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MIKE TOWNSHIP
ASSESSOR

DEPT. OF METROPOLITAN DEVEL.
DATE 9/27/96
PER
ADMINISTRATOR

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

SPRING CREEK

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 27th day of SEPTEMBER 1996, by Adams & Marshall, Inc., an Indiana corporation (the "Developer").

Recitals

1. Developer is the owner of the real estate which is described in Exhibit "A" attached hereto and made a part hereof (the "Real Estate" or the "Initial Real Estate").

2. Developer intends to subdivide the Real Estate into residential lots.

3. Before so subdividing the Real Estate, Developer desires to subject the Real Estate to certain rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens for the purpose of preserving and protecting the value and desirability of the Real Estate for the benefit of each owner of any part thereof.

4. Developer further desires to create an organization to which shall be delegated and assigned the powers of maintaining and administering the common areas and certain other areas of the Real Estate and of administering and enforcing the covenants and restrictions contained in this Declaration and the Plat Covenants and Restrictions for Real Estate as hereafter recorded in the office of the Recorder of Marion County, Indiana and of collecting and disbursing the assessments and charges as herein provided.

5. Developer may from time to time subject additional real estate located within the tract adjacent to the Initial Real Estate to the provisions of this Declaration (the Initial Real Estate, together with any such addition, as and when the same becomes subject to the provisions of this Declaration as herein provided, is hereinafter referred to as the "Real Estate").

NOW, THEREFORE, Developer hereby declares that the Real Estate is and shall be acquired, held, transferred, sold, hypothecated, leased, rented, improved, used and occupied subject to the following provisions, agreements, covenants, conditions, restrictions, easements, assessments, charges and liens, each of

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which shall run with the land and be binding upon, and inure to the benefit of, Developer and any other person or entity hereafter acquiring or having any right, title or interest in or to the Real Estate or any part thereof.

ARTICLE I

DEFINITIONS

The following terms, when used in this Declaration with initial capital letters, shall have the following respective meanings:

1.1 "Association" means Spring Creek Community Association, Inc., an Indiana not-for-profit corporation, which developer has caused or will cause to be incorporated, and its successors and assigns.

1.2 "Architectural Review Committee" means the architectural review committee established pursuant to Article VI, paragraph 6.1 of this Declaration.

1.3 "Common Areas" means (i) all portions of the Real Estate (including improvements thereto) shown on any Plat of a part of the Real Estate which are not located on Lots and which are not dedicated to the public, and (ii) all facilities, structures, buildings, improvements and personal property owned or leased by the Association from time to time and (iii) the Landscape and Mounding Easements described in Article I, Paragraph 1.8 of this Declaration and designated Landscape and Mounding Easement or L.M.E. on the Plats. Common areas may be located within a public right-of-way or in an easement area as shown on the plat.

1.4 "Common Expenses" means (i) expenses of and in connection with the maintenance, repair or replacement of the Common Areas and the performance of the responsibilities and duties of the Association, including (without limitation) expenses for the improvement, maintenance or repair of the improvements, lawn, foliage and landscaping not located on a Lot except for lawn maintenance as described herein, (unless located on an Easement located on a Lot to the extent the Association deems it necessary to maintain such easement) (ii) expenses of and in connection with the maintenance, repair or continuation of the drainage facilities located within and upon the Easements, (iii) all judgments, liens and valid claims against the Association, (iv) all expenses incurred to procure liability, hazard and any other insurance with respect to the Common Areas and (v) all expenses incurred in the administration of the Association.

1.5 "Developer" means Adams & Marshall, Inc., an Indiana corporation, and any successors and assigns whom it designates in one or more written recorded instruments to have the rights of Developer hereunder.

1.6 "Development Period" means the period of time commencing with the date of recordation of this Declaration and ending on the date Developer or its affiliates no longer own any Residence Unit or Lot within or upon the Real Estate, but in no event shall the Development Period extend beyond the date ten (10) years after the date this Declaration is recorded.

1.7 "Easement" or "Easements"" means those areas so designated or designated D&U, D,U & Sanitary, Sanitary Sewer, Drain Tile and Landscape and Mounding (L.M.E.) on a Plat of any part of the Real Estate. The Easements are hereby created and reserved (a) for the use of Developer, all public utility companies (not including transportation companies), governmental agencies and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including but not limited to sanitary sewers, storm sewers and cable television services; and (b) for (i) the use of Developer during the Development Period for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property, (ii) the use of the Association and the Departments of Public Works and/or Capital Asset Management of the City of Indianapolis for access to and maintenance, repair and replacement of such drainage system and for access to and maintenance, repair and replacement of the sanitary sewer system. The owner of any Lot subject to an Easement, including any builder, shall be required to keep the portion of said Easement on the Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without a permit from the Department of Public Works or Department of Capital Asset Management of the City of Indianapolis and prior written approval of the Developer. The delineation of the Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it hereunder. Except as provided above, no structures or improvements (except walkways and driveways), including without limitation decks, patios, or landscaping of any kind, shall be erected or maintained upon the Easements, and any such structure or improvement so erected upon such easement shall, at Developer's written request, be removed by the Owner at the Owner's sole cost and expense. The Owners of Lots in the Subdivision subject to an

Easement shall take and hold title to the Lots subject to the Easements herein created and reserved.

1.8 "Landscape and Mounding Easements" means those areas of ground so designated or designated L.M.E. on a Plat of any part of the Real Estate. Developer hereby declares, creates and reserves the Landscape and Mounding Easements for the preservation of the subdivision identification signage, the mounds, the trees, bushes, shrubbery and other vegetation in such areas. No improvements (including, without limitation, decks, walkways, patios and fences except these fences constructed by the Developer which are explicitly permitted) shall be erected or maintained within or upon such Landscape and Mounding Easements without the prior written permission of the Architectural Review Committee. No living trees, bushes, shrubbery or other vegetation shall be removed from any Landscape and Mounding Easement except (a) by public utility companies, governmental agencies, Developer, the Department of Public Works or the Department of Capital Asset Management of the City of Indianapolis or the Association in connection with such entity's use of the Drainage Utility and Sewer Easements as herein permitted; or (b) by Developer (or any entity related to Developer) in connection with the development of the Real Estate. The Owners of Lots shall take and hold title to the Lots subject to the Landscape and Mounding Easements herein created and reserved.

1.9 "Lot" means any parcel of land shown and identified as a lot on a Plat of any part of the Real Estate.

1.10 "Mortgagee" means the holder of a recorded first mortgage lien on any Lot or Residence Unit.

1.11 "Owner" means the record owner, whether one or more persons or entities, of fee-simple title to any Lot, or Residence Unit designed for occupancy by one family, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation unless specifically indicated to the contrary. The term Owner as used herein shall include Developer so long as Developer shall own any Lot, Residence Unit or any Real Estate in the Real Estate.

1.12 "Plat" means a duly approved final plat of any part of the Real Estate as hereafter recorded in the office of the Recorder of Marion County, Indiana.

1.13 "Residence Unit" means one-half (1/2) of a building designed for residential occupancy including one-half (1/2) of the thickness of any party wall separating the Residence Unit from another Residence Unit comprising the building. A Lot may contain one (1) or two (2) Residence Units.

ARTICLE II

APPLICABILITY

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

The Owner of any Lot or Residence Unit (i) by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from the Developer or its affiliates or any builder or any subsequent Owner of the Residence Unit, or (ii) by the act of occupancy of the Residence Unit, shall conclusively be deemed to have accepted such deed, executed such contract or undertaken such occupancy subject to the covenants, conditions, restrictions, terms and provisions of this Declaration. By acceptance of a deed, execution of a contract or undertaking of such occupancy, each Owner covenants for the Owner, the Owner's heirs, personal representatives, successors and assigns, with Developer and the Owners from time to time, to keep, observe, comply with and perform the covenants, conditions, restrictions, terms and provisions of this Declaration.

ARTICLE III

PROPERTY RIGHTS

3.1 Owners' Easement of Enjoyment of Common Areas. Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas. Such easement shall run with and be appurtenant to each Lot and Residence Unit, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of the recreational facilities, if any, situated upon the Common Areas;

(ii) the right of the Association to fine any Owner or make a special assessment against any Residence Unit or Lot in the event a person permitted to use the Common Areas by the Owner of the Residence Unit violates any rules or regulations of the Association as long as such rules and regulations are applied on a reasonable and nondiscriminatory basis;

(iii) the right of the Association to make reasonable regular assessments for use and maintenance of the Common Areas;

(iv) the right of the Association to dedicate or transfer all or any part of the Common Areas or to grant easements to any public agency, authority or utility for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer;

(v) the right of the Association to enforce collection of any fines or regular or special assessments through the imposition of a lien pursuant to Paragraph 7.7;

(vi) the rights of Developer as provided in this Declaration and in any Plat of any part of the Real Estate;

(vii) the terms and provisions of this Declaration;

(viii) the easements reserved elsewhere in this Declaration and in any Plat of any part of the Real Estate; and

(ix) the right of the Association to limit the use of Common Areas in a reasonable nondiscriminatory manner for the common good.

3.2 Permissive Use. Any owner may permit his or her family members, guests, tenants or contract purchasers who reside in the Residence Unit to use his or her right of enjoyment of the Common Areas. Such permissive use shall be subject to the By-Laws of the Association and any reasonable nondiscriminatory rules and regulations promulgated by the Association from time to time.

3.3 Conveyance of the Common Areas. Developer may convey all of its right, title, interest in and to any of the Common Areas to the Association by quitclaim deed, and such Common Areas so conveyed shall then be the property of the Association.

3.4 Excluded Common Areas. Common Areas B, E, G and N as shown on the Plat ("Excluded Common Areas") will be deeded to the fee simple title owners of the Real Estate located immediately adjacent to the Excluded Common Areas. The Excluded Common Areas will not be subject to the terms and conditions contained in these Declarations once the Excluded Common Areas are deeded to the adjacent property owners.

3.5 Public Access. Access to the Linear Park Easement is hereby reserved and granted to the general public through Common Areas H, M and F. Use of the Linear Park Easement is hereby reserved and granted to the general public.

ARTICLE IV

USE RESTRICTIONS

4.1 Lease of Residence Units. If any Owner desires to lease a unit, such rental shall be pursuant to a written lease with a minimum term of one year and such lease shall provide that the lessee shall be subject to all rules and regulations of the Association and the terms and conditions of these Declarations.

4.2 Use of Common Areas. The Common Areas shall not be used for commercial purposes.

4.3 Lot Access. All Lots shall be accessed from the interior streets of the Real Estate. No direct access is permitted to any Lot from Moller Road.

4.4 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or surrounding Common Area, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

4.5 Prohibited Activities. No noxious or offensive activity shall be carried on upon any Lot or Common Areas, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Each Lot and all Common Areas shall be kept and maintained in a sightly and orderly manner and no trash or other rubbish shall be permitted to accumulate thereon. The Board of Directors shall promulgate and enforce such rules and regulations as it deems necessary for the common good in this regard.

4.6 Signs. No signs of any nature, kind or description (including incidental signs as regulated in Section 2.19 of the Dwelling District Zoning Ordinance of Marion County, Indiana 89-AO-2; as amended) shall be erected, placed or maintained on or in front of any Lot which identify, advertise or in any way describe the existence or conduct of a home occupation. No "for sale" signs, whether by realtor or Owner, shall be permitted until such time as Declarant owns five (5) or fewer Lots.

4.7 Home Occupations. No home occupation shall be conducted or maintained in any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot. Nothing contained herein shall be construed or interpreted to affect the activities of Declarant in the sale of Lots as a part of the development of the Properties,

including, specifically, Declarant's right to post such signs and maintain such model residences as it deems necessary until such time as Declarant's last Lot is sold..

4.8 Parking. No parking shall be allowed on the streets except for emergencies.

4.9 Other Use Restrictions Contained in Plat Covenants and Restrictions. The Plat Covenants and Restrictions relating to the Real Estate contain additional restrictions on the use of the Lots in the Real Estate, including without limitation prohibitions against commercial use and nuisances and restrictions relating to temporary structures, vehicle parking, signs, mailboxes, garbage and refuse disposal, storage tanks, water supply and sewage systems, ditches and swales, driveways, antenna and satellite dishes, awnings, fencing, swimming pools, solar panels and outside lighting. Such prohibitions and restrictions contained in the Plat Covenants and Restrictions are hereby incorporated by reference as though fully set forth herein.

ARTICLE V

ASSOCIATION

5.1 Membership. Each Owner of a Residence Unit automatically upon becoming an Owner, shall be and become a member of the Association and shall remain a member of the Association so long as he or she owns the Residence Unit.

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

(i) Class A Members. Class A members shall be all Owners other than Developer (unless Class B membership has been converted to Class A membership as provided in the following subparagraph (ii), in which event Developer shall then have a Class A membership). Each Class A member shall be entitled to one (1) vote for each Residence Unit owned by Owner.

(ii) Class B Member. The Class B member shall be the Developer. The Class B member shall be entitled to eighty-two (82) votes. The Class B membership shall cease and terminate and be converted to Class A membership upon the "Applicable Date" (as such term is hereinafter defined in paragraph 5.3).

5.3 Applicable Date. As used herein, the term "Applicable Date" shall mean the date when the total votes outstanding in the Class A membership is equal to the total votes outstanding in the

Class B membership, December 31, 2001, or such date as determined by Developer, whichever comes first.

5.4 Multiple or Entity Owners. Where more than one person or entity constitutes the Owner of a Residence Unit, all such persons or entities shall be members of the Association, but the single vote in respect of such Residence Unit shall be exercised as the persons or entities holding an interest in such Residence Unit determine among themselves. In no event shall more than one person exercise a Residence Unit's vote under Paragraph 5.2 (in the case of Class A membership). No Residence Unit's vote shall be split.

5.5 Board of Directors. The members of the Association shall elect a Board of Directors of the Association as prescribed by the Association's Articles of Incorporation and By-Laws. The Board of Directors of the Association shall manage the affairs of the Association.

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

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

(i) Maintenance of the Common Areas including any and all improvements thereon in good repair as the Association deems necessary or appropriate, including streets, sidewalks and recreation areas. Maintenance of the Landscape and Mounding Easements may be performed by the Association but the Owners whose Lots are subject to such easements shall have the primary responsibility for such maintenance; provided, however, that maintenance of the Landscape and Mounding Easements adjoining Moller Road shall be the responsibility of the Association.

(ii) Installation and replacement of any and all improvements, signs, lawn, foliage and landscaping in and upon the Common Areas as the Association deems necessary or appropriate.

(iii) Maintenance, repair and replacement of all private street signs.

(iv) Mowing of lawns located on any Lot which shall be considered part of the Common Areas for purposes of maintenance only. Owners shall be responsible for edging around fences, shrubs and bushes. Maintenance of lawns shall mean solely the mowing of

grass and the care, fertilizing, trimming, removal and replacement of trees planted by the Developer. It shall not include the fertilizing or watering of lawns on Lots which shall be the responsibility of the Owner nor the care and maintenance of (i) shrubs, (ii) trees which were not planted by Developer, (iii) flowers, or (iv) other plants on any Lot, nor shall maintenance of lawns mean the mowing of grass within any fenced portion of any Lot for which permission to fence has been granted as herein provided.

(v) Replacement of the drainage system in and upon the Common Areas as the Association deems necessary or appropriate and the maintenance of any drainage system installed in or upon the Common Areas by Developer or the Association. Nothing herein shall relieve or replace the obligation of the Owner, including any builder, of a Lot subject to an Easement to keep the portion of the drainage system and Drainage Utility and Sewer Easement on the Lot free from obstructions so that the storm water drainage will be unimpeded.

(vi) Procuring and maintaining for the benefit of the Association, its officers and Board of Directors and the Owners, the insurance coverage required under this Declaration and such other insurance as the Board of Directors deems necessary or advisable.

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

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

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

(x) Enforcing the rules and regulations of the Association and the requirements of this Declaration and the zoning covenants and commitments.

5.8 Powers of the Association. The Association may adopt, amend, or rescind reasonable rules and regulations (not inconsistent with the provisions of this Declaration) governing the use and enjoyment of the Common Areas and the management and administration of the Association, as the Association deems necessary or advisable. The rules and regulations promulgated by the Association may provide for reasonable interest an late charges on past due installments or any regular or special assessments or other charges against any Residence Unit or Lot. The Association shall furnish or make copies available of its rules and regulations

to the Owners prior to the time when the rules and regulations become effective.

5.9 Compensation. No director or officer of the Association shall receive compensation for services as such director or officer except to the extent expressly authorized by a majority vote of the Owners present at a duly constituted meeting of the Association members.

5.10 Non-liability of Directors and Officers. The directors and officers of the Association shall not be liable to the Owners or any other persons for any error or mistake of judgment in carrying out their duties and responsibilities as directors or officers of the Association, except for their own individual willful misconduct or gross negligence. It is intended that the directors and officers of the Association shall have no personal liability with respect to any contract made by them on behalf of the Association except in their capacity as Owners.

5.11 Indemnity of Directors and Officers. The Association shall indemnify, hold harmless and defend any person, his or her heirs, assigns and legal representatives (collectively, the "Indemnitee") made or threatened to be made a party to any action, suit or proceeding by reason of the fact that he or she is or was a director or officer of the Association, against all costs and expenses, including attorneys fees, actually and reasonably incurred by the Indemnitee in connection with the defense of such action, suit or proceeding, or in connection with any appeal thereof, expect in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Indemnitee is guilty of gross negligence or willful misconduct in the performance of his or her duties. The Association shall also reimburse any such Indemnitee for the reasonable costs of settlement of or for any judgment rendered in any action, suit or proceeding, unless it shall be adjudged in such action, suit or proceeding that such Indemnitee was guilty of gross negligence or willful misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against an Indemnitee, no director or officer shall be considered or deemed to be guilty of or liable for gross negligence or willful misconduct in the performance of his or her duties where, acting in good faith, such director or officer relied on the books and records of the Association or statements or advice made by or prepared by any managing agent of the Association or any director or officer of the Association, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service, unless such director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of gross negligence or willful misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of

Directors of the Association. The costs and expenses incurred by an Indemnitee in defending any action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnitee to repay the amount paid by the Association if it shall ultimately be determined that the Indemnitee is not entitled to indemnification or reimbursement as provided in this Paragraph 5.11.

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

ARTICLE VI

ARCHITECTURAL REVIEW COMMITTEE

6.1 Creation. There shall be, and hereby is, created and established the Architectural Review Committee to perform the functions provided for herein. At all times during the Development Period, the Architectural Review Committee shall consist of three (3) members appointed, from time to time, by Developer and who shall be subject to removal by Developer at any time with or without cause. After the end of the Development Period, the Architectural Review Committee shall be a standing committee of the Association, consisting of three (3) persons appointed, from time to time, by the Board of Directors of the Association. The Board of Directors may at any time after the end of the Development Period remove any member of the Architectural Review Committee at any time upon a majority vote of the members of the Board of Directors.

6.2 Purposes and Powers of the Architectural Review Committee. The Architectural Review Committee shall review and approve the design, appearance and location of all residences, buildings, structures or any other improvements placed by any person, including any builder, on any Lot, and the installation and removal of any trees, bushes, shrubbery and other landscaping on any Lot, in such a manner as to preserve and enhance the value and desirability of the Real Estate and to preserve the harmonious

relationship among structures and the natural vegetation and topography.

(i) In General. No residence, building, structure, satellite dish, antenna, walkway, fence, deck, wall,patio or other improvement of any type or kind shall be erected, constructed, placed or altered on any Lot and no change shall be made in the exterior color of any Residence Unit or accessory building located on any Lot without the prior written approval of the Architectural Review Committee. Such approval shall be obtained only after written application has been made to the Architectural Review Committee by the Owner of the Lot requesting authorization from the Architectural Review Committee. Such written application shall be in the manner and form prescribed from time to time by the Architectural Review Committee and, in the case of construction or placement of any improvement shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or replacement. Such plans shall include plot plans showing 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 Architectural Review Committee may reasonably require. Unless otherwise specified by the Architectural Review Committee,plot plans shall be prepared by either a registered land surveyor, engineer or architect. It is contemplated that the Architectural Review Committee will review and grant general approval of the floor plans and exterior styles of the homes expected to be offered and sold by the builders and that such review and approval will occur prior to the builders selling any homes in the community. Unless otherwise directed in writing by the Architectural Review Committee, once a builder has received written approval of a particular floor plan and exterior style, it shall not be necessary to reapply to the Architectural Review Committee in order for such builder to build the same floor plan and exterior style on other Lots.

(ii) Power of Disapproval. The Architectural Review Committee may refuse to approve any application made as required under Paragraph 6.2(i) above (a "Requested Change") when:

(a) The plans, specifications, drawings or other material submitted are inadequate or incomplete, or show the Requested Change to be in violation of any restrictions in this Declaration or in a Plat of any part of the Real Estate;

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

(c) The Requested Change, or any part thereof, in the opinion of the Architectural Review Committee, would not preserve or enhance the value and desirability of the Real Estate or would otherwise be contrary to the interests, welfare or rights of the Developer or any other Owner.

(iii) Rules and Regulations. The Architectural Review Committee, from time to time, may promulgate, amend or modify additional rules and regulations as it may deem necessary or desirable to guide Owners as to the requirements of the Architectural Review Committee for the submission and approval of items to it. Such rules and regulations may set forth additional requirements to those set forth in this Declaration or a Plat of any part of the Real Estate, as long as the same are not inconsistent with this Declaration or such Plat(s).

6.3 Duties of the Architectural Review Committee. If the Architectural Review Committee does not disapprove a Requested Change within thirty (30) days after all required information on the Requested Change shall have been submitted to it, then such Requested Change shall be deemed approved. One Copy of submitted material shall be retained by the Architectural Review Committee for its permanent files.

6.4 Liability of the Architectural Review Committee. Neither the Architectural Review Committee, the Association nor any agent of any of the foregoing, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto or for any decision made by it unless made in bad faith or by willful misconduct.

6.5 Inspection. The Architectural Review Committee or its representative may, but shall not be required to, inspect work being performed to assure compliance with this Declaration and the materials submitted to it pursuant to this Article VI and may require any work not consistent with the approved Requested Change, or not approved, to be stopped and removed.

ARTICLE VII

ASSESSMENTS

7.1 Purpose of Assessments. The purpose of Regular an Special Assessments is to provide funds to maintain and improve the Common Areas and related facilities for the benefit of the Owners, and the same shall be levied for the following purposes: (i) to promote the health, safety and welfare of the residents occupying the Real Estate, (ii) for the improvement, maintenance and repair of the Common Areas, the improvements, lawn foliage and landscaping

within and upon the Common Areas, any Landscape and Mounding Easement, any Drainage Utility and Sewer Easement and the drainage system, and (iii) for the performance of the responsibilities specifically provided for herein. A portion of the Regular Assessment may be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of any capital improvements which the Association is required to maintain.

7.2 Regular Assessments. The Board of Directors of the Association shall have the right, power and authority, without any vote of the members of the Association, to fix from time to time the Regular Assessment against each Residence Unit at any amount not in excess of the Maximum Regular Assessment as follows:

(i) Until December 31, 1996, the Maximum Regular Assessment on any Residence Unit for any calendar year shall not exceed Two Hundred Twenty-Eight Dollars ($228.00).

(ii) From and after January 1, 1997, the Maximum Regular Assessment on any Residence Unit for any calendar year may be increased by not more than fifteen percent (15%) above the Regular Assessment for the previous calendar year without a vote of the members of the Association as provided in the following subparagraph (iii).

(iii) From and after January 1, 1998, the Board of Directors of the Association may fix the Regular Assessment at an amount in excess of the maximum amount specified in subparagraph (ii) above only with the approval of a majority of those members of each class of members of the Association who cast votes in person or by proxy at a meeting of the members of the Association duly called for such purpose.

(iv) Each Residence Unit shall be assessed an equal amount for any Regular Assessment, excepting any proration for ownership during only a portion of the assessment period.

7.3 Special Assessments. In addition to Regular Assessments, the Board of Directors of the Association may make Special Assessments against each Residence Unit, for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing or replacing any capital improvement which the Association is required to maintain or the cost of special maintenance and repairs or to recover any deficits (whether from operations or any other loss) which the Association may from time to time incur, but only with the assent of two-thirds (2/3) of the members of each class of members of the Association who cast votes in person or by proxy at a duly constituted meeting of the members of the Association called for such purpose.

7.4 No Assessment Against Developer or Builders During the Development Period. Neither the Developer nor, except as otherwise provided in Paragraph 7.8 and Article 9 below, any builder nor any related entity shall be assessed any portion of any Regular or special Assessment during the Development Period.

7.5 Date of Commencement of Regular or Special Assessments; Due dates. The Regular Assessment or Special Assessment, if any, shall commence as to each Residence Unit on the first day of the first calendar month following the first conveyance of such Residence Unit to an Owner who is not one of the persons named in Paragraph 7.4 above.

At closing the Owner shall pay an amount equal to one (1) year's Regular Assessment which shall be applied against the obligations set forth in Article VII.

The Board of Directors of the Association shall fix the amount of the Regular Assessment at least thirty (30) days in advance of each annual assessment period. Written notice of the Regular Assessment, any Special Assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to each Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Board of Directors may provide for reasonable interest and late charges on past due installments of assessments.

7.6 Failure of Owner to Pay Assessments.

(i) No Owner shall be exempt from paying Regular Assessments and Special Assessments due to such Owner's nonuse of the Common Areas or abandonment of the Residence Unit or Lot belonging to such Owner. If any Owner shall fail, refuse or neglect to make any payment of any assessment (or periodic installment of an assessment, if applicable) when due, the lien for such assessment (as described in Paragraph 7.7 below) may be foreclosed by the Board of Directors of the Association for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any assessment when due, the Board of Directors of the Association may in its discretion accelerate the entire balance of any unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any assessment, the Owner and any occupant of the Residence Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Residence Unit, and the Board of Directors shall be entitled to the appointment of a receiver for

the purpose of preserving the Residence Unit or Lot, and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid assessments. The Board of Directors of the Association, at its option, may in the alternative bring suit to recover a money judgment for any unpaid assessment without foreclosing or waiving the lien securing the same. In any action to recover an assessment, whether by foreclosure or otherwise, the Board of Directors of the Association, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Residence Unit or Lot, costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such assessments were due until paid.

(ii) Notwithstanding anything contained in this Paragraph 7.6 or elsewhere in this Declaration, any sale or transfer of a residence Unit or Lot to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Residence Unit, or the purchaser thereof, at such foreclosure sale, or the grantee in the event of conveyance in lieu thereof, from liability for any assessments (or periodic installments of such assessments, if applicable) thereafter becoming due or from the lien therefor.

7.7 Creation of Lien and Personal Obligation. Each Owner (other than the Developer or a builder during the Development Period) of a Residence Unit or Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) regular assessments for Common Expenses ("Regular Assessments") and (ii) special assessments for capital improvements and operating deficits and for special maintenance and repairs ("Special Assessments"). Such assessments shall be established, shall commence upon such dates and shall be collected as herein provided. All such assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a continuing lien upon the Residence Unit or Lot against which such assessment is made prior to all other liens except only (i) tax liens on any Residence Unit or Lot in favor of any unit of government or special taxing district and (ii) the lien of any first mortgage of record. Each such assessment, together with interest, costs of collection and reasonable attorneys' fees, shall also be the personal obligation of the Owner of the Residence Unit or Lot at the time such assessment became due and payable. Where the Owner constitutes

more than one person, the liability of such persons shall be joint and several. The personal obligation for delinquent assessments (as distinguished from the lien upon the Residence Unit) shall not pass to such Owner's successors in title unless expressly assumed by them. The Association, upon request of a proposed Mortgagee or proposed purchaser having a contractual right to purchase a Residence Unit, shall furnish to such Mortgagee or purchaser a statement setting forth the amount of any unpaid Regular or Special Assessments or other charges against the Residence Unit or Lot. Such statement shall be binding upon the Association as of the date of such statement.

7.8 Expense Incurred to Clear Easement Deemed a Special Assessment. As provided in Paragraph 1.7 above, the Owner of any Lot subject to an Easement, including any builder, shall be required to keep the portion of the Easement on the Lot free from obstructions so that the storm water drainage will not be impeded and will not be changed or altered without a permit from the Department of Public Works or Department of Capital Asset Management and prior written approval of the Developer. Also, no structures or improvements, including without limitation decks, patios, fences, or landscaping of any kind, shall be erected or maintained upon said easements, and any such structure or improvement so erected shall, at Developer's written request, be removed by the Owner at the Owner's sole cost and expense. If, within thirty (30) days after the date of Developer's written request, such Owner shall not have commenced and diligently and continuously effected the removal of any obstruction of storm water drainage or any prohibited structure or improvement, Developer may, on behalf of the Association, enter upon the Lot and cause such obstruction, structure or improvement to be removed so that the Easement is returned to its original designed condition. In such event, Developer, on behalf of the Association, shall be entitled to recover the full cost of such work from the offending Owner and such amount shall be deemed a Special Assessment against the Lot owned by such Owner which, if unpaid, shall constitute a lien against such Lot and may be collected by the Association pursuant to this Article 7 in the same manner as any other Regular Assessment or Special Assessment may be collected.

ARTICLE VIII

INSURANCE

8.1 Casualty Insurance. The Association shall purchase and maintain fire and extended coverage insurance in an amount equal to the full insurable replacement cost of any improvements owned by the Association. If the Association can obtain such coverage for a reasonable amount, it shall also obtain "all risk coverage." The Association shall also insure any other property, whether real or

personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable. Such insurance policy shall name the Association as the insured. The insurance policy or policies shall, if possible, contain provision that the insurer (i) waives its rights to subrogation as to any claim against the Association, its Board of Directors, officers agents and guests and (ii) waives any defense to payment based on invalidity arising from the acts of the insured. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried.

8.2 Liability Insurance. The Association shall also purchase and maintain a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of One Million Dollars ($1,000,000) per occurrence. Such comprehensive public liability insurance shall cover all of the Common Areas and shall inure to the benefit of the Association, its Board of Directors, officers, agents and employees, any committee of the Association or of the Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate and the Developer.

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

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

ARTICLE IX

MAINTENANCE

9.1 Maintenance of Lots and Improvements. Except to the extent such maintenance shall be the responsibility of the Association under any of the foregoing provisions of this Declaration, it shall be the duty of the Owner of each Lot, including any builder during the building process, to keep the grass on the Lot properly cut and keep the Lot, including any Easements located on the Lot, free of weeds, trash or construction debris and otherwise neat and attractive in appearance, including, without limitation, the property maintenance of the exterior of any structures on such Lot. If the Owner of any Lot fails to do so in a manner satisfactory to the Association, the Association, after

approval by a majority vote of the Board of Directors, shall have the right (but not the obligation), through its agents, employees and contractors, to enter upon said Lot and to clean, repair, maintain or restore the Lot, as the case may be, and the exterior of the improvements erected thereon. The cost of any such work shall be and constitute a Special Assessment against such Lot and the Owner thereof, whether or not a builder, and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

9.2 Damage to Common Areas. In the event of damage to or destruction of any part of the Common Areas or any improvements which the Association is required to maintain hereunder, the Association shall repair or replace the same to the extent of the availability of insurance proceeds. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds or against such Owners who benefit by the Special Assessments if less than all benefit. Notwithstanding any obligation or duty of the Association hereunder to repair or maintain the Common Areas, if, due to the willful, intentional or negligent acts or omissions of any Owner (including any builder) or of a member of the owner's family or of a guest, tenant, invitee or other occupant of visitor of such Owner, damage shall be caused to the Common Areas, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then the Association shall cause such repairs to be made and such Owner shall pay for such damage and such maintenance, repairs and replacements, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and constitute a Special Assessment against such Owner, whether or not a builder, and its Residence Unit and Lot, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

9.3 Common Driveways. When two (2) Residence Units share a driveway, but are located on separate Lots, then the Owner of each Residence Unit shall be equally responsible for the maintenance of the driveway. No Owner shall block access to the one-half (1/2) of the driveway or garage used for the other Residence Unit. Either Owner of a Residence Unit may institute repair or maintenance of the driveway and the other Residence Unit Owner shall be equally responsible for the cost of the repair or maintenance. If any

Owner fails to contribute for the Owner's share of the cost of repair or maintenance, the other Owner may bring an action to recover the costs and shall be entitled to receive costs, expenses and reasonable attorneys' fees in pursuing collection of the costs.

ARTICLE X

MORTGAGES

10.1 Notice to Mortgagees. The Association, upon request, shall provide to any Mortgagee a written certificate or notice specifying unpaid assessments and other defaults, if any, of the Owner of a Residence Unit or Lot in the performance of the Owner's obligations under this Declaration or any other applicable documents.

10.2 Notice to Association. Any Mortgagee who holds a first mortgage lien on a Lot or Residence Unit may notify the Secretary of the Association of the existence of such mortgage and provide the name and address of the Mortgagee. A record of the Mortgagee and name and address shall be maintained by the Secretary of the Association and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws of the Association or otherwise shall be deemed effectively given if mailed to the Mortgagee at the address shown in such record in the time provided. Unless notification of a Mortgage and the name and address of the Mortgagee are furnished to the Secretary, as herein provided, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws of the Association or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws of the Association, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

10.3 Mortgagees' Rights Upon Default by Association. If the Association fails (i) to pay taxes or the charges that are in default and that have or may become charges against the Common Areas, or (ii) to pay on a timely basis any premium on hazard insurance policies on Common Areas or to secure hazard insurance coverage for the Common Areas upon lapse of a policy, then the Mortgagee on any Lot or Residence Unit may make the payment on behalf of the Association.

ARTICLE XI

AMENDMENTS

11.1 By the Association. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

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

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

(iii) Meeting. The resolution concerning a proposed amendment must be adopted by the vote required by Paragraph 11.1(iv) at a meeting of the members of the Association duly called and held in accordance with the provisions of the By-Laws.

(iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67) in the aggregate of all Owners; provided, that any such amendment shall require the prior written approval of a Developer so long as Developer or any entity related to the Developer owns any Lot or Residence Unit within and upon the Real Estate. In the event any Residence Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing Paragraph 10.2.

(v) Mortgagees' Vote On Special Amendments. No amendments to this Declaration shall be adopted which changes any provision of this Declaration which would be deemed to be of a material nature by the Federal National Mortgage Association under Section 601.02 of Part V, Chapter 4, of the Fannie Mae Selling Guide, or any similar provision of any subsequent guidelines published in lieu of or in substitution for the Selling Guide, or which would be deemed to require the first mortgagee's consent under the Freddie Mac Sellers' and Servicers' Guide, Vol. 1, Section 2103(d) without the written approval of at least sixty-seven percent (67%) of the Mortgagees who have given prior notice of their mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing Paragraph 10.2.

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

11.2 By the Developer. Developer hereby reserves the right, so long as Developer or any entity related to Developer owns any Lot or Residence Unit within and upon the Real Estate, to make any amendments to this Declaration, without the approval of any other person or entity, for any purpose reasonably deemed necessary or appropriate by the Developer, including without limitation: to bring Developer or this declaration into compliance with the requirement of any statute, ordinance, regulation or order of any public agency having jurisdiction thereof; to conform with zoning covenants and conditions; to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or to induce any of such agencies to make, purchase, sell, insure or guarantee first mortgages; or to correct clerical or typographical errors in this Declaration or any amendment or supplement hereto; provided that in no event shall Developer be entitled to make any amendment which has a material adverse effect on the rights of any Mortgagee, or which substantially impairs the rights granted by this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner.

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

ARTICLE XII

PARTY WALLS

12.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Real Estate and placed on the dividing lines between the Residence Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

12.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall. For purposes of this Article XII, the term "party wall" shall include the roof connecting the two (2) Residence Units.

12.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and the other Owner shall contribute equally to the cost of restoration thereof, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

12.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent, malicious or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

12.5 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE XIII

MISCELLANEOUS

13.1 Right of Enforcement. Violation or threatened violation of any of the covenants, conditions or restrictions enumerated in this Declaration or in a Plat of any part of the Real Estate now or hereafter recorded in the office of the Recorder of Marion County, Indiana, or zoning commitment shall be grounds for an action by Developer, the Association, any Owner and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants, conditions,

restrictions or commitments. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorneys fees reasonably incurred by any party successfully enforcing such covenants, conditions, restrictions or commitments; provided, however, that neither Developer, any Owner nor the Association shall be liable for damages of any kind to any person for failing to enforce any such covenants, conditions, restrictions or commitments.

13.2 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party, including without limitation the Developer, to invoke any available remedy with respect to any violation or threatened violation of any covenants, conditions, restrictions or commitments enumerated in this Declaration or in a Plat of any part of the Real Estate or otherwise shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to it upon the occurrence, recurrence or continuance of such violation or violations.

13.3 Duration. These covenants, conditions and restrictions and all other provisions of this Declaration (as the same may be amended from time to time as herein provided) shall run with the land and shall be binding on all persons and entities from time to time having any right, title or interest in the Real Estate or any part thereof, and on all persons claiming under them, until December 31, 2016 and thereafter shall continue automatically until terminated or modified by vote of a majority of all Owners at any time thereafter; provided, however, that no termination of this Declaration shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

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

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

13.6 Applicable Law. This Declaration shall be governed by the laws of the State of Indiana.

13.7 Annexation. Additional land adjacent to the Initial Real Estate may be annexed by Developer to this Initial Real Estate (and from and after such annexation shall be deemed part of the Real Estate for all purposes of this Declaration) by execution and recordation in the office of the Recorder of Marion County, Indiana, of a supplemental declaration by Developer; and such action shall require no approvals or action of the Owners.

13.8 Government Financing Entities' Approval. If there is Class B membership in the Association and if there is financing provided for any of the Real Estate by the Federal Housing Administration, Veterans Administration, Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, and any of these entities requires that their consent be obtained prior to amending this Declaration or dedicating the Common Areas subject to this Declaration, then while there is Class B Membership the Developer and the Association must obtain the consent of such entity. If none of the Real Estate is financed by any of such entities, then the Developer, while there is a Class B Membership, or the Association may amend this Declaration or dedicate any Common Areas without obtaining the consent of the above-referenced entities.

ARTICLE XIV

DEVELOPER'S RIGHTS

14.1 Access Rights. Developer hereby declares, creates and reserves an access license over and across all the Real Estate (subject to the limitations hereinafter provided in this Paragraph 14.1) for the use of Developer and its representatives, agents, contractors and affiliates during the Development Period. Notwithstanding the foregoing, the area of the access license created by this Paragraph 14.1 shall be limited to that part of the Real Estate which is not in, on,under, over, across or through a building or other improvement or the foundation of a building or other improvement properly located on the Real Estate. The parties for whose benefit this access license is herein created and reserved shall exercise such access easement rights only to the extent reasonably necessary and appropriate.

14.2 Signs. Developer shall have the right to use signs of an size during the Development Period and shall not be subject to the Plat Covenants and Restrictions with respect to signs during the Development Period. The Developer shall also have the right to construct or change any building, improvement or landscaping on the

Real Estate without obtaining the approval of the Architectural Review Committee at any time during the Development Period.

14.3 Sales Offices and Models. Notwithstanding anything to the contrary contained in this Declaration or a Plat of any part of the Real Estate now or hereafter recorded in the office of the Recorder of Marion County, Indiana, Developer, any entity related to Developer and any other person or entity with the prior written consent of Developer, during the Development Period, shall be entitled to construct, install, erect and maintain such facilities upon any portion of the Real Estate owned by Developer or such person or entity as, in the sole opinion of Developer, may be reasonably required to convenient or incidental to the development of the Real Estate and the sale of Lots and the construction of residences thereon. Such facilities may include, without limitation, storage areas, parking areas, signs, model residences, construction offices and sales offices or trailers.

IN WITNESS WHEREOF, this Declaration has been executed by Developer as of the date first above written.

ADAMS & MARSHALL, INC.

By: _____, Pres.

Printed: C. Willis Adams, III

Title: PRESIDENT

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for the State of Indiana, personally appeared C. WILLIS ADAMS, III, of Adams & Marshall, Inc., an Indiana Corporation, who, as PRESIDENT of said corporation, acknowledge the execution of the foregoing Declaration of Covenants, Conditions and Restrictions of Spring Creek Community Association, Inc..

Witness my hand and Notarial Seal this 26th day of SEPTEMBER 1996.

Phyllis J. Daulton
Notary Public
Printed: PHYLLIS J. DAULTON

NOTARY PUBLIC SEAL INDIANA

My Commission Expires: 11-6-99

My County of Residence is: MARION

This instrument prepared by Steven C. Robinson, Robinson & Wolenty, 8888 Keystone Crossing, Suite 710, Indianapolis, Indiana 46240 (317) 587-7820.

SPRING CREEK
Legal Description
March 22, 1996

Part of the Northeast Quarter of Section 12, Township 16 North, Range 2 East and part of the Northwest Quarter of Section 7, Township 16 North, Range 3 East, all in Marion County, Indiana, being described as follows:

Commencing at the southeast corner of said northeast quarter section; thence on a plat bearing of North 00 degrees 22 minutes 47 seconds East (Basis for bearing – Deer Creek Sections I and II, subdivisions in Marion County, Indiana) along the east line of said northeast quarter section a distance of 575.00 feet to the north line of Edward W. Pierson's North Glen Eden– First Section, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 27095 in the Office of the Recorder of said Marion County and the Point of Beginning; thence North 89 degrees 54 minutes 00 seconds West along said north line and parallel with the south line of said northeast quarter section a distance of 885.10 feet to the northwest corner of North Glen Eden – First Section and the centerline of Moller Road; thence North 01 degrees 13 minutes 50 seconds East along said centerline a distance of 480.90 feet to a point being 1056.00 feet north of the intersection of said centerline with the south line of said northeast quarter section; thence North 07 degrees 04 minutes 14 seconds East continuing along said centerline of Moller Road a distance of 626.73 feet to a point being 993 feet Southwesterly, along the centerline of Moller Road, from a point in the North line of said northeast quarter section distant 689.82 feet West from the northeast corner of said quarter section; thence South 89 degrees 01 minutes 36 seconds East a distance of 804.97 feet to a point on the east line of said northeast quarter section distant 995.90 feet South from the northeast corner of said northeast quarter section; thence South 00 degrees 22 minutes 47 seconds West along said east line and along the west line of Deer Creek Section II, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 89–76409 in the Marion County Recorder Office a distance of 355.58 feet to the southwest corner of said Deer Creek Section II, thence North 90 degrees 00 minutes 00 seconds East along the south line of said Deer Creek Section II a distance of 363.00 feet to the west line of Deer Creek Section III, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 90–81495; thence South 00 degrees 23 minutes 28 seconds West along said west line and along the southerly projection of said west line a distance of 735.70 feet to the northeast corner of the aforesaid North Glen Eden – First Section; thence North 89 degrees 54 minutes 00 seconds West along the north line of said North Glen Eden – First Section a distance of 362.85 feet to the Point of Beginning. Containing 27.761 acres, more or less.

PLAT RECORDED AS 1996-0135139

FILED

SEP 27 1996

ASSESSOR

DEPT. OF METROPOLITAN DEVELOPMENT
DATE 9/27/96
PER
ADMINISTRATOR

PLAT COVENANTS AND RESTRICTIONS

SPRING CREEK

The undersigned, Adams & Marshall, Inc., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). The Developer is concurrently platting and subdividing the Real Estate as shown on the plat for Spring Creek, which is filed of record SEPTEMBER 27, 1996, in the office of the Recorder of Marion County, Indiana (together, the "Plat") and desires in the Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions ("Plat Restrictions"). The subdivision created by the Plat (the "Subdivision") is to be known and designated as Spring Creek. In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in the Declaration of Covenants, Conditions and Restrictions of Spring Creek, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of the Spring Creek Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained in the Declaration, the covenants and restrictions contained in the Declaration shall govern and control, but only to the extent of the irreconcilable conflict, it being the intent hereof that all covenants and restrictions contained herein shall be applicable to the Real Estate to the fullest extent possible. Capitalized terms used herein shall have the same meaning as given in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or dwellings in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. **DEDICATED STREETS.** The streets within the Subdivision shall be dedicated to the public and shall be located as shown on the Plat.

2. **COMMON AREAS.**

a. **General.** There are areas of ground on the Plat marked "Common Area". Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas, subject to the conditions and restrictions contained in the Declaration.

1996-0135141

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S:\ser\adams&mar\springcr\covenant

June 25, 1996

060485

b. **Excluded Areas**.

Common Areas B, E, G and N as shown on the Plat ("Excluded Common Areas") will be deeded to the fee simple title owners of the Real Estate located immediately adjacent to the Excluded Common Areas. The Excluded Common Areas will not be subject to the terms and conditions contained in these Plat Restrictions once the Excluded Common Areas are deeded to the adjacent property owners.

c. **Public Access**.

Access to the Linear Park Easement is hereby reserved and granted to the general public through Common Areas H, M and F. Use of the Linear Park Easement is hereby reserved and granted to the general public.

3. **DRAINAGE, UTILITY AND SEWER EASEMENTS**. There are areas of ground on the Plat marked "Sanitary Sewer Easement", "Utility Easement", "Drainage and Utility Easement", "Transmission Line Easement", "Drainage Easement", "Drainage Tile Easement" and "Landscape and Mounding Easement" (all hereinafter referred to collectively as the "Easements"). The Easements are hereby created and reserved (a) for the use of Developer, all public utility companies (not including transportation companies), governmental agencies and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including but not limited to sanitary sewers, storm sewers and cable television services; and (b) for (i) the use of Developer during the "Development Period" (as such term is defined in the drainage or appropriate underground installations, for the Real Estate and adjoining property, (ii) the use of the Association and the Departments of Public Works and/or Capital Asset Management of the City of Indianapolis for access to and maintenance, repair and replacement of such drainage system and for access to and maintenance, repair and replacement of the sanitary sewer system. The owner of any Lot in the Subdivision subject to such easements including any builder, shall be required to keep the portion of said easements on the Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without a permit from the Department of Public Works or the Department of Capital Asset Management and prior written approval of the Developer. The delineation of the easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights

granted to it by this Paragraph 3. Except as provided above, no structures or improvements (except walkways and driveways), including without limitation decks, patios or landscaping of any kind, shall be erected or maintained upon the Easements.

4. **BUILDING LOCATION**. Building setback lines are established on the Plat. No building shall be erected or maintained within the setback lines of a Lot.

5. **LOT USE**. All lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on any Lot. No structure shall be erected, placed or permitted to remain on any Lot other than single-family or two family dwellings not to exceed two stories in height. If such dwellings are attached to other dwelling units, then such dwellings shall include one-half (1/2) of the thickness of any party walls separating the unit from another unit.

6. **ACCESSORY AND TEMPORARY BUILDINGS**. No trailers, shacks, outhouses or storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by the Developer during development of the Subdivision or the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the Subdivision or building, as the case may be. No attached storage sheds shall be added to any residential unit.

7. **TEMPORARY STRUCTURES**. No trailer, camper, motor home, truck, shack, tent, boat, recreational vehicle, garage or outbuilding may be used at any time as a dwelling, temporary or permanent; nor may any structure of a temporary character be used as a dwelling.

8. **NUISANCES**. No domestic animals raised for commercial purposes and no farm animals or fowl shall be kept or permitted on any Lot. No noxious, unlawful or otherwise offensive activity shall be carried out on any Lot, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to the neighborhood.

9. **VEHICLE PARKING**. No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any street or on any Lot in open public view. No vehicles of any kind may be put up on blocks or jacks to accommodate car repair on a Lot unless such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view. No commercial vehicles over three-quarter (3/4) ton or trucks with business signs or logos shall be parked in the Subdivision except inside a garage.

10. **SIGNS**. No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising a property for sale, and except that Developer and its affiliates and designees, including the builders, may use larger signs during the sale and development of the Subdivision.

11. **MAILBOXES**. All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

12. **GARBAGE AND REFUSE DISPOSAL**. Trash and refuse disposal will be on an individual basis, Lot by Lot. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and house construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.

13. **STORAGE TANKS**. No gas, oil or other storage tanks shall be installed on any Lot.

14. **WATER SUPPLY AND SEWAGE SYSTEMS**. No private or semi-private water supply or sewage disposal system may be located upon any Lot. No septic tank, absorption field or other method of sewage disposal shall be located or constructed on any Lot.

15. **DITCHES AND SWALES**. All owners, including builders, shall keep unobstructed and in good maintenance and repair all open storm water drainage ditches and swales which may be located on their respective Lots.

16. **GARAGES, DRIVEWAY AND PARKING SPACE**. Each residential dwelling unit shall include at least a one (1) car attached garage and said garage shall have a hard surface driveway large enough to provide for one (1) off-street parking space for said residential dwelling unit.

17. **ANTENNA AND SATELLITE DISHES**. No outside antennas or satellite dishes shall be permitted except those approved as to size, design and location by the Architectural Review Committee.

18. **AWNINGS**. No metal, fiberglass, canvas or similar type material awnings or patio covers shall be permitted in the Subdivision, except that a builder may utilize a canvas or similar

type material awning on its model home sales center in the Subdivision.

19. **FENCING**. No fence shall be erected on or along any Lot line, nor on any Lot without written approval of the Architectural Review Committee.

20. **SWIMMING POOLS**. No swimming pools either above ground or below ground shall be permitted in the Subdivision. No hard surfaced sports courts of any kind shall be permitted on any Lot except as approved by Architectural Review Committee.

21. **SOLAR PANELS**. No solar panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots, common areas and streets.

22. **OUTSIDE LIGHTING**. Except as otherwise approved by the Developer in connection with a builder's model home sales center, all outside lighting contained in or with respect to the Subdivision shall be of an ornamental nature compatible with the architecture of the project and shall provide for projection of light so as not to create a glare, distraction or nuisance to the other property owners in the vicinity of or adjacent to the Subdivision.

23. **SITE OBSTRUCTION**. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of the street lines extended. The same sight line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

24. **VIOLATION**. Violation or threatened violation of these Plat Restrictions shall be grounds for any action by the Developer, the Association or any person or entity having any right, title or interest in the Real Estate except for the Excluded Common Areas and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and reasonable attorneys' fees incurred by any party successfully

enforcing the Plat Restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce the Plat Restrictions.

25. **METROPOLITAN DEVELOPMENT COMMISSION**. The Metropolitan Development Commission, its successors and assigns shall have no right, power or authority to enforce any covenants, restrictions or other limitations contained herein other than those covenants, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provision of the Subdivision Control Ordinance, 58-AO-13, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

26. **AMENDMENT**. These covenants and restrictions may be amended at any time by the then owners of at least sixty-seven percent (67%) of the Lots in all subdivisions which are now or hereafter made subject to and annexed to the Declaration; provided, however, that until all of the Lots in such Subdivision have been sold by Developer, any such amendment shall require the prior written approval of Developer. Notwithstanding the above, Developer hereby reserves the right, so long as Developer or any entity related to Developer owns any Lot within and upon the Real Estate, to make any amendments to the Plat Restrictions, without the approval of any other person or entity, for any purpose reasonably deemed necessary or appropriate by the Developer, including without limitation: to bring Developer or the Plat Restrictions into compliance with the requirement of any statute, ordinance, regulation or order of any public agency having jurisdiction thereof; to conform with zoning covenants and conditions; to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or to induce any of such agencies to make, purchase, sell, insure or guarantee first mortgages; or to correct clerical or typographical errors in the Plat Restrictions or any amendment or supplement hereto; provided that in no event shall Developer be entitled to make any amendment which has a material adverse effect on the rights of any Mortgagee, or which substantially impairs the rights granted by the Plat Restrictions to any Owner or substantially increases the obligations imposed by the Plat Restrictions on any Owner.

27. **TERM**. The foregoing Plat Restrictions, as the same may be amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate and on all persons

or entities claiming under them, until December 21, 2016, and thereafter they shall continue automatically in effect unless terminated by vote of a majority of the then Owners of the Lots in the Subdivision; provided, however, that no termination of these Plat Restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall have consented thereto in writing.

28. **SEVERABILITY**. Invalidation of any of the foregoing covenants or restrictions by judgment or court order shall in no way affect any of the other covenants and restrictions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the owner of the Real Estate, has hereunto caused its name to be subscribed this 26th day of SEPTEMBER, 1996.

ADAMS & MARSHALL, INC.

By: _____, Pres.
C. Willis Adams, III,
President

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public in and for the State of Indiana, personally appeared C. Willis Adams, III, President of Adams & Marshall, Inc., an Indiana corporation, who as President of said corporation, acknowledged the execution of this instrument on behalf of such corporation.

Witness my signature and Notarial Seal this 26th day of SEPTEMBER, 1996.

NOTARY PUBLIC SEAL INDIANA

Phyllis J. Daulton
Notary Public
Printed: PHYLLIS J. DAULTON

My Commission Expires:
11-6-99

County of Residence: MARION

THIS DOCUMENT PREPARED BY: Steven C. Robinson, ROBINSON & WOLENTY, 8888 Keystone Crossing, Suite 710, Indianapolis, Indiana 46240.

SPRING CREEK
Legal Description
March 22, 1996

Part of the Northeast Quarter of Section 12, Township 16 North, Range 2 East and part of the Northwest Quarter of Section 7, Township 16 North, Range 3 East, all in Marion County, Indiana, being described as follows:

Commencing at the southeast corner of said northeast quarter section; thence on a plat bearing of North 00 degrees 22 minutes 47 seconds East (Basis for bearing – Deer Creek Sections I and II, subdivisions in Marion County, Indiana) along the east line of said northeast quarter section a distance of 575.00 feet to the north line of Edward W. Pierson's North Glen Eden– First Section, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 27095 in the Office of the Recorder of said Marion County and the Point of Beginning; thence North 89 degrees 54 minutes 00 seconds West along said north line and parallel with the south line of said northeast quarter section a distance of 885.10 feet to the northwest corner of North Glen Eden – First Section and the centerline of Moller Road; thence North 01 degrees 13 minutes 50 seconds East along said centerline a distance of 480.90 feet to a point being 1056.00 feet north of the intersection of said centerline with the south line of said northeast quarter section; thence North 07 degrees 04 minutes 14 seconds East continuing along said centerline of Moller Road a distance of 626.73 feet to a point being 993 feet Southwesterly, along the centerline of Moller Road, from a point in the North line of said northeast quarter section distant 689.82 feet West from the northeast corner of said quarter section; thence South 89 degrees 01 minutes 36 seconds East a distance of 804.97 feet to a point on the east line of said northeast quarter section distant 995.90 feet South from the northeast corner of said northeast quarter section; thence South 00 degrees 22 minutes 47 seconds West along said east line and along the west line of Deer Creek Section II, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 89-76409 in the Marion County Recorder Office a distance of 355.58 feet to the southwest corner of said Deer Creek Section II, thence North 90 degrees 00 minutes 00 seconds East along the south line of said Deer Creek Section II a distance of 363.00 feet to the west line of Deer Creek Section III, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument No. 90-81495; thence South 00 degrees 23 minutes 28 seconds West along said west line and along the southerly projection of said west line a distance of 735.70 feet to the northeast corner of the aforesaid North Glen Eden – First Section; thence North 89 degrees 54 minutes 00 seconds West along the north line of said North Glen Eden – First Section a distance of 362.85 feet to the Point of Beginning. Containing 27.761 acres, more or less.