upkeep of common fences, driveways, lawns and plantings) without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(f) Additional Approval. The Tract lies within a designated Historic District. Therefore, anything to the contrary in this section notwithstanding, no improvements, alterations, repairs, change of colors, excavation, changes in grade or other work which in any way alters the exterior of any Lot or the Dwelling Units or other 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 and no building, fence, wall, Dwelling Unit, or other structure or improvements of any kind shall be commenced, erected, maintained, improved, altered, made or done on any Lot without compliance with any and all rules and regulations or, if required, the prior written approval of the Fort Harrison Architectural Review Commission, or its successor in interest, including the requirements of the Standard Covenants attached hereto as Exhibit B.

16. Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Dwelling Unit and garage upon the Tract and which connects two Dwelling Units and applicable garages shall constitute a party wall and, to the extent not inconsistent with the provisions of this Paragraph, 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.

(b) 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.

(c) Destruction by Fire or Other Casualty. If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by any of the Owners who make use of such party wall, and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes 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, intentional or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Paragraph, 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.

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

(f) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Paragraph, 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 fail or 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.) The cost of the arbitrators shall be borne equally by the parties.

#### 17. Assessments

(a) Annual Accounting. Annually, within ninety (90) days after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget for Common Expense. Annually, 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 next fiscal year estimating the total amount of the Common Expenses for the next 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 at the annual meeting of the Corporation for adoption, and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners at which a quorum is present, the annual 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, 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 Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior portions of the Lots and Dwelling Units as designated in this Declaration, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior expenses of the Lots as designated in this Declaration shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana 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 Regular Assessments as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such next fiscal year, the Owners shall pay Regular Assessments based upon the Board's proposed annual budget.

(c) 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 Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). 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 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 monthly 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 assessments quarterly, semi-annually or annually, in advance. The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot and Dwelling Unit 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. 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.

(d) Special Assessments. From time to time Common Expenses or Additional Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that any such assessment for Common Expenses 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 at which a quorum is present, 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, prorated in equal shares (herein as to both Common Expenses and Additional Expenses 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 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.

(e) Failure of Owner to Pay Assessments. No Owner may exempt himself or herself from paying Regular or Special Assessments or any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas, or by abandonment of the Lot belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular, Special and, if applicable, Additional Improvements 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 Dwelling Unit may be foreclosed by the Board for and on behalf of the Corporation as provided by law. Upon the failure of an Owner to make payments of any Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a reasonable late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board;

(2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary;

(3) suspend such Owner's right to vote as provided in the Indiana Nonprofit Corporation Act of 1991, as amended.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and 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 or Special Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs of the Managing Agent and reasonable attorney's fees, from the Owner of the respective Lot.

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

#### 18. Mortgages.

(a) 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 and 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 at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in



the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments. The Corporation shall, upon request of a 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.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any Mortgagee making such payment shall be owed immediate reimbursement by the Corporation.

(d) Notice of Condemnation or Casualty Loss. Mortgagees shall be timely notified of any condemnation or casualty loss which affects a material portion of Historic Standish Estates or any Lot. Mortgagees shall also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Corporation.

(e) Notice to Insurers and Guarantors. Any guarantor of a first mortgage or any insurer shall, upon notification and request to the Corporation, receive the same notices as are required to be given to Mortgagees.

#### 19. Insurance.

(a) Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Lots and the Common Area in an amount consonant with the full replacement value of the improvements which in whole or in part, comprise the Lots and Common Area. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "all risk" 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. Such insurance coverage shall be for the benefit of each Owner, the Corporation and if applicable, the Mortgagee of each Owner upon the terms and conditions hereinafter set forth.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the individual Owners and Mortgagees. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate, and only in accordance with the provisions of this Declaration and any surety bond or bonds obtained by the Board of Directors concerning the officers of the Corporation as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of such Owner's damaged Lot to the damages of all Lots and Common Area directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are reasonably obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) contains an endorsement that such policy shall not be terminated for nonpayment of premiums or for any other reason or shall not be substantially modified without at least ten (10) days prior written notice to Mortgagees and at least ten (10) days prior written notice to the Corporation.

For any casualty loss sustained to an Owner's Lot or Dwelling Unit which is covered by the above insurance, the Owner thereof shall be responsible for paying the deductible for each claim, not to exceed \$1,000.00 per claim.

Each Owner shall be solely responsible for loss or damage to the contents of his Dwelling Unit however caused and his personal property stored elsewhere on the Tract and the Corporation shall have no liability to the Owner for loss or damage to the contents of any Dwelling Unit or any personal property stored elsewhere on the Tract. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

(b) 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 but not less than \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover 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 come to act as agents or employees of any of the foregoing with respect to the Tract, 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. Such public liability insurance policy shall contain a provision that such policy shall not be canceled or substantially modified without at least ten (10) days written notice to the Corporation.

(c) 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 of Directors 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 and 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.

(d) 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 be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation.

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 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 method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Area. In the event of condemnation of all or any part of the Common Area the Corporation, as owner of the Common Area, shall represent the Owners in any negotiation or settlement regarding such condemnation. No Owners or any other party shall have priority over any rights of a Mortgagee pursuant to its mortgage in the case of distribution to such owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees, if to do so would be in violation of the Indiana Nonprofit Corporation Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

(e) Insurance by Owners. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

(f) Condemnation Awards. All proceeds payable as a result of condemnation shall be paid to the Corporation who shall act as trustee and hold such proceeds for the benefit of the individual Owners and Mortgagees. Such proceeds shall be distributed as provided above.

20. Casualty of Dwelling Units and Common Areas.

(a) Restoration of Dwelling Units.

(1) Damage to or destruction of any Dwelling Unit due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Corporation and the proceeds of insurance, if any, shall be applied for that purpose.

(2) 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, the cost for restoring the damage and repairing and reconstructing the Dwelling Units so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the owners of the Dwelling Units damaged in proportion to the ratio that damages to an Owner's Dwelling Unit have to the total damage to all Dwelling Units that are damaged. Any such amounts payable by the Owners of damaged Dwelling Units shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

(3) For purposes of subparagraphs (1) and (2) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Dwelling Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(4) 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, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

(5) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Dwelling Units are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the estimated cost of reconstruction and repair of each Dwelling Unit is more than One Hundred Thousand Dollars (\$100,000), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (3) that the costs, as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, do not exceed the amount of the construction fund remaining after payment of the sum so requested.

(ii) Encroachments upon or in favor of Dwelling Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Dwelling Units were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Dwelling Units stand.

(iii) In the event that there is any surplus of monies in the construction funds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners of the Dwelling Units affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damaged Dwelling Units shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

(b) Restoration of Common Area. In the event of damage to or destruction of any of the Common Area 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.

In the event 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 of the Common Area, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area 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. 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 Paragraph, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

21. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat, 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 violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from 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) Dwelling Units shall be used exclusively for residential purposes and the occupancy of a single family, all as permitted under local zoning ordinances. "Single Family" is defined as a single housekeeping unit, operating on a nonprofit, non-commercial basis between its occupants with a common kitchen and dining area.
- (b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration and shown on the Plans.
- (c) Nothing shall be done or kept in or upon any Lot or in the Common 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, Lot or in the Common Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.
- (d) No nuisance shall be permitted, including without limitation any activities which are unsafe or hazardous with respect to any person or property, and no waste shall be committed in the Lots, Dwelling Units, or Common Areas.
- (e) Except as such exists at the time of purchase by the original Owner, no Owner shall cause or permit anything to be hung or displayed on the outside of the windows or

balconies or placed on the outside walls of the any Dwelling Unit or Building, and no sign, awning, canopy, shutter, antennas, including satellite dishes, or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any Lot, Dwelling Unit or Building, except to the extent that such prohibition is contrary to law.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any part of the Tract, except that dogs, cats or customary household pets in reasonable numbers may be kept in a Dwelling Unit subject to rules and regulations adopted by the Board of Directors; provided that such pet is not kept, bred or, maintained for any commercial purpose, and does not create a nuisance. All pets (including cats) 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, caused by his or her pet. The Owner shall be responsible for the cleaning of any Lot (including the Owner's own Lot) and Common Area made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The tethering of pets in any area outside the Owner's Dwelling Unit does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Tract upon ten (10) days' written notice from the Board to the respective Owner. The appropriate governmental authorities shall have an easement across the Tract to enforce local animal control laws and ordinances.

(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, except as otherwise provided in this Declaration or the By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the Tract or to be a nuisance, annoyance, inconvenience or damage to other residents, including without limiting 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 by loud persons, and objectionable odors.

(h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) No industry, business, manufacturing, mercantile, storing, trade, or any commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Tract; provided, however, that an Owner may maintain an office or home business in the Dwelling Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Dwelling Unit; (3) there are no employees or independent contractors within the Dwelling Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the

appropriate local and state governmental agencies; (5) the Owner has obtained written approval from the Board of Directors; (6) the Owner complies with all applicable local ordinances and state laws and regulations; and (7) all other provisions of the By-Laws, this Declaration and the rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use. No Dwelling Unit shall be used or rented for transient, motel or hotel purposes.

(j) No temporary or permanent lawn decorations, fixtures, yard signs or cards shall be maintained or permitted on any part of the Tract or any Lot without the prior written consent of the Board. No "For Sale", "For Rent" or "For Lease" signs or other window or advertising display shall be maintained or permitted on any part of the Tract or any Lot without the prior written consent of the Board.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Lot or other persons entitled to use the same and to use and enjoy the Common 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 and Common Areas.

(l) No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description other than normal passenger trucks less than one ton, vans or automobiles, shall be permitted, parked or stored anywhere within the Tract; provided, however, that nothing herein shall prevent: (1) the parking or storage of such vehicles completely enclosed within a garage, or (2) the driving or using of such vehicles for ingress and egress to and from such Owner's Lot provided the shortest route to and from a public road is used. No Owners or other residents shall repair or restore any vehicle of any kind within the Property, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. "Commercial" vehicles are vehicles on which commercial lettering or equipment is visible or which are larger than normally used for noncommercial purposes. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Tract.

(m) No Owner shall be allowed to plant or remove trees, landscape or do any gardening in any of the Common Areas or Lots, except with the express written permission from the Board; provided, however, that an Owner may plant annual flowers at ground level (no elevated or terraced flower areas), reasonable in size and quantity, on the Lot within five (5) feet of the exterior of the Dwelling Unit, garage or, if applicable, the deck or patio, and within two (2) feet of the walkway from the rear of the Dwelling Unit to the garage or the driveway servicing the garage, without the approval of the Board. An Owner may plant perennial or other plants only with the approval of the Board of Directors who shall have total discretion and may take into consideration among other things the aesthetic appearance of any proposed plants.

(n) All trash or refuse shall be stored in appropriate containers inside the Dwelling Unit (including the garage) or designated trash areas and made accessible for the programmed trash collection system established by the Board of Directors.

(o) Anything to the contrary herein notwithstanding and subject to all approval requirements as described in Paragraph 15, any fences, except for fencing that already exists at the time of purchase by the original Owner, shall be subject to the following conditions and limitations:

(i) constructed of white wood or red brick materials, or a combination of the two;

(ii) maximum height of six (6) feet;

(iii) no more than a total of sixteen (16) feet in length per Lot; and

(iv) taking into account its location or connection to any other structure on the Lot, cannot constitute a complete enclosure, without the approval of the Board of Directors;

(v) no portion shall be located nearer to the front lot line of a Lot than a line that runs parallel to the front lot line of such Lot from the Beginning Point to the Side Lot Line of such Lot; and

(vi) no portion shall be located nearer to the Side Lot Line of a Lot than a line that runs parallel to the Side Lot Line of such Lot from the Beginning Point to the rear lot line of such Lot.

For purposes of this Paragraph the "Beginning Point" is that corner point on the Dwelling Unit that is nearest to the Side Lot Line of a Lot and at the same time is also nearest to the back lot line of such Lot. For purposes of this Paragraph, "Side Lot Line" is the lot line opposite from the lot line that in part constitutes the party wall between Dwelling Units in a Building.

Any painted surfaces of such approved fence, after initial construction, shall be repainted as needed by the Corporation, but the Corporation shall not have any obligation generally to maintain, repair or replace such fence. Except as above-stated, the applicable Owner shall have the obligation and is hereby required to maintain, repair and replace any such fence. To the extent that any Owner does not fulfill his or her required obligations of maintenance, repair and replacement, the Corporation at the respective Owner's expense may do any such reasonably necessary maintenance, repair and replacement and the costs thereof shall be treated as a Special Assessment only against the applicable Owner and Lot.

22. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) Notice. 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 Owners having in the aggregate at least a majority of the votes of all Owners.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. 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 the provisions hereof.
- (e) Special Amendments. No amendment to this Declaration shall be adopted which changes (a) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration of Paragraph 20 with respect to casualty insurance or fidelity bonds to be maintained by the Corporation, or (3) the provisions of Paragraph 21 of this Declaration with respect to reconstruction or repair of the Common Area or Dwelling Units in the event of fire or any other casualty or disaster, or (4) the provisions of Paragraph 16 of this Declaration establishing the Architectural Review Board and providing for its functions, or (5) the provisions of Paragraph 18 of this Declaration with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration and the By-Laws.
- (f) Additional Special Amendments. No amendment to this Declaration shall be adopted which imposes a right to first refusal or similar restriction or which changes (1) the method of voting, or (2) reserves for and responsibility for maintenance, repair and replacement of the Common Area and Dwelling Units, or (3) right to use the Common Area, or (4) annexation of additional property to Historic Standish Estates, or (5) the boundaries of any Dwelling Unit, or (6) the leasing of Dwelling Units, or (7) termination of the applicability of this Declaration, or (8) any provisions which are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after recording of this Declaration and thereafter by at least seventy-five percent (75%) of the votes of Owners and the consent of Mortgagees holding mortgages on fifty percent (50%) of the Lots subject to mortgages.
- (g) 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.
- (h) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

23. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, 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 be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

24. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents 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 its appurtenances or of the Common Area.

25. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, 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 reasonable attorneys' fees incurred in connection with such default or failure.

26. No Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

27. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision 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 enforced to the greatest extent permitted by law.

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

30. The Plat. The Plat of Historic Standish Estates is incorporated into this Declaration by reference and the Plat has been filed in the office of the Recorder of Marion County, Indiana, as of the 20th day of March, 1998, as Instrument No.98-0045462.



**AMENDED AND RESTATED**  
**CODE OF BY-LAWS OF**  
**HISTORIC STANDISH ESTATES HOMEOWNERS ASSOCIATION, INC.**

**An Indiana Nonprofit Corporation**

**ARTICLE I**

**NAME**

Section 1.1. Name. The name of this corporation is Historic Standish Estates Homeowners Association, Inc. (hereinafter referred to as "Corporation").

**ARTICLE II**

**IDENTIFICATION & APPLICABILITY**

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Tract and the administration and conduct of the affairs of the Corporation.

Section 2.2. Individual Application. Each of the Owners within Historic Standish Estates shall automatically and mandatorily be Members in the Corporation and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the Declaration of Covenants and Restrictions for Historic Standish Estates, said Declaration being recorded in the Marion County Recorder's Office on March 20, 1998, as Instrument No. 98-0045461 (hereafter, "Declaration"), together with all amendments or supplements thereto, the Articles of Incorporation, the rules and regulations of the Corporation and of the provisions hereof. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Articles of Incorporation and these Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Articles of Incorporation and these Code of By-Laws, and reference is specifically made to Paragraph 1 of the Declaration containing definitions for terms, unless otherwise indicated herein.

## ARTICLE III

### MEETINGS OF CORPORATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Members shall be held for the purpose of electing the Board of Directors, 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, the Articles, or the Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Corporation shall be held in the month of October of each year, with the specific date, time and place to be determined by the Board of Directors. At each annual meeting, the Members shall elect the Board of Directors of the Corporation in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Corporation may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total number of Lots. The resolution or petition shall be presented to the President or Secretary of the Corporation and shall state the purpose 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 3.4. Notice and Place of Meetings. All meetings of the Members of the Corporation 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 Corporation to each Member entitled to vote thereat not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Members as part of a newsletter or other publication regularly sent to the Members constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Members at their respective addresses as the same shall appear upon the records of the Corporation. If an annual or special meeting of Members is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Act before adjournment. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Corporation to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Corporation with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a representative to attend the meeting.

Section 3.5. Voting.

(a) Number of Votes. To avoid fractional votes and to facilitate the orderly conduct of the meeting, each ~~Class A~~ Member shall be entitled to cast one (1) vote for

each Lot of which such Member is the Owner. In voting for Directors, each ~~Class A~~ Member (or his or her representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his or her votes. To the extent provided in the Act, and except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Corporation, but all of such persons or entities 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.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such 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 Corporation 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 or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Corporation prior to the commencement of the meeting. No such proxy shall remain valid for longer than eleven (11) months from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Articles or the Act, the presence of Owners or their duly authorized representatives owning at least twenty-five percent (25%) of the total number of Lots shall constitute a quorum at all meetings. Unless otherwise required herein or by the Act, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum. As used elsewhere in these By-Laws, the term "Majority of Owners" shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total number of Lots, and the term "Majority of the Vote" shall mean a majority of the votes of the Owners present or represented at a meeting at which a quorum is present.

Section 3.6. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Corporation. The President shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the Members held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 3.5(e) hereof.

(2) Treasurer's Report. The Treasurer shall report to the Members concerning the financial condition of the Corporation and answer relevant questions of the Members concerning the Common Expenses and financial report for the current year and the proposed budget for the next fiscal year.

(3) Budget. The proposed budget for the following calendar year shall be presented to the Members for approval or amendment as more fully described in the Declaration.

(4) Election of Board of Directors. ~~Subject to the Initial Board of Directors as described in the Declaration;~~ Nominations for the Board of Directors may be made by a Member from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Corporation at least ten (10) days prior to the annual meeting. Nominations for the Board of Directors will also be accepted from the Members attending 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 Member may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Member shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Corporation at least ten (10) 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 Vote as defined in Section 3.5(e) hereof.

(6) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(7) Adjournment. Upon completion of all business before the Corporation, the President, upon the motion of any Member, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners for the upcoming year.

Section 3.7. Conduct of Special Meeting. The President of the Corporation shall act as Chairman of any special meetings of the Corporation. 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 in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 3.8. Written Ballots. In lieu of any annual or special meeting of the Members, written ballots may be utilized in the manner prescribed in the Act.



## ARTICLE IV

### BOARD OF DIRECTORS

~~Section 4.1. Initial Board of Directors. The Initial Board of Directors shall be Colleen Page, Peter Page and Tony Page (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 or the Declaration or the Act or elsewhere:~~

- ~~\_\_\_\_\_ (a) The Initial Board shall hold office until:~~
- ~~\_\_\_\_\_ (1) the date upon which the written resignation of the Class B Members as such is delivered to the registered agent of the Corporation;~~
- ~~\_\_\_\_\_ (2) thirty (30) days after the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or~~
- ~~\_\_\_\_\_ (3) five (5) years from the date of recordation of the Declaration;~~
- ~~\_\_\_\_\_ (Such date when the Initial Board shall no longer hold office 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. Each owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Lot by any type of juridic acts, 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, or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.~~

~~\_\_\_\_\_ Section 4.2. Board of Directors. The affairs of the Corporation shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). After the Applicable Date, †The Board of Directors shall be composed of five (5) persons who each own at least one (1) Lot. After the Applicable Date, †The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than three (3) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his or her term. In the event the number of Directors is increased as provided herein, the election of the~~

additional Director or Directors shall be by a vote of the Members according to a procedure established by the Board by resolution.

Section 4.32. 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 shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time.

Section 4.43. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Corporation. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Corporation. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting. Any vacancy or vacancies occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal or an increase in the number of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, a Director shall be elected by the Owners to serve for the balance of the term of the Director in respect to whom there has been a vacancy. Each Director shall hold office throughout the term of his or her election until his or her successor is elected and qualified.

Section 4.54. Removal of Directors. A Director or Directors elected by the Owners, or elected by the Directors to fill a vacancy, may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Section 4.65. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas and such portions of the Lots and Dwelling Units as designated in the Declaration, unless the same are otherwise the responsibility or duty of the Owners; 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 need not be furnished;
- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;

- (c) Landscaping, painting, decorating, and furnishing of the Common Areas, and such portions of the Lots and Dwelling Units as designated in the Declaration;
- (d) Surfacing, paving, and maintaining private streets, driveways, parking areas, and sidewalks and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses ~~and Additional Expenses~~;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time 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 during each year, which accounting shall be delivered to each Owner;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Common Areas, specifying and itemizing the Common Expenses ~~and Additional Expenses~~; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (i) Procuring and maintaining in force all insurance coverage required by the Declaration;
- (j) Performing such other duties as may be reasonably inferred from the provisions of the Declaration.

Section 4.76. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

- (a) To employ a reputable and recognized professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable by either party with or without cause upon sixty (60) days written notice, and any such agreement may not exceed three (3) years, renewable by agreement of the parties for successive periods;
- (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 procure for the benefit of the Owners fire and extended coverage insurance covering the buildings and improvements on the Lots and the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance

as is required or permitted under the Declaration, for the benefit of the Owners, and the Corporation, and the Mortgagees;

(d) To employ legal counsel, architects, engineers, 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;

(e) 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 Area;

(f) To include the costs of all of the above and foregoing as Common Expenses of the Corporation and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Corporation and to designate the signatories thereto;

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Tract provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 4.87. Limitations on Board Action. The authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a Majority of Owners (as defined in Section 3.5(e) hereof) is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Tract that is damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received;

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as presented to the Owners at the annual meeting and, if necessary, approved by the Owners at such annual meeting. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; 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.

The said Five Thousand Dollar (\$5,000.00) maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price deflator or any comparable index.

Section 4.98. Compensation. No Director or Officer shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by a Majority of Owners as defined in Section 3.5(e) hereof. The Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 4.109. Meetings and Notice. 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 Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) 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 for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

Section 4.110. Waiver of Notice. Before or after any meeting of the Board, any Director 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 Director at a meeting shall, as to such Director, 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 4.121. Quorum. At all meetings of the Board, unless the Act or these By-Laws provide otherwise, 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 4.132. Bond. The Board of Directors may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

Section 4.143. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 4.154. Standards of Conduct and Liability of Directors and Officers. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Corporation shall be as set forth in the Act, as the same may be amended from time to time.

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## ARTICLE V

### OFFICERS

Section 5.1. Officers of the Corporation. The principal officers of the Corporation 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 offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Corporation shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board or upon an affirmative vote of a Majority of Owners (as defined in Section 3.5(e) hereof), any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Corporation. The President shall preside at all meetings of the Corporation and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Corporation and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. 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 5.5. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Corporation and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Corporation's records, 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 Corporation or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. 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 Corporation and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Corporation. He or she shall immediately deposit all funds of the Corporation coming into his or her hands in some reliable bank or other depository to be designated by

the Board and shall keep such bank account in the name and for the exclusive benefit of the Corporation. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Corporation to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and 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 VI

### ADDITIONAL RIGHTS AND DUTIES OF BOARD

Section 6.1. Right of Entry. An Owner or occupant of a Lot shall be deemed to have granted the right of entry to his Lot or Dwelling Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his or her Lot, the Dwelling Unit or Building located thereon, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Lot or Dwelling Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 6.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Tract as the Board may deem desirable, including but not limited to the use of the Common Areas and Lots. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## ARTICLE VII

### INDEMNIFICATION

Section 7.1. Indemnification of Directors. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

Section 7.2. Indemnification of Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Corporation shall be indemnified by the Corporation as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the



Corporation shall be indemnified by the Corporation to the same and fullest extent that directors are indemnified by the Corporation as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## ARTICLE VIII

### NOTICES AND MORTGAGES

Section 8.1. Notice to Association. Any Owner who places a first mortgage lien upon his or her Lot or the Mortgagee thereof shall notify the Secretary of the Corporation and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws 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 mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

Section 8.2 Notice of Unpaid Assessments. Upon ten (10) days written notice to the Corporation and the payment of a reasonable fee, the Corporation shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Lot, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Lot, together with the amount of the current assessments for Common Expenses and, if applicable, Additional Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Corporation in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

Section 8.3. Financial Statements. The Corporation, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Corporation.

Section 8.4. Notices of Mortgagees. The Corporation shall promptly provide to any Mortgagee of whom the Corporation has been provided notice under Section 8.1 of these By-Laws of any of the following:

(a) Any condemnation or casualty loss that affects a material portion of the Common Property or the building(s) or improvements on any Lot securing its mortgage;

(b) Any delinquency in the payment of Regular, Additional Improvement or Special Assessments owed by the Owner of any Lot on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Corporation; and,

(d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

Section 8.5. Availability of Information. The Corporation shall keep and shall make available to prospective purchasers of Lots, upon request at reasonable business hours and upon payment of a reasonable fee to defray copying expenses, copies of the Declaration, Articles of Incorporation, By-Laws, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Corporation.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1. Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

Section 9.2. Personal Interests. Except as permitted under Section 4.8 hereof, no Member of the Corporation shall have or receive any earnings from the Corporation; provided, however, that a Member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

Section 9.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Corporation and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Corporation, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer, and at least one other officer of the Corporation.

## ARTICLE X

### AMENDMENT TO BY-LAWS

Section 10.1. Amendment. These By-Laws may be amended in the same manner, and subject to the same restrictions, as amending the Declaration.

**IN WITNESS WHEREOF**, I, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this \_\_\_ day of \_\_\_\_\_, 19982005.

**HISTORIC STANDISH ESTATES HOMEOWNERS  
ASSOCIATION, INC.,**

By: \_\_\_\_\_

Section 9.2. Personal Interests. Except as permitted under Section 4.8 hereof, no Member of the Corporation shall have or receive any earnings from the Corporation; provided, however, that a Member who is an officer, director, employee, or agent of the Corporation may be reimbursed for expenses incurred on the Corporation's behalf.

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### AMENDMENT TO BY-LAWS

Section 10.1. Amendment. These By-Laws may be amended in the same manner, and subject to the same restrictions, as amending the Declaration.

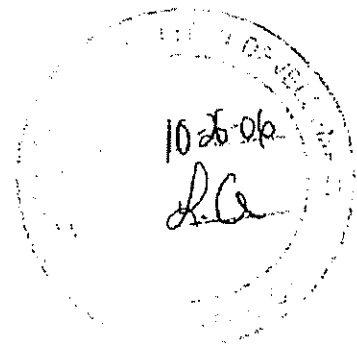
IN WITNESS WHEREOF, we, the undersigned, do hereby execute this Amended and Restated Code of By-Laws and certify the truth of the facts herein stated, this 17 day of October, 2006.

Historic Standish Estates Homeowners Association, Inc.

By: Brent Woelfle  
Brent Woelfle, President  
(Printed Name)

Attest:

M. Laurie Randall  
M. LAURIE RANDALL, Secretary  
(Printed Name)



ACKNOWLEDGMENT

STATE OF INDIANA )  
 ) ss:  
COUNTY OF MARION )

Before me a Notary Public in and for said County and State, personally appeared Wendy and Rebecca Peck, the President and Secretary, respectively, of Historic Standish Estates Homeowners Association, Inc., who acknowledged execution of the foregoing for and on behalf of said corporation and its members and who, having been duly sworn, stated that the representations contained herein are true.

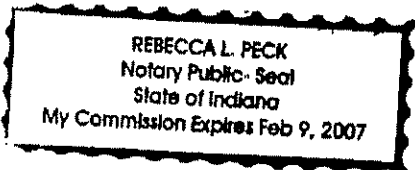
Witness my hand and Notarial Seal this 17<sup>th</sup> day of October, 2006.

My Commission Expires: 02/09/07

Rebecca L. Peck  
Notary Public - Signature

Residence County Hamilton

Rebecca L. Peck  
Printed



"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads Murray & Pugh, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216. (317) 536-2565.

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR HISTORIC STANDISH ESTATES**

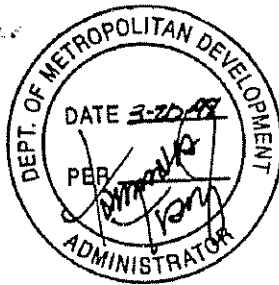
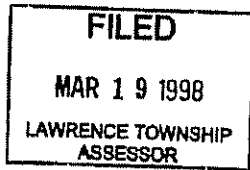
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Exhibit "A"      Real Estate comprising Historic Standish Estates



JOHN R. VON ARX  
ATTORNEY AT LAW

**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR HISTORIC STANDISH ESTATES**

121572 MIP 20 88

RECORDED IN THE CLERK'S OFFICE  
OF THE COUNTY OF MARION, INDIANA  
FOR TRANSFER

THIS DECLARATION made this \_\_\_\_ day of March, 1998, by HAWTHORNE INDIANA, LTD, an Indiana corporation ("Declarant").

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title to certain real estate located in Marion County, Indiana, more particularly described in the attached Exhibit A, which is incorporated herein by reference (hereinafter referred to as "Tract" or "Historic Standish Estates").

B. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of the Tract shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Tract and be binding upon all parties having any right, title or interest in the Tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- (a) "Additional Expenses" means the expenses for the upkeep, maintenance, repair and replacement of additional exterior maintenance upon any Lot, based upon the extent of any optional approved construction additions to a Dwelling Unit as provided for in Paragraph 15 (b) below. There shall be categories of Additional Expenses, as determined by the Board of Directors, based upon which optional approved construction additions to a Dwelling Unit as provided for in Paragraph 15 (b) below, but the Additional Expenses for each category shall be the same for each Lot to which it applies
- (b) "Applicable Date" means the date determined pursuant to Paragraph 10(b) of this Declaration.
- (c) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.
- (d) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-Laws of the Corporation.
- (e) "Building" means any one of the separate structures which has two attached Dwelling Units.

- (f) "By-Laws" shall mean the Code of By-Laws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation. The By-Laws are incorporated herein by reference.
- (g) "Common Area" means the ground designated as such upon the Plat of Historic Standish Estates.
- (h) "Common Expense" means expenses for administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Area and such exterior portions of the Lots and Dwelling Units as designated in this Declaration, and any other costs or expense incurred by the Corporation for the benefit of the same or the Owners, and all sums lawfully assessed against the Members of the Corporation. Common Expense shall not include Additional Expenses.
- (i) "Corporation" means Historic Standish Estates Homeowners Association, Inc., an Indiana nonprofit corporation, its successors and assigns, whose members shall be the Owners of Lots, or appointees as provided in Paragraph 11 of this Declaration; such Corporation being more particularly described in Paragraph 10 of this Declaration.
- (j) "Declarant" shall mean and refer to Hawthorne Indiana, Ltd., 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 any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.
- (k) "Dwelling Unit" means the living unit located upon a Lot, and the garage appurtenant thereto.
- (l) "Lot" means any plot of ground designated as such upon the recorded Plat of Historic Standish Estates and upon which one (1) Dwelling Unit is constructed, is to be constructed or has existed. When Lot is used it shall be deemed to include the Dwelling Unit located thereon.
- (m) "Member" means a member of the Corporation.
- (n) "Mortgagee" means the holder of a first mortgage lien on a Lot.
- (o) "Historic Standish Estates" means the name by which the Tract, as described in Paragraph A above, which is the subject of this Declaration and which the Corporation manages, shall be known.
- (p) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.
- (q) "Plat" means the plat of the Tract prepared by Schneider Engineering Corporation, certified by Edward G. Giacoletti, a registered land surveyor, under date of \_\_\_\_\_, 1997, and recorded as Instrument Number \_\_\_\_\_ in the office of the Recorder of Marion County, Indiana, which is incorporated herein by reference.
- (r) "Tract" means the real estate described in Paragraph A above.



2. Declaration. Declarant hereby expressly declares that the Tract shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. Description of Historic Standish Estates. Historic Standish Estates consists of thirty (30) Lots numbered 1 through 30 inclusive, together with the Common Area as designated on the Plat. The Common Area and the size of the Lots are as designated on the Plat. The legal description for each Lot in Historic Standish Estates shall be as follows:

Lot \_\_\_\_\_ in Historic Standish Estates, a subdivision in Marion County, Indiana, as per plat thereof recorded \_\_\_\_\_, 19\_\_\_\_, as Instrument Number \_\_\_\_\_ in the Office of the Recorder of Marion County, Indiana.

4. Lots and Easements. The boundaries of each Lot in Historic Standish Estates shall be as shown on the Plat; provided, however, in the event any vertical boundary line of any Dwelling Unit does not coincide with the actual Lot line because of inexactness of construction, settling after construction or for any other reasons, whether from the initial construction or subsequent reconstruction, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such base line outside the actual boundary line of the Lot.

5. Common Area. Common Area includes all the area designated as such on the recorded Plat of Historic Standish Estates.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the non-exclusive right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration, including but not limited to, the following:

(a) The right of the Corporation, upon approval by a written instrument signed by two-thirds of all Class A Members, all Class B Members, and by two-thirds of all first mortgagees, 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 by the Corporation.

(b) The right of the Corporation to adopt such rules and regulations regarding the Common Area as it deems necessary as provided in Paragraph 11(d).

(c) The Common Area in Historic Standish Estates shall be conveyed to or owned by the Corporation at the time of conveyance of the first Lot in Historic Standish Estates.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment, and use of the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

8. Encroachments and Easements in Common Area. If by reason of inexactness of construction, settling after construction or for any other reasons, any Common Area encroaches upon any Lot, an

easement shall be deemed to exist and run to the Corporation for the maintenance, use and enjoyment of such Common Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in any other Dwelling Units or in the Common Area and serving his Dwelling Unit.

9. Easement for Utilities and Public and Quasi Public Vehicles. All public and quasi public vehicles including, but not limited to, police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles shall have the right to enter upon Common Area in the Tract in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of underground Utilities, including but not limited to water, sewers, gas, cable television, telephone and electricity on the Tract; provided, however, nothing herein shall permit the installation of sewers, electric lines, water line or other utilities, except as initially designed and approved by Declarant on the Plat or as thereafter may be approved by Declarant or by the Board of Directors. By virtue of this easement the electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Tract and to affix and maintain electrical and telephone wires, circuits and conduits on and under the exterior walls of the Dwelling Units. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant shall have the right to grant such easement on such Tract, without conflicting with the terms of this Paragraph. The easements granted herein shall in no way affect any other recorded easement on the Tract

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the Common Area to perform its duties.

10. Corporation: Membership: Voting: Functions.

(a) Membership in Corporation. Declarant and each Owner of a Lot which is subject to assessment 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 a Member of the Corporation.

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

(i) 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 matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of 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.

(ii) 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 registered agent of the Corporation. Each Class B Member shall be entitled to three (3) 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 Applicable Date, which shall be the first to occur of:

- (1) the date upon which the written resignation of the Class B Members as such is delivered to the registered agent of the Corporation,
- (2) thirty (30) days after the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or
- (3) five (5) years from the date of recordation of this Declaration.

After the Applicable Date, all Class B Members shall become Class A Members and subject to all terms, conditions, restrictions, rules and regulations applicable to Class A Members.

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

#### 11. Board of Directors

(a) 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 subparagraph (b) of this Paragraph 11.

(b) Initial Board of Directors. The Initial Board of Directors shall be composed of the following persons, to-wit: Gary Reynolds, Robert Laird and Stanley J. Palma (hereinafter 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, this Declaration, the Articles or the By-Laws (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 Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type or juridical acts inter vivos or cause 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 of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws or otherwise; provided, however, this right to vote granted to Declarant shall not extend to votes of Members (if a vote is required) on matters of Special Assessments,

mortgaging Common Area or merger/consolidation of the Corporation with another corporation. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. 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 a member of the Initial 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 and thereby a Member of the Corporation).

(c) 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 Tract, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners), and the maintenance, repair, upkeep and replacement of such exterior portions of the Dwelling Units and Lots as designated in this Declaration, and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary, provided any such management agreement shall be for a term of three (3) years or less and shall provide that any such agreement may be terminated by either party with or without cause upon sixty (60) days written notice to the other party. Any decision not to employ a professional property management agent shall require the prior consent of the Owners of at least sixty-seven percent (67%) of the total number of Lots and fifty-one percent (51%) of the vote of Mortgagees whose mortgage interests have been made known to the Board of Directors pursuant to this Declaration. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (i) Protection, repair and replacement of the Common Area, unless the same are otherwise the responsibility or duty of Owners of Lots; 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 need not be furnished;
- (ii) Procuring of utilities in connection with the Lots and Dwelling Units, removal of garbage and waste, and snow removal from the Common Area;
- (iii) Landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Area, and such exterior portions of the Dwelling Units and/or Lots as designated in this Declaration
- (iv) Surfacing, paving and maintaining any private roads constituting a part of the Common Area;
- (vi) 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;
- (vii) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year;

(viii) Keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Area and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, By-Laws and Rules) shall be available for examination by an Owner, Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours;

(ix) 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;

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

(xi) Furnishing, upon request of any Mortgagee, insurer or guarantor of a first mortgage, an audited financial statement for the immediately preceding fiscal year.

(d) Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

(i) 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;

(ii) To employ legal counsel, architects, engineers, 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;

(iii) 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 Area and such exterior portions of the Dwelling Units and/or Lots as designated in this Declaration;

(iv) To include the costs of all of the above and foregoing as Common Expenses of the Corporation and to pay all of such costs therefrom;

(v) To open and maintain a bank account or accounts in the name of the Corporation and to designate the signatories thereto;

(vi) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Tract, including the Lots and Common Area, provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

(e) Limitation on Board Action. The authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of a Majority of Owners (as defined in Section 3.5(e) of the By-Laws) is obtained, except in the following cases:

(i) Supervision and management of the replacement or restoration of any portion of the Tract damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(ii) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; however, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

(iii) 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.

The said Five Thousand Dollar (\$5,000.00) maximum shall automatically be adjusted every five (5) years from the date of execution of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published annual GNP Implicit Price deflator or any comparable index.

(f) 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 any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(g) 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, bad faith 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. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

(h) 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 he is or was a Director of the Corporation, 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 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 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 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 falsity 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.

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

12. Initial Management The Board of Directors has entered or will hereafter enter into a management agreement with Declarant or with a corporation or other entity affiliated with Declarant or designated by Declarant for a term not to exceed three (3) years with either party having the right to terminate with or without cause upon sixty (60) days' notice under which Declarant (or such other corporation or entity as appropriate) will provide supervision, management and maintenance of the Common Area, and to the extent the same is not otherwise the responsibility of Owners of individual Lots, the maintenance of Lots and in general perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of three (3) or less years or a new management agreement with different parties may be executed under similar terms and conditions. Any management agreement is or will be subject to termination by Declarant (or such other corporation or entity as appropriate) at any time prior to expiration of its term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Corporation and Declarant (or such other corporation or entity as appropriate) is in effect, Declarant (or such other corporation or entity as appropriate) shall have and Declarant hereby reserves to itself (or such other corporation or entity as appropriate), the exclusive right to manage the Tract and perform all the functions of the Corporation.

13. Real Estate Taxes Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Tract or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Tract or that part thereof that is assessed as a whole. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

14. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Corporation.

15. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the Common Area (including the private streets) shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

(a) Exterior Maintenance. In addition to maintenance upon the Common Area, the Corporation shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows:

(i) paint, repair, replacement and maintenance of roofs, gutters, down spouts, mailboxes, exterior lights and exterior building surfaces of the Dwelling Unit and applicable garage (except that garage doors shall be maintained only as described in (ii) immediately below) Such exterior maintenance shall not include glass surfaces, screens and screen doors, door and window fixtures and other hardware and such other items as the Board of Directors may so designate (unless specifically designated in this Declaration as the Corporation's obligation) so long as such items of exception shall apply to all Lots equally.

(ii) stain or paint the exterior of all exterior doors, including garage doors.

(iii) repair, replacement and maintenance of the party fences separating Lots with abutting Dwelling Units and the concrete walkways provided from the back of each Dwelling Unit to its applicable garage.

(iv) maintenance of lawns and ornamental trees and foundation bedding as existing at the time of purchase by original Owner, but any repair and replacement of such items shall be reasonable in amount and size at the discretion of the Board of Directors. (All exterior flowering or blooming plants shall be provided and maintained by each Owner).

(v) repair, replacement and maintenance of parking areas, driveways and sidewalks.

(vi) snow removal of parking areas, driveways and sidewalks, except within fenced areas.

(b) Additional Exterior Maintenance. In addition to the exterior maintenance provided for immediately above, the Corporation shall provide, if applicable, further exterior maintenance upon any Lot, based upon the extent of any optional approved construction additions to a Dwelling Unit and subject to the applicable Additional Improvements Assessment as provided for in Paragraph 18(b) below, as follows:

(i) repair, replacement and maintenance of the wooden deck or brick patio area;

(ii) repair, replacement and maintenance of the brick paver sidewalk;

(iii) repair, replacement and maintenance of the roof and support construction of the covered portion of the walkway provided from the back of a Dwelling Unit to its applicable garage.

(iv) maintenance and care of the hot tub enclosure, screening and cover which are required for all hot tubs (does not include any obligation to repair or replace such hot tub or any parts thereof, but each Owner must rely upon any applicable manufacturers' or builders warranties for any such repair or replacement). Although it will repair and maintain such covers, the Corporation specifically has no obligation to provide covers or otherwise cover or keep covered any such hot tub and the Corporation hereby disclaims and each Owner, or a member of his family or a guest, tenant, invitee or other occupant



or visitor of such Owner, hereby releases the Corporation from, any and all liability for personal injury or property damage caused by the hot tub or arising out of the use or misuse of the hot tub.

(c) Owners Maintenance. Each Owner shall be responsible for maintaining and keeping his Lot and all improvements thereon in a good, clean and sanitary condition and shall do all work thereon which is not required hereunder to be performed by the Corporation, including the interiors of patio areas and patio fences. The Corporation shall be responsible for repairing and maintaining any patio fences except for painting or staining the interior unless the Board of Directors shall otherwise provide.

(d) Shared Utilities Easement. With respect to each Building, consisting of two (2) Dwelling Units, there will be certain shared underground sewer and water utility conveyance and other equipment and structures for the joint benefit of each such Dwelling Unit as well as certain sewer and water utility conveyance and other equipment and structures for the individual benefit of each Dwelling Unit. The Corporation hereby reserves unto itself and to any applicable utility companies an easement over and under each Lot for purposes of repair, replacement and maintenance of any such sewer and water utility conveyance and other equipment and structures.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any Lot or the Common Area, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay 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 with such policy having 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.

If any owner shall fail so to maintain and keep his property or any part thereof in a good, clean and sanitary condition, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's property.

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

#### 16. Architectural Control

(a) 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. Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors. In the absence of the Architectural Review Board, the Board of Directors shall act as such.

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, change of colors, excavation, 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 without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration or pursuant to rules adopted by the Board of Directors. No building, fence, wall, Dwelling Unit, or other structure or improvements of any kind shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board.

(d) 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 (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

(e) Maintenance of Architectural Control. The Association may not waive or abandon the procedure for regulating and enforcing the architectural design or exterior appearance of the Lots or for maintaining the exterior of the Lots or the Common Area (including the upkeep of common fences, driveways, lawns and plantings) without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(f) Additional Approval. The Tract lies within a designated Historic District. Therefore, anything to the contrary in this section notwithstanding, no improvements, alterations, repairs, change of colors, excavation, 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 and no building, fence, wall, Dwelling Unit, or other structure or improvements of any kind shall be commenced, erected, maintained, improved, altered, made or done on any Lot without compliance with any and all rules and regulations or, if required, the prior written approval of the Fort Harrison Architectural Review Commission, or its successor in interest.

#### 17 Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Dwelling Unit and garage upon the Tract and which connects two Dwelling Units and applicable garages shall constitute a party wall and, to the extent not inconsistent with the provisions of this Paragraph, 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.

(b) 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.

(c) Destruction by Fire or Other Casualty. If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by any of the Owners who make use of such party wall, and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes 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, intentional or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Paragraph, 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.

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

(f) Arbitration In the event of any dispute arising concerning a party wall, or under the provisions of this Paragraph, 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 fail or 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 ) The cost of the arbitrators shall be borne equally by the parties.

#### 18. Assessments

(a) Annual Accounting. Annually, within ninety (90) days after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget for Common Expense. Annually, 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 next fiscal year estimating the total amount of the Common Expenses for the next 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 at the annual meeting of the Corporation for adoption, and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners at which a quorum is present, the annual 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, 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 Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior portions of the Lots and Dwelling Units as designated in this Declaration, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior expenses of the Lots as designated in this Declaration shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana 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 Regular Assessments as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such next fiscal year, the Owners shall pay Regular Assessments based upon the Board's proposed annual budget.

(c) 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 Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). 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 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 monthly 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 assessments quarterly, semi-annually or annually, in advance. The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot and Dwelling Unit 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. 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.

(d) Additional Improvements Assessments. Annually, at the same time as the annual budget, the Board of Directors shall prepare a special budget based on the estimated cash requirements for the Additional Expenses for the next fiscal year and determine a proposed assessment against each Lot to which such Additional Expense is applicable, which shall be the same amount for each Lot having the same Additional Expenses. Immediately following the adoption of the annual budget, each Owner to which such Additional Expense applies shall be given written notice of the special budget for Additional Expenses and the proposed assessment against his respective Lot (herein called the "Additional Improvements Assessment"). The aggregate amount of the Additional Improvements Assessments shall be equal to the total amount of the Additional Expenses, including reserve funds. The special budget for the Additional Expenses shall be approved by written ballot by a majority of the Owners to which any Additional Expenses apply. Failure of any Owner to return such ballot within ten (10) days shall be

deemed approval by such Owner. The Additional Improvements 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 monthly installments of the Additional Improvements 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 such assessments quarterly, semi-annually or annually, in advance. The Additional Improvement Assessment shall become a lien on each separate Lot and Dwelling Unit to which it applies as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Additional Improvements Assessment may not have been made by that date. Monthly installments of Additional Improvements 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. Additional Improvement Assessments and the reserve funds applicable thereto shall be maintained in accounts separate and segregated from any other accounts for other assessments and reserve funds.

(e) Special Assessments. From time to time Common Expenses or Additional Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that any such assessment for Common Expenses 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 at which a quorum is present (or in the case of Additional Expenses, the assent of two-thirds (2/3) of the votes of each member to which Additional Expenses apply who are voting in person or by proxy at a meeting duly called for this purpose or by ballot), and further provided that the Declarant shall not be any Owner's agent, attorney-in-fact or proxy in this vote pursuant to the third sentence of Paragraph 11(b) of this Declaration, 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, prorated in equal shares (or in the case of Additional Expenses upon each Lot to which Additional Expenses apply, prorated in the same manner as Additional Improvements Assessments), (herein as to both Common Expenses and Additional Expenses 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 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.

(f) Regular and Additional Improvements Assessments Prior to the Applicable Date. During the period that Declarant is constructing and selling Dwelling Units within the Tract, it is difficult to accurately allocate the Common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses and Additional Expenses during the period prior to the Applicable Date to enable the Corporation to perform its duties and functions. Accordingly, and notwithstanding any other provision contained in this Declaration, the Articles or the By-Laws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments, Additional Improvements Assessments and Special Assessments shall be established by the Initial Board without any meeting or concurrence of the Owners; provided, however, the Regular Assessments and Additional Improvements Assessments shall be determined in accordance with the provisions contained in this Paragraph 18.

The Corporation will enter into a management agreement with Declarant (or a corporation or other entity designated by Declarant) (hereinafter referred to as "Management Agent" or "Managing Agent") in accordance with the provisions of Paragraph 12 of this Declaration. So long as such management agreement (or similar agreement) remains in effect, the Common Expenses and Additional Expenses and the Regular Assessments and Additional Improvements Assessments shall be paid by Owners to Management Agent. Declarant shall guarantee that until the earlier of (1) the termination of said management agreement or (2) one (1) year after the date of recording of this Declaration, the monthly Regular Assessment shall not exceed ONE HUNDRED EIGHT Dollars (\$ 108 ) and the monthly Additional Improvements Assessments in aggregate for all categories as described in Paragraph 15(b) shall not exceed NINETY SEVEN Dollars (\$ 97 ) (the "Guaranteed Charges"). After this date (assuming that said management agreement or similar agreement is still in effect) and so long thereafter as said management agreement (or similar agreement) remains in effect and Management Agent continues to perform such functions, Declarant guarantees that the monthly Regular Assessment and the Additional Improvements Assessments shall not exceed the amount of the Guaranteed Charges plus a maximum of a twenty percent (20%) increase in the Guaranteed Charges for each year. Such adjustments to the Guaranteed Charges (up to a twenty percent (20%) increase as determined by the Board) shall be made annually on January 1 of each year so long as said management agreement remains in effect and Management Agent continues to perform such functions. Such monthly charges shall, during such guaranteed period, entirely defray the Owner's obligation for his share of Common Expenses and Additional Expenses and shall be the Owner's entire Regular Assessment and Additional Improvements Assessment. Declarant shall be responsible for any deficit during such guarantee period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations. Such expenditures would be covered through Special Assessments, or, if sufficient the replacement reserve fund, if any such fund exists. Other than funding any and all deficits as described above, the Declarant shall not be required to pay any Regular, Additional Improvement or other assessments during the guarantee period.

Ten percent (10%) of the Regular Assessment and Additional Improvements Assessment paid prior to the Applicable Date shall be designated as a reserve fund for maintenance, repairs or replacement of Common Areas and such other exterior portions of the Lots as designated in this Declaration that must be repaired and replaced on a periodic basis.

That portion of the Regular Assessments and Additional Improvements Assessments collected by Declarant prior to the Applicable Date applicable to any replacement reserve created shall be held by the Initial Board and if required, applied to the replacement of Common Areas or those portions of Dwelling Units obligated to be repaired and replaced by the Corporation. To the extent that any such replacement reserve is not so applied, the balance thereof shall be retained by the Corporation at the Applicable Date.

Payment of Regular Assessments and Additional Improvements Assessments prior to the Applicable Date with respect to each Dwelling Unit (that is not owned by Declarant) shall commence on the date of conveyance by Declarant to such new Owner. The first payment shall be payable on the date of conveyance prorated to the first day of the calendar month next ensuing. Thereafter, payment of the Regular Assessment and Additional Improvements Assessment shall be paid the first day of each calendar month during the period prior to the Applicable Date.

Each Owner hereby authorizes the Corporation and the Board of Directors and its officers to enter into the aforesaid management agreement described in Paragraph 12 of this Declaration and to adhere to and abide by the same.

(g) Failure of Owner to Pay Assessments. No Owner may exempt himself or herself from paying Regular, Special Assessments, or, if applicable, Additional Improvements Assessments or any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas, or by abandonment of the Lot belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular, Special and, if applicable, Additional Improvements 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, Special or, if applicable, Additional Improvements Assessments when due, the lien for such assessment on the Owner's Dwelling Unit may be foreclosed by the Board for and on behalf of the Corporation as provided by law. Upon the failure of an Owner to make payments of any Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary;
- (3) suspend such Owner's right to vote as provided in the Indiana Nonprofit Corporation Act of 1991, as amended.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular, Special or, if applicable, Additional Improvements Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular, Special or Additional Improvements Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Regular, Special or Additional Improvements Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs of the Managing Agent and reasonable attorney's fees, from the Owner of the respective Lot.

(h) Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment, Special Assessment or Additional Improvements Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot 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,

Special Assessments or Additional Improvements Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments, Special Assessments or Additional Improvements Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

19 Mortgages

(a) 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 and 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 at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

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

(b) Notice of Unpaid Assessments. The Corporation shall, upon request of a 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.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any Mortgagee making such payment shall be owed immediate reimbursement by the Corporation.

(d) Notice of Condemnation or Casualty Loss. Mortgagees shall be timely notified of any condemnation or casualty loss which affects a material portion of Historic Standish Estates or any Lot. Mortgagees shall also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Corporation.

(e) Notice to Insurers and Guarantors. Any guarantor of a first mortgage or any insurer shall, upon notification and request to the Corporation, receive the same notices as are required to be given to Mortgagees.



20. Insurance

(a) Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Lots and the Common Area in an amount consonant with the full replacement value of the improvements which in whole or in part, comprise the Lots and Common Area. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "all risk" 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. Such insurance coverage shall be for the benefit of each Owner, the Corporation and if applicable, the Mortgagee of each Owner upon the terms and conditions hereinafter set forth.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the individual Owners and Mortgagees. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate, and only in accordance with the provisions of this Declaration and any surety bond or bonds obtained by the Board of Directors concerning the officers of the Corporation as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of such Owner's damaged Lot to the damages of all Lots and Common Area directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are reasonably obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) contains an endorsement that such policy shall not be terminated for nonpayment of premiums or for any other reason or shall not be substantially modified without at least ten (10) days prior written notice to Mortgagees and at least ten (10) days prior written notice to the Corporation.

For any casualty loss sustained to an Owner's Lot or Dwelling Unit which is covered by the above insurance, the Owner thereof shall be responsible for paying the deductible for each claim, not to exceed \$1,000.00 per claim.

Each Owner shall be solely responsible for loss or damage to the contents of his Dwelling Unit however caused and his personal property stored elsewhere on the Tract and the Corporation shall have no liability to the Owner for loss or damage to the contents of any Dwelling Unit or any personal property stored elsewhere on the Tract. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary

(b) 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 but not less than \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall

cover 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 come to act as agents or employees of any of the foregoing with respect to the Tract, 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. Such public liability insurance policy shall contain a provision that such policy shall not be canceled or substantially modified without at least ten (10) days written notice to the Corporation.

(c) 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 of Directors 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 and 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.

(d) 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 be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation.

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 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 method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Area. In the event of condemnation of all or any part of the Common Area the Corporation, as owner of the Common Area, shall represent the Owners in any negotiation or settlement regarding such condemnation. No Owners or any other party shall have priority over any rights of a Mortgagee pursuant to its mortgage in the case of distribution to such owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees, if to do so would be in violation of the Indiana Nonprofit Corporation Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

(e) Insurance by Owners. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

(f) Condemnation Awards. All proceeds payable as a result of condemnation shall be paid to the Corporation who shall act as trustee and hold such proceeds for the benefit of the individual Owners and Mortgagees. Such proceeds shall be distributed as provided above.

21. Casualty of Dwelling Units and Common Areas

(a) Restoration of Dwelling Units

(1) Damage to or destruction of any Dwelling Unit due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Corporation and the proceeds of insurance, if any, shall be applied for that purpose.

(2) 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, the cost for restoring the damage and repairing and reconstructing the Dwelling Units so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the owners of the Dwelling Units damaged in proportion to the ratio that damages to an Owner's Dwelling Unit have to the total damage to all Dwelling Units that are damaged. Any such amounts payable by the Owners of damaged Dwelling Units shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

(3) For purposes of subparagraphs (1) and (2) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Dwelling Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(4) 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, the Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.

(5) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Dwelling Units are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the estimated cost of reconstruction and repair of each Dwelling Unit is more than One Hundred Thousand Dollars (\$100,000), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the said architect for the services and

materials described; and (3) that the costs, as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, do not exceed the amount of the construction fund remaining after payment of the sum so requested.

(ii) Encroachments upon or in favor of Dwelling Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Dwelling Units were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Dwelling Units stand.

(iii) In the event that there is any surplus of monies in the construction funds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners of the Dwelling Units affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damaged Dwelling Units shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

(b) Restoration of Common Area. In the event of damage to or destruction of any of the Common Area 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.

In the event 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 of the Common Area, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area 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. 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 Paragraph, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

22. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat, 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 violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from 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) Dwelling Units shall be used exclusively for residential purposes and the occupancy of a single family, all as permitted under local zoning ordinances. "Single Family" is defined as a

single housekeeping unit, operating on a nonprofit, non-commercial basis between its occupants with a common kitchen and dining area.

(b) No additional buildings shall be erected or located on the Tract other than the Buildings designated in the Declaration and shown on the Plans.

(c) Nothing shall be done or kept in or upon any Lot or in the Common 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, Lot or in the Common Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.

(d) No nuisance shall be permitted, including without limitation any activities which are unsafe or hazardous with respect to any person or property, and no waste shall be committed in the Lots, Dwelling Units, or Common Areas.

(e) Except as such exists at the time of purchase by the original Owner, no Owner shall cause or permit anything to be hung or displayed on the outside of the windows or balconies or placed on the outside walls of the any Dwelling Unit or Building, and no sign, awning, canopy, shutter, antennas, including satellite dishes, or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any Lot, Dwelling Unit or Building, except to the extent that such prohibition is contrary to law.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any part of the Tract, except that small dogs, cats or customary household pets in reasonable numbers may be kept in a Dwelling Unit subject to rules and regulations adopted by the Board of Directors; provided that such pet is not kept, bred or, maintained for any commercial purpose, and does not create a nuisance. All pets (including cats) 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, caused by his or her pet. The Owner shall be responsible for the cleaning of any Lot (including the Owner's own Lot) and Common Area made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The tethering of pets in any area outside the Owner's Dwelling Unit does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Tract upon ten (10) days' written notice from the Board to the respective Owner. The appropriate governmental authorities shall have an easement across the Tract to enforce local animal control laws and ordinances.

(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, except as otherwise provided in this Declaration or the By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the Tract or to be a nuisance, annoyance, inconvenience or damage to other residents, including without limiting 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 by loud persons, and objectionable odors.

(h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.

(i) No industry, business, manufacturing, mercantile, storing, trade, or any commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Tract; provided, however, that an Owner may maintain an office or home business in the Dwelling Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Dwelling Unit; (3) there are no employees or independent contractors within the Dwelling Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner has obtained written approval from the Board of Directors; (6) the Owner complies with all applicable local ordinances and state laws and regulations; and (7) all other provisions of the By-Laws, this Declaration and the rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use. No Dwelling Unit shall be used or rented for transient, motel or hotel purposes.

(j) No temporary or permanent lawn decorations, fixtures, yard signs or cards shall be maintained or permitted on any part of the Tract or any Lot. No "For Sale", "For Rent" or "For Lease" signs or other window or advertising display shall be maintained or permitted on any part of the Tract or any Lot without the prior written consent of the Board.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Lot or other persons entitled to use the same and to use and enjoy the Common 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 and Common Areas.

(l) No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description other than normal passenger trucks less than one ton, vans or automobiles, shall be permitted, parked or stored anywhere within the Tract; provided, however, that nothing herein shall prevent: (1) the parking or storage of such vehicles completely enclosed within a garage, or (2) the driving or using of such vehicles for ingress and egress to and from such Owner's Lot provided the shortest route to and from a public road is used. No Owners or other residents shall repair or restore any vehicle of any kind within the Property, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. "Commercial" vehicles are vehicles on which commercial lettering or equipment is visible or which are larger than normally used for noncommercial purposes.

No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Tract.

(m) No Owner shall be allowed to plant or remove trees, landscape or do any gardening in any of the Common Areas or Lots, except with the express written permission from the Board; provided, however, that an Owner may plant annual flowers at ground level (no elevated or terraced flower areas), reasonable in size and quantity, on the Lot within five (5) feet of the exterior of the Dwelling Unit, garage or, if applicable, the deck or patio, and within two (2) feet of the walkway from the rear of the Dwelling Unit to the garage or the driveway servicing the garage, without the approval of the Board. An Owner may plant perennial or other plants only with the approval of the Board of Directors who shall have total discretion and may take into consideration among other things the aesthetic appearance of any proposed plants.

(n) No Owner shall be allowed to place or cause to be placed in the covered walkways connecting the Dwelling Unit with the garages, any furniture, packages or objects of any kind, without the consent of the Board and the Owner of the adjoining Dwelling Unit. Such areas shall be used for no other purpose than for normal transit through them.

(o) All trash or refuse shall be stored in appropriate containers inside the Dwelling Unit (including the garage) or designated trash areas and made accessible for the programmed trash collection system established by the Board of Directors.

(p) Anything to the contrary herein notwithstanding and subject to all approval requirements as described in Paragraph 15, any fences, except for fencing that already exists at the time of purchase by the original Owner, shall be subject to the following conditions and limitations:

- (i) constructed of white wood or red brick materials, or a combination of the two;
- (ii) maximum height of six (6) feet;
- (iii) no more than a total of sixteen (16) feet in length per Lot; and
- (iv) taking into account its location or connection to any other structure on the Lot, cannot constitute a complete enclosure, without the approval of the Board of Directors;
- (v) no portion shall be located nearer to the front lot line of a Lot than a line that runs parallel to the front lot line of such Lot from the Beginning Point to the Side Lot Line of such Lot; and
- (vi) no portion shall be located nearer to the Side Lot Line of a Lot than a line that runs parallel to the Side Lot Line of such Lot from the Beginning Point to the rear lot line of such Lot.

For purposes of this Paragraph the "Beginning Point" is that corner point on the Dwelling Unit that is nearest to the Side Lot Line of a Lot and at the same time is also nearest to the back lot line of such Lot. For purposes of this Paragraph, "Side Lot Line" is the lot line

opposite from the lot line that in part constitutes the party wall between Dwelling Units in a Building.

Any painted surfaces of such approved fence, after initial construction, shall be repainted as needed by the Corporation, but the Corporation shall not have any obligation generally to maintain, repair or replace such fence. Except as above-stated, the applicable Owner shall have the obligation and is hereby required to maintain, repair and replace any such fence. To the extent that any Owner does not fulfill his or her required obligations of maintenance, repair and replacement, the Corporation at the respective Owner's expense may do any such reasonably necessary maintenance, repair and replacement and the costs thereof shall be treated as a Special Assessment only against the applicable Owner and Lot.

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 the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Tract (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 in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant 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 Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Tract at any time.

### 23 Amendment of Declaration.

- (a) Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:
- (i) Notice. 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.
- (ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners
- (iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. 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 the provisions hereof.
- (v) Special Amendments. No amendment to this Declaration shall be adopted which changes
- (a) the applicable share of an Owner's liability for the Common Expenses, or the method of



determining the same, or (2) the provisions of this Declaration of Paragraph 20 with respect to casualty insurance or fidelity bonds to be maintained by the Corporation, or (3) the provisions of Paragraph 21 of this Declaration with respect to reconstruction or repair of the Common Area or Dwelling Units in the event of fire or any other casualty or disaster, or (4) the provisions of Paragraph 16 of this Declaration establishing the Architectural Review Board and providing for its functions, or (5) the provisions of Paragraph 18 of this Declaration with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration and the By-Laws.

(vi) Additional Special Amendments. No amendment to this Declaration shall be adopted which imposes a right to first refusal or similar restriction or which changes (1) the method of voting, or (2) reserves for and responsibility for maintenance, repair and replacement of the Common Area and Dwelling Units, or (3) right to use the Common Area, or (4) annexation of additional property to Historic Standish Estates, or (5) the boundaries of any Dwelling Unit, or (6) the leasing of Dwelling Units, or (7) termination of the applicability of this Declaration, or (8) any provisions which are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after recording of this Declaration and thereafter by at least seventy-five percent (75%) of the votes of Owners and the consent of Mortgagees holding mortgages on fifty percent (50%) of the Lots subject to mortgages.

(vii) Amendments Requiring Approval. As long as there is a Class B membership, the following action will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Area and amendment of this Declaration.

(viii) 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.

(ix) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, 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 the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or 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 such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots, (c) to bring this Declaration into compliance with any statutory requirements or (d) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby

reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Paragraph shall terminate at such time as the Declarant no longer hold or controls title to any part or portion of the Tract.

(c) Amendment Prior to the Applicable Date. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration prior to the Applicable Date without the consent and approval of Declarant.

24. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, 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 be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

25. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents 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 its appurtenances or of the Common Area.

26. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, 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 reasonable attorneys' fees incurred in connection with such default or failure.

27. No Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision 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 enforced to the greatest extent permitted by law.

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

30. The Plat. The Plat of Historic Standish Estates is incorporated into this Declaration by reference and the Plat has been filed in the office of the Recorder of Marion County, Indiana, as of the \_\_\_\_\_ day of \_\_\_\_\_, 1997, as Instrument No. \_\_\_\_\_.

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

HAWTHORNE INDIANA, LTD,  
an Indiana Corporation

By: Robert C. Laird  
Robert C. Laird, Executive Vice President  
and Chief Financial Officer

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert C. Laird, by me known and by me known to be the Executive Vice president and Chief Financial Officer of Hawthorne Indiana, Ltd., an Indiana corporation, who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions for Historic Standish Estates on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

WITNESS my hand and Notarial Seal this 17<sup>th</sup> day of March, 1998.

Theresa Kinder  
Notary Public  
Theresa Kinder  
Signature

My Commission Expires:

4/17/99

Residence County: MARION

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads & Murray, P.C., Attorneys at Law, 7351 Shadeland Station, Suite 185, Indianapolis, IN 46256. (317) 842-8550.