

ENTERED FOR RECORD

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*Louise R. Morphew*  
HENDRICKS COUNTY RECORDER

DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS OF MALLARD CROSSING - SECTION ONE

This Declaration made this 28th day of February, 1989, by Daniel E. Brunette and Michael D. Starkey, owners and developers of the real estate shown and described herein, being part of the land described, conveyed by deed and recorded as instrument number                     , plat Cabinet 1, Slide 7, Pages 1-2, in the office of the Recorder of Hendricks County, Indiana, on February 24, 1989, and known and designated as Mallard Crossing - Section One, an addition to the Town of Brownsburg, Hendricks County, Indiana.

PREAMBLE

WITNESSETH;

WHEREAS, Developer is the owner and developer of the Land described above, which is a part of the property known as Mallard Crossing and more fully described and shown on Exhibit A which is attached hereto and made a part by reference, which lands have been subdivided and the portion thereof described in Exhibit B shall become Phase I of Mallard Crossing and the remainder of the lands described in Exhibit A, the Developer plans to develop in phases in accordance with the zoning ordinance of Hendricks County and in conformance with the Hendricks County Subdivision Control Ordinance, and subsequent phases may be automatically incorporated into this Declaration of Covenants, Conditions and Restrictions, in whole or in part, by supplementary declaration and may be more particularly described in the plats of various section or by other legal description when recorded in the Office of the Recorder of Hendricks County, Indiana; and,

WHEREAS, the Developer desires to provide for the preservation and enhancement of the property values, amenities, and opportunities and said community contributing to the personal and general health, safety, and welfare of the residents and for the maintenance of the land and improvement thereon, and to this end desires to subject the real property described above, together with such additions as may hereafter be made thereto, to the Covenants, Restrictions, Easements, Charges and Liens hereinafter set forth, each and all of which are for the benefit of said property and each owner thereof; and,

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, and the intents and requirements of the applicable governmental bodies, the Developer has caused to be incorporated under the laws of this State the Mallard Crossing Homeowners Association, Inc., and further, the Developer hereby delegates and assigns to the Mallard Crossing Homeowners Association, Inc. the power of owning, maintaining, and administering common areas and facilities, administering and enforcing the Covenants, Conditions and Restrictions, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety, and welfare of the residents.

NOW THEREFORE, the Developer declares that the real property described above and designated as Mallard Crossing-Phase I, and such additions thereto, as may hereafter be made, is and are, and shall be held, transferred, sold, conveyed and occupied subject to the Covenants, Restrictions, Easements, Charges and Liens hereinafter set forth; all of the provisions of this Declaration shall run with the land

and shall be binding upon Developer and upon parties having or acquiring any right, title or interest, legal or equitable, in and to the real property, or any part or parts thereof, subject to this Declaration and shall enure to the benefit of Developer and everyone of Developer's successors and title to any real estate which is hereby made or becomes subject to this Declaration.

**ARTICLE I**  
**Application**

1. All Owners, their tenants, guests, invitees and mortgagees, or any other person using or occupying a Lot or any part of the real estate shall be subject to and shall observe and comply with the covenants, conditions, restrictions, terms and provisions set forth in these covenants and any rules and regulations adopted by the Association as herein provided, as the same may be amended from time to time.

2. The Owner of any lot and all other persons, (i) by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from the Developer or a subsequent Owner of such lot, or (ii) by the act of occupancy of such lot, shall conclusively be deemed to have accepted such deed, executed such contract or undertaken such occupancy subject to the covenants, conditions, restrictions, terms and provisions of these Covenants. By acceptance of such deed, execution of such contract, or undertaking of such occupancy, each Owner and all other persons acknowledge the rights and powers of Developer and the Association provided for by these Covenants, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Developer and the Owners from time to time of the lots, to keep, observe, comply with and perform the covenants, conditions, restrictions, terms and provisions of these Covenants.

**ARTICLE II**  
**Property Subject to the Declaration**

1. Additions to the Declaration. Additional properties may become subject to this Declaration in the following manner: after notice to the Association and to the Federal Mortgage Agencies, the Developer shall have the right to subject to this Declaration by Supplementary Declaration any additional property which lies within the land area represented by Exhibit A hereto, as it may be amended from time to time.

**ARTICLE III**  
**Dedication and Definitions**

1. Public Right-of-Way. The rights-of-way of the streets as shown on this plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way. Developer hereby expressly declares that the property be held, transferred, sold, conveyed and occupied subject to the restrictions.

2. Definitions.

(a) "Developer" means the Owner of the property at the time of the recording of these Covenants, its successors and assigns to its interest or any person designated by it in a recorded instrument as having its rights hereunder, other than persons purchasing the property or parts thereof by deed from the Developer (unless the conveyance indicated an intent that the grantee assume the rights

and obligations of the Developer).

(b) "Owner" means every person or persons or entity or entities who is the Record Owner of a fee or undivided fee interest in the property, their heirs, successors, legal representatives or assignees.

(c) "Restrictions" means the covenants, conditions, easements and restrictions and all other provisions set forth in these Covenants, as the same may from time to time be amended.

(d) "Lake Owner" means every person or persons or entity or entities who is the Owner of a fee or undivided fee interest in the property subject to a "Lake easement".

(e) "Committee" means Architectural Control Committee.

ARTICLE IV  
Easements and Set Back Lines

1. Utility Easement. There are strips of ground as shown in this plat and marked U and D easement, which are hereby reserved for the purposes incidental to the development of the property to be perpetual thereof, from the date of this instrument by the Developer, its successors and assignees, full right and authority to lay, operate and maintain such drainage facility, and gas lines, electric lines, communication lines (which shall include cable TV) and such other further public service facilities as Developer may deem necessary. Provided, however, Developer shall restore the disturbed area as nearly as possible to the condition in which it was found. No permanent structure shall be constructed within a utility easement.

2. Landscape Easements. There are areas of ground on the plat marked landscape easements which are hereby created and reserved:

(i) for the use of Developer during the development period for access to and the installation and replacement of foliage, landscaping, screening materials and other improvements;

(ii) for the use of the Association for access to and the installation, maintenance, repair and replacement of foliage, landscaping, screening materials and other improvements. Except as installed by the Developer, or installed or maintained by the Association, no permanent structure, including, without limitation, fences shall be erected or maintained in or upon said landscape easements. The Owners of lots in this subdivision shall take and hold title to the lots, subject to the landscape easements herein created and reserved.

3. Lake Easements. There are areas of ground on the plat marked "Lake Easements." The Lake Easements are hereby created and reserved: (i) for the common use and enjoyment, subject to the rights of the Association to promulgate reasonable rules and regulations (not inconsistent with the provisions of the plat and the Declaration) governing such use and enjoyment, of the Owners of only those lots in the Subdivision which are subject to the particular Lake Easement, (ii) for the use of Developer during the Development Period for access to and construction, management and control of retention and detention ponds or lakes and the installation, repair and replacement of improvements therein and thereon and, (iii) for the use of the Association for access to and maintenance, management and control of retention and detention ponds or lakes and the installation, maintenance, repair and replacement of improvements therein and thereon. Except as installed by Developer or installed

and maintained by the Association, no permanent structure or improvement shall be erected or maintained upon said Lake Easements. No swimming shall be permitted in the lakes or ponds located in and upon the Lake Easements. The Owner of any lot in the subdivision subject to a Lake Easement may delegate, in accordance with the By-Laws of the Association and any reasonable rules and regulations promulgated from time to time by the Association, such Owner's rights of enjoyment of the Lake Easement appurtenant to such Owner's lot, to family members, to a lessee or contract purchaser of such lot or to such Owners' guests, (and to no others). The Owners of lots in the subdivision shall take and hold title to the lots subject to the Lake Easements herein created and reserved.

4. Setback Lines. Front building setback lines are hereby established on the plat; no building shall be erected or maintained between the established setback lines and the property lines of the streets.

No residence or attached accessory building shall be erected closer to the side of any lot than 10 feet, nor shall any residence or attached accessory building be erected closer than 15 feet to the rear yard line. In the event a building is erected on more than one single lot, this restriction shall apply to the side lines of the extreme boundary of the multiple lots.

**ARTICLE V**  
Use of Property and Restrictions

1. Use Restrictions and Size of Buildings. All lots in this subdivision shall be known and designated as residential lots. No business buildings shall be erected on said lots and no business may be conducted on any part hereof, other than the home occupations permitted in the Zoning Ordinance of Hendricks County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any residential lot herein, other than one detached single-family dwelling not to exceed two and one-half stories in height and permanently attached residential accessory buildings. Any attached garage, attached tool shed, attached storage building, or any other attached accessory building erected or used as an accessory to a residence shall be of a permanent type construction and shall conform to the general architecture and appearance of such residence.

The ground floor area of the main structure, exclusive of one-story open porches and garages, and other attached residential accessory buildings, shall not be less than 1800 square feet in the case of a one-story structure, nor less than 1,000 square feet in the case of a multiple story structure, provided, however, no structure of more than one story shall have less than aggregate of 2000 square feet of finished and liveable floor area.

2. Garages and Storage Area. No garage shall be erected which is not permanently attached to the main building. All residences are required to have a garage which will accommodate two (2) automobiles.

3. Accessory and Temporary Buildings. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any lot herein, except that used by the builder during the construction of a residential building on the property.

4. Temporary Structures. No trailer, shack, tent, boat, mobile home, basement, garage, or other outbuilding may be used at any time as a residence, temporary or permanent, nor may any structure of a temporary character be used as a residence.

5. Nuisances. No farm animals, fowls, or domestic animals for commercial purposes shall be kept or permitted on any lot or lots in this subdivision. No noxious, unlawful, or otherwise offensive activity shall be carried out on any

lot in this subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

6. Fences. No fence shall be erected on or along any lot line, nor on any lot, the purposes or result of which will be to obstruct reasonable vision, light, or air; all fences shall be kept in good repair and erected so as to enclose the property and decorate the same without hindrance or obstruction to any other property. All metal fencing used in this subdivision must have a factory finish of either brown or black vinyl. No fence shall be higher than six (6) feet. Fencing style and color shall be consistent with the subdivision. No fencing shall be permitted in the Landscape Easements surrounding this subdivision. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7. Driveways. All driveways shall be paved simultaneously with construction of the dwelling. All driveways shall be asphalt or concrete, or other approved material. The type of construction and materials must be first approved by the Building Committee.

8. Vehicle Parking. No camper, motor home, truck, trailer, boat, or recreational vehicle of any kind, may be stored on any lot in open public view.

9. Mailboxes. All mailboxes shall be in accordance with the standards set forth by the Architectural Control Committee and shall be installed by the builder simultaneously with the construction of the dwelling.

10. Signs. No sign of any kind shall be displayed to the public view on any lot except that one sign, of not more than six (6) square feet, may be displayed at any time for the purposes of advertising the property for sale or rent, or may be displayed by a builder to advertise the property during construction and sale.

11. Vegetation. Lot Owners shall not permit the growth of weeds and volunteer trees and bushes, and shall keep their lots reasonably clear from unsightly growth at all times. Failure to comply shall warrant the Undersigned, the Homeowners Association, or the Hendricks County Plan Commission to cut weeds and clear the lot of such growth at the expense of the lot Owner, and such lot Owners shall have a lien against said real estate for the expense thereof.

12. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall not be kept except in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any lot in open public view.

13. Storage Tanks. Any gas or oil storage tanks used in connection with a lot shall be either buried or located in a garage or house such that they are completely concealed from public view.

14. Tree Preservation. No trees may be removed from any lot without the approval of the Committee, and such request shall be made to the Committee in writing. In the event the Committee does not indicate in writing its approval or disapproval of requests for tree removal within a period of thirty (30) days after submission, the Committee is deemed

to have approved such request.

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15. Maintenance and Decoration. Except to the extent such maintenance shall be the responsibility of the Association under any of the provisions of these Covenants, it shall be the duty of the Owner of each lot to keep the grass on the lot properly cut and keep the lot free of weeds and trash and otherwise neat and attractive in appearance, including, without limitation, the proper maintenance of the exterior of any structures on such lot. In the event the Owner of any lot fails to do so in a manner satisfactory to the Association, the Association shall have the right (but not the obligation), through its agents, employees and contractors, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be and constitute a special assessment against such lot and the Owner thereof, to be collected and enforced in a manner provided in these Covenants for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

16. Damage to Common Areas. Notwithstanding any obligation or duty of the Association hereunder to repair or maintain the Common Areas or any Landscape Easement, Lake Easement or Drainage Easement areas, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or such Easement areas) or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and constitute a special assessment against such Owner and his lot to be collected and enforced in the manner provided in these Declarations for the collection and enforcement of assessments in general.

17. Miscellaneous restrictions.

(i) No antenna in this subdivision shall exceed five (5) feet above a roof peak.

(ii) No satellite dishes shall be installed or permitted in this subdivision.

(iii) No metal, fiberglass or similar type material awnings or patio covers shall be permitted in this subdivision.

(iv) No above-ground swimming pools shall be permitted in this subdivision.

(v) No solar heat panels shall be permitted on roofs of any structures in this subdivision. All such panels will be enclosed within fenced area and shall be concealed from the view of neighboring lots and the streets.

(vi) Modular-type construction shall not be permitted in this subdivision.

(vii) No fixed poles with lines attached, such as clothes lines, or other similar structures shall be permitted in this subdivision.

18. Plans, Specifications and Locations of Buildings. No residential building may be constructed with the front of said building facing the lake. No building, structure, antenna, fence, wall, barbecue, patio, swimming pool, etc., shall be erected, placed, or altered on any lot in this subdivision until the building plans, specifications,

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and plot plans showing the location of such building have been approved as to the conformity and harmony of external design with existing structures herein and as to the building with respect to topography and finished elevation, by the Architectural Control Committee.

19. Lot Access. All lots shall be accessed from the interior streets of this subdivision. No lot access is permitted from Maloney Road or Raceway Road.

20. Sump Pumps. No sump pump can be discharged into the street after a house is completed. There will be designated drainage swails and storm sewers for this discharge of water. The discharge of a sump pump must be installed underground with plastic pipe or vitrified tile to those designated areas. Downspouts may discharge to the street.

21. Absorption Fields. Absorption fields for lakeside lots shall be located in front of the house (residential building) unless specifically approved by the Hendricks County Sanitarian.

ARTICLE VI

1. Common Areas.

(i) Easement to Owners. Developer hereby creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas, subject to the terms and provisions of these Covenants, which easement shall run with and be appurtenant to each lot.

(ii) Conveyance of Common Areas. Upon final construction of or provision of the Common Areas, Developer shall convey all of its right, title and interest in and to the Common Areas to the Association by quitclaim deed, and such Common Areas shall then be the property of the Association.

ARTICLE VII

The Association ®

1. Developer further desires to create an organization to which shall be delegated and assigned the powers of maintaining and administering the common areas and certain other areas of the Initial real estate, administering and enforcing the covenants and restrictions contained in these Covenants and the subdivision plat of the Initial real estate as hereafter recorded in the office of the Recorder of Hendricks County, Indiana, and collecting and disbursing the assessments and charges as herein provide. This organization shall be known as the Homeowners Association and referred to in these Covenants as the Association.

2. Membership. Each Owner shall automatically upon becoming an Owner, be and become a member of the Association and shall remain a member of the Association until such time as his ownership of a lot ceases, at which time his membership will terminate and the new Owner of his lot shall be and become a member of the Association.

3. Classes of Membership. The Association shall have two (2) classes of membership, as follows:

(i) Class A Members. Class A members shall be all Owners other than Developer (unless Class B membership has been converted to Class A membership as provided in the following subparagraph (ii), in which event Developer shall then be a Class A member).

(ii) Class B Members. The Class B member shall be the Developer. The Class B membership shall cease and terminate and be converted to Class A membership upon the

"Applicable Date" (as such term is hereinafter defined).

There shall be and hereby is created and established an Architectural Control Committee, hereinafter referred to as the "Committee"), to perform the functions provided for herein. Until such time as the Developer owns no lots in Mallard Crossing - Section One, the Committee shall consist of two (2) members appointed, from time to time, by the Developer, and who shall be subject to removal by the Developer at any time with or without cause. At such time as the Developer no longer owns any lots in Mallard Crossing-Phase I, the Committee shall be a standing Committee of the Association, consisting of three (3) persons appointed from time to time, by the Board of Directors of the Homeowners Association.

5. Voting Rights. Each class of membership of the Association shall have the respective voting rights set forth in this paragraph.

(i) As used herein, the term "Applicable date" shall mean the date which is the earliest of (a) the date on which the written resignation of Developer as a Class B member is delivered to the Secretary of the Association or (b) the date Developer owns no more than 1/4 of the lots of Mallard Crossing - Section One.

(ii) Until the Applicable Date, the Class B membership shall exercise all voting rights with respect to any matter submitted to a vote of the members of the Association and shall have one (1) vote for each lot of which Developer is the Owner.

(iii) From and after the Applicable date, each Class A member shall be entitled to one (1) vote for each lot of which such member is the Owner. Where more than one person or entity constitutes the Owners of a particular lot, all such persons or entities shall be members of the Association, but the vote in respect of such lot shall be exercised as the persons or entities holding an interest in such lot determine among themselves, but in no event shall more than one (1) vote be cast with respect to such lot. Until the Applicable Date, the Class A membership shall have no votes with respect to any matter submitted to a vote of the members of the Association.

6. Board of Directors. The Board of Directors of the Association shall manage the affairs of the Association.

6. Responsibilities of the Association. The responsibilities of the Association include, but shall not be limited to:

(i) Installation and replacement of such fences, walls, foliage, landscaping, signs and other improvements in and upon the common Areas as the Association deems necessary or appropriate, and maintenance of the Common Areas and any installation thereon in a clean and attractive condition and in good repair.

(ii) Replacement of such foliage, landscaping, screening materials and other improvements in and upon the Landscape Easements (shown and identified as such on any subdivision plat of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana) as the Association deems necessary or



appropriate and maintenance of said Landscape Easements and any installation thereon installed by Developer or the Association in a clean and attractive condition and in good repair.

(iii) Management and control of detention and retention ponds or lakes in and upon the Lake Easements (shown and identified as such on any subdivision plat of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana) for the exclusive benefit of the Owners of only those lots which are subject to the particular Lake Easement and maintenance of the same in a clean, attractive and sanitary condition; and installation and replacement of such improvements in and upon said Lake Easements as the Association deems necessary or appropriate and maintenance of any such improvements installed by Developer or the Association in good condition and repair. Without limiting the generality of the foregoing, such maintenance obligations shall include overflow maintenance to protect the ponds or lakes from erosion, algae control and maintenance of minimum water levels. It is intended that such actions shall be taken in accordance with recommendations regarding the same from applicable governmental agencies having jurisdiction, but nothing herein shall constitute an undertaking or duty to exceed the requirements of applicable law and prudent pond and lake operation.

(iv) Replacement of a drainage system in and upon the Drainage Easements (shown and identified as such on any subdivision plat of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana) as the Association deems necessary or appropriate and the maintenance of any drainage system installed in or upon said Drainage Easements by Developer or the Association in good condition and repair, subject, however, to the obligation of the Owner of a lot subject to a Drainage Easement to keep the portion of the Drainage Easement on his lot free from obstructions so that the surface water drainage will be unimpeded.

(v) Procuring and maintaining for the benefit of the Association, its Board of Directors and the Owners, the insurance coverage required under these Covenants and such other insurance as the Association deems necessary or advisable.

(vi) Payment of taxes, if any, assessed against and payable with respect to the Common Areas.

(vii) Assessment and collection from the Owners of the Common Expenses.

(viii) Contracting for such services as management, snow removal, security control, trash removal, or other services as the Association deems necessary or advisable.

(ix) From time to time, adopting,

amending or rescinding such reasonable rules and regulations (not inconsistent with the provisions of these Covenants) governing the use and enjoyment of the Common Areas, the use and enjoyment of the lake and ponds located in and upon the Lake Easements by the Owners of lots subject to such Lake Easements, and the management and administration of the Association, as the Association deems necessary or advisable, and enforcement of the same. As part of such rules and regulations, the Association may provide for reasonable interest and late charges on past due installments of any regular or special assessments or other charges against any lot. Copies of such rules and regulations shall be furnished by the Association to the Owners prior to the time when the same shall become effective.

7. Compensation. No director of the Association shall receive compensation for his services, as such director, except to the extent expressly authorized by a majority vote of the Owners.

8. Non-Liability of Directors and Officers. The directors and officers of the Association shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as directors or officers of the Association, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each person, his heirs, assigns or legal representatives, who is or was a director or officer of the Association against any and all liability to any person, firm or corporation arising out of contracts made by or at the direction of the Board of Directors (or the managing agent, if any) of the Association, unless any such contract shall have been made in bad faith. It is intended that the directors and officers of the Association shall have no personal liability with respect to any contract made by them on behalf of the Association except in their capacity as Owners.

9. Additional Indemnity of Directors and Officers. The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives (collectively, the "Indemnitee"), made or threatened to be made a party to any action, suit or proceeding by reason of the fact that he is or was a director or officer of the Association, against all expenses, including attorneys' fees, actually and reasonably incurred by the Indemnitee in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except (unless otherwise specifically provided herein) in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Indemnitee is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse any such Indemnitee for the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such director or officer was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against an Indemnitee, no director or officer shall be considered or deemed to be guilty of or liable for gross negligence or misconduct in the performance of his duties where, acting in good faith, such director or officer relied on the books and records of the Association or statements or advice made by or prepared by the managing agent of the Association (if any) or any officer or employee of the Association, or any accountant, attorney or other person, firm or corporation employed by the Association to

render advice or service, unless such director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of or liable for gross negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors of the Association. The expenses incurred by any Indemnitee in defending any action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount paid by the Association if it shall ultimately be determined that the Indemnitee is not entitled to indemnification as provided in this paragraph.

10. Bond. The Board of Directors of the Association may provide surety bonds and may require the managing agent of the Association (if any), the treasurer of the Association, and such other officers as the Board of Directors deems necessary, to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors, and any such bond shall specifically include protection for any insurance proceeds received by any reason by the Board of Directors. The expense of any such bonds shall be a Common Expense.

11. Insurance.

(i) Casualty Insurance. The Association shall purchase and maintain fire and extended coverage insurance in an amount equal to the full replacement cost of all improvements, if any, which the Association is required to maintain hereunder. If the Association can obtain such coverage for a reasonable amount, it shall also obtain "all risk coverage." Such insurance coverage shall name the Association as the insured. Such insurance policy or policies shall contain provisions that (a) the insurer waives its rights to subrogation as to any claim against the Association, its Board of Directors, officers, agents and employees, any Committee of the Association or of the Board of Directors, and all Owners and their respective agents and guests, and (b) waives any defense based on invalidity arising from the acts of the insured.

(ii) Liability Insurance. The Association shall also purchase and maintain a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event, with a minimum combined limit of One Million Dollars (\$1,000,000) per occurrence. Such comprehensive public liability insurance shall cover all of the Common Areas and the Lake Easement and Landscape Easement areas (shown and identified as such upon any subdivision plat of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana) and shall insure the Association, its Board of Directors, officers, agents and employees, any Committee of the Association or of the 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

real estate, all Owners and all other persons entitled to occupy any lot. Such public liability insurance policy shall include a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

(iii) Other Insurance. The Association shall also purchase and maintain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including but not limited to officers' and directors' liability insurance.

(iv) Miscellaneous. The premiums for the insurance described above shall be paid by the Association as part of the Common Expenses.

**ARTICLE VIII**  
**BOARD OF DIRECTORS**

1. Qualifications. Except as otherwise provided in the following paragraphs, no person shall be eligible to serve as a member of the Board of Directors of the Association unless he is a member of the Association.

2. Additional Qualifications. Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or a partner, officer or trustee, as the case may be, of a partnership, corporate, trust or other entity Owner shall be eligible to serve on the Board of Directors of the Association, except that no lot may be represented on the Board of Directors by more than one person at a time.

3. Initial Board of Directors. The initial Board of Directors of the Association shall be composed of the persons designated or to be designated in the Articles of Incorporation of the Association (the "Initial Board"), all of whom have been or shall be appointed by Developer. Notwithstanding anything to the contrary contained in these Covenants or in the Articles of Incorporation or By-Laws of the Association, the Initial Board shall hold office until the Applicable Date and until their successors have been duly elected and qualified. In the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the applicable date, every such vacancy shall be filled by a person appointed by Developer, who shall hereafter be deemed a member of the Initial Board. Each person serving on the Initial Board, whether as an original member thereof or as a member appointed by Developer to fill a vacancy, shall be deemed a member of the Association solely for purposes of qualifying to act as a member of the Board of Directors of the Association, and for no other purpose (unless he is actually an Owner of a lot and therefore a member of the Association).

**ARTICLE IX**  
**Architectural Control Committee**

There shall be and hereby is created and established an Architectural Control Committee to perform the functions provided for herein. Until such time as the Developer owns no lots in Ballard Crossing -Section One, the Committee shall consist of two (2) members appointed, from time to time, by the Developer, and who shall be subject to removal by the

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Developer at any time with or without cause. At such time as the Developer no longer owns any lots in Mallard Crossing-Section One, the Committee shall be a standing committee of the Association, consisting of three (3) persons appointed from time to time, by the Board of Directors of the Homeowners Association.

2. Purposes and Powers of Committee. The Committee shall regulate the external design, appearance and location of residences, buildings, structures or other improvements placed on any lot, and the installation and removal of landscaping on any lot, and the installation and removal of landscaping on any lot, in such a manner as to preserve and enhance the value and desirability of the real estate for the benefit of each Owner and to maintain a harmonious relationship among structures and the natural vegetation and topography.

(1) In General. No residence, building, structure, or improvement of any type or kind shall be repainted, constructed or placed on any lot without the prior written approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and in the case of construction or placement of any improvement, shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each property and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings submitted to the Committee shall be drawn to a scale of 1" equals 30', or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or plot plans which shall be prepared by either a registered land surveyor, engineer or architect. Plot plans submitted for the Improvement Location Permit shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(ii) Power of Disapproval. The Committee may refuse to grant permission to repaint, construct, place or make the requested improvement, when:

(a) The plans, specifications, drawings or other material submitted are inadequate or incomplete, or show the proposed improvement to be in violation of any restrictions in these Covenants or any subdivision plat of the real estate recorded in the office of the Recorder of Hendricks County, Indiana;

(b) The design or color scheme of a proposed repainting or improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures; or

(c) The proposed repainting or improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of any Owner.

(iii) Rules and Regulations. The Committee may, from time to time, make, amend and modify such additional rules and regulations as it may deem necessary or desirable to guide Owners as to the requirements of the Committee for the subdivision and approval of items to it. Such rules and regulations may set forth additional require-

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ments to those set forth in these Covenants or any subdivision plat of the real estate recorded in the office of the Recorder of Hendricks County, Indiana, as long as the same are not inconsistent with these Covenants or such subdivision plat(s).

3. Duties of Committee. The Committee shall approve or disapprove proposed repainting, construction or improvements within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

4. Liability of Committee. Neither the Committee, Developer, the Association nor any agent of any of the foregoing shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

5. Inspection. The Committee may inspect work being performed to assure compliance with these Covenants and the materials submitted to it pursuant to this Article IX.

6. Nonapplication to Developer. Notwithstanding the provisions of this Article IX or any other provisions of these Covenants requiring the approval of the committee, the Developer shall not be required to apply for or secure the approval of the Committee in connection with any construction, installation or painting by the Developer of any residence, building, structure, or other improvement on the real estate or the installation or removal of any trees, shrubs or other landscaping on the real estate.

ARTICLE X  
Assessments

1. Creation of Lien and Personal Obligation. Developer, for each lot now or hereafter owned by it, hereby covenants and each Owner of a 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 (i) regular assessments for Common Expenses ("Regular Assessments") and (ii) special assessments for capital improvements and operating deficits ("Special Assessments"). Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. Such assessments, together with interest, costs of collection and reasonable attorney's fees, shall be a continuing lien upon the lot against which such assessment is made prior to all other liens except only (i) tax liens on any lot in favor of any unit of government or special taxing district and (ii) the lien of any first mortgage of record. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the Owner of the lot at the time such assessment became due and payable. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. The personal obligation for delinquent assessments (as distinguished from the lien upon the lot) shall not pass to such Owner's successors in title unless expressly assumed by them. The Association shall, upon request of a proposed Mortgagee or proposed purchaser having a contractual right to purchase a lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of any unpaid regular or special assessments or other charges against the lot. Such statement shall be binding upon the Association as of the date of such statement.

2. Purpose of Assessments. The regular or special assessments levied upon the Association shall be used exclusively (i) to promote the health, safety and welfare of

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the residents occupying the real estate, (ii) for the improvement, maintenance and repair of the Common Areas and Easements, Lake Easements and Drainage Easements shown and identified as such on any subdivision plat of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana, (iii) for the performance of the responsibilities and duties of the Association and (iv) for such other purposes as are specifically provided herein. A portion of the regular assessment may be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of any capital improvements which the Association is required to maintain.

3. Regular Assessments. The Board of Directors of the Association shall have the right, power and authority, without any vote of the members of the Association, to fix, from time to time, the Regular Assessment against each lot at any amount not in excess of the maximum regular assessment hereinafter provided:

(i) Until June 1, 1991 the maximum regular assessment for a calendar year on any lakeside lot conveyed by Developer shall not exceed \$120.00.

(ii) Until June 1, 1991 the maximum regular assessment for a calendar year on any non-lakeside lot conveyed by Developer shall not exceed \$60.00.

(iii) From and after June 1, 1991 the maximum regular assessment on a lot for any calendar year may be increased by not more than fifteen percent (15%) above the regular assessment for the previous calendar year.

From and after the applicable date, the Board of Directors of the Association may fix the regular assessment at an amount in excess of the maximum amount specified in (ii) above, only with the approval of a majority of the members of the Association who are voting in person or by proxy at a meeting of the members of the Association duly called for such purpose.

4. Special Assessments. In addition to regular assessments, the Association may make special assessments against each lot for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing or replacing 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 only with the assent of a majority of the members of the Association who are voting in person or by proxy at a meeting of the members of the Association duly called for such purpose.

5. Date of Commencement of Regular Assessments; Due Dates: The regular assessment shall commence for each lot on the first day of the first calendar month following the conveyance of such lot by Developer. Until the applicable date, and notwithstanding anything else contained herein, no regular assessments, special assessments, or other charges shall be owed or payable by Developer with respect to any lot or shall become a lien on any lot while such lot is owned by Developer. The Board of Directors of the Association shall fix any increase in the amount of the regular assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to each Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors of the Association. The Board of Directors may provide for reasonable interest and late charges on past due installments of assessments.

6. Failure of Owner to Pay Assessments.  
(a) No Owner may exempt himself from paying regular assessments and special assessments, or from

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contributing toward the Common Expenses and toward any other expense lawfully agreed upon, by nonuse of the Common Areas or abandonment of the lot belonging to him. If any Owner shall fail, refuse or neglect to make any payment of any assessment (or periodic installment of an assessment, if applicable) when due, the lien for such assessment of the Owner's lot may be filed and foreclosed by the Board of Directors of the Association for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any assessment (or a periodic installment of an assessment, if applicable) when due, the Board may in its discretion accelerate the entire balance of any unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any assessment, the Owner and any occupant of the lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such lot, and the Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the lot and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid assessments. The Board of Directors of the Association may, at its option, bring a suit to recover a money judgment for any unpaid assessment without foreclosing or waiving the lien securing the same. In any action to recover an assessment, whether by foreclosure or otherwise, the Board of Directors of the Association, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective lot costs and expenses of such action incurred (including but not limited to reasonable attorney's fees) and interest from the date such assessments were due, until paid.

(11) Notwithstanding anything contained in this paragraph or elsewhere in these Covenants, any sale or transfer of a lot to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any assessments (or periodic installments of such assessments, if applicable) thereafter becoming due or from the lien therefor. Such unpaid share of any assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject lot from which it arose).

**ARTICLE XI**  
**Mortgages**

1. Notice to Association. Any Mortgagee who places a first mortgage lien upon a lot may notify the Secretary of the Association of the existence of such mortgage and provide the name and address of such Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary of the Association and any notice required to be given to the Mortgagee pursuant to the terms of these Covenants, the By-Laws of the Association or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such Mortgage and the name and address of Mortgagee are furnished to the Secretary, as herein provided, no notice to any Mortgagee as may be



otherwise required by these Covenants, the By-Laws of the Association or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of these Covenants, the By-Laws of the Association, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

2. Notice to Mortgagees. The Association upon request, shall provide to any mortgagee a written certificate of the Owner of such lot, if any, in the performance of such Owner's obligations under these Covenants or any other applicable documents, which defaults have not been cured within sixty (60) days.

ARTICLE XII  
Amendment

1. By Owners. Except as otherwise provided in these Covenants, amendments to these Covenants shall be proposed and adopted in the following manner:

(i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.

(iv) Adoption. Any proposed amendment to these Covenants must be approved by a vote of not less than two-thirds (2/3) in the aggregate of the votes of all Owners; provided however, that any such amendment shall require the prior written approval of Developer so long as Developer owns any lots within and upon the real estate. In the event any lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing paragraph in Article XI 1.

(v) Special Amendments. No amendment to these Covenants shall be adopted which changes any provision of these Covenants 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, without the approval of all Mortgagees who have given prior notice of their mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing paragraph in Article XI 1.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee). In the event that a proposed amendment is deemed by the Board of Directors of the Association to be one which is not of a material nature, the Board of Directors shall notify all Mortgagees whose interests have been made known to the Board of Directors of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment within thirty (30) days of the date such notices are mailed and if such notice advises the Mortgagees of the time limitation contained in this sentence.

2. By Developer. Developer hereby reserves the

right so long as Developer owns any lot within and upon the real estate to make such amendments to these Covenants as may be deemed necessary or appropriate by Developer, without the approval of any other person or entity, in order to bring Developer 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, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency to induce any of such agencies to make, purchase, sell, insure or guarantee first mortgages, or to correct clerical or typographical errors in these Covenants or any amendment or supplement hereto; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, or which substantially impairs the benefits of these Covenants to any Owner or substantially increases the obligations imposed by these Covenants on any Owner.

3. Recording. Each amendment to the Declaration shall be executed by Developer only in any case where Developer has the right to amend these Covenants without any further consent or approval, and otherwise by the President or Vice President and Secretary of the Association; provided that any amendment requiring the consent of Developer shall contain Developer's signed consent. All amendments shall be recorded in the office of the Recorder of Hendricks County, Indiana, and no amendment shall become effective until so recorded.

ARTICLE XIII  
General Provisions

1. Right of Enforcement. Violation or threatened violation of any of the covenants, conditions or restrictions enumerated in these Covenants or in any subdivision plat of all or any part of the real estate now or hereafter recorded in the office of the Recorder of Hendricks County, Indiana, shall be grounds for an action by Developer, the Association, any Owner, and all persons or entities claiming under them against the person or entity violating or threatening to violate any such covenants, conditions or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorney's fees incurred by any person for failing to enforce or carry out any such covenants, conditions or restrictions.

2. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to any violation or threatened violation of any covenants, conditions or restrictions enumerated in these Covenants or in any subdivision plat of all or any part of the real estate shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuance of such violation or violations of such covenants, conditions or restrictions.

3. Duration. These covenants, conditions and restrictions and all other provisions of these Covenants (as the same may be amended from time to time as herein provided) shall run with the land and shall be binding on all persons and entities from time to time having any right, title or interest in the real estate, or any part thereof and on all persons claiming under them, until January 1, 2008, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any such extension period, by a vote of a majority of the then Owners of lots within and upon the real estate, it

is agreed that these Covenants shall terminate in its entirety.

4. Severability. Invalidation of any of the covenants, restrictions or provisions contained in these Covenants by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect.

5. Titles. The underlined titles preceding the various paragraphs and subparagraphs of these Covenants are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of these Covenants. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

6. Applicable Law. These Covenants shall be governed, interpreted, construed and regulated by the laws of the State of Indiana.

7. Annexation. Additional land within the tract described in the attached Exhibit A may be annexed by Developer to the real estate (and from and after such annexation shall be deemed a part thereof for all purposes of these Covenants) by execution and recordation in the office of the Recorder of Hendricks County, Indiana, of a supplemental declaration by Developer; and such action shall require no approvals or action of the Owners.

WITNESS our hands and seals this 28th day of February, 1981.

*Daniel E. Brunette*  
 DANIEL E. BRUNETTE

*Michael D. Starkey*  
 MICHAEL D. STARKEY

STATE OF INDIANA )  
 ) SS:  
 HENDRICKS COUNTY )

**CHICAGO TITLE**

Subscribed before me a Notary Public, personally appeared Daniel E. Brunette and Michael D. Starkey, who having acknowledged the execution of the above Restrictive Covenants, and the same being his voluntary act and deed for the purposes therein expressed, this 28th day of February, 1981.



MY COMMISSION EXPIRES:  
3-25-89

COUNTY OF RESIDENCE:  
Hendricks

*Lee T. Comer*  
 SIGNATURE OF NOTARY

Lee T. Comer  
 PRINTED NAME OF NOTARY

This instrument prepared by Sharon E. Stegemoller, Attorney-at-Law, P.O. Box 207, Danville, IN 46122; (317) 745-4300.

691S

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SUPPLEMENTARY DECLARATION

Michael D. Starkey and Daniel E. Brunette, owners and developers, and Worth Thomas Sellers, Jr., owner, of Mallard Crossing, Section Two (2), in Brown Township, Hendricks County, Indiana, as per plat thereof recorded January 28, 1991 in Plat Cabinet 1, Slide 111, pages 1 and 2 in the Office of the Recorder of Hendricks County, Indiana, do hereby declare that said Mallard Crossing, Section Two (2) shall be subject to the Declaration Of Covenants, Conditions, and Restrictions of Mallard Crossing, Section One (1), which declaration was dated February 28, 1989 and recorded February 28, 1989 in Miscellaneous Record 116, page 737 in the Office of the Recorder of Hendricks County, Indiana.

So covenanted and restricted this 28th day of January, 1991.

Michael D. Starkey  
Michael D. Starkey

Daniel E. Brunette  
Daniel E. Brunette

Worth Thomas Sellers, Jr.  
Worth Thomas Sellers, Jr.

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF HENDRICKS)

Before me, a Notary Public in and for said County and State, personally appeared Michael D. Starkey and Daniel E. Brunette, owners and developers; and Worth Thomas Sellers, Jr., owner, who acknowledged the execution of the foregoing Restrictive Covenants, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 8th day of February 1991.

My Commission Expires:  
July 18, 1992

Martha Louise Huckstep  
Notary Public  
MARTHA LOUISE HUCKSTEP

Resident of Hendricks County.

ENTERED FOR RECORD  
BOOK 124 FEB 11 1991 PAGE 924

This instrument was prepared by:  
Lee T. Comer  
Attorney-at-Law  
P.O. Box 207  
Danville, IN 46122  
(317) 745-4300.

Jay Beckley  
HENDRICKS COUNTY RECORDER

Assignment of Interest  
E19430 Nov 7, 1995  
Misc Blk 150 pg 564  
Joy Brantly. RHC WB

ENTERED FOR RECORD

8990

BOOK 128 PAGE 28

BOOK 128 OCT 15 1991

RESTRICTIVE COVENANT

The undersigned, being all owners of the following described real estate in Hendricks County, Indiana, to-wit:

Lots 1, 2, 4, 5, 15, 17, 20, 21, 26, 27, 29, 30, 38 and 41 in Mallard Crossing, Section One, as per plat thereof recorded February 24, 1989 in Plat Cabinet 1, page 2 in the Office of the Recorder of Hendricks County, Indiana;

do hereby restrict and covenant said lots as follows:

That said lots shall have no landscaping, such as trees, shrubs or automatic sprinkling devices, placed on top of any "at grade" or mound septic system installed within said lot.

It is further covenanted that the enforcement of this restriction shall lie with Michael D. Starkey and Daniel E. Brunette, as Developers of said subdivision, or the Commissioners of Hendricks County, or the Hendricks County Health Department; and that any action to enforce the terms hereof shall include attorney fees and costs to the successful party.

So restricted and covenanted this 15th day of October, 1991.

Michael D. Starkey  
Michael D. Starkey

Daniel E. Brunette  
Daniel E. Brunette

Lots 1, 2, 4, 5, 17, 20, 21, 29, 30, 38 and 41

Lots 1, 2, 4, 5, 17, 20, 21, 29, 30, 38 and 41

William J. Becher  
William J. Becher Lot 15

Wendy Lynn Hancock  
Wendy Lynn Hancock Lot 15

Jeffrey L. Brown  
Jeffrey L. Brown Lot 26

Catherine L. Brown  
Catherine L. Brown Lot 26

CHICAGO TITLE

REYCO ENTERPRISES, INC.

BY: Robert H. ...  
Lot 27

STATE OF INDIANA )  
                          ) SS:  
HENDRICKS COUNTY )

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 15th day of October, 1991.

My commission expires:  
July 18, 1992

Martha Louise Huckstep  
Notary Public  
Martha Louise Huckstep

Resident of Hendricks County.

This instrument was prepared by:  
Lee T. Comer  
Attorney-at-Law  
P.C. Box 207  
Danville, IN 46122  
(317) 745-4300.

19430

BOOK 150 PAGE 564

ASSIGNMENT OF INTEREST

THE UNDERSIGNED, as the developers of Mallard Crossing and as interested parties to a Restrictive Covenant, dated October 15, 1991 and recorded October 25, 1991 in Miscellaneous Record 128, Page 28, which exists on certain lots within said Mallard Crossing, do hereby assign any and all interest, rights, duties and liabilities under said Restrictive Covenant to the Mallard Crossing Homeowners Association, Inc.

SO EXECUTED this 18th day of October, 1995.

*Michael D. Starkey*  
MICHAEL D. STARKEY

*Daniel E. Brunette*  
DANIEL E. BRUNETTE

STATE OF INDIANA )  
HENDRICKS COUNTY )

ENTERED FOR RECORD  
NOV 7 1995 3:40  
150 Jay Broderick  
HENDRICKS COUNTY RECORDER

Before me, a Notary Public in and for said County and State personally appeared Michael D. Starkey and Daniel E. Brunette, who acknowledged the execution of the foregoing, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 18th day of October, 1995.

MY COMMISSION EXPIRES:

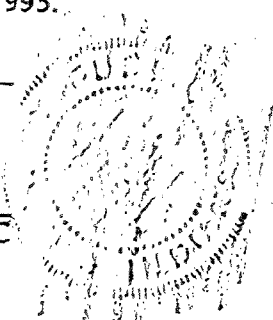
6/20/97

*Tammy J. Fleece*  
SIGNATURE OF NOTARY PUBLIC

COUNTY OF RESIDENCE:

Hendricks

Tammy J. Fleece  
PRINTED NAME OF NOTARY PUBLIC



This instrument was prepared by Amy Comer Broderick, P.O. Box 207, Danville, IN 46122, (317-745-4300).