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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
THE ISLANDS

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THIS DECLARATION, made on this 14<sup>th</sup> day of January, 1988, by Hansen & Horn Contractors, Inc., an Indiana Corporation, ("Declarant"),

DULY SIGNED  
FOR RECORDATION

WITNESSES:

WHEREAS, Declarant is the owner of certain real estate (the "Property"), located generally Southeast of the intersection of I-74 and Dandy Trail in Marion County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by this reference, made a part hereof.

WHEREAS, Declarant desires to subdivide and develop the Property by designating certain portions of the Property as "Common Areas" (as hereinafter defined) to be owned by a homeowners association (the "Association," as hereinafter defined), and by designating certain other portions of the Property into "Lots" (as hereinafter defined).

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

ARTICLE I

Name

The subdivision of the Property created by this Declaration shall be known and designated as The Islands, a subdivision located in Marion County, Indiana.

ARTICLE II

Definitions

Section 2.1 "Articles" means the Articles of Incorporation of the Association (as hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time.

Section 2.2 "Association" means The Islands Homeowners Association, Inc., a formed or to-be-formed Indiana not-for-profit corporation, its successors and assigns.

Section 2.3 "Board of Directors", "Board" or "Directors" means the Board of Directors of the Association.

Section 2.4 "Common Area" means those portions of the Property (as hereinafter defined), including improvements thereto, facilities and personal property owned or leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined). Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property upon the Plat (as hereinafter defined) designated as "Common Area", "Lake Area", and "Landscaping Easements". The Common Area is to be conveyed to the Association at the time of conveyance of the first Lot to an Owner.

Section 2.5 "Declarant" means Hansen & Horn Contractors, Inc., its successors and assigns as a declarant, if such successors or assigns should acquire more than one (1) undeveloped or unimproved Lot from the Declarant for the purposes of development or improvement and the Declarant designates such person as Co-Declarant or successor Declarant. Declarant hereby designates Hansen & Horn Group, Inc., which will be acquiring lots on the Property, as a successor Declarant, and it hereby gives to Hansen & Horn Group, Inc. a power

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of attorney so that it alone may act for Declarant to amend this Declaration, and it alone may exercise any and all other acts delegated to or reserved by the Declarant hereunder.

**Section 2.6** "Development Period" means the period of time commencing with the recording of the first Plat and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the real estate in the Property (as hereinafter defined).

**Section 2.7** "Dwelling Unit" means any single-family residence situated upon a Lot (as hereinafter defined), whether attached or detached.

**Section 2.8** "Lot" means any parcel of land designated as such upon the Plat (as hereinafter defined) or, after construction of a Dwelling Unit, that parcel of land upon which a Dwelling Unit is constructed that is conveyed to an Owner (as hereinafter defined) by the Declarant. If a Dwelling Unit is constructed on a part of more than one Lot, then for purposes of Articles III, IV, V, VI and VIII the term Lot shall mean and include all portions of the land used in connection with a single Dwelling Unit.

**Section 2.09** "Member" shall mean and refer to every person or entity who holds membership in the Association.

**Section 2.10** "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term Owner as used herein shall include the Declarant, so long as the Declarant shall own any Lot.

**Section 2.11** "Plat" means the subdivision plats of the Property (as hereinafter defined) identified as:

a. "Final Plat for The Islands, Section I", recorded on the 21st day of November, 1987, as Instrument Number 87-138160 as amended or supplemented.

b. The final Plat for each additional section of The Islands or any part of the Real Estate described on Exhibit A, which may be recorded in the Office of the Recorder of Marion County, Indiana, as hereafter amended or supplemented by law or pursuant to this Declaration.

**Section 2.12** "Property" means the real estate described in Exhibit "A", and any additions annexed thereto, pursuant to the Declaration of Covenants, Conditions and Restrictions of The Islands, as amended.

### ARTICLE III

#### Property Rights, Easements and Encroachments

**Section 3.1** Dedication of Common Area. Declarant hereby dedicates the Common Area to the common use and enjoyment of the Members, as provided herein, but not for use by the general public. Portions of the Common Area may be limited to the use of certain Lot Owners if in the opinion of the Declarant or the Association such areas fairly serve less than all the Lot Owners and limiting the use of such Common Area will not discriminate against any other Lot Owners.

**Section 3.2** Owners' Easements of Enjoyment of Common Area. Every Owner shall have a non-exclusive right and easement of enjoyment, in common with all Owners, in and to the Common Area (except any limited Common Areas) which shall be appurtenant to and shall pass with title to every Lot (including the right to membership in the Association), subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use of any recreational facilities by any Owner for any period during which any assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

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(b) the right of the Association to promulgate reasonable rules and regulations governing and limiting the use of the Common Area including, without limitation, parking, swimming, boating, fishing, and upon improvements, additions or alterations to the Lots and the Common Area;

(c) the rights of Declarant as provided in this Declaration;

(d) the easements reserved elsewhere in this Declaration and the right of the Association or Declarant to grant further reasonable utility and other easements across and through the Common Area for the benefit of the Owners;

(e) all other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.3 Delegation of Use. Any Owner may delegate, in accordance with the By-Laws and any reasonable and non-discriminatory rules and regulations promulgated from time to time by the Association and subject to the rights of others as set forth in Section 3.1, his or her right of enjoyment of the Common Area, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.4 Certain Obligations and Access Rights to the Common Area.

(a) Except as otherwise set forth in this Declaration, the Association, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted a general right of access and easement to all of the Common Area across the Lots, at reasonable times and at any time in case of emergency, as reasonably required by its officers, directors, employees and their agents and independent contractors, to the full extent necessary or appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder's warranty with respect to any of the Lots.

Section 3.5 Drainage, Utility, Sewer and Other Development Easements.

(a) Declarant hereby reserves unto itself the right to grant easements ("Utility and Drainage Easements") for drainage, utility and sewer purposes in, on and over all of the Common Area and Lots which it owns, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Dwelling Unit constructed on the Property. This easement shall be in addition to any easement defined upon a Plat of the Property as a drainage, utility, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement and right-of-way in and to any areas now or hereafter shown on the Plat as "Lake Area" or "Lake", through and across the Common Area or the areas designated on the Plat as "Lake Maintenance Easement", to perform such actions as Declarant or the Association deem necessary or appropriate for the purpose of establishing and maintaining proper surface water drainage throughout the Property, including the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined easement ("Sign and Facilities Easement") to install, erect, construct and maintain an entryway sign or signs, directional signs, lighting, walkways, pathways,

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fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Common Area. Any signs shall comply with any applicable zoning requirements unless variances are obtained, and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

- (i) relocate, alter or otherwise change the location of Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;
- (ii) grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property owned by it; and
- (iii) describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property owned by it, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Marion County, Indiana.

(e) The title of the Association (as to the Common Area during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein. Provided, however, that the rights reserved in this Section 3.5 shall not be exercised after the conveyance of any Lot in a manner that unreasonably and adversely affects any Lot or the Owner's use or enjoyment thereof, or which unreasonably restricts the right of ingress and egress to such Lot. The rights and easements reserved by Declarant in this Section 3.5 shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association upon Declarant's conveyance of the last Lot within the Property.

Section 3.6 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of any emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 3.7 Encroachments and Easements for Buildings. If, by reason of the location, construction, settling or shifting of a Dwelling Unit or driveway therefor, any part of the residence or driveway appurtenant to a Lot (hereinafter in this Section 3.7 referred to as the "Encroaching Unit") now encroaches or shall hereafter encroach upon any minor portion of any other adjacent Lot or any Common Area, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the Encroaching Unit for the maintenance, use and enjoyment of the Encroaching Unit and all appurtenances thereto. If Declarant shall construct any driveways or patio fences in such manner that they encroach upon an adjoining Lot, then an exclusive easement for such encroachment shall be deemed to exist to the Owner of the Lot making use of the same for so long as such encroachment shall exist, and the Owner of the Benefitted Lot shall have the right to repair and replace the encroaching improvement.

#### ARTICLE IV

##### Association Membership, Voting Rights, Board of Directors, Association Responsibilities, and Professional Management

Section 4.1 Membership. The person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial member(s), membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights. The Association shall have two classes of voting membership:

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

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) when the total number of votes outstanding in the Class A membership is equal to the total number of votes outstanding in the Class B membership; or, (b) December 31, 1991.

Section 4.3 Board of Directors. The Members shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

Section 4.4 Association Responsibilities. The Association shall maintain and repair the facilities and improvements on the Common Area, including but not limited to the Lake Area, landscape easements, and any entrance or auto court medians shown on the Plat(s), and shall keep such areas in a neat, clean and presentable condition at all times. The Association shall procure and maintain such insurance as is required herein or as such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

Section 4.5 Professional Management. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

#### ARTICLE V

##### Covenant for Maintenance Assessments

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Regular Assessments and (b) Special Assessments, subject to the provisions of Section 5.6 below.

Section 5.2 Purpose of Regular Assessments. The Regular Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. A portion of the Regular Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, and other capital improvements which the Association is required to maintain.

##### Section 5.3 Regular Assessments.

(a) The Regular Assessment shall be paid in one annual lump sum installment unless otherwise determined by the Board of Directors. All assessments collected by Declarant or a Co-Declarant shall be kept on behalf of the Association and used for carrying out such responsibilities of the Association as required or appropriate under these Covenants.

(b) The Regular Assessment on any Lot conveyed to an Owner prior to August 1, 1988 shall be \$75.00. On any Lot conveyed to an Owner during the period August 1, 1988 and December 31, 1988, the Regular Assessment shall be in the same proportion to \$75.00 that the days remaining in such period after closing bear to the total number of days in such period.

(c) For the period January 1, 1989 through December 31, 1989, the Regular Assessment shall not exceed \$180.00. Thereafter, the maximum Regular Assessment may be increased effective January 1 of each calendar year not more than 10% above the Regular Assessment for the previous year without a vote of the membership. For Lots first becoming subject to assessment in 1989 and thereafter, the first year's assessments against each such Lot shall be prorated for the portion of the first year in which the Lot was subject to assessment.

(d) From and after January 1, 1990, the Regular Assessment may be increased each calendar year by more than 10% above the Regular Assessment for the previous year, with the approval of two-thirds (2/3) of those members of each class of members who cast votes in person or by proxy at a meeting duly called for this purpose.

(e) The Board of Directors from time to time may fix the Regular Assessment, without any vote of the membership, at any amount not in excess of such maximum.

Section 5.4 Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, or for such purpose benefiting the Owners as they may approve, provided that any such assessment shall have the assent of two-thirds (2/3) of those members of each class of members who cast votes in person or by proxy at a meeting duly called for this purpose. So long as Declarant owns any Lot, no special assessment shall be levied without its consent.

Section 5.5 Notice and Quorum for Any Action Authorized Under Section 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.3 and 5.4 shall be sent to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60) of all the votes of each class of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 Uniform Rate of Assessment. Regular Assessments and Special Assessments must be fixed at a uniform rate for all Lots except that: (a) Declarant shall not be obligated to pay the Regular Assessment or Special Assessment on any Lot owned by Declarant which is not improved with an occupied Dwelling Unit; and (b) a builder of the original Dwelling Unit on a Lot purchased from Declarant shall not be obligated to pay the Regular Assessment or Special Assessment on any Lot owned by the builder until the date of builder's conveyance or leasing of the Lot to an Owner or other party, or if earlier one year from the date of conveyance by the Declarant.

Section 5.7 Date of Commencement of Assessments; Due Dates. The Regular Assessment provided for herein shall commence for each Lot on the day of first conveyance of said Lot to an Owner except as provided in Section 5.6. The Board of Directors shall fix any increase in the amount of the assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance with respect to any person relying upon such certificate.

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Section 5.8 Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established herein, then the entire unpaid assessment (together with interest thereon, costs and attorneys' fees as hereinafter provided) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the Indiana Statutory interest rate on judgments, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property, or both. In such event, there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the Court. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 5.9 Subordination of the Lien to Mortgages, Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE VI

##### Use Restrictions and Architectural Control

Section 6.1 Lot Use and Conveyance. All Lots shall be used exclusively for residential purposes and other purposes permitted in single family dwelling districts under the applicable zoning codes, except that Declarant, during the Development Period reserves (a) the rights provided in Section 6.13 respecting the Property generally, and (b) the right to subdivide, dedicate or otherwise convey all or any portion of any Lots which it may own from time to time. Any Lot or portion thereof so designated for common use shall become part of the Common Area, and reasonable rules and regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the Declaration or as reserved to the Declarant, no Lot shall be subdivided to form additional units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

Section 6.2 Architectural Control. No dwellings, building structure, fence, or improvement of any type or kind (excluding landscaping) shall be constructed or placed on any Lot, nor shall the exterior of any dwelling or other structure be changed, including changes in color (other than by the Declarant or the Association) without the prior written approval of the Association. The Association may require the Owner of the Lot requesting approval to submit a written application in a manner and form prescribed from time to time by it. The Association may require that the application include a set of drawings and specifications for any such proposed improvement. The Association may refuse to grant approval of an improvement when:

- (a) the drawings, specifications and other material submitted with the application are themselves inadequate or incomplete, or show the proposed improvements to be in violation of these covenants; or
- (b) the design or location of the proposed improvements is not in harmony with surrounding improvements or uses; or

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(c) the proposed improvements (or any part thereof) would, in the reasonable judgment of the Association, be contrary to the interests, welfare, or rights of any other Owner.

In the event that written approval or disapproval is not received as required hereunder within thirty (30) days after receipt of the written application therefor, approval will not be required and this Section will be deemed to have been fully complied with. This Section 6.2 shall not apply to repair or replacement of existing improvements with materials substantially similar to materials used in the original construction of the improvements. The Association may delegate its authority under this Section 6.2 to an Architectural Control Committee.

Section 6.3 Signs. During the Development Period, no "for sale" or other advertising signs of any kind (other than interior window signs) shall be displayed on any lot without the prior written approval of Declarant. Thereafter, the placement of "for sale" or advertising or other signs of any nature, kind or description anywhere on the Property shall be subject to such reasonable rules and regulations as may be adopted by the Association.

Section 6.4 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes.

Section 6.5 Outside Storage. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 6.6 Parking. The Declarant during the Development Phase, and the Association thereafter, may adopt rules and regulations governing and limiting the right to park vehicles on the Property, including public streets.

Section 6.7 Unsightly Growth. In order to maintain the standards of the Property no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any part of the Property, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall authorize the Declarant or the Association to cut weeds or clear the refuse from the Property at the expense of the Owner, and there shall be a lien against said Property for the expense thereof, which lien shall be due and payable immediately. If such lien is not promptly paid, the Declarant or the Association may file suit and recover such amount together with interest, reasonable attorneys' fees and costs of collection.

Section 6.8 Nuisances. No nuisances shall be permitted to exist or operate upon the Property.

Section 6.9 Truck Parking, Etc. Cars, trucks and other vehicles shall not be parked on the paved portion of driveways, Private Drives, and public streets in a manner which will impede access from or to any lot or public street. Driveways (including Private Drives), and public streets shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickups and deliveries to neighboring lots, nor for parking of any inoperable vehicles. No velocipedes, bicycles, toys or other private property shall be allowed to obstruct any driveways, private drives, or public streets, nor shall the same be stored in the open alongside building walls or other locations of public view. No fence, barrier or other obstruction of any kind shall ever be placed or constructed on any driveway, Private drive, or public street.

Section 6.10 Antennas and Satellite Dishes. Exposed antennas shall not exceed five (5) feet in height above the roof peak on which it is installed. Satellite dishes and other free standing antennas shall not be permitted unless first approved in writing by the Association.

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Section 6.11 Party Walls. Each wall which is built as a part of the original construction of two or more Dwelling Units constructed upon the Property and placed on the dividing lines between two Dwelling Units shall constitute a party wall, and, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply hereto.

Section 6.12 Rules and Regulations. The Board of Directors from time to time may promulgate rules and regulations concerning the use of Lots and the Common Area. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulations adopted by the Board of Directors. Copies of all rules and regulations shall be furnished by the Board to the Owners, at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws, and all rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers or guarantors of first mortgages, that are available during normal business hours or under other reasonable circumstances.

Section 6.13 Development and Sale Period. Nothing contained in this Article VI shall be construed or interpreted to restrict the activities of Declarant in connection with the development of the Property and sale of Lots. During the Development Period, Declarant shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant, as in the sole opinion of Declarant may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitations, storage areas, signs, parking areas, portable toilets, waste containers, model residences, construction offices, sales offices and business offices.

Section 6.14 Private Drives. There are areas on the Plat marked "Private Drive" and individually designated with a capital letter.

Each Private Drive is located on a Lot and shall be for the exclusive use and enjoyment of:

- i. the Owner of the Lot on which the Private Drive is located; and
- ii. the Owner (s) of the Lot (s) abutting the Private Drive which shall have their primary vehicular access across the Private Drive to a public street, which Owners shall have an easement for ingress and egress across the Private Drive to and from the public street.

The cost of maintenance, upkeep and replacement of such Private Drive or portions thereof shall be allocated in equal shares among the Lot Owners served thereby, including any lawn or landscaped areas thereon unless maintained by an adjoining Owner.

In the event of any dispute arising regarding the costs of maintenance, upkeep and replacement, or use, of each Private Drive such dispute may be submitted, by initiation of any Owner served by such Private Drive, to arbitration to the Association which shall establish rules for such arbitration and shall appoint an arbitrator. Any award or decision under such arbitration shall be enforceable in a court of proper jurisdiction.

Section 6.15 Fences Restrictions. Except for fences constructed by the Declarant, or which are first approved in writing by the Association, any fences shall comply with the following restrictions:

- 1) No fences shall be constructed in the front yard of a Lot;
- 2) Fences shall not exceed four feet in height except fences enclosing a patio which may be six feet in height;
- 3) No fence shall be permitted within twenty five feet of a public street or five feet of a private drive except fences which enclose a patio;

- 4) Fences other than fences enclosing a patio shall not be constructed within ten feet of a Dwelling Unit on another Owner's Lot nor within ten feet of the rear Lot line of a Lot where no improvements have been constructed on the Lot or Lots abutting such rear Lot line, except such limitation shall not apply to fencing on a Landscape Easement by the Owner of a Benefitted Lot which extends from a Dwelling Unit on a Burdened Lot to the rear Lot line of the Burdened Lot nor to fencing which is within ten feet of a Dwelling Unit which has no windows on the side facing the fence;
- 5) Fences in the rear yard of a Lot which borders the Lake Area shall not extend further than ten feet from the rear face of the Dwelling Unit; and
- 6) The style of the fence, its shape and color shall be subject to architectural control as set forth in Section 6.2 above.

The Association shall have the right to grant variances of these fencing requirements in individual cases upon the Lot Owners affected appearing before it and submitting such information as it may require. A written instrument evidencing any such approvals shall be prepared in recordable form, and shall set any conditions applicable to such approval. A copy of such instrument shall be retained by the Association and the original shall be sent to the Lot Owner requesting to construct a fence in violation of these restrictions.

## ARTICLE VII

### Landscape Easements

Section 7.1 Landscape Easements. There shall be a perpetual Landscape Easement on Lots as shown on the Plat of the Section in which the Lot is platted. Each Landscape Easement is located on a lot as shown (the "Burdened Lot") and runs for the benefit of the Lot or Lots adjacent to the Landscape Easement (the "Benefitted Lot"). The owner of the Benefitted Lot shall have the right to exclusive use of the Landscape Easement for planting shrubs, plants, flowers, trees, and grass, and for any other landscaping consistent with the terms hereof; for installation of sprinklers and drainage devices; and for the construction of decks, fences, patios, walkways, and other structures ancillary to the primary residential structure on the Benefitted Lot. Use as a general recreational and garden area is permitted, but enclosed structures, other than patio fences, shall not be permitted upon the Landscape Easement. Any use made of a Landscape Easement by a Benefitted Owner shall observe and comply with the approved Drainage Plan for the Subdivision.

### Section 7.2 Extent of Landscape Easement.

a. The Declarant shall have the right to limit or expand any Landscape Easement which is shown on the Plat by recording a written instrument stating how the Landscape Easement is to be limited, or how it is to be expanded, at any time in when it owns the Benefitted Lot and the Burdened Lot or Lots. The Declarant may limit or terminate a Landscape Easement at any time it owns a Benefitted Lot, by setting forth in a written instrument in recordable form, or in a deed conveying the Benefitted Lot, the limits on such Landscape Easement, or that the same is terminated, as the case may be.

b. Unless otherwise provided herein, or by the Declarant pursuant to the above provision, the owner of a Benefitted Lot shall have the right to use additional areas on a Burdened Lot as if the same were subject and part of the Landscape Easement, as follows: if a patio or privacy fence is built on the side yard of a Benefitted Lot by the Declarant, a line shall be extended from the front patio or privacy fence perpendicular to the side wall of the Dwelling Unit on the Benefitted Lot to where it intersects with the exterior facade of a Dwelling Unit on the Burdened Lot which faces the Benefitted Lot, and then such Landscape Easement shall follow the exterior facade of the Dwelling Unit on the Burdened Lot extended to the rear Lot line. The owner of the Benefitted Lot shall have the right to use the entire area so described as if it were part of the Landscape Easement, plus an area consisting of one foot

in front of and parallel to the front face of the patio or privacy fence. If there are any improvements on the Dwelling Unit on the Burdened Lot, including roof overhangs, drains, gutters, and any similar appurtenances, which encroach upon the area so described which may be used as additional Landscape Easement, the owner of the Burdened Lot shall have a paramount easement to permit such encroachments to remain, and the right to use the area subject to the additional Landscape Easement shall be subject to such paramount easement with respect to encroachments on the Dwelling Unit on the Burdened Lot.

c. Landscape Easements shall only extend into any adjoining rear Lots to the extent shown on the Plat, unless the Declarant, within two years after the conveyance of any Lot or prior thereto shall grant a Landscape Easement along the rear Lot line. Any such Landscape Easements along the rear Lot lines of a Lot shall be limited to five feet in width, unless Declarant shall own the Burdened Lot at the time such easement is granted.

d. If no patio or privacy fence is originally constructed by the Declarant on a Benefitted Lot which extends from a Dwelling Unit on such Lot toward or upon the Landscape Easement which exists on the side yard of a Burdened Lot, then the Landscape Easement on the Burdened Lot shall lapse, and thereby terminate.

Section 7.3 Right of Entry. The Owner of the Burdened Lot shall have the right at all reasonable times to enter upon the Landscape Easement, including the right to cross over the Benefitted Lot to accomplish such entry, for the purpose of performing work reasonably related to the original construction, use and maintenance of the improvements on the Burdened Lot. The Owner of the Benefitted Lot shall similarly have the right at reasonable times and in a reasonable manner to cross over the Burdened Lot in order to pass to the Landscape easement lying to the rear of any patio extending into the Landscape Easement.

Section 7.4 Utility Easements. Where a Landscape Easement is subject to a Drainage, Utility or Sewer Easement, the rights of the Utility Company or other persons under such easement shall be superior to the rights of a Benefitted Lot Owner under a Landscape Easement.

Section 7.5 Right of Drainage. The Owner of the Burdened Lot shall have the right of drainage over, across and upon the Landscape Easement for water resulting from precipitation upon the Burdened Lot, and the Owner of the Benefitted Lot shall not do or permit to be done any act which interferes with such drainage. Further, the Owner of the Benefitted Lot shall be responsible for maintaining the Easement Area so that at all times the soil slopes away from the Burdened Lot Owner's house. If necessary, the Owner of the Benefitted Lot shall add soil if and when any settlement occurs which could cause ponding of water on the Landscape Easement.

Section 7.6 Right of Support. The Burdened Lot shall have the right of lateral and subjacent support for all improvements now or hereafter constructed upon the Burdened Lot, and no use of the Landscape Easement shall adversely affect such right of support.

Section 7.7 Effective Date. Since the construction of the foundation of a house on the adjacent Burdened Lot may result in the builder needing to use the Landscape Easement granted to Benefitted Lot, this easement shall not come into effect until a house is constructed upon said Burdened Lot, or for a period of two years after the recording of this Declaration, whichever occurs first. After such two year period, the Owner and builder of a residence on the Burdened Lot shall have the right to use the Landscape Easement during the construction of such residence, provided that the Owner of the Burdened Lot shall indemnify and hold the Owner of the Benefitted Lot harmless from damage to shrubs, plants, flowers, trees, lawn, sprinklers, fences, walls and other landscaping on the Landscape Easement caused by the Owner of the Burdened Lot or his builder.

Section 7.8 Indemnity of Burdened Lot Owner(s). The Owner of the Benefitted Lot shall indemnify and hold the Owner of the Burdened Lot harmless from damage to any improvements now or hereafter constructed on such Burdened Lot caused by any use of the Landscape Easement by the Owner and users of the Benefitted Lot and shall indemnify and hold the Owner of the Burdened Lot

harmless from any and all claims for personal injury, including but not limited to death and damage to property occurring upon the Landscape Easement. The Owner of the Benefitted Lot shall acquire and keep in force adequate liability insurance covering the Landscape Easement.

Section 7.9 Maintenance of Sideyard Easement. The Owner of the Benefitted Lot shall be responsible for the maintenance of the Landscape Easement and all landscaping, fences and improvements located thereon for the benefit of the Benefitted Lot to the same extent as if it were a portion of such Owner's Lot.

Section 7.10 To Run With The Land. The Landscape Easement shall bind the owners of the Burdened and Benefitted Lots, their respective heirs, personal representatives, successors and assigns and the obligations and benefits hereof shall be deemed covenants running with the land comprising the two lots, subject to the provision in Section 7.2 that Landscape Easements shall terminate if a patio is not originally constructed on the side of a dwelling on the Benefitted Lot facing the Landscape Easement.

#### ARTICLE VIII

##### Maintenance of Lots

Section 8.1 Maintenance by Owners. Each Owner shall be responsible for the exterior maintenance of all improvements on his Lot, except for maintenance of the Landscape Easement to be performed by the Owner of the Benefitted Lot as set forth in Article VII.

Section 8.2 Lawn Maintenance and Other Work. The Association may agree with individual Owners to perform lawn and other maintenance work for such Owners, provided the following conditions are met:

- (a) The Owner is charged a reasonable fee for such maintenance work that is designed to reimburse the Association for the cost thereof;
- (b) The Association is willing to perform similar work for any other Owners in The Islands;

#### ARTICLE IX

##### Lake Area

Section 9.1 Lake Area. The Lake designated on the Plat as "Lake Area" is a common area. Access to the Lake is restricted to the Common Area adjacent to the Lake except for those individuals whose Dwelling Units are immediately adjacent to the Lake. No individual using the Lake has the right to trespass upon any part of the shoreline which is not within a Common Area. This provision shall however be subject to the rights of the Declarant, the Association, their employees, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in pollution of the Lake, dumping trash or other materials therein, diversion of water, elevation of Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon the water quality, drainage, sightliness, or proper Lake management except as provided in the Declaration. The Lake may be used for boating, fishing and for other legal purposes if approved by the Association in writing. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area adjacent to the Lake. The Declarant shall have the right to permit other persons to use the Lake provided access to the Lake by such persons may be gained other than through the Property. Declarant hereby reserves the right to adopt rules and regulations governing the access to and the use of the Lake, which regulations shall be binding upon the Lot Owners, the Association and any other persons to whom rights may be given to use the Lake or to have access to the Lake. Such rules and regulations may provide for a method of paying for the cost of maintaining the Lake and may provide that the share of each owner of such costs shall be a lien on that land having the right of access to and/or use of the Lake.

Section 9.2 Lake Front Maintenance. Each Owner of a Lot which borders on the Lake Area (a "Lakefront Lot") shall be responsible for maintenance of

the Lake Area between his Lot and the water, as the same may rise and fall. In consideration thereof, the Owner of a Lakefront Lot shall have the exclusive right to use any Common Area between his or her Lot and the water, and subject to any rules and regulations adopted by the Declarant or the Association, to construct a dock or other appropriate improvements thereon.

Section 9.3 Lake Maintenance Easements. Lake Maintenance Easements ("LME") are platted on the Property. Such easements shall be for the benefit of the Declarant and Association who shall have the right to enter upon such areas for the purpose of maintaining or working on the Lake. No Lot Owner shall have any right growing out of such easement to pass over or upon the Lake Maintenance Easement where the same is located on or to the rear of another Owner's lot.

Section 9.4 Water Level of Lake. Nothing herein shall be deemed to represent that the water level of the Lake will stay the same or substantially the same. The water level of the Lake may rise or fall, and the Declarant shall have the right to cause it to rise or fall, or to authorize other persons to do acts which may cause the water level of the Lake to rise or to fall.

#### ARTICLE X

##### Insurance

Section 10.1 Casualty Insurance on Insurable Common Area. The Association shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as are customarily covered for similar types of projects, including those covered by the standard "all risk" endorsements. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried.

Section 10.2 Liability Insurance. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association. It shall also cover all Common Areas, public ways and any other areas under the Association's control or supervision.

Section 10.3 Fidelity Bonds. The Association may have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association bonds shall name the Association as the obligee and the premium shall be paid as a common expense by the Association. Any management agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide comparable coverage to that required above. The fidelity bond shall cover the maximum funds expected to be in the custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of three months assessments of all Dwelling Units in the Property, plus the Association's reserve funds. The fidelity bonds must include a provision that calls for ten days' written notice to the Association or insurance trustee before the bond can be cancelled or substantially modified for any reason. The same notice as is required to be given to a Lot Owner, must also be given to each servicer that services a FNMA or FHLMC owned mortgage in the Property, if notice to such servicer is required under the applicable FNMA or FHLMC regulation governing such mortgage.

Section 10.4 Miscellaneous Insurance Provisions. The Association shall obtain any other insurance required by law to be maintained and may obtain any other such coverage it deems advisable, including but not limited to, directors and officers liability, workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance shall inure to the benefit of the Association.

Section 10.5 Casualty and Restoration. Damage to or destruction of any Common Area and the Improvements thereon due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose. For purposes of this Section, repair, reconstruction and restoration shall mean construction or rebuilding of the damaged property to as near as possible the same condition as it existed immediately prior to the damage or destruction, with the same or a similar type of architecture.

Section 10.6 Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a special assessment against all Lots for such deficiency.

Section 10.7 Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Property, or, in the discretion of the Board of Directors, may be distributed to the Owners. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

Section 10.8 Insurance Carried by Association. Premiums for all insurance carried by the Association are Common Expenses included in the Regular Assessments made by the Association.

#### Article XI

##### Mortgages

Section 11.1 Notice to Mortgagees. The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided in Section 5.7 with respect to any persons relying thereon.

Section 11.2 Condemnation and Insurance Awards. No provisions of this Declaration, or any amendment thereto, shall give an Owner, or any other party, priority over any rights of the first mortgagee of a lot pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of property.

Section 11.3 Unpaid Dues or Charges. Any first mortgagee who obtains title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure,

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will not be liable for the Dwelling Unit's unpaid dues or charges accrued before the acquisition of the title to the Unit by the mortgagee. The Owner who owned the Lot prior to such foreclosure shall remain personally obligated for such unpaid dues and charges.

Section 11.4 Financial Statements. The Association must provide a financial statement for the preceding fiscal year if the holder, insurer or guarantor of any first mortgage that is secured by a Dwelling Unit in the Property submits a written request for it.

## ARTICLE XII

### Annexation

Section 12.1. Property Subject to Annexation by Declarant. Declarant reserves the right, but is not obligated, to annex to the property additional lands within the area described in Exhibit "B" ("Annexed Land") without the consent of the Owners or any other party, within seven (7) years from the recordation date of the Declaration. Declarant or others may develop and construct whatever improvements on the Annexed land as are permissible under the zoning ordinance and building codes then governing the Annexed Land.

Section 12.2 Effective Date for Assessments and Voting Rights. The Regular Assessments shall commence within the annexed area as provided in Article V and voting rights of the Owners of the Lots shall be effective upon the same date, except the Declarant shall have the voting rights provided for in Article IV, Section 4.2.

Section 12.3 Equality of Rights. All Lot Owners within an annexed area shall have the same rights, liabilities and obligations as any other Owner within the Property.

Section 12.4 Annexation Document. Annexation shall be by written document including, but not necessarily limited to, the following information:

- (a) a description of the property to be annexed;
- (b) the identity of the Declarant;
- (c) the effective date of annexation;
- (d) a description of the Common Area to be owned by the Association;
- (e) a cross-reference to this Declaration, as amended; and
- (f) any other information which the Declarant may deem necessary to identify the annexed area.

Section 12.5 Annexation of Other Areas. Additional land outside of the area described in Exhibit "B" may be annexed to the Property with the consent of FNMA eligible mortgage holders representing at least two-thirds (2/3) of the votes of the mortgaged units and with the consent of two-thirds (2/3) of each class of members.

Section 12.6 FHA/VA Approval. If the property has been approved for FHA/VA insured mortgage financing, the FHA and the VA must first determine that the annexation, whether by Declarant or otherwise, is in accord with the general plans heretofore approved by them.

## ARTICLE XIII

### General Provisions

Section 13.1 Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under

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applicable Indiana law, with or without proving any actual damage, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 13.2 Dispute Between Owners. Notwithstanding the above provisions if any Owner who is involved in a dispute or disagreement between Owners arising under or pursuant to the terms of this Declaration shall submit such matter or dispute to arbitration by the Association, then the Association shall have the exclusive right to determine such matter. The Association shall establish rules for such arbitration and shall appoint an arbitrator or arbitrators. Any award or decision under such arbitration shall be enforceable in a court of proper jurisdiction.

Section 13.3 Severability and Waiver. Invalidation of any one of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person or assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 13.4 Amendment. During the initial term of twenty years from the date of the recording of this Declaration, this Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of Marion County, Indiana, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. After the expiration of the initial term, this Declaration may be amended in whole or in part at any time provided such amendment is signed in writing by a majority of the Owners. Except as prohibited below, this Declaration may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within two (2) years after the recordation hereof. Any amendment must be recorded. Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of two-thirds (2/3) of the first mortgagees of the Lots (based upon one (1) vote for each mortgage owned) and two-thirds (2/3) of the Owners of Lots (excluding Declarant):

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(b) fail to maintain fire and extended coverage on insurable Common Area on a current replacement cost basis in any amount at least 100 percent of the insurable value (based upon current replacement costs)

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

(d) change the voting rights, assessments, assessment liens or subordination of assessment liens, except as provided for in this Declaration;

(e) change the rights to the use of the Common Area, except as provided for in this Declaration;

(f) change any requirements for insurance or fidelity bonds set forth in this Declaration;

(g) change any provision that expressly benefits mortgage holders, insurers or guarantors; or



If an addition or amendment is not considered as a material change, such as the correction of a technical error or the clarification of a statement within the Declaration, Association Articles, Association By-Laws or other constituent documents, there shall be an implied approval to be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after proposal is made. The covenants, restrictions and all other provisions of this Declaration shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties claiming under them for an initial term of twenty (20) years from the date of recordation, and thereafter shall automatically extend for successive periods of ten (10) years each.

Section 13.5 FHA/VA Approval. If the Property has been approved for financing insured or issued by the Federal Housing Administration ("FHA"), or the Veterans Administration ("VA"), as long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional property (except for the property described in Exhibit "B"), dedication of Common Area (except as provided in this Declaration), and amendment of this Declaration.

Section 13.6 Special Amendments. No amendment to this Declaration shall be adopted which changes any provision of this Declaration which would be deemed to be of a material nature by the Federal National Mortgage Association under Section 402.02 of Part V, Chapter 4, of the Fannie Mae Selling Guide or any similar provision of any subsequent guidelines published in lieu of or in substitution for the Selling Guide, or by any similar provisions adopted by the Federal Home Loan Mortgage Corporation, without the approval of all the Mortgagees who have given prior notice of their mortgage interest to the Board of Directors of the Association.

Section 13.7 By Declarant. Declarant hereby reserves the right so long as Declarant, or any successor Declarant, owns any Lot within and upon the Property to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, without the approval of any other person or entity, in order to bring Declarant into compliance with the requirements of any statute, ordinance, regulation or order of any public agency having jurisdiction thereof, or to comply with the requirements of the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Department of Housing and Urban Development ("HUD"), the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") or any other governmental agency to induce any such agencies to make, purchase, sell, insure or guarantee first mortgages, or to correct clerical or typographical errors in this Declaration or any amendment or supplement hereto; provided that Declarant shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner. Each amendment to the Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the Association; provided, that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the Office of the Recorder of Marion County, Indiana, and no amendment shall become effective until so recorded.

Section 13.8 Assignment. Declarant may assign or otherwise transfer any and all of its rights as Declarant by written document recorded in the office of the Recorder of Marion County, Indiana.

Section 13.9 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Dwelling Unit Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area, or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be

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payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of this development shall be made on a reasonable and an equitable basis.

Section 13.10 Right to Grant Additional Lake Easements. Declarant reserves the right to grant other persons the right to use the Lake and the Lake Easement upon such terms as it may deem desirable, provided any such use shall:

- 1) not materially and adversely affect the rights of the Owners to use the Lake;
- 2) not permit any other persons access to the Lake over the Property without the prior consent of the Association, and
- 3) require the person or persons having the right to use the Lake or Lake Easement to contribute to the cost of maintaining the Lake and keeping it clean.

IN WITNESS WHEREOF, HANSEN & HORN CONTRACTORS, INC., an Indiana Corporation has caused this Declaration to be executed as of the date first written above.

"DECLARANT"  
HANSEN & HORN CONTRACTORS, INC.  
By: Kenneth D. Hansen  
Kenneth D. Hansen, President

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared Kenneth D. Hansen, President of Hansen & Horn Contractors, Inc., an Indiana corporation, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions of The Islands on behalf of such corporation and who first being duly sworn stated upon his oath that he is duly authorized so to act.

IN WITNESS WHEREOF I have set my hand and Notarial Seal on this 14<sup>th</sup> day of January, 1988.

My Commission Expires:

Maude L. Sullivan  
Notary Public

6/30/89

My County of Residence is:

Maude L. Sullivan  
Printed Name

Marion

This instrument prepared by Walter E. Wolf, Jr., Kineman, Rose, Wolf and Wallack, 2130 One Indiana Square, Indianapolis, Indiana 46204

MSE 111-0179, 8168R-1  
C. Dorff, 1-7-88

LAND DESCRIPTION

A part of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 22; thence North 03°18'54" East along the east line of said Northwest Quarter 112.43 feet to the southwesterly right-of-way of Interstate 74 as shown on Indiana State Highway Commission plans for project I-74-2(22)69, said point being the point of beginning; thence South 58°25'34" East along said right-of-way line 2263.90 feet; thence South 44°23'24" East 194.52 feet to a point on a curve concave northwesterly having a central angle of 46°12'42" and a radius of 440.00 feet (said arc being subtended by a chord having a bearing of South 45°23'39" West and a length of 345.34 feet) to the point of reverse curvature of a curve concave southeasterly having a central angle of 27°56'34" and a radius of 297.80 feet; thence southwesterly along said curve an arc distance of 145.24 feet (said arc being subtended by a chord having a bearing of South 54°31'47" West and a length of 143.80 feet); thence North 51°33'46" West 80.43 feet; thence South 18°26'06" West 9.49 feet to a point on a curve concave southeasterly having a central angle of 79°12'50" and a radius of 290.00 feet; thence westerly and southwesterly along said curve an arc distance of 400.94 feet (said arc being subtended by a chord having a bearing of South 73°04'27" West and a length of 369.76 feet); thence South 34°39'20" West 330.74 feet; thence North 73°05'21" West 26.25 feet; thence North 44°02'04" West 168.27 feet; thence North 34°39'20" East 390.00 feet; thence North 26°57'35" West 130.81 feet; thence South 82°30'49" West 138.83 feet; thence North 83°44'07" West 75.64 feet; thence North 51°00'19" West 113.90 feet; thence North 15°20'33" West 2.69 feet; thence North 56°21'43" West 328.93 feet; thence North 27°21'49" West 582.50 feet to a point on the south boundary line of The Islands Section I, the plat of which is recorded as Instrument No. 87-138160 in the Office of the Recorder of Marion County, Indiana; thence the following two courses along said south boundary: (1) North 73°27'46" West 960.33 feet; (2) South 40°57'36" West 115.58 feet; thence continuing South 40°57'36" West 62.29 feet; thence North 59°47'28" West 301.43 feet to the southeasterly right-of-way line of Dandy Trail; thence the following four courses along said southeasterly right-of-way line: (1) North 41°20'40" East 250.05 feet; (2) North 47°23'22" East 234.19 feet; (3) North 42°29'26" East 64.60 feet; (4) North 44°22'28" East 416.59 feet to the southwesterly right-of-way of Interstate 74; thence South 58°25'34" East along said southwesterly right-of-way of I-74 a distance of 476.07 feet to the point of beginning, containing 49.46 acres, more or less; subject to highways, rights-of-way and easements.

EXHIBIT A

MSE 287-089  
7735R-1  
C. Dorff  
11-10-87  
Rev. 12-7-87  
L. Ferrell

EXHIBIT B

LAND DESCRIPTION

A part of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 22; thence North 03°18'54" East along the east line of said Northwest Quarter 112.43 feet to the southwesterly right-of-way line of Interstate 74 as shown on Indiana State Highway Commission Plans for project I-74-2(22)69; thence North 58°25'34" West along said southwesterly right-of-way 476.07 feet to the southeasterly right-of-way line of Dandy Trail; thence the following four (4) courses along said southeasterly right-of-way line: (1) South 44°22'28" West 416.59 feet; (2) South 42°29'26" West 64.60 feet; (3) South 47°23'22" West 234.19 feet; (4) South 41°20'40" West 250.05 feet to the Point of Beginning; thence South 59°47'28" East 301.43 feet; thence North 40°57'36" East 62.29 feet to a point on the south boundary line of The Island's Section I recorded as Instrument 87-138160 in the Office of the Recorder in Marion County; thence the next two (2) courses along said south boundary: (1) North 40°57'36" East 115.58 feet; (2) South 73°27'46" East 960.33 feet; thence South 27°21'49" East 582.50 feet; thence South 56°21'43" East 328.93 feet; thence South 15°20'33" East 2.69 feet; thence South 51°00'19" East 113.90 feet; thence South 83°44'07" East 75.64 feet; thence North 82°30'49" East 138.83 feet; thence South 26°57'35" East 130.81 feet; thence South 34°39'20" West 300.00 feet; thence South 44°02'04" East 168.27 feet; thence South 73°05'21" East 26.25 feet; thence South 34°39'20" West 130.00 feet to the point of curvature of a curve concave northwesterly having a central angle of 08°30'15" and a radius of 410.82 feet; thence southwesterly along said curve an arc distance of 60.98 feet (said arc being subtended by a chord having a bearing of South 41°44'17" West and a length of 60.92 feet) to the point of tangency of said curve; thence South 49°16'07" West 47.51 feet to the point of curvature of a curve concave southeasterly having a central angle of 08°31'01" and a radius of 390.00 feet; thence southwesterly along said curve an arc distance of 57.97 feet (said arc being subtended by a chord having a bearing of South 42°42'44" West and a length of 57.92 feet) to the point of tangency of said curve; thence South 36°01'39" West 280.00 feet; thence North 59°43'05" West 226.30 feet to the point of curvature of a curve concave northeasterly having a central angle of 44°55'43" and a radius of 230.00 feet; thence northwesterly along said curve an arc distance of 180.36 feet (said arc being subtended by a chord having a bearing of North 42°18'16" West and a length of 175.77 feet) to the point of tangency of said curve; thence North 19°50'21" West 325.77 feet; thence South 70°09'39" West 101.46 feet to the centerline of Big Eagle Creek; thence the following fifteen (15) courses along the meanderings of the centerline of Big Eagle Creek: (1) North 03°30'13" West 49.09 feet; (2) North 14°38'51" West 181.91

Exhibit B  
p. 1

080004325

feet; (3) North 25°54'24" West 29.46 feet; (4) North 25°54'22" West 9.45  
feet; (5) North 36°52'12" West 50.00 feet; (6) North 49°57'01" West 270.42  
feet; (7) North 61°53'37" West 99.76 feet; (8) North 66°21'06" West 518.55  
feet; (9) North 43°38'33" West 149.24 feet; (10) North 37°34'07" West 98.41  
feet; (11) North 43°01'30" West 61.55 feet; (12) North 51°36'05" West 239.89  
feet; (13) North 44°10'54" West 99.01 feet; (14) North 66°30'05" West 50.16  
feet; (15) North 58°16'45" West 158.05 feet to the southeasterly  
right-of-way line of Dandy Trail; thence North 51°33'27" East along said  
southeasterly right-of-way line 137.13 feet; thence North 41°58'56" East  
along said southeasterly right-of-way line 154.11 feet to the Point of  
Beginning, containing 39.21 acres, more or less; subject to highways,  
rights-of-way, and easements.

Exhibit B  
P. 2.

880004325

CROSS REFERENCE

880000573

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FILED  
FEB 02 1988  
LAWRENCE TOWNSHIP  
ASSESSOR

880000573

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is executed on the 26 day of January, 1988 by Hansen & Horn Contractors, Inc., an Indiana corporation ("Declarant"), to amend the Declaration of Covenants, Conditions and Restrictions of The Islands, which was dated January 14, 1988 and was filed January 15, 1988 in the office of the Recorder of Marion County, Indiana as Instrument No. 88-4323, as follows:

1. The title of Article VII is hereby changed to read "Landscape and Front Yard Easements".
2. There shall be added to Article VII a new Section 7.10 which reads as follows:

Section 7.10 Front Yard Easement. Each lot which is burdened by a Landscape Easement shall be entitled to a reciprocal front yard easement ("Front Yard Easement") on the front yard of the lot benefitted thereby. The Front Yard Easement shall be bounded by (i) the dedicated street or the private drive in front, by (ii) a line one foot in front of a privacy fence (which may be part of a patio fence) to be constructed by the Declarant to designate the rear of the Front Yard Easement, by (iii) the side lot line adjoining the lot which is burdened by the Landscape Easement, and (iv) in the case of a front-entry garage, a line running along the side of the garage nearest the lot line and then following the paving of the access driveway, or in the event of a side-entry garage, by a line commencing at the side of the garage nearest the lot line, which line shall be extended to the front lot line. The lot burdened by the Landscape Easement shall be the lot benefitted by the Front Yard Easement. The owner of such lot shall have the right to use all lawn areas in the Front Yard Easement, and such owner shall be responsible for maintaining the

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MARION COUNTY AUDITOR  
DULY ENTERED  
FOR TAXATION

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FEB 7 1988  
MARION COUNTY AUDITOR  
DULY ENTERED  
FOR TAXATION

lawn and mowing the grass thereon. No trees, flowers or shrubs shall be planted in the Front Yard Easement, although such restrictions shall not apply to the front yard of the lot burdened by the Landscape Easement to the extent not otherwise prohibited. If a dwelling unit has not been constructed on the lot benefitted by a Landscape Easement, then the Front Yard Easement shall initially extend ten (10) feet from the dwelling unit constructed on the lot burdened by the Landscape Easement and shall be subject to adjustment as hereinbefore described once a dwelling unit is constructed on the lot which is benefitted by the Landscape Easement (and which is thereby to be burdened with the Front Yard Easement). Developer also reserves the right to grant Front Yard Easements to other lots. Notwithstanding the provisions in Section 6.15 of the Declaration, the Declarant reserves the right to construct the privacy fence designating the rear of a Front Yard Easement up to a height of six feet, whether or not the privacy fence is part of a patio fence.

3. Section 7.10 is hereby renumbered Section 7.11 and shall read as follows:

Section 7.11 To Run With The Land. The Landscape and Front Yard Easements shall bind the owners of the Burdened and Benefitted Lots, their respective heirs, personal representatives, successors and assigns and the obligations and benefits hereof shall be deemed covenants running with the land comprising the two lots, subject to the provision in Section 7.2 that Landscape Easements shall terminate if no patio or privacy fence is originally constructed on the side of a dwelling on the Benefitted Lot facing the Landscape Easement.

880009673

IN ALL OTHER RESPECTS, the parties ratify and confirm the terms of the said Declaration.

EXECUTED on this 26 day of January, 1988.

HANSEN & HORN CONTRACTORS, INC.

By [Signature]  
Kenneth D. Hansen, President

"DECLARANT"

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared Kenneth D. Hansen, who acknowledged the execution of the foregoing Amendment of Declaration of Covenants, Conditions and Restrictions, and who first being duly sworn, stated that the facts contained therein are true.

Witness my hand and seal this 26th day of January, 1988.

My Commission Expires:

Jan 3, 1990  
Walter E. Wolf Jr.  
Notary Public



County of Residence  
Marion

Walter E. Wolf Jr.  
Printed Name

THIS INSTRUMENT PREPARED BY

WALTER E. WOLF

880009673



RECEIVED FOR RECORD

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LAKE COVENANTS

SETH O'LEASHLEY  
MARION COUNTY RECORDER

This Instrument made on this 20 day of June, 1988, by Kenneth D. Hansen and Ward T. Horn, as tenants in common, ("Individuals"), and Hansen & Horn Contractors, Inc., an Indiana Corporation, ("Corporation"), and collectively referred to as "Declarants"),

WITNESSES:

WHEREAS, Individuals are the owners of certain real estate described in Exhibit "A" attached hereto and by this reference made a part hereof, and the Corporation is the owner of certain real estate described in Exhibit "B" attached hereto and by this referenced made a part hereof. (The land described in Exhibit A together with that described in Exhibit B is herein called the "Property".)

WHEREAS, Declarants each own a portion of the lake area (the "Lake") on the Property.

NOW, THEREFORE, Declarants hereby declare that the Property shall be held, sold and conveyed subject to the following easements, restrictions, limitations, covenants and conditions, which are for the purpose of protecting the value and desirability of the Lake, and which shall run with the Property and be binding on and run to all parties having any right, title or interest in the Property.

1. There shall be formed a committee of four persons (the "Lakes Committee") comprised of two representatives who shall be selected by the Board of Directors of The Islands Homeowners Association, Inc. (the "Association") and two representatives designated from time to time by the then owner(s) of the real estate described in Exhibit "A". The Lakes Committee shall be responsible for the management and control of the Lake and for the maintenance of the same in good, clean, safe and sanitary condition.

2. The Lakes Committee may promulgate rules and regulations from time to time concerning the use of the Lake by owners, guests and tenants of any portion of the Property. The scope of such rules and regulations may pertain to use of the Lake, control of docks and boats on and along the Lake, maintenance of the Lake, and any other matters that may affect the use of the Lake, its maintenance or its appearance. No rules shall discriminate between owners of the property described in Exhibit A and those of property described in Exhibit B.

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MAR 22 1988

3. The Lakes Committee shall serve as an architectural control committee for the Lake with the right and responsibility to develop and enforce specifications for docks, piers, boats, and any other structures, facilities or equipment to be placed in, on or within 10 feet of the Lake, except boats and other improvements that are used for sales promotional purposes authorized by the Corporation.

4. The Lakes Committee shall be responsible for maintaining the Lake and keeping it free of trash and refuse. It may contract out such responsibility however. The cost of maintaining the Lake and keeping it free of trash and refuse, and for the performance of the obligations and duties of the Lakes Committee shall be borne by the Owners of the property described on Exhibit "A" and that described on Exhibit "B" in proportion to the number of completed dwelling units on each such property as of September 1st of each year. Assessments to the Owners of the property described in Exhibit B who are members of the Association shall be sent to the Association which shall be liable for so much of such assessment as is allocable to its members.

5. If there shall be a dispute among the members of the Lakes Committee which the members of the Lakes Committee cannot resolve within thirty (30) days time, and if the question in dispute has only two sides, in such event, the parties to each side of the dispute shall first try to agree upon a single arbitrator, and if they cannot so agree upon a single arbitrator within ten (10) days, then each side to the dispute shall appoint an arbitrator, and the arbitrators appointed shall appoint a third arbitrator. In such event, the decision of the majority of the arbitrators shall be binding. If, however, the dispute involves more than two sides, or if it cannot be resolved by an either/or answer, then the parties shall not be bound to submit the dispute to arbitration, but shall have a duty to use their best efforts either to resolve the dispute, or to reduce it to a question that can be resolved with an either/or answer, so that the same can be submitted to arbitration. No dispute concerning the size of an assessment or a monetary levy upon the members shall be submitted to arbitration.

6. Attached hereto as Exhibit "C" are the Rules and Regulations which shall govern the Lake on the properties described on Exhibits "A" and "B" until the same are changed by the Lakes Committee.

7. The parties hereto reserve the right to conduct activities on their property which may either lower or increase the level of the Lake (other than to flood property owned by another owner) without any liability therefor.

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8. The rights and obligations of the parties hereto shall run with the property described on Exhibits "A" and "B" hereof and shall pass to and be binding upon their heirs, successors and assigns.

IN WITNESS WHEREOF, witness the signatures of the undersigned this 20<sup>th</sup> day of June, 1988.

[Signature] HANSEN & HORN CONTRACTORS, INC.  
Kenneth D. Hansen

[Signature] Kenneth D. Hansen, President  
Ward T. Horn

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared Kenneth D. Hansen, President of Hansen & Horn Contractors, Inc., an Indiana corporation, who acknowledged the execution of the foregoing Lake Covenants on behalf of such corporation and who first being duly sworn stated upon his oath that he is duly authorized so to act.

IN WITNESS WHEREOF I have set my hand and Notarial Seal on this 20 day of June, 1988.

My Commission Expires:

Feb 18 1991

[Signature]  
Notary Public

My County of Residence is:

Marion

JENNIFER L MATTHEWS  
Printed Name

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and State, personally appeared Kenneth D. Hansen and Ward T. Horn, who first being duly acknowledged the execution of the foregoing Lake Covenants.

880060197

IN WITNESS WHEREOF I have set my hand and Notarial Seal on  
this 20 day of June, 1988.

My Commission Expires:

Feb 18 1991

Jennifer L Mathews  
Notary Public

My County of Residence is:

Marion

JENNIFER L MATHEWS  
Printed Name

This Instrument prepared by Walter E. Wolf, Jr., Esq.,  
KLINEMAN, ROSE, WOLF and WALLACK, 2130, One Indiana Square,  
Indianapolis, IN 46204.

880060197

## EXHIBIT A

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED

Date: 6-22-88  
By: [Signature]  
PHILEIP D. HINKLE  
ASSESSOR

MSE 287-089  
7735R-1  
C. Dorff  
11-10-87  
Rev. 12-7-87  
L. Farrell

LAND DESCRIPTION

A part of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 22; thence North  $03^{\circ}18'54''$  East along the east line of said Northwest Quarter 112.43 feet to the southwesterly right-of-way line of Interstate 74 as shown on Indiana State Highway Commission Plans for project 1-74-2(22)69; thence North  $68^{\circ}25'34''$  West along said southwesterly right-of-way 476.07 feet to the southeasterly right-of-way line of Dandy Trail; thence the following four (4) courses along said southeasterly right-of-way line: (1) South  $44^{\circ}22'28''$  West 416.69 feet; (2) South  $42^{\circ}29'26''$  West 64.60 feet; (3) South  $47^{\circ}23'22''$  West 234.19 feet; (4) South  $41^{\circ}20'40''$  West 250.05 feet to the Point of Beginning; thence South  $69^{\circ}47'28''$  East 301.43 feet; thence North  $40^{\circ}57'36''$  East 62.29 feet to a point on the south boundary line of The Island's Section 1 recorded as Instrument 87-138160 in the Office of the Recorder in Marion County; thence the next two (2) courses along said south boundary: (1) North  $40^{\circ}57'36''$  East 115.58 feet; (2) South  $73^{\circ}27'46''$  East 960.33 feet; thence South  $27^{\circ}21'49''$  East 582.50 feet; thence South  $56^{\circ}21'43''$  East 328.93 feet; thence South  $15^{\circ}20'33''$  East 2.69 feet; thence South  $51^{\circ}00'19''$  East 113.90 feet; thence South  $83^{\circ}44'07''$  East 75.64 feet; thence North  $82^{\circ}30'49''$  East 138.85 feet; thence South  $26^{\circ}57'35''$  East 130.81 feet; thence South  $34^{\circ}39'20''$  West 300.00 feet; thence South  $44^{\circ}02'04''$  East 168.27 feet; thence South  $73^{\circ}05'21''$  East 26.25 feet; thence South  $34^{\circ}39'20''$  West 130.00 feet to the point of curvature of a curve concave northwesterly having a central angle of  $08^{\circ}30'15''$  and a radius of 410.82 feet; thence southwesterly along said curve an arc distance of 60.98 feet (said arc being subtended by a chord having a bearing of South  $41^{\circ}44'17''$  West and a length of 60.92 feet) to the point of tangency of said curve; thence South  $49^{\circ}16'07''$  West 47.51 feet to the point of curvature of a curve concave southeasterly having a central angle of  $08^{\circ}31'01''$  and a radius of 390.00 feet; thence southwesterly along said curve an arc distance of 57.9 feet (said arc being subtended by a chord having a bearing of South  $42^{\circ}42'44''$  West and a length of 57.92 feet) to the point of tangency of said curve; thence South  $38^{\circ}01'39''$  West 280.00 feet; thence North  $59^{\circ}43'05''$  West 226.30 feet to the point of curvature of a curve concave northeasterly having a central angle of  $44^{\circ}55'43''$  and a radius of 230.00 feet; thence northwesterly along said curve an arc distance of 180.36 feet (said arc being subtended by a chord having a bearing of North  $42^{\circ}18'16''$  West and a length of 175.77 feet) to the point of tangency of said curve; thence North  $19^{\circ}50'21''$  West 325.77 feet; thence South  $70^{\circ}09'39''$  West 101.46 feet to the centerline of Big Eagle Creek; thence the following fifteen (15) courses along the meanderings of the centerline of Big Eagle Creek: (1) North  $03^{\circ}30'13''$  West 49.09 feet; (2) North  $14^{\circ}38'51''$  West 181.91

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MSE 287-089  
7735R-2  
C. Dorff  
11-10-87  
Rev. 12-7-87  
L. Ferrell

feet; (3) North 25°54'24" West 29.46 feet; (4) North 25°54'22" West 9.45  
feet; (5) North 36°52'12" West 50.00 feet; (6) North 49°57'01" West 270.42  
feet; (7) North 61°53'37" West 99.76 feet; (8) North 66°21'06" West 518.55  
feet; (9) North 43°38'33" West 149.24 feet; (10) North 37°34'07" West 98.41  
feet; (11) North 43°01'30" West 61.55 feet; (12) North 51°36'05" West 239.89  
feet; (13) North 44°10'54" West 99.01 feet; (14) North 66°30'05" West 50.16  
feet; (15) North 58°16'45" West 158.05 feet to the southeasterly  
right-of-way line of Dandy Trail; thence North 51°33'27" East along said  
southeasterly right-of-way line 137.13 feet; thence North 41°58'56" East  
along said southeasterly right-of-way line 154.11 feet to the Point of  
Beginning, containing 39.21 acres, more or less; subject to highways,  
rights-of-way, and easements.

880060197

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED

EXHIBIT B

MSE 111-0179, 8168R-1  
C. Dorff, 1-7-88

Date: 6-22-88  
By: [Signature]  
PHILLIP D. HINKLE  
ASSESSOR

LAND DESCRIPTION

A part of Section 22, Township 16 North, Range 2 East, in Marion County, Indiana, more particularly described as follows:

Commencing at the southeast corner of the Northwest Quarter of said Section 22; thence North 03°18'54" East along the east line of said Northwest Quarter 112.43 feet to the southwesterly right-of-way of Interstate 74 as shown on Indiana State Highway Commission plans for project I-74-2(22)69, said point being the point of beginning; thence South 58°25'34" East along said right-of-way line 2263.90 feet; thence South 44°23'24" East 194.52 feet to a point on a curve concave northwesterly having a central angle of 46°12'42" and a radius of 440.00 feet (said arc being subtended by a chord having a bearing of South 45°23'39" West and a length of 345.34 feet) to the point of reverse curvature of a curve concave southeasterly having a central angle of 27°56'34" and a radius of 297.80 feet; thence southwesterly along said curve an arc distance of 145.24 feet (said arc being subtended by a chord having a bearing of South 54°31'47" West and a length of 143.80 feet); thence North 51°33'46" West 80.43 feet; thence South 18°26'06" West 9.49 feet to a point on a curve concave southeasterly having a central angle of 79°12'50" and a radius of 290.00 feet; thence westerly and southwesterly along said curve an arc distance of 400.94 feet (said arc being subtended by a chord having a bearing of South 73°04'27" West and a length of 369.76 feet); thence South 34°39'20" West 330.74 feet; thence North 73°05'21" West 26.25 feet; thence North 44°02'04" West 168.27 feet; thence North 34°39'20" East 300.00 feet; thence North 26°57'35" West 130.81 feet; thence South 82°30'49" West 138.83 feet; thence North 83°44'07" West 75.64 feet; thence North 51°00'19" West 113.90 feet; thence North 15°20'33" West 2.69 feet; thence North 56°21'43" West 328.93 feet; thence North 27°21'49" West 582.50 feet to a point on the south boundary line of The Islands Section I, the plat of which is recorded as Instrument No. 87-138160 in the Office of the Recorder of Marion County, Indiana; thence the following two courses along said south boundary: (1) North 73°27'46" West 960.33 feet; (2) South 40°57'36" West 115.58 feet; thence continuing South 40°57'36" West 62.29 feet; thence North 59°47'28" West 301.43 feet to the southeasterly right-of-way line of Dandy Trail; thence the following four courses along said southeasterly right-of-way line: (1) North 41°20'40" East 250.05 feet; (2) North 47°23'22" East 234.19 feet; (3) North 42°29'26" East 64.60 feet; (4) North 44°22'28" East 416.59 feet to the southwesterly right-of-way of Interstate 74; thence South 58°25'34" East along said southwesterly right-of-way of I-74 a distance of 476.07 feet to the point of beginning, containing 49.46 acres, more or less; subject to highways, rights-of-way and easements.

880060197

EXHIBIT C

RULES AND REGULATIONS FOR USE OF LAKE

As used herein the term "Resident" shall mean the Owner or any tenant in possession of a Dwelling Unit on the Real Estate described on the Property.

SWIMMING

1. No swimming or diving shall be permitted at any time.

BOATS

2. No boat powered by a gasoline engine shall be allowed on the Lake whether said engine is in use or not; provided, however, that this restriction shall not apply to emergency and maintenance boats which have been approved by the Lakes Committee created under the Lake Covenants which are recorded as Instrument No. 88-60197 in the office of the Recorder of Marion County, Indiana.
3. Pontoon boats shall not exceed 16 feet in deck length; all other boats shall not exceed 15 feet in deck length.
4. No rubber rafts shall be allowed on the Lake.
5. All rubber-type inflatable boats must meet State of Indiana safety code requirements for use on public Lakes.
6. All boats shall be equipped and operated in accordance with State of Indiana boating regulations. A copy of these regulations is on file in the office of the Lakes Committee and is available for examination by any Resident upon request at reasonable times.
7. All persons engaging in windsurfing must wear a flotation device while on the Lake.
8. Every boat shall have affixed to it a sticker containing a number and some designation identifying the boat owner as a Resident entitled to use of the Lake.
9. Before any boat is used on the Lake, proof of liability insurance in the amount of at least \$100,000 for such boat must be on file at the office of the Lakes Committee.

DOCKS

10. All docks must be built, finished and maintained so as to present an attractive and professionally built appearance.

880060197



11. All docks must be free floating and utilize commercial flotation foam. No barrels of any kind may be used in dock construction. No permanently installed solid pier shall be allowed due to the fluctuating water levels of the Lake.

12. All docks must have a deck area of no less than fifty (50) square feet and no more than two hundred sixty (260) square feet. The foregoing restrictions shall not apply to community docks provided that, the size of any proposed community dock shall be subject to approval by the Lakes Committee, which approval shall not be unreasonably withheld.

13. All docks shall be constructed of galvanized steel or pressure-treated wood, or a combination of the two.

14. All docks shall have a hinged approach ramp at least 28 inches wide.

15. Prior to the commencement of any construction, all dock plans shall be submitted in writing to the Lakes Committee for approval, which approval shall not be unreasonably withheld.

#### MISCELLANEOUS

16. Residents shall be entitled to bring guests onto the Lake; provided that, guests shall at all times be accompanied by a Resident. Each Resident shall be responsible for providing that his guest comply with these rules and regulations.

17. No person shall engage in any obnoxious or dangerous activities, e.g., loud radio-playing, public drunkenness, etc., which shall be offensive or dangerous to other users of the Lake or which will otherwise interfere with the use or enjoyment of the Lake by other users.

18. In the event of violation of any of the foregoing rules and regulations by a Resident or any person for which behavior a Resident is responsible (e.g., family member, guest), the Lakes Committee shall send a written notice to the Resident, specifying the violation. If the violation is not cured or discontinued within ten (10) days after receipt of the aforesaid written notice, the Lakes Committee shall report the violation to the Association (if a Resident is a Homeowner) for appropriate disciplinary action or shall, if the Resident is not a Homeowner, take appropriate disciplinary action against the Resident. The Lakes Committee may take legal action against any person where necessary or appropriate.

19. The Lakes Committee reserves the right to modify, delete or add to the foregoing rules and regulations.

6

**FIRST AMENDED**  
**RULES AND REGULATIONS FOR USE OF LAKE**

This First Amendment to the Rules and Regulations For Use of Lake of The Islands Homeowners Association, Inc. ("First Amendment") is made this 31st day of October, 2002, by The Islands Homeowners Association, Inc. ("Association").

WHEREAS, The Lake Covenants ("Covenants") on June 22, 1988, as Instrument No. 1988-0060197, in the Marion County Recorder's Office; and

WHEREAS, the real estate and improvements contained on Exhibit "C" of the Covenants are subject to the terms, conditions, and restrictions of the Covenants; and

WHEREAS, Section 1 of the Covenants, provides for the creation of a committee, the Lake Committee, which is responsible for the management and control of the Lake; and

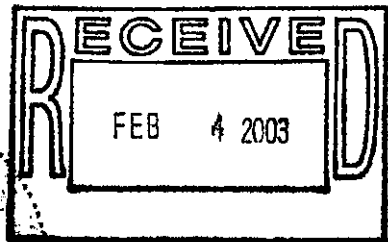
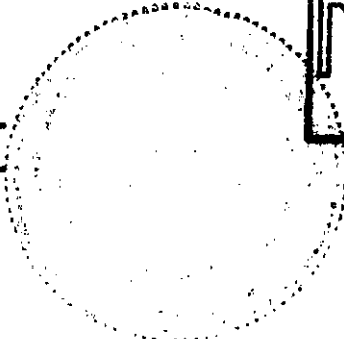
WHEREAS, pursuant to Section 2 of the Covenants, the Lake Committee has the power to promulgate rules and regulations concerning the use of the Lake; and

WHEREAS, the Lake Committee has voted to amend Exhibit C, Rules and Regulations For Use of Lake,

NOW, THEREFORE, the Association, hereby declares that Exhibit C, Rules and Regulations for Use of Lake, shall be amended as follows:

03/11/03 02:10:58 MARION COUNTY RECORDER JOB 22.00 PAGES: 6  
Inst # 2003-0049674

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED  
Date: 11/11/03  
By: [Signature]  
CHARLES R. SPEARS  
ASSESSOR



**EXHIBIT C**

**FIRST AMENDED**  
**RULES AND REGULATIONS FOR USE OF LAKE**

As used herein the term "Resident" shall mean the Owner or any tenant in possession of a Dwelling Unit on the Real Estate described on the property.

**SWIMMING**

1. No swimming or diving shall be permitted at any time.

**BOATS**

2. No boat powered by a gasoline engine shall be allowed on the lake whether said engine is in use or not; provided, however, that this restriction shall not apply to emergency and maintenance boats which have been approved by the Lakes Committee created under the Lake Covenants which are recorded as Instrument No. 88-60197 in the office of the Recorder of Marion County, Indiana.

3. No Pontoon boat may exceed the following dimensions:

Deck length of 16'0", Boat length of 20'0"  
Width of 8'6", Height of 9'0"

4. No rubber rafts shall be allowed on the lake.
5. All rubber-type inflatable boats must meet State of Indiana safety code requirements for use on public lakes.

6. All boats shall be equipped and operated in accordance with State of Indiana boating regulations. A copy of these regulations is on file in the office of the Lakes Committee and is available for examination by any Resident upon request at reasonable times.

MARTHA A. WOMACKS  
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DEEDS & RECORDS SECTION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

7. All persons engaging in windsurfing must wear a flotation device while on the lake.

8. Every boat shall have affixed to it a sticker containing a number and some designation identifying the boat owner as a Resident entitled to use of the lake.

9. Proof of liability insurance with limits in an amount no less than One Hundred Thousand Dollars and 00/100 Cents (\$100,000.00) per person, and Three Hundred Thousand Dollars (\$300,000.00) per occurrence, including all renewal statements, must be promptly provided to the Lake Committee prior to the placement of any boat in the Lake.

#### DOCKS

10. All new floating docks must be anchored securely to retainer wall or treated timbers with 3/8 inch steel cable.

11. All docks must be free floating and utilize commercial flotation foam. No barrels of any kind may be used in dock construction. No permanently installed solid pier shall be allowed due to the fluctuating water levels of the lake.

12. All docks must have a deck area of no less than fifty (50) square feet and no more than two hundred sixty (260) square feet. The foregoing restrictions shall not apply to community docks provided that, the size of any proposed community dock shall be subject to approval by the Lakes Committee, which approval shall not be unreasonably withheld.

13. All docks shall be constructed of galvanized steel or pressure-treated wood, or a combination of the two.

14. Approach ramps to dock shall not be in excess of 6'0" in length.

15. Prior to the commencement of any construction, all dock plans shall be submitted in writing to the Lakes Committee for approval, which approval shall not be unreasonably withheld.

#### MISCELLANEOUS

16. Residents shall be entitled to bring guests onto the Lake; provided that, guests shall at all times be accompanied by a Resident. Each Resident shall be responsible for providing that his guest comply with these rules and regulations.

17. No person shall engage in any obnoxious or dangerous activities, e.g., loud radio-playing, public drunkenness, etc., which shall be offensive or dangerous to other users of the lake or which will otherwise interfere with the use or enjoyment of the Lake by other users.

18. In the event of violation of any of the foregoing rules and regulations by a Resident or any person for which behavior a Resident is responsible (e.g. family member, guest), the Lakes Committee shall send a written notice to the Resident, specifying the violation. If the violation is not cured or discontinued within Ten (10) days after the receipt of the aforesaid written notice, the Lakes Committee shall report the violation to the Association (if a Resident is a Homeowner) for appropriate disciplinary action or shall, if the Resident is not a Homeowner, take appropriate disciplinary action against the Resident. The Lakes Committee may take legal action against any person where necessary or appropriate.

19. The Lakes Committee reserves the right to modify, delete, or add to the foregoing rules and regulations.

IN WITNESS WHEREOF, The Islands Homeowners Association, Inc., has caused this Amendment to be executed this 31st day of October, 2002.

THE ISLANDS HOMEOWNERS  
ASSOCIATION, INC.

By: *Etha Childs*  
President *Etha Childs*

STATE OF INDIANA     )  
  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said State and County, personally appeared *Etha Childs*, who acknowledged the execution of the foregoing.

WITNESS my hand and Notarial Seal this 31<sup>st</sup> day of October, 2002.

*Judi L. Scott*

Printed: Judi L. Scott

My Commission Expires:  
August 12, 2010

Notary Public, whose residence is  
Morgan County, Indiana

This instrument prepared by C. Warren Nerz, Esq., Attorney at Law, McCrosson & Nerz, 7855 South Emerson Avenue, Indianapolis, Indiana 46237, (317) 885-7500.

*A*

## RULES AND REGULATIONS FOR USE OF LAKE

### EXHIBIT C

- Rule #03: No Pontoon boat may exceed the following dimensions:  
Deck length of 16'0", Boat length of 20'0"  
Width of 8'6", Height of 9'0"
- Rule #09: Proof of liability insurance with limits in an amount no less than One Hundred Thousand Dollars and 00/100 Cents (\$100,000.00) per person, and Three Hundred Thousand Dollars (\$300,000.00) per occurrence, including all renewal statements, must be promptly provided to the Lake Committee prior to the placement of any boat in the lake.
- Rule #10: All new floating docks must be anchored securely to retainer wall or treated timbers with 3/8 inch steel cable.
- Rule #14: Approach ramps to dock shall not be in excess of 6'0" in length.