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DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS  
OF  
PARK VALLEY ESTATES  
SECTION 1

THIS DECLARATION is made this 30<sup>th</sup> day of November, 1988, by Cloverleaf Properties, an Indiana General Partnership (hereinafter referred to as "Developer" or "Declarant"), and

WITNESSES:

WHEREAS, Developer is the owner of all of the lands contained in the area described in EXHIBIT "A", attached hereto and made a part hereof, which lands will be subdivided and known as Park Valley Estates (together with any additions thereto as herein provided, hereinafter referred to as the "Real Estate" or the "Development"), and will be more particularly described on the plat recorded on the same date as the recording of these covenants in the Office of the Recorder of Marion County, Indiana and making reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and the future home owners thereof.

WHEREAS, Developer desires to provide for maintenance of the Common Areas, retention/detention ponds, and improvements located or to be located in the Development, and to share in insurance coverage and mutual enforcement of the Restrictions which are of common benefit to the Owners of the various lots within the Development, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of the Development.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the 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 such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development.

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1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

(i) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 17 herein.

(ii) "Association" shall mean Park Valley Estates Association, Inc. or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for retention/detention pond maintenance, liability insurance, landscape easement maintenance, fertilizing and weed control, and Common Area maintenance or other expenses as determined by the Owners.

(iii) "Builder" shall mean the person constructing the first residence on each Lot (which may be the Developer for one or more Lots).

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(iv) "Committee" shall mean the Park Valley Estates Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as the subdivision is completely developed or as provided under Clause 15E herein at which time the Association shall appoint from its membership this Committee.

(v) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by the recorded plat of the Development which is recorded in the Office of the Recorder of Marion County, Indiana. No lot may be subsequently subdivided for development purposes.

(vi) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

(vii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the Plat. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows: the drainage right-of-way and floodway Grassy Creek shown on the recorded plat.

(viii) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, maintenance of the retention/detention ponds, real estate taxes or personal property taxes assessed against any Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, or other improvements constructed by Developer.

(ix) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, including the Common Area and which is located in, upon, or under the Common Areas within the Development.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing and signed, with respect to Developer by an authorized General Partner or agent thereof, and with respect to the Committee by two members thereof.

## 2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. The Development is divided into four (4) different communities. No business buildings shall be erected on said lots and no business may be conducted on any part thereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana.

B. Occupancy for Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

C. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. TYPE, SIZE AND NATURE OF CONSTRUCTION PERMITTED AND APPROVALS REQUIRED. No single-family dwelling, greenhouse, porch, garage, swimming pool, basketball court, tennis court or other recreational facility shall be erected, placed or altered on any lot without the prior written approval of the Committee. Such approval shall be obtained prior to the commencement of construction and shall take into account restrictions as to the type of materials, exterior facade, design, layout, location, landscaping and finished grade elevations. Approvals will be considered upon the submission of satisfactory plans, including a plot plan, a building plan showing floor areas and elevations, specifications, a landscaping plan and such other data or information as may be reasonably requested, all subject to the following minimum standards:

(i) Any single-family dwelling erected, placed or altered shall have the following minimum areas, exclusive of open porches and garages:

COMMUNITY ONE AND COMMUNITY FOUR:

The minimum floor area of a one story home shall be 1,000 square feet. The minimum main floor area for a home of more than one story shall be 650 square feet.

COMMUNITY TWO:

The minimum floor area of a one story home shall be 1,100 square feet. The minimum main floor area of a home of more than one story shall be 725 square feet. No more than twenty percent (20%) of the homes in Community may have floor areas between 1,100 and 1,200 square feet. The floor area of at least twenty percent (20%) of the homes in Community two shall exceed 1,400 square feet.

COMMUNITY THREE:

The minimum floor area of a one story building shall be 1,200 square feet. The minimum main floor area for a home of more than one story shall be 800 square feet.

Each dwelling shall have a minimum of a two car attached garage with an 18 feet wide drive. The drive will provide a minimum of two (2) parking spaces.

(ii) No single-family dwelling, garage, out building or other structure of any kind may be moved onto any lot. All materials incorporated into the construction of any single-family dwelling, garage or other approved out building shall be new, except that used brick, weathered barn siding, or the like, or interior design features utilizing other than new materials, may be approved by the Committee. No trailer, mobile home, tent, basement, shack, garage, motor home, barn or other structure shall be placed or constructed on any lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required in connection with the construction of a single-family dwelling on a lot.

(iii) Every single-family dwelling, garage, or other structure permitted to be constructed or to remain on any lot shall be completed on the exterior within six (6) months from the start of construction, including at least one (1) coat of paint, stain or varnish on any exterior wood surfaces. All such structures must be completed within one (1) year.

During the period of construction of any structure on any lot, the lot shall be kept and maintained in a sightly and orderly manner. No trash or other rubbish shall be permitted to accumulate unreasonably on any such lot.

(iv) Landscaping. The following lots in the Development shall be completely sodded: All lots in Community One, namely Lots 1 through 33 and all lots in Community Two, namely lots 34 through 61 and 199 through 212.

Lots in Community Three shall meet the following standards: The entire front yard shall be sodded at least one (1) foot beyond the front elevation of the dwelling at the farthest point from the street. On a corner lot, the entire side yard must be sodded at least one (1) foot beyond the farthest side elevation. The balance of the Lot must be sodded or seeded. The Builder shall be responsible for the initial sodding and seeding.

Each Lot shall receive the following minimum landscaping which must be approved by the Committee for species, size and location:

1. Trees: three (3) front and two (2) back and a minimum of two (2) inches in caliber.
2. Shrubs: fifteen (15) and a minimum of 30 inches high.

All landscaping shall be completed within six (6) months from the date of commencement of construction, weather permitting.

(v) Light Fixtures, and Mailboxes. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, outside light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height, composition, and color, before it may be installed.

(vi) Fences. All fences shall meet the following standards:

1. Maximum height of four (4) feet. Pool fences, where required, shall be of greater heights and shall be a decorative type, (black iron or aluminum picket style fencing) with some screen landscaping on the sides exposed to streets.
2. No solid face construction.
3. Must be shadow box, chain link with green vinyl covered, or black iron or aluminum picket style.
4. Wooden fences must be painted or stained to blend with the house.
5. No fences shall be allowed on the following lots, except for the fences to be constructed by the Developer:  
Lots 1 through 8  
Lots 15 through 19
6. For non-corner lots no fence shall be installed between the building setback line and the rear face of the house. For corner lots no fence shall be installed between the building setback line and the side and front of the house facing the two respective streets.
7. All corner lot fences shall meet the requirements of 3.B of these covenants.

(vii) All utility facilities in the Development shall be placed underground. When they are installed under finished streets they shall be installed by jacking or boring.

(viii) Each driveway in the Development shall be of concrete or asphalt material, and shall not exceed in width the side boundaries of the garage.

(ix) No additional parking will be permitted on a Lot other than in the existing driveway.

(x) Wherever possible, all utility meters and HVAC units in the Development shall be located in places not seen from the street or screened, if located in the fronts of dwellings.

(xi) No outside fuel storage tanks shall be permitted above ground. No gasoline storage shall be permitted above or below ground in the Development.

(xii) All gutters and downspouts in the Development shall be painted.

(xiii) No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Development.

(xiv) Modular-type construction shall not be permitted in the Development; however, pre-fabricated home components such as walls, roof trusses, etc., shall not be considered modular-type construction.

(xv) All roofs shall have a minimum pitch of 6/12.

(xvi) All front elevation of homes shall be seventy five percent (75%) brick, exclusive of garage doors and gables. All side elevations of homes on corner lots shall be fifty percent (50%) brick, exclusive of garage doors and gables.

(xvii) No above ground swimming pools shall be permitted in the subdivision.

(xviii) No outbuildings, storage sheds and similar type structures shall be allowed,

(xix) No satellite dishes shall be installed or permitted in the subdivision.

**B. Sight Obstructions.** Front building lines are established as shown on the recorded plat between which lines and the right-of-way lines of the street no structure shall be erected or maintained. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations two (2) and six (6) feet above streets, 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. No tree shall be permitted to remain within such distance of such intersections unless for foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**C. Damaged Structures.** No improvement which has partially or totally been destroyed by fire or otherwise damaged shall be allowed to remain in such state for more than thirty (30) days from the time of such destruction or damage.

**D. Maintenance of Lots and Improvements.** The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

(i) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of grass and weeds.

(ii) Remove any debris or rubbish, which may accumulate;

(iii) Prevent the existence of any other conditions which may detract from or diminish the aesthetic appearance of the Development;

(iv) Remove dead trees and replace with new ones of similar character; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance to avoid an unsightly appearance.

4. PROPERTY RIGHTS.

A. Utility Easements. Easements are hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property. The easements shall be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns. Utility companies and other authorized agencies shall have full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), and such other public service facilities as Developer may deem necessary in designated easement area as shown on the plat of the Development. Provided, however, that any area disturbed by installation of utility lines shall be essentially restored to its original condition. No permanent structures shall be constructed within an easement area. Drainage and utility easements of the Development are as shown on the recorded plat of the Development.

B. Rights to Common Property. Title to all Common Property shall be held in the Association. Each Lot Owner shall have, a non-exclusive, and reciprocal easement right to the use of all the Common Property for his intended purpose; provided, however, that no Owner's use of the Common Property shall materially interfere with any other Lot Owner's use thereof.

5. MISCELLANEOUS PROVISIONS AND PROHIBITIONS.

A. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during the period of construction and then only with the consent of the Committee). No sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to discharge into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. Neither Developer, any officer, agent, employee or contractor thereof, the Association, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

B. Signs. No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior written approval of the Committee, except for the sale of a Lot or residence. However, Developer and designated Builders may use for sale and advertising signs during the sale and development of the Subdivision.

C. Animals. No animals shall be kept or maintained on any Lot in the Development except usual household pets, namely dogs and cats, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance. Under no circumstances shall a household have more than two (2) pets. If a female were to have a litter, the pups must be sold or removed in six (6) months from date of birth.

D. Vehicle Parking. No campers, trailers, motor homes, recreational vehicles, boats, commercial vehicles or similar vehicles, other than ordinary family passenger vehicles (including vans), shall be parked on any street or Lot in the Development, unless the same is parked in a garage with the garage door closed so that it is not visible to the occupants of other Lots in the Development or the users of any street in the Development; except for temporary periods not exceeding 48 hours and except as the Committee may otherwise approve. All passenger vehicles shall be parked in garages or in driveways, except for guest vehicles which may be parked on the street for a period not exceeding twenty-four (24) hours. No vehicles shall be put up on blocks or jacks to accommodate car repair on a lot except if such repairs are done in the garage.

E. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or bury out-of-doors, any garbage or refuse. Nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his or her Lot.

F. Ditches and Swales. All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales which may be located on their respective lots, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection.

G. Antennas. The Committee shall approve all exposed antennas. The maximum height of such antennae shall not exceed five (5) feet above the roof peak.

H. Solar Heat Panels. Unless otherwise approved by the Committee no solar heat panels shall be allowed on roofs, which may be visible from the front or rear of any residence in the Development. Such panels may be installed on the ground if enclosed within a fenced area within the Lot boundary and shall be located to the rear of the dwelling, and shall be approved by the Committee.

6. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any Lot in the Development, without prior 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 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 all existing conditions upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly 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 required to be submitted to the Committee shall be drawn to a scale of one-quarter (1/4) inch equals one foot (1'), 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 Building Permits 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 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 these Restrictions;

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

(c) the proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) Developer Improvements. The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans therefor).

B. Duties of Committee. The Committee shall approve proposed improvements within fifteen (15) days after all required information is 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. In the event that a written approval is not received from the Committee within fifteen (15) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the disapproval of any such plans submitted.

C. In General. Any party to whose benefit these restrictions inure, including Developer, Association and any Owner in the Development, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.

D. Liability of Committee. Neither the Committee nor any agency thereof, nor the Developer, 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.

E. Inspections. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these restrictions to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the development.

8. REMEDIES.

A. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in paragraphs 2, 3 or 5 hereof, and in the further event that such failure is not remedied within thirty (30) days after written notice of the same is given by the Developer, the Association or any Owner, the Association, the Developer and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Developer or the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association, the Developer or any Owner, in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure including attorney fees and court costs shall be payable by the defaulting Owner upon demand by the Association, the Developer or any Owner, and shall immediately become a lien collectible by the Developer or any Owner, or the Association. The rights in the Owners, the Developer and the Association under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

B. Government Enforcement. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions, or other limitations contained in this document other than those covenants, commitments, restrictions, or limitations that expressly run in favor of The Metropolitan Development Commission; provided further, that nothing



herein shall be construed to prevent The Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-A0-3, as amended, or any conditions attached to approval of the plat of Park Valley Estates, Section 1, by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or any estoppel of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

9. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners, covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. 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 the neuter.

11. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of twenty (20) years from the date of filing this document with the Recorder's Office in Marion County, Indiana, and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless at the end of any term the Owners of seventy five percent (75%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within the Development; provided that Developer 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 these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner.

12. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

13. DEDICATED STREETS.

All streets shown and not heretofore dedicated are hereby dedicated to the public.

14. HOMEOWNERS ASSOCIATION.

The Association shall be created as a not-for-profit corporation under the laws of the State of Indiana. The Association shall be incorporated and run in accordance with paragraph 15 through 18 of these Subdivision Restrictions.

15. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members in any one or more umbrella or joint homeowner's associations, if any, composed of associations and/or members from surrounding areas.

B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' or officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for management services and such other services as the Association deems necessary or advisable. The Association shall be responsible to maintain that portion of the intersection of Park Royale Drive and Park Castle Way identified on the Site Development Plans as street bubble.

E. Transfer of Control of Association. Developer must transfer control of the Association to the Owners no later than the earlier of: a) four (4) months after three-fourths (3/4) of the Lots in the Development have been conveyed to Owners; or b) five (5) years after the first Lot is conveyed to an Owner in the Development.

16. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Common Property, as the Board of Directors shall deem appropriate.

D. The Association also shall obtain comprehensive public liability insurance and such other liability insurance, with such coverages and limits, as the Board of Directors shall deem appropriate. All such policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and shall name Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least thirty (30) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

D. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

17. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, repairing, operating, and maintenance of the Common Area, including, but not limited to, the payment of taxes and insurance thereon, for the cost of labor, equipment, material, and management furnished with respect to the Common Area, and any and all other Common Expenses. Each Owner covenants and agrees to pay the Association:

(i) A Pro-rata Share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

(ii) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by the fraction of one over the total lots (1/Total Lots).

C. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for

any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

**D. Basis of Annual Assessments.** The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

**E. Basis of Special Assessments.** Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of sixty percent (60%) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

**F. Fiscal Year; Date of Commencement of Assessments; Due Date.** The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in the Development shall commence on the first day of the first month following the month in which Declarant first conveys ownership of any Lot to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefor as provided herein. The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and, with respect to particular Lots, shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments. The Declarant shall not pay an assessment on Lots which are not sold.

**G. Duties of the Association.**

(1) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any

installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(ii) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not remedied within sixty (60) days; (b) of any condemnation of casualty loss that affects either a material portion of the Development or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy required to be maintained by the Association; and (d) any proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

#### H. Non-Payment of Assessments; Remedies of the Association.

(i) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate of any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(ii) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum and the Association may bring an action against the delinquent Owner in any court having jurisdiction to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following year, except that so long as the Declarant controls the Association, Declarant may, in its sole discretion, make up such deficit; provided, however that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 18% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners.

J. Initial Assessments. During the first year following the date of recordation of the Declaration for the Development the total Assessments per Lot per year shall not exceed One Hundred Dollars (\$100.00).

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and (a) required quorum.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, 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.

30<sup>th</sup> IN WITNESS WHEREOF, witness the signature on behalf of the Developer this day of November, 1988.

CLOVERLEAF PROPERTIES  
(An Indiana General Partnership)

By: Roy L. Prock  
Signature

Roy L. Prock - General Partner

STATE OF INDIANA )  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Roy L. Prock, a General Partner of Cloverleaf Properties, an Indiana General Partnership, who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions as such General Partner acting for and on behalf of said Partnership, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 30<sup>th</sup> day of November, 1988.

Signature Billy D. Copman

Printed BILLY D. COPMAN, NOTARY PUBLIC  
MARION COUNTY, INDIANA  
Notary Public

County of Residence:

Marion

My commission expires:

January 24, 1989

This instrument prepared by: William T. Rees, Attorney at Law, 8355 Rockville Road, Indianapolis, Indiana 46234.

EXHIBIT "A"

LAND DESCRIPTION

PARK VALLEY ESTATES, SECTION I  
MARION COUNTY, INDIANAPOLIS, INDIANA

A part of the South half of the South half of the Northwest quarter and a part of the Southwest quarter of Section 33, Township 16 North, Range 5 East of the Second Principal Meridian in Warren Township, Marion County, Indiana, described as follows:

Commencing at the Southwest corner of said half half quarter section; thence North 00 degrees 00 minutes 00 seconds East along the West line of said half half quarter section 668.84 feet to the Northwest corner of said half half quarter section; thence North 89 degrees 59 minutes 42 seconds East along the North line of said half half quarter section 45.00 feet to the POINT OF BEGINNING and a point on the East right of way line of Mitthoefer Road as per right-of-way conveyance to the City of Indianapolis, Department of Transportation, by Trustee's Deed recorded on February 10, 1983 as Instrument No. 83-9213; thence continuing North 89 degrees 59 minutes 42 seconds East along said North line 1,196.03 feet; thence South 00 degrees 02 minutes 12 seconds West 598.49 feet; thence North 89 degrees 57 minutes 48 seconds West 72.53 feet; thence South 00 degrees 02 minutes 12 seconds West 120.00 feet; thence South 89 degrees 57 minutes 48 seconds East 50.00 feet; thence South 00 degrees 02 minutes 12 seconds West 120.00 feet; thence South 89 degrees 57 minutes 48 seconds East 36.90 feet; thence South 00 degrees 02 minutes 12 seconds West 170.00 feet; thence South 89 degrees 57 minutes 48 seconds East 390.20 feet; thence Southeasterly 183.26 feet (through a central angle of 28 degrees 00 minutes 00 seconds) along a tangent curve concave to the Southwest and having a radius of 375.00 feet to the end of said tangent curve (a radial line through said end bearing North 28 degrees 02 minutes 12 seconds East); thence South 61 degrees 57 minutes 48 seconds East along a tangent line 48.44 feet; thence South 38 degrees 46 minutes 48 seconds West 382.54 feet to a point on the South line of lands conveyed to Cloverleaf Properties, an Indiana General Partnership, under Instrument No. 85-26585 in the records of the Recorder of Marion County, Indiana; thence North 89 degrees 57 minutes 48 seconds West along said South line 1353.36 feet to the Southeast corner of lands conveyed to Mitthoefer Associates, an Indiana general partnership, under Instrument No. 88-87290 in the records of the Recorder of Marion County, Indiana; thence North 00 degrees 02 minutes 12 seconds East along the East line of said Mitthoefer Associates lands 150.00 feet to the Northeast corner of said Mitthoefer Associates lands; thence North 67 degrees 30 minutes 40 seconds East 122.98 feet to a point in a non-tangent curve concave to the Northeast and having a radius of 125.00 feet, a radial line of said non-tangent curve through said point bearing South 67 degrees 30 minutes 40 seconds West; thence Northerly along said non-tangent curve (through a central angle of 22 degrees 29 minutes 20 seconds) 49.06 feet to the end of said non-tangent curve; thence North 00 degrees 00 minutes 00 seconds East along a tangent line 45.08 feet; thence South 89 degrees 57 minutes 48 seconds East 215.12 feet; thence North 50 degrees 10 minutes 59 seconds West 78.27 feet; thence North 00 degrees 00 minutes 00 seconds East 339.00 feet; thence South 80 degrees 17 minutes 31 seconds West 98.09 feet; thence Southwesterly (through a central angle of 80 degrees 17 minutes 31 seconds) 14.01 feet along a tangent curve concave to the Southeast and having a radius of 10.00 feet to the end of said tangent curve, a radial line through said end bearing North 90 degrees 00 minutes 00 seconds West; thence South 89 degrees 52 minutes 58 seconds West along a non-tangent line 50.00 feet to a point in a non-tangent curve concave to the Southwest and having a radius of 10.00 feet, a radial line of said non-tangent curve through said point bearing North 90 degrees 00 minutes 00 seconds East;

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thence Northwesterly (through a central angle of 90 degrees 00 minutes 00 seconds) along said non-tangent curve 15.71 feet to the end of said non-tangent curve (a radial line through said end bearing North 00 degrees 00 minutes 00 seconds East); thence North 90 degrees 00 minutes 00 seconds West 285.40 feet; thence Southwesterly (through a central angle of 89 degrees 39 minutes 24 seconds) 39.12 feet along a tangent curve concave to the Southeast and having a radius of 25.00 feet to the end of said tangent curve, a radial line through said end bearing North 89 degrees 39 minutes 24 seconds West; thence South 00 degrees 20 minutes 36 seconds West along a tangent line 487.44 feet to a point in the North line of said lands of Mitthoefer Associates; thence North 89 degrees 57 minutes 48 seconds West along said North line 10.00 feet to a point in said East right of way line of Mitthoefer Road; thence North 00 degrees 20 minutes 36 seconds East along said East right of way line 553.65 feet to a point South 00 degrees 00 minutes 00 seconds East 0.10 feet from the North line of said Southwest quarter section (South line of said half half quarter section); thence North 00 degrees 00 minutes 00 seconds East along said East right of way line 668.98 feet to the POINT OF BEGINNING, containing 35.915 acres, more or less.

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CROSS REFERENCE

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8/10/89

CROSS REFERENCE: Final Plat of Park Valley Estates, Section 1, recorded November 30, 1988 as Instrument No. 88-120911 in the Office of the Recorder of Marion County, Indiana.

CROSS REFERENCE

Declaration of Covenants, Easements, Restrictions, and Assessments of Park Valley Estates, Section 1, recorded November 30, 1988 as Instrument No. 88-120910 in the Office of the Recorder of Marion County, Indiana.

CROSS REFERENCE

FIRST AMENDED  
DECLARATION OF  
COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS  
OF  
PARK VALLEY ESTATES, SECTION 1

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MARION COUNTY RECORDER

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FIRST AMENDED  
DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS  
OF  
PARK VALLEY ESTATES  
SECTION 1

THIS FIRST AMENDED DECLARATION is made this 7<sup>th</sup> day of March, 1989, by Cloverleaf Properties, an Indiana General Partnership (hereinafter referred to as "Developer" or "Declarant"), and

WITNESSES:

WHEREAS, Developer is the owner of all of the lands contained in the area described in EXHIBIT "A", attached hereto and made a part hereof, which lands were subdivided and known as Park Valley Estates (together with any additions thereto as herein provided, hereinafter referred to as the "Real Estate" or the "Developer's"), and are more particularly described on the plat recorded on November 30, 1988 in the Office of the Recorder of Marion County, Indiana and making reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and the future home owners thereof.

WHEREAS, Developer desires to provide for maintenance of the Common Areas, retention/detention ponds, and improvements located or to be located in the Development, and to share in insurance coverage and mutual enforcement of the Restrictions which are of common benefit to the Owners of the various lots within the Development, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of the Development.

WHEREAS, Declarant recorded a Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates Section 1 on November 30, 1988 as Instrument No. 88-120910 in the Office of the Recorder of Marion County, Indiana to control the development of the property described in Exhibit "A".

WHEREAS, Declarant has not conveyed any portion of said property except to Builders and now desires to amend the said Declaration.

NOW, THEREFORE, Developer hereby declares that the Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates Section 1 is amended by the terms herein and all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the 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 such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development.

1. DEFINITIONS.

A. The following are the definitions of the terms as they are used in this Declaration.

- (1) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 17 herein.

(ii) "Association" shall mean Park Valley Estates Homeowners Association, Inc. or an organization of similar name, its successors and assigns and shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for retention/detention pond maintenance, liability insurance, landscape easement maintenance, fertilizing and weed control, trash pick-up, utilities, real estate taxes, management fees, and Common Area maintenance or other expenses as determined by the Owners.

(iii) "Builder" shall mean the person constructing the first residence on each Lot (which may be the Developer for one or more Lots).

(iv) "Committee" shall mean the Park Valley Estates Development Control Committee, composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as the subdivision is completely developed or as provided under Clause 15E herein at which time the Association shall appoint from its membership this Committee.

(v) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by the recorded plat of the Development which is recorded in the Office of the Recorder of Marion County, Indiana. No lot may be subsequently subdivided for development purposes.

(vi) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

(vii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the Plat as Common Areas 1, 2 and 3 and the floodway of Grassy Creek which is not shown on the Plat but said area is described in "Exhibit C" attached. It shall also include those easement areas set aside for maintenance, landscaping and fencing along Mitthoeffer Road and the boulevard strip in Park Valley Drive as shown on the Plat.

(viii) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, maintenance of the retention/detention ponds, real estate taxes or personal property taxes assessed against any Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance as required herein and trash pick-up. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, or other improvements constructed by Developer.

(ix) "Common Property" means all real and personal property which is in the nature of common or public improvements or areas, including the Common Area and which is located in, upon, or under the Common Areas within the Development.

(x) "Dwelling Unit" means any single-family residence situated upon a Lot.

(xi) "Plat" means the subdivision plat of the Property identified as the Final Plat of Park Valley Estates, Section 1, recorded on November 30, 1988 as Instrument No. 80-120911 in the Office of the Recorder of Marion County, Indiana, as the same may be supplemented by law, the addition of other sections or pursuant to this Declaration.

B. Approvals, Etc. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing and signed, with respect to Developer by an authorized General Partner or agent thereof, and with respect to the Committee by two members thereof.

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. The Development is divided into four (4) different communities. No business buildings shall be erected on said lots and no business may be conducted on any part thereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana.

B. Occupancy for Residential Use of Partially Completed Dwelling Houses Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

C. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. TYPE, SIZE AND NATURE OF CONSTRUCTION PERMITTED AND APPROVALS REQUIRED. No single-family dwelling, greenhouse, porch, garage, swimming pool, basketball court, tennis court or other recreational facility shall be erected, placed or altered on any lot without the prior written approval of the Committee. Such approval shall be obtained prior to the commencement of construction and shall take into account restrictions as to the type of materials, exterior facade, design, layout, location, landscaping and finished grade elevations. Approvals will be considered upon the submission of satisfactory plans, including a plot plan, a building plan showing floor areas and elevations, specifications, a landscaping plan and such other data or information as may be reasonably requested, all subject to the following minimum standards. Builders shall be permitted to submit sets of Master Plans on various homes and once approved by the Committee, these Master Plans shall not require subsequent approval unless there are changes.

(1) Any single-family dwelling erected, placed or altered shall have the following minimum areas, exclusive of open porches and garages:

COMMUNITY ONE AND FOUR:

The minimum floor area of a one story home shall be 1,000 square feet. The minimum main floor area for a home of more than one story shall be 650 square feet. Lots 1 through 33 are in this community.

COMMUNITY TWO:

The minimum floor area of a one story home shall be 1,100 square feet. The minimum main floor area of a home of more than one story shall be 725 square feet. No more than twenty percent (20%) of the homes in this Community may have floor areas between 1,100 and 1,200 square feet. The floor area of at least twenty percent (20%) of the homes in this Community two shall exceed 1,400 square feet. Lots 34 through 61 and Lots 199 through 212 are in this Community.

COMMUNITY THREE:

The minimum floor area of a one story building shall be 1,200 square feet. The minimum main floor area for a home of more than one

story shall be 600 square feet. Lots 127 through 180, Lots 227 through 231, and Lots 252 through 275 are in this community.

Each dwelling in all the above Communities shall have a minimum of a two car attached garage with an 16 feet wide drive. The drive will provide a minimum of two (2) parking spaces.

(ii) No single-family dwelling, garage, out building or other structure of any kind may be moved onto any Lot. All materials incorporated into the construction of any single-family dwelling, garage or other approved out building shall be new, except that used brick, weathered barn siding, or the like, or interior design features utilizing other than new materials, may be approved by the Committee. No trailer, mobile home, tent, basement, shack, garage, motor home, barn or other structure shall be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required in connection with the construction of a single-family dwelling on a Lot.

(iii) Every single-family dwelling, garage, or other structure permitted to be constructed or to remain on any Lot shall be completed on the exterior within six (6) months from the start of construction, including at least one (1) coat of paint, stain or varnish on any exterior wood surfaces. All such structures must be completed within one (1) year.

During the period of construction of any structure on any lot, the lot shall be kept and maintained in a sightly and orderly manner. No trash or other rubbish shall be permitted to accumulate unreasonably on any such lot.

(iv) Basketball Goals and Similar Structures. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, basketball goal or similar structure must be approved by the Committee as to size, location, height, composition, and color, before it may be installed.

(v) Fences. All fences shall meet the following standards:

1. Maximum height of four (4) feet. Pool fences, where required, shall be of greater heights and shall be a decorative type, (black iron or aluminum picket style fencing) with some screen landscaping on the sides exposed to streets.
2. No solid face construction.
3. Must be shadow box, chain link with green vinyl covered, or black iron or aluminum picket style.
4. Wooden fences must be painted or stained to blend with the house.
5. No fences shall be allowed on the following lots, except for the fences to be constructed by the Developer:  
Lots 1 through 8  
Lots 15 through 19
6. For non-corner lots no fence shall be installed between the building setback line and the rear face of the house. For corner lots no fence shall be installed between the building setback line and the side and front of the house facing the two respective streets.
7. All corner lot fences shall meet the requirements of 3.8 of these covenants.

(vi) All utility facilities in the Development shall be placed underground. When they are installed under finished streets they shall be installed by jacking or boring.

(vii) Each driveway in the Development shall be of concrete or asphalt material, and shall not exceed in width the side boundaries of the garage.

(viii) No additional parking will be permitted on a Lot other than in the existing driveway.

(ix) Wherever possible, all utility meters and HVAC units in the Development shall be located in places not seen from the street or screened, if located in the fronts of dwellings.

(x) No outside fuel storage tanks shall be permitted above ground. No gasoline storage shall be permitted above or below ground in the Development.

(xi) All gutters and downspouts in the Development shall be painted.

(xii) No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Development.

(xiii) Modular-type construction shall not be permitted in the Development; however, pre-fabricated home components such as walls, roof trusses, etc., shall not be considered modular-type construction.

(xiv) All roofs shall have a minimum pitch of 5/12.

(xv) All front elevation of homes shall be fifty percent (50%) brick of the first floor, exclusive of doors, windows, and gables. All side elevations of homes on corner lots which face the street shall have a minimum of three (3) feet of brick height, exclusive of doors, windows and gables.

(xvi) No above ground swimming pools shall be permitted in the subdivision.

(xvii) No outbuildings, storage sheds and similar type structures shall be allowed.

(xviii) No satellite dishes shall be installed or permitted in the subdivision.

B. Sight Obstructions. Front building lines are established as shown on the recorded plat between which lines and the right-of-way lines of the street no structure shall be erected or maintained. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations two (2) and six (6) feet above streets, 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. No tree shall be permitted to remain within such distance of such intersections unless for foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

C. Damaged Structures. No improvement which has partially or totally been destroyed by fire or otherwise damaged shall be allowed to remain in such state for more than thirty (30) days from the time of such destruction or damage.

D. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly and, specifically, such Owner shall:

(i) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of grass and weeds. This would not apply to those lots maintained by the Association

(ii) Remove any debris or rubbish, which may accumulate;

(iii) Prevent the existence of any other conditions which may detract from or diminish the aesthetic appearance of the Development;

(iv) Remove dead trees and replace with new ones of similar character; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance to avoid an unsightly appearance.

4. PROPERTY RIGHTS.

A. Utility Easements. Easements are hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property. The easements shall be perpetual hereof, from the date of this instrument by the Developer, its successors and assigns. Utility companies and other authorized agencies shall have full right and authority to lay, operate and maintain such drainage facilities, sanitary sewer and water lines, gas and electric lines, communication lines (which shall include cable television), and such other public service facilities as Developer may deem necessary in designated easement area as shown on the plat of the Development. Provided, however, that any area disturbed by installation of utility lines shall be essentially restored to its original condition. No permanent structures shall be constructed within an easement area. Drainage and utility easements of the Development are as shown on the recorded plat of the Development.

B. Rights to Common Property. Title to all Common Property shall be held in the Association. Each Lot Owner shall have, a non-exclusive, and reciprocal easement right to the use of all the Common Property for his intended purpose; provided, however, that no Owner's use of the Common Property shall materially interfere with any other Lot Owner's use thereof.

5. MISCELLANEOUS PROVISIONS AND PROHIBITIONS.

A. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during the period of construction and then only with the consent of the Committee). No sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to discharge into the storm drainage system. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. Neither Developer, any officer, agent, employee or contractor thereof, the Association, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

B. Signs. No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior written approval of the Committee, except for the sale of a Lot or residence. However, Developer and designated Builders may use for sale and advertising signs during the sale and development of the Subdivision.

C. Animals. No animals shall be kept or maintained on any Lot in the Development except usual household pets, namely dogs and cats, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance. Under no circumstances shall a household have more than two (2) pets. If a female were to have a litter, the pups must be sold or removed in six (6) months from date of birth.

D. Vehicle Parking. No campers, trailers, motor homes, recreational vehicles, boats, commercial vehicles or similar vehicles, other than ordinary family passenger vehicles (including vans), shall be parked on any street or Lot in the Development, unless the same is parked in a garage with the garage door closed so that it is not visible to the occupants of other Lots in the Development or the users of any street in the



Development; except for temporary periods not exceeding 48 hours and except as the Committee may otherwise approve. All passenger vehicles shall be parked in garages or in driveways, except for guest vehicles which may be parked on the street for a period not exceeding twenty-four (24) hours. No vehicles shall be put up on blocks or jacks to accommodate car repair on a lot except if such repairs are done in the garage.

E. Garbage, Trash and Other Refuse. No Owner of a Lot in the Development shall burn or bury out-of-doors, any garbage or refuse. Nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his or her Lot.

F. Ditches and Swales. All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales which may be located on their respective lots, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection.

G. Antennas. The Committee shall approve all exposed antennas. The maximum height of such antennae shall not exceed five (5) feet above the roof peak.

H. Solar Heat Panels. Unless otherwise approved by the Committee no solar heat panels shall be allowed on roofs, which may be visible from the front or rear of any residence in the Development. Such panels may be installed on the ground if enclosed within a fenced area within the Lot boundary and shall be located to the rear of the dwelling, and shall be approved by the Committee.

6. DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(i) In General. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any Lot in the Development, without prior 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 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 all existing conditions upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly 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 required to be submitted to the Committee shall be drawn to a scale of one-quarter ( $\frac{1}{4}$ ) inch equals one foot (1'), 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 Building Permits 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 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 these Restrictions;

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

(c) the proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) Developer Improvements. The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans therefor).

B. Duties of Committee. The Committee shall approve proposed improvements within fifteen (15) days after all required information is 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. In the event that a written approval is not received from the Committee within fifteen (15) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the disapproval of any such plans submitted.

C. In General. Any party to whose benefit these restrictions inure, including Developer, Association and any Owner in the Development, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing to abide by, enforce or carry out any of these Restrictions.

D. Liability of Committee. Neither the Committee nor any agency thereof, nor the Developer, 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.

E. Inspections. The Committee may inspect work being performed with Builders' or Owners' permission to assure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these restrictions to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the development.

8. REMEDIES.

A. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in paragraphs 2, 3 or 5 hereof, and in the further event that such failure is not remedied within thirty (30) days after written notice of the same is given by the Developer, the Association or any Owner, the Association, the Developer and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of such defaulting Owner's Lot or to any person, the Developer or the Association shall have the right to enter upon such Lot for the purpose of correcting such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association, the Developer or any Owner, in connection with any act or proceeding undertaken to abate, enjoin, or correct such failure including attorney fees and court costs shall be payable by the defaulting Owner upon demand by the Association, the Developer or any Owner, and shall immediately become a lien collectible by the Developer or any Owner, or the Association. The rights in the Owners, the Developer and the Association under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

B. Government Enforcement. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions, or other limitations contained in this document other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-A0-3, as amended, or any conditions attached to approval of the plat of Park Valley Estates, Section 1, by the Plat Committee.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or any estoppel of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

9. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners, covenant and agree and consent to and with Developer and to and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. 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 the neuter.

11. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of twenty (20) years from the date of filing this document with the Recorder's Office in Marion County, Indiana, and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless at the end of any term the Owners of seventy five percent (75%) of the Lots vote to terminate this Declaration, in which case this Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

B. Developer hereby reserves the right to make such amendments to this Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity prior to the sale of any Lots to any owner, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within the Development; provided that Developer 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 these Restrictions to any Owner or substantially increases the obligations imposed by these Restrictions on any Owner without the prior written approval of said Mortgagees and Owners.

12. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one

of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

13. DEDICATED STREETS.

All streets shown and not heretofore dedicated are hereby dedicated to the public.

14. HOMEOWNERS ASSOCIATION.

The Association shall be created as a not-for-profit corporation under the laws of the State of Indiana. The Association shall be incorporated and run in accordance with paragraph 15 through 18 of these Subdivision Restrictions.

15. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members in any one or more umbrella or joint homeowner's associations, if any, composed of associations and/or members from surrounding areas or if organized by the Builders or Lot Owners of a community.

B. Classes of Membership. The Association shall have three (3) classes of voting membership:

Class A & B. Class A & B members shall be all Owners with the exception of the Declarant. Class A & B members shall be entitled to one (1) 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.

The sole difference between a Class A member and a Class B member is the Class B member's Lot shall be provided lawn care and snow removal which is reflected in a larger monthly assessment.

The following Lots shall be Class A Member Lots:

Lots 50 through 61  
Lots 127 through 135  
Lots 143 through 180  
Lots 206 through 212  
Lots 227 through 231  
Lots 252 through 257

The following Lots shall be Class B Member Lots:

Lots 1 through 49  
Lots 199 through 205

Class C. The Class C member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns one hundred and thirty-three (133) Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner or Builder. Should the total number of platted lots within the Property exceed one hundred and thirty-three (133), the Declarant's votes shall be increased accordingly. The Class C membership shall cease and be converted to Class A or B membership on the happening of either of the events described in E below.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board

of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors' or officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for management services and such other services as the Association deems necessary or advisable. The Association shall be responsible to maintain that portion of the intersection of Park Royale Drive and Park Castle Way identified on the Site Development Plans as street bubble.

E. Transfer of Control of Association. Developer must transfer control of the Association to the Owners no later than the earlier of: a) four (4) months after three-fourths (3/4) of the Lots in the Development have been conveyed to Owners; or b) five (5) years after the first Lot is conveyed to an Owner in the Development.

16. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Common Property, as the Board of Directors shall deem appropriate.

B. The Association also shall obtain comprehensive public liability insurance and such other liability insurance, with such coverages and limits, as the Board of Directors shall deem appropriate. All such policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and shall name Mortgagees as mortgagees; and shall prohibit any cancellation or substantial modification to coverage without at least thirty (30) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

D. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

17. COVENANT FOR ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, repairing, operating, and maintenance of the Common Area, including, but not limited to, the payment of taxes and insurance thereon, for the cost of labor, equipment, material, and management furnished with respect to the Common Area, and any and all other Common Expenses, including trash pick-up. Designated lots shall be subject to an assessment for lawn care and snow removal. Class B lot lawns shall include, but shall not be limited to, the fertilizing, mowing and replanting when necessary of the grass; and the care, fertilizing, trimming, removal and replacement of trees planted by the Declarant or builder of a Dwelling Unit. It shall not include the care and maintenance of shrubs, trees which were not planted by Declarant or builder of a Dwelling Unit, flowers or other plants on any lot. Snow removal shall be limited to driveways and service walks. It shall not include patios, porches, entries or steps. Each Owner covenants and agrees to pay the Association:

(i) A Pro-rata Share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

(ii) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by the fraction of one over the total lots (1/Total Lots).

C. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

D. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common

Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of sixty percent (60%) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

F. Fiscal Year; Date of Commencement of Assessments; Due Date. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in the Development shall commence on the first day of the first month following the month in which Declarant or Builders first conveys ownership of any Lot to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefor as provided herein. The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and, with respect to particular Lots, shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments. The Declarant shall not pay an assessment on Lots which are not sold.

G. Duties of the Association.

(i) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(ii) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not remedied within sixty (60) days; (b) of any condemnation of casualty loss that affects either a material portion of the Development or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy required to be maintained by the Association; and (d) any proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-Payment of Assessments; Remedies of the Association.

(i) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate of any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(ii) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum and the Association may bring an action against the delinquent Owner in any court having jurisdiction to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following year, except that so long as the Declarant controls the Association, Declarant may, in its sole discretion, make up such deficit; provided, however that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 18% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners.

J. Initial Assessments. During the first year following the date of recordation of the Declaration for the Development the Assessments per Lot shall not exceed Nineteen Dollars (\$19.00) per month for Class A members and Forty Dollars (\$40.00) per month for Class B members, which includes the Nineteen Dollars (\$19.00) assessment to Class A members.

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes 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.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, 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.

18. ANNEXATION.

A. Property Subject to Annexation by Declarant. Declarant reserves the right to annex additional lands within the area described in Exhibit "B" without the consent of the Owners, or any other party within seven (7) years from the recordation date of the Declaration. The number of Dwelling Units within the total development shall be limited to 256.

B. Effective Date for Assessments and Voting Rights. The regular assessment provided for in the Declaration shall commence as to each Lot within the annexed area on the first day of the first month following the conveyance of the Lot to the Owner by the Declarant or Builder. Voting rights of the Owners of the Lots within the annexed property shall be effective upon the same date, except the Declarant shall have the voting rights provided for in Paragraph 15, Clause B.

C. Improvements. All improvements intended for future phases will be substantially completed prior to annexation. Any future improvements will be consistent with the initial improvements within the Property in terms of quality of construction.

D. 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, subject to the rights, liabilities and obligations specifically set forth as to the Declarant or a Builder in other sections of this Declaration.

E. 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, if any;
- (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.

F. 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 67 percent of the votes of the mortgaged units and with the consent of two-thirds (2/3) of each class of members.

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

7th IN WITNESS WHEREOF, witness the signature on behalf of the Developer this day of March, 1989.

CLOVERLEAF PROPERTIES  
(An Indiana General Partnership)

By: Roy L. Prock  
Signature

Roy L. Prock - General Partner

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Roy L. Prock, a General Partner of Cloverleaf Properties, an Indiana General Partnership, who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions as such General Partner acting for and on behalf of said Partnership, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 7th day of March, 1989.

Signature Billie D. Coffman

Printed BILLIE D. COFFMAN, Notary Public  
My Commission Expires January 24, 1993  
Notary Public Marion Co., Indiana

County of Residence:

Marion

My commission expires:

January 24, 1993

Consent of Builders:

The following Builders have read the above First Amended Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates, Section 1 (First Amendment) and consent to the terms of said First Amendment applying to the Lots already transferred to the Builders by the Declarant and to all future Lots to be purchased from the Declarant.

BUILDERS:

DAVIS BUILDING CORPORATION

By: Charles R. Davis  
Charles R. Davis, Chairman of the Board,  
Chief Executive Officer

DELUXE HOMES, INC.

By: Richard H. Crosser  
Richard H. Crosser, President

IVY HOMES, INC.

By: David L. Stroup  
David L. Stroup, President

This instrument prepared by: William T. Re , Attorney at Law, 8355 Rockville Road, Indianapolis, Indiana 46234.

## EXHIBIT "A"

## LAND DESCRIPTION

PARK VALLEY ESTATES, SECTION 1  
MARION COUNTY, INDIANAPOLIS, INDIANA

A part of the South half of the South half of the Northwest quarter and a part of the Southwest quarter of Section 33, Township 16 North, Range 5 East of the Second Principal Meridian in Warren Township, Marion County, Indiana, described as follows:

Commencing at the Southwest corner of said half half quarter section; thence North 00 degrees 00 minutes 00 seconds East along the West line of said half half quarter section 668.84 feet to the Northwest corner of said half half quarter section; thence North 89 degrees 59 minutes 42 seconds East along the North line of said half half quarter section 45.00 feet to the POINT OF BEGINNING and a point on the East right of way line of Mitthoefer Road as per right-of-way conveyance to the City of Indianapolis, Department of Transportation, by Trustee's Deed recorded on February 10, 1903 as Instrument No. 83-9213; thence continuing North 89 degrees 59 minutes 42 seconds East along said North line 1,196.03 feet; thence South 00 degrees 02 minutes 12 seconds West 598.49 feet; thence North 09 degrees 57 minutes 48 seconds West 72.53 feet; thence South 00 degrees 02 minutes 12 seconds West 120.00 feet; thence South 89 degrees 57 minutes 48 seconds East 50.00 feet; thence South 00 degrees 02 minutes 12 seconds West 120.00 feet; thence South 89 degrees 57 minutes 48 seconds East 36.90 feet; thence South 00 degrees 02 minutes 12 seconds West 170.00 feet; thence South 89 degrees 57 minutes 48 seconds East 390.20 feet; thence Southeasterly 103.26 feet (through a central angle of 28 degrees 00 minutes 00 seconds) along a tangent curve concave to the Southwest and having a radius of 375.00 feet to the end of said tangent curve (a radial line through said end bearing North 28 degrees 02 minutes 12 seconds East); thence South 61 degrees 57 minutes 48 seconds East along a tangent line 48.44 feet; thence South 38 degrees 46 minutes 48 seconds West 302.54 feet to a point on the South line of lands conveyed to Cloverleaf Properties, an Indiana General Partnership, under Instrument No. 06-26585 in the records of the Recorder of Marion County, Indiana; thence North 89 degrees 57 minutes 48 seconds West along said South line 1353.36 feet to the Southeast corner of lands conveyed to Mitthoefer Associates, an Indiana general partnership, under Instrument No. 08-87290 in the records of the Recorder of Marion County, Indiana; thence North 00 degrees 02 minutes 12 seconds East along the East line of said Mitthoefer Associates lands 150.00 feet to the Northeast corner of said Mitthoefer Associates lands; thence North 67 degrees 30 minutes 40 seconds East 122.98 feet to a point in a non-tangent curve concave to the Northeast and having a radius of 125.00 feet, a radial line of said non-tangent curve through said point bearing South 67 degrees 30 minutes 40 seconds West; thence Northerly along said non-tangent curve (through a central angle of 22 degrees 29 minutes 20 seconds) 49.06 feet to the end of said non-tangent curve; thence North 00 degrees 00 minutes 00 seconds East along a tangent line 45.08 feet; thence South 89 degrees 57 minutes 40 seconds East 215.12 feet; thence North 50 degrees 10 minutes 59 seconds West 78.27 feet; thence North 00 degrees 00 minutes 00 seconds East 339.00 feet; thence South 80 degrees 17 minutes 31 seconds West 98.09 feet; thence Southwesterly (through a central angle of 80 degrees 17 minutes 31 seconds) 14.01 feet along a tangent curve concave to the Southeast and having a radius of 10.00 feet to the end of said tangent curve, a radial line through said end bearing North 90 degrees 00 minutes 00 seconds West; thence South 89 degrees 52 minutes 58 seconds West along a non-tangent line 50.00 feet to a point in a non-tangent curve concave to the Southwest and having a radius of 10.00 feet, a radial line of said non-tangent curve through said point bearing North 90 degrees 00 minutes 00 seconds East;

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EXHIBIT "A"

thence Northwesterly (through a central angle of 90 degrees 00 minutes 00 seconds) along said non-tangent curve 15.71 feet to the end of said non-tangent curve (a radial line through said end bearing North 00 degrees 00 minutes 00 seconds East); thence North 90 degrees 00 minutes 00 seconds West 205.40 feet; thence Southwesterly (through a central angle of 89 degrees 39 minutes 24 seconds) 39.12 feet along a tangent curve concave to the Southeast and having a radius of 25.00 feet to the end of said tangent curve, a radial line through said end bearing North 89 degrees 39 minutes 24 seconds West; thence South 00 degrees 20 minutes 36 seconds West along a tangent line 487.44 feet to a point in the North line of said lands of Mitthoefer Associates; thence North 89 degrees 57 minutes 48 seconds West along said North line 10.00 feet to a point in said East right of way line of Mitthoefer Road; thence North 00 degrees 20 minutes 36 seconds East along said East right of way line 553.65 feet to a point South 00 degrees 00 minutes 00 seconds East 0.10 feet from the North line of said Southwest quarter section (South line of said half half quarter section); thence North 00 degrees 00 minutes 00 seconds East along said East right of way line 668.98 feet to the POINT OF BEGINNING, containing 35.915 acres, more or less.

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## EXHIBIT "B"

LAND DESCRIPTION  
PARK VALLEY ESTATES, SECTION 2  
INDIANAPOLIS, INDIANA

A part of the Southwest quarter of Section 33, Township 16 North, Range 5 East of the Second Principal Meridian in Warren Township, Marion County, Indiana, described as follows:

Commencing at the Northwest corner of said quarter section; thence South 00 degrees 20 minutes 36 seconds West along the West line of said quarter section 553.75 feet; thence South 89 degrees 57 minutes 48 seconds East 55.00 feet to a point in the East right of way line of Mitthoefer Road and the POINT OF BEGINNING of this description; thence North 00 degrees 20 minutes 36 seconds East along said East right of way line 487.44 feet; (the next six (6) courses are along the Southerly right of way line of Park Valley Drive) thence Northeasterly (through a central angle of 89 degrees 39 minutes 24 seconds) along a tangent curve concave to the Southeast (having a radius of 25.00 feet) 39.12 feet to the end of said tangent curve, a radial line through said end bearing North 00 degrees 00 minutes 00 seconds East; thence North 90 degrees 00 minutes 00 seconds East along a tangent line 285.40 feet; thence Southeasterly (through a central angle of 90 degrees 00 minutes 00 seconds) along a tangent curve concave to the Southwest (having a radius of 10.00 feet) 15.71 feet to the end of said tangent curve, a radial line through said end bearing North 90 degrees 00 minutes 00 seconds East; thence North 89 degrees 52 minutes 58 seconds East along a non-tangent line 50.00 feet to a point in a non-tangent curve concave to the Southeast and having a radius of 10.00 feet, a radial line of said non-tangent curve through said point bearing North 90 degrees 00 minutes 00 seconds West; thence Northeasterly (through a central angle of 80 degrees 17 minutes 31 seconds) along said non-tangent curve 14.01 feet to the end of said non-tangent curve, a radial line through said end bearing North 09 degrees 42 minutes 29 seconds West; thence North 80 degrees 17 minutes 31 seconds East along a tangent line 98.09 feet; (the next six (6) courses are along the Westerly boundary of Park Valley Estates, Section 1, a subdivision of Marion County, Indiana as per plat thereof recorded under Instrument No. 88-120911 in the records of the Recorder of Marion County, Indiana) thence South 00 degrees 00 minutes 00 seconds East 339.00 feet; thence South 50 degrees 10 minutes 59 seconds East 78.27 feet; thence North 89 degrees 57 minutes 48 seconds West 215.12 feet; thence South 00 degrees 00 minutes 00 seconds East 45.08 feet; thence Southeasterly (through a central angle of 22 degrees 29 minutes 20 seconds) along a tangent curve concave to the Northeast (having a radius of 125.00 feet) 49.06 feet to the end of said tangent curve, a radial line through said end bearing South 67 degrees 30 minutes 40 seconds West; thence South 67 degrees 30 minutes 40 seconds West along a non-tangent line 122.98 feet to the Northwest corner of Lot 180 in said Park Valley Estates, Section 1 and the Northeast corner of lands conveyed to Mitthoefer Associates, an Indiana general partnership, under Instrument No. 88-87290 in the records of the Recorder of Marion County, Indiana; thence North 89 degrees 57 minutes 48 seconds West along the North line of said Mitthoefer Associates lands 219.20 feet to the POINT OF BEGINNING, containing 5.100 acres, more or less.

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EXHIBIT "B"

LAND DESCRIPTION  
PARK VALLEY ESTATES, SECTION 3  
INDIANAPOLIS, INDIANA

A part of the South half of the South half of the Northwest quarter and a part of the Southwest quarter of Section 33, Township 16 North, Range 5 East of the Second Principal Meridian in Warren Township, Marion County, Indiana, described as follows:

Commencing at the Southwest corner of said half half quarter section; thence North 00 degrees 00 minutes 00 seconds East along the West line of said half half quarter section 668.84 feet to the Northwest corner of said half half quarter section; thence North 89 degrees 59 minutes 42 seconds East along the North line of said half half quarter section 1241.03 feet to the Northeast corner of Lot 52 in Park Valley Estates, Section 1, a subdivision of Marion County, Indiana as per plat thereof recorded under Instrument No. 88-120911 in the records of the Recorder of Marion County, Indiana and the POINT OF BEGINNING of this description; thence continuing North 89 degrees 59 minutes 42 seconds East along said North line 1320.14 feet; thence South 38 degrees 18 minutes 43 seconds West 531.68 feet; thence South 29 degrees 11 minutes 18 seconds West 754.22 feet to the most Easterly corner of said Park Valley Estates, Section 1; (the next ten (10) courses are along the Easterly boundary of said Park Valley Estates, Section 1) thence North 61 degrees 57 minutes 48 seconds West 48.44 feet; thence Northwesterly (through a central angle of 28 degrees 00 minutes 00 seconds) along a tangent curve concave to the Southwest (having a radius of 375.00 feet) 183.26 feet to the end of said tangent curve, a radial line through said end bearing North 00 degrees 02 minutes 12 seconds East; thence North 89 degrees 57 minutes 48 seconds West along a tangent line 390.20 feet; thence North 00 degrees 02 minutes 12 seconds East 170.00 feet; thence North 89 degrees 57 minutes 48 seconds West 36.90 feet; thence North 00 degrees 02 minutes 12 seconds East 120.00 feet; thence North 89 degrees 57 minutes 48 seconds West 50.00 feet; thence North 00 degrees 02 minutes 12 seconds East 120.00 feet; thence South 89 degrees 57 minutes 48 seconds East 72.53 feet; thence North 00 degrees 02 minutes 12 seconds East 596.49 feet to the POINT OF BEGINNING, containing 22.626 acres, more or less.

890077933

EXHIBIT "C"

GRASSY CREEK  
LAND DESCRIPTION OF  
15.414-ACRE DRAINAGE RIGHT OF WAY  
INDIANAPOLIS, INDIANA

A part of the South half of the South half of the Northwest quarter and a part of the Southwest quarter of Section 33, Township 16 North, Range 5 East of the Second Principal Meridian in Warren Township, Marion County, Indiana, described as follows:

Beginning at the Northeast corner of said Southwest quarter section; thence North 89 degrees 57 minutes 48 seconds West along the North line of said Southwest quarter section (South line of said half half quarter section) 165.00 feet; thence South 00 degrees 15 minutes 39 seconds West 703.75 feet; thence North 89 degrees 57 minutes 48 seconds West 869.45 feet to the Southeast corner of Lot 162 in Park Valley Estates, Section 1 as per plat thereof recorded under Instrument No. 88-120911 in the records of the Recorder of Marion County, Indiana; thence North 38 degrees 46 minutes 40 seconds East along the Easterly boundary of said Park Valley Estates, Section 1 for a distance of 382.54 feet to the most Easterly corner of said Park Valley Estates, Section 1; thence North 29 degrees 11 minutes 18 seconds East 754.22 feet; thence North 38 degrees 18 minutes 43 seconds East 531.69 feet to a point in the North line of said half half quarter section; thence North 89 degrees 59 minutes 42 seconds East along said North line 101.26 feet to the Northeast corner of said half half quarter section; thence South 00 degrees 14 minutes 15 seconds West along the East line of said half half quarter section 670.78 feet to the POINT OF BEGINNING, containing 15.414 acres, more or less.

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CROSS REFERENCE: Final Plat of Park Valley Estates, Section 1,  
recorded November 30, 1988 as Instrument No. 88-  
128911 in the Office of the Recorder of Marion  
County, Indiana.

Declaration of Covenants, Easements, Restrictions,  
and Assessments of Park Valley Estates, Section 1,  
recorded November 30, 1988 as Instrument No. 88-  
128910 in the Office of the Recorder of Marion  
County, Indiana.

First Amended Declaration of Covenants, Easements,  
Restrictions and Covenants of Park Valley Estates,  
Section 1, recorded August 10, 1989 as Instrument  
No. 89-77933 in the Office of the Recorder of  
Marion County, Indiana.

RECORDED  
INDEXED  
JAN 11 1993  
MARION COUNTY RECORDER

**SECOND AMENDED  
DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENTS  
OF  
PARK VALLEY ESTATES  
SECTION 1**

THIS SECOND AMENDED DECLARATION is made this 25th day of  
September, 1992, by Cloverleaf Properties, an Indiana General  
Partnership (hereinafter referred to as "Developer" or "Declarant"),  
and

**WITNESSES:**

Whereas, the Declarant had signed the Original Declaration  
which was recorded as Instrument No. 88-128910 in the Office of the  
Recorder of Marion County, Indiana and the First Amended Declaration  
which was recorded as Instrument No. 89-77933 in the Office of the  
Recorder of Marion County, Indiana.

Whereas, the Declarant and Lot Owners in Park Valley Estates  
during a Homeowners Association Meeting of Park Valley Estates  
Homeowners Association, Inc. ("Association") passed a resolution  
which was affirmed by Lot Owners and the Declarant to amend  
Paragraph 3 Section (v) FENCES 1 and 3.

Now, Therefore, the Declarant makes the following changes based  
on the duly passed Resolution of the Association:

04/07/93 DELOSH JOHN N. GENERAL MARION CITY RECORDER CLP 13.00 PAGE 3  
Inst # 1993-0039898



1. Paragraph 3 Section (v) Fences 1 and 3 shall be changed to:

(v) Fences All fences shall meet the following standards:

1. Maximum height of six (6) feet on any lot which does not front on or back up to Park Valley Drive at entry area or is not on a corner lot. The Committee may require landscaping along any sides exposed to streets.
3. Must be split rail, shadow box, decorative (black iron, aluminum picket, etc.), or chain link with green or black vinyl covered. Chain link fences cannot exceed four (4) feet in height.

Provisions 2, 4, 5, 6, and 7 of (v) remain the same.

In Witness Whereof, witness the signature on behalf of the Declarant this 25th day of September, 1990.

Cloverleaf Properties  
(an Indiana General Partnership)

By: Theodore E. Bruzas  
Theodore E. Bruzas, General Partner

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Theodore E. Bruzas, a General Partner of Cloverleaf Properties, an Indiana General Partnership, who acknowledged the execution of the foregoing Second Amendment to Declaration of Covenants, Easements, Restrictions, and Assessments of Park Valley Estates-Section I as such General Partner acting for and on behalf of said Partnership, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 25th day of September, 1990.

*J. E. Roach*

Signature

Printed

County of Residence:

JO E. ROACH, Notary Public  
My Commission Expires 8-3-95  
Residing in Marion County



My Commission Expires:

This instrument was prepared by and return to: William T. Rees,  
Attorney at Law, 8355 Rockville Road, Indianapolis, IN 46234.

1KK137.1

-3-

Park Valley Estates Homeowners Association

Amendment

(17)

CROSS REFERENCE:

Final Plat of Park Valley Estates, Section 1, recorded November 30, 1988 as Instrument No. 88-120911 in the Office of Recorder of Marion County, Indiana.

Declaration of Covenants, Easements, Restrictions, and Assessments of Park Valley Estates, Section 1, recorded November 30, 1988 recorded as Instrument No. 88-120910 in the Office of the Recorder of Marion County, Indiana.

First Amended Declaration of Covenants, Easements, Restrictions and Covenants of Park Valley Estates, Section 1, recorded August 10, 1989 as Instrument No. 89-77933 in the Office of the Recorder of Marion County, Indiana.

Second Amended Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates, Section 1, recorded April 7, 1993 as Instrument No. 1993-0039898 in the Office of the Recorder of Marion County, Indiana.

Third Amended Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates, Section 1, Indianapolis, Indiana

This third amended declaration is made this 30 day of October, 1996, by the Park Valley Estates Homeowners Association, a non-profit homeowners association (hereinafter referred to as "Association"), and

Witnesses:

Whereas, the Association is governed by the original declaration which was recorded as Instrument No. 88-120910 in the Office of the Recorder of Marion County, Indiana and the First Amended Declaration of Covenants, Easements, Restrictions and Covenants of Park Valley Estates, Section 1, recorded August 10, 1989 as Instrument No. 89-77933 in the Office of the Recorder of Marion County, Indiana, and the Second Amended Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates, Section 1, recorded April 7, 1993 as Instrument No. 1993-0039898 in the Office of the Recorder of Marion County, Indiana.

Whereas, the Association, comprised of lot owners in Park Valley Estates have through ballot voting passed resolutions to amend Paragraph 3.A.(v), Paragraph 3.A.(xvii), Paragraph 15.B, Paragraph 17.A.

Now, therefore, the Association makes the following changes based on the duly passed resolutions of the Association:

JOHN R. VON ARX  
MARION COUNTY AUDITOR  
066203 NOV 15 96  
SUBJECT TO FINAL SETTLEMENT  
FOR TRANSFER

11/15/96 11:01 AM JOAN N. BOWEN MARION CTY RECORDER MAR 18.08 PAGE 5  
Inst # 1996-0159890

## Park Valley Estates Homeowners Association

### 1. Paragraph 3.A.(v)

Fences. All fences shall meet the following standards:

1. Maximum height of six (6) feet on any lot which does not front on or back up to Park Valley Drive at entry area. The committee may require landscaping along any sides exposed to streets.
3. Must be split rail, shadow box, decorative (black iron, aluminum picket, etc.), or chain link with green, black or brown vinyl covering. Chain link fences cannot exceed four (4) feet in height.

Provisions 2, 4, 5, 6, and 7 of (v) remain the same.

## Park Valley Estates Homeowners Association

### 2. Paragraph 3.A.(xvii)

**Outbuildings** Outbuildings shall be allowed with certain restrictions as follows:

#### I. Locations:

1. No outbuildings, storage sheds or similar structures shall be erected on any "B" lots.
2. No outbuildings shall be placed in any area except to the rear of the home and must be approved by the development control committee.

#### II. Purpose/Restriction:

1. No outbuilding shall be used for any purpose other than storage of normal home maintenance and upkeep materials or equipment. Storage of any item that may invite an unhealthy and/or unsightly condition is expressly prohibited.
2. No storage of any kind, temporary or permanent, shall be allowed around, adjacent to, or on the exterior of buildings or between outbuildings and fences, shrubs or any other structure in close proximity to the outbuilding (including waste of any kind).
3. All lots shall be limited to one outbuilding.

#### III. Construction:

1. Listed below are the specifications for erecting an outbuilding in Park Valley Estates.
  - (A.) No construction of an outbuilding shall be started prior to obtaining the approval of the development control committee.
  - (B.) Maximum allowable square footage shall not exceed (120) square feet. Maximum allowable height shall not exceed (9) feet measured from the highest point of the yard ground.
  - (C.) The following construction materials shall be strictly adhered to:
    - (1.) Foundation:
      - wood=must be pressure treated
      - concrete=minimum of (4) inches thick
    - (2.) Frame:
      - wood=sidewalls minimum dimension of (2"X4"),  
flooring minimum of (2"X6") and roof trusses as appropriate.
    - (3.) Sidewall:
      - vinyl siding (must match and be color coordinated with house)
      - aluminum siding (must match and be color coordinated with house)
      - cedar siding (must have vertical "V" groove)
      - T-111 or better decorative plywood siding (must have vertical "V" groove)
      - wood lap siding (must approximate the style of house and material must be solid wood)
      - Note: chipboard, pressboard, plywood, etc., is not acceptable.
    - (4.) Exterior Trim:
      - wood (must be color coordinated with house)
    - (5.) Roofing:
      - roofing (must match house in style, type and color)
    - (6.) Opening/Crawlspace:
      - openings around the bottom of outbuildings shall be enclosed.
      - Suitability of material to be determined by the development control committee.

Park Valley Estates Homeowners Association

3. Paragraph 15.B

Classes of Membership.

The following paragraph:

“The sole difference between a Class A member and a Class B member is the Class B member’s lot shall be provided lawn care and snow removal which is reflected in a larger monthly assessment.”

Shall be deleted from the Declaration.

All other portions of Paragraph 15.B shall remain the same.

4. Paragraph 17.A

The following text:

“Designated lots shall be subject to an assessment for lawn care and snow removal. Class B Lot lawns shall include, but shall not be limited to, the fertilizing, mowing, and replanting when necessary of the grass; and the care, fertilizing, trimming, removal and replacement of trees planted by Declarant or builder of a Dwelling Unit. It shall not include the care and maintenance of shrubs, trees which were not planted by Declarant or builder of a Dwelling Unit, flowers or other plants on any lot. Snow removal shall be limited to driveways and service walks. It shall not include patios, porches, entries or steps.”

Shall be changed to read:

“Class B Lot lawns shall include fertilizing, trimming, removal and replacement of trees planted by Declarant or builder of a Dwelling Unit. It shall not include the care and maintenance of shrubs, trees which were not planted by Declarant or builder of a Dwelling Unit, flowers or other plants on any lot.”

All other portions of Paragraph 17.A shall remain the same.

Park Valley Estates Homeowners Association

In Witness Whereof, witness the signature on behalf of the Association this 2nd day of October, 1996.

Park Valley Estates Homeowners Association

By: [Signature]  
(Roy Miller, president)

State of Indiana

County of Marion

Before me, a Notary Public in and for said County and State, personally appeared Roy Miller, president of Park Valley Estates Homeowners Association, who acknowledged the execution of the foregoing Second Amended Declaration of Covenants, Easements, Restrictions and Assessments of Park Valley Estates, Sections 2 and 3, Indianapolis, Indiana, as president acting for and on behalf of said association, and who having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 2nd day of October, 1996.

Signature [Signature]

Printed DAVID M ZEYEN

County of Residence:

HAWCOCK

My commission expires:

10-8-1998

APPROVED THIS 31<sup>st</sup>  
DAY OF OCT. 19 96  
ASSESSOR OF WARREN TOWNSHIP  
Christine Stewart DNATED

5

