

DECLARATION OF COVENANTS  
AND RESTRICTIONS  
OF SUGAR TREE, INC.

This Declaration (hereinafter referred to as "the Declaration" or "this Declaration"), made this 5<sup>th</sup> day of March, 1980, by SUGAR TREE, INC., an Indiana corporation (formerly Bent Tree, Inc.) (hereinafter referred to as "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real estate in Marion County, State of Indiana, more particularly described as follows:

Part of the Southeast Quarter of Section 15, Township 17 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of said Quarter Section 404.28 feet; thence North 89 degrees 09 minutes 14 seconds East parallel with the South line of said Quarter Section 660.33 feet; thence South 00 degrees 53 minutes 10 seconds West parallel with the East line of said Quarter Section 404.28 feet to the South line of said Quarter Section; thence South 89 degrees 09 minutes 14 seconds East along said South line 660.33 feet to the PLACE OF BEGINNING, containing 6.29 acres, more or less.

Subject to all legal highways and rights-of-way, and to all easements, covenants, conditions, restrictions, limitations and other matters of record

(hereinafter referred to as the "Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with private streets, parking spaces, open spaces, walls, fences and other common facilities and amenities for the benefit of such residential community, to be known as SUGAR TREE-ADDITION; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common facilities therein contained, and, to this end, Declarant desires to subject the Real Estate to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each owner of all or part thereof; and

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WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering any common facilities located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Sugar Tree Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated therein.

#### ARTICLE I.

##### Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Not-For-Profit Corporation Act of 1971, as amended;

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- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Architectural Review Board" shall mean and refer to that committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;
- (d) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;
- (f) "By-Laws" shall mean and refer to the Code of By-Laws of the Corporation, as the same may be amended from time to time;
- (g) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Properties, and all sums lawfully assessed against the Owners by the Corporation, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (h) "Common Properties" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not Lots, whether such plat is heretofore or hereafter recorded, (ii) to the extent hereinafter established, such portions of the Real Estate as are herein declared to be Common Properties even though located on or constituting part of one or more Lots; (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Properties whether located, installed or established entirely or partially on Lots or portions of the Real Estate which are not Lots, or both; PROVIDED, HOWEVER, that the street shown, or to be shown, on a subdivision plat of the Real Estate as "Sugar Tree Lane" and noted, or to be noted, on such plat as "common area" shall, for all purposes, be considered a part of the Common Properties;
- (i) "Corporation" shall mean and refer to Sugar Tree Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;
- (j) "Declarant" shall mean and refer to Sugar Tree, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

- (k) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family, whether such Dwelling Unit is detached or attached to another Dwelling Unit;
- (l) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Properties) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit, as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a lot on such a subdivision plat, (ii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iii) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit;
- (m) "Mortgagee" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (n) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean to refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;
- (o) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;
- (p) "The Real Estate" shall mean and refer to the parcel of real estate in Marion County, Indiana described in the first recital clause of this Declaration, and defined therein as the Real Estate;
- (q) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;
- (r) "Zoning Covenants" shall mean and refer to the written Covenants, as amended, heretofore entered into by Declarant or its predecessors in title to the Real Estate in connection

with the zoning of the Real Estate, which Covenants are recorded as Instrument No. 78-038863 in the office of the Recorder of Marion County, Indiana, as amended by written Amendment to Covenants recorded as Instrument No. 79-73323 in said Recorder's office, both of said recorded instruments being incorporated herein by reference, as the same may hereafter be amended in accordance with their terms.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

## ARTICLE II

### Declaration; Common Properties and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred, and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall accept such deed and execute such contract subject to each Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, each Owner acknowledges the rights and powers of Declarant and of the Corporation with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Corporation, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Properties, subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot. Without limiting the generality of the foregoing, each Owner, his tenants, invitees and guests, shall have,

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and is hereby granted, a non-exclusive easement and right of ingress to, egress from and access between his Lot and Springmill Road, for pedestrian and vehicular traffic, upon, over and across the private street shown, or to be shown, on a subdivision plat of the Real Estate as Sugar Tree Lane, the real estate upon which Sugar Tree Lane is, or is to be, located being more particularly described in Exhibit "A" attached to this Declaration and incorporated herein by reference (herein referred to as "Sugar Tree Lane"). It is intended that Sugar Tree Lane shall be a private street and not for public use; provided, however, Sugar Tree Lane may be dedicated to the public by the Corporation if Sugar Tree Lane is acceptable to the public authority receiving the same without improvement thereof by the Owners or the Corporation and such dedication is approved in writing in advance by at least two-thirds (2/3) of the Mortgagees (based on one vote for each first mortgage owned) and Owners other than Declarant; provided, further, that improvements to Sugar Tree Lane for the purposes of dedication and making the same acceptable to such public authority, and the assessment of the cost thereof to the Owners, shall be subject to and require the approval of the Owners of two-thirds (2/3) of the Lots. In addition to the Owners, their tenants, invitees and guests, all public and quasi-public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles and privately owned delivery trucks shall have the right to enter upon and use Sugar Tree Lane for ingress to, egress from and access between the Lots and Springmill Road in the performance of their duties.

### ARTICLE III

#### Obligations of Declarant as to Common Properties

##### Section 1. Construction and Conveyance of Street.

Declarant has constructed Sugar Tree Lane within the real

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estate described in Exhibit "A" incorporated herein, and, prior to the conveyance of any Lot, Declarant covenants that it will convey Sugar Tree Lane to the Corporation by a special warranty deed free and clear of all liens and encumbrances except the lien of current real estate taxes and assessments, legal highways and rights-of-way, and all easements, covenants, conditions, restrictions and other matters of record.

Section 2. Agreement to Construct and Convey Other Common Properties. Declarant has constructed or provided for, or will construct or provide for, the Common Properties (in addition to Sugar Tree Lane) consisting of the following items required by, and in accordance with, the Zoning Covenants, or otherwise:

- (a) storm and sanitary sewer systems to serve the Real Estate,
- (b) installation of utility equipment, facilities and systems to serve the Real Estate,
- (c) street lighting facilities for Sugar Tree Lane,
- (d) perimeter treatment of the Real Estate, including brick walls, chain link fencing and landscaping, and
- (e) the installation of at least ten (10) off-street parking spaces, exclusive of garages and driveways on Lots.

Upon final construction or provision of the Common Properties described in this Section 2, Declarant covenants to convey all of his right, title and interest in and to said Common Properties to the Corporation and all such right, title and interest in and to said items (whether owned in fee, by leasehold or in the nature of an easement or license) shall then be the property of the Corporation, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Properties located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein, as described in Article II, Section 2 of this Declaration.

ARTICLE IV

Corporation; Membership; Voting; Functions

Section 1. Membership in Corporation. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Corporation.

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

- (a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Corporation, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
  
- (b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the Owner and five (5) votes for each single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Corporation, (ii) the date Declarant no longer owns any Lots nor any portion of any single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate, or (iii) April 1, 1985 (the applicable date being herein referred to as the "Applicable Date").



Section 3. Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Properties, to pay taxes assessed against and payable with respect to the Common Properties, to pay any other necessary expenses and costs in connection with the Common Properties, and to perform such other functions as may be designated for it to perform under this Declaration.

#### ARTICLE V

##### Board of Directors

Section 1. Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated in the Articles, to-wit: Aaron Y. Cohen, Dixon B. Dann and C. Willis Adams, III (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to

vote, and to vote as Declarant determines, on all matters as to which members of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, one (1) member of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, and one for

a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V, as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Properties (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date,

the Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Properties, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security services or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities used in connection with the Lots and Dwelling Units, removal of garbage and waste, and snow removal from the Common Properties;
- (c) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Properties;
- (d) surfacing, paving and maintaining Sugar Tree Lane and any off-street parking spaces constituting a part of the Common Properties;
- (e) assessment and collection from the Owners of the Owners' respective share of the Common Expenses;
- (f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Properties and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (i) procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable; and
- (j) paying taxes assessed against and payable with respect to the Common Properties and paying any other necessary expenses and costs in connection with the Common Properties.

Section 7. Powers of the Board of Directors. The

Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties.

These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Properties;
- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Properties (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners.

Section 8. Limitation on Board Action. After the

Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Common Properties damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 9. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties.

The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. The Initial Board has entered, or will hereafter enter, into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) for a term which will expire not later than April 1, 1985, under which Declarant (or such affiliate of Declarant, as appropriate) will provide supervision, fiscal

and general management and maintenance of the Common Properties and, in general, perform all of the duties and obligations of the Corporation. Such management agreement is or will be subject to termination by Declarant (or its affiliate, as appropriate) at any time prior to the expiration of its term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties, obligations and functions. Notwithstanding anything to the contrary contained in this Declaration, so long as such management agreement remains in effect, Declarant (or its affiliate, as appropriate) shall have, and Declarant hereby reserves to itself (or to its affiliate, as appropriate), the exclusive right to manage the Real Estate and Common Properties and to perform all the functions of the Corporation.

#### ARTICLE VI

##### Real Estate Taxes; Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Properties shall be paid by the Corporation and treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Corporation.

#### ARTICLE VII

##### Maintenance, Repairs and Replacements

Section 1. By Owners. Each Owner shall, at his own expense, be responsible for, and shall promptly perform as the need therefor arises, all maintenance, repairs, decoration



and replacement of its own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Properties for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Properties. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. By the Corporation. Maintenance, repairs, replacements and upkeep of the Common Properties shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

In addition to the maintenance of the Common Properties, the Corporation, as part of its duties, and as a part of the Common Expenses, shall provide for maintenance for the following items, which shall be considered part of the Common Properties for purposes of maintenance only:

- (a) those portions of the Real Estate, whether or not said portions are part of any of the lots, which are located outside the perimeter brick walls and chain link fencing originally installed by Declarant as part of the perimeter treatment of the Real Estate in accordance with the Zoning Covenants, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Corporation shall have no obligation to maintain any public street, road or highway, located within any public right-of-way on or abutting the Real Estate. For

purposes of this subparagraph (a), "outside the perimeter brick walls and chain link fencing" means the areas between such brick walls or chain link fencing, as appropriate, and the nearest property line of the Real Estate;

- (b) the pine trees initially installed along the north and west property lines of the Real Estate by Declarant in accordance with paragraphs 10(a) and 10(b) of the Zoning Covenants.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Properties as it deems necessary.

Notwithstanding any obligation or duty of the Corporation to repair or maintain any of the Common Properties (or items deemed Common Properties for purposes of maintenance), if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Properties (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Properties and items deemed as Common Properties for purposes of maintenance, including, but not limited to, access to any easements reserved by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII

Architectural Control

Section 1. The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more Persons as may, from time to time, be provided in the By-Laws. Until the Applicable Date, Declarant shall appoint the members of the Architectural Review Board. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

Section 2. Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Real Estate and of Improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

Section 3. Conditions. No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board.

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as

it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

#### ARTICLE IX

##### Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Dwelling Unit upon the Real Estate and which connects two Dwelling 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 negligent or intentional or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, proportionately.

Section 3. Destruction by Fire or Other Casualty. If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by any of the Owners who make use of such party wall, and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 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.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten days after written request therefor from another party, the Board of Directors of the Corporation shall select an arbitrator for the refusing party.)

#### ARTICLE X

##### Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant or firm of certified public accountants then serving the Corporation, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount

Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirements for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the quarterly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay quarterly assessments semi-annually or annually, in advance. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal monthly installments rather than quarterly installments. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

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statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Quarterly or monthly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Properties and items deemed Common Properties for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Properties or by abandonment of the lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one Person,



the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any Regular Assessments or Special Assessments, when due, the Board may in its discretion, accelerate the entire balance of the 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 Assessments, the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit 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, at a rate equal to the "prime interest rate" then being charged by Merchants National Bank & Trust Company of Indianapolis, its largest and best corporate customers (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana Selected by the Board).

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(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

Section 6. Initial Budgets and Assessments. Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date, the Regular Assessments are and shall be established as follows:

- (a) From the date of the first conveyance of a Lot by Declarant to any other Person until the earlier of the Applicable Date or December 31, 1981, the Regular Assessment shall be One Thousand Twenty Dollars (\$1,020.00) per year upon each Lot owned by someone other than Declarant, prorated on a daily basis for any period of time less than a full year; provided, however, that if a Lot is so conveyed by Declarant to another Person without a completed Dwelling Unit thereon, then the Regular Assessment shall be One Hundred Twenty Dollars (\$120.00) per year, prorated on a daily basis, until the earlier of (i) the date a Dwelling Unit is completed on the Lot, or (ii) one (1) year from the date of conveyance of such Lot to said Person, at which time the Regular Assessment shall be raised to the full amount first mentioned in this subparagraph (a);
- (b) After December 31, 1981 (if the Applicable Date has not then occurred) and for each year thereafter until the Applicable Date, the Regular Assessment upon each Lot owned by someone other than Declarant may be increased by the Board by an amount not greater than an amount equal to the same percentage of the Regular Assessment provided under subparagraph (a) above as the percentage increases, if any, in the Consumer Price Index between the Index figure for the month of January, 1980 and the Index figure for the last month of the year preceding the year for which such increase is to be effective. Such increases may be made by the Board annually on, or effective on, January 1 of each year until the Applicable Date. As used herein, "Consumer Price Index" means the "Consumer Price Index for All Urban Consumers, U.S. City Average of all Items (CPI-U, reference base of 1967=100)." published by the Bureau of Labor Statistics of the U.S. Department of Labor. If the publication of the Consumer Price Index of the U.S. Bureau of Labor Statistics is either discontinued, or revised by changes in the weights assigned by the 1972-73 Consumer Expenditure Survey to the expenditure groups, in the sample of items priced, in the sample of places where the pricing takes place or in the statistical methods employed in the calculation of the Consumer Price Index, then, and in any of such events, comparable statistics on the purchasing power of the consumer dollar published by a responsible financial periodical selected by the Corporation shall be substituted for said Consumer Price Index and used for making such computations.

Notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant.

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ARTICLE XI

Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise. The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the

amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article X hereof.

## ARTICLE XII

### Insurance

Section 1. Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Properties in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Common Properties. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Corporation as the insured, for the benefit of each Owner.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Properties resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board

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in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or disbursed by the Corporation or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover all of the Common Properties and shall insure the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest"

clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

Section 3. Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Corporation, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall

be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Properties. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Corporation.

#### ARTICLE XIII

##### Casualty and Restoration

In the event of damage to or destruction of any of the Common Properties due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Properties, or in the event there are no insurance proceeds, the cost for restoring the



damage and repairing and reconstructing the Common Properties so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Properties to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Properties shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Properties were originally constructed.

#### ARTICLE XIV

##### Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Properties shall be in addition to any other covenants or restrictions contained herein and in any subdivision plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions

are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family.
- (b) Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or on the Common Properties which will cause an increase in the rate of insurance on any Dwelling Unit or the contents thereof or on any Common Properties. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Properties which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (c) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.
- (d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Architectural Review Board.
- (e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Properties, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Properties, caused by his pet. The tethering of pets in any area outside an Owner's fenced Lot does not constitute "attended". The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time including, but not limited to, a requirement that any Owner desiring to

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bring or maintain a pet on the Real Estate shall deposit with the Board a security deposit in an amount to be determined by the Board to cover any damage that may be caused by such pet to the Common Properties. Any such security deposit shall be returned to the Owner when the pet is permanently removed from the Real Estate, except to the extent said deposit has been used or is needed to repair damage caused by such pet. Any requirement for the depositing of such a security deposit shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury and damage caused by his pets. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Real Estate within ten (10) days after written notice from the Board to the respective Owner to do so.

- (f) Nothing shall be done or permitted in any Dwelling Unit or on any Lot which will impair the structural integrity of any of the Common Properties or which would structurally change any of the Common Properties. No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the subdivision developed or to be developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud persons.
- (g) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Properties. The Common Properties shall be kept free and clear of rubbish, debris and other unsightly materials.
- (h) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.
- (i) No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Real Estate, any Lot or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Real Estate in connection with any un sold or unoccupied Lots and Dwelling Units.
- (j) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Properties or any part thereof, shall observe and be governed by such rules.

and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Properties.

- (k) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini bikes, mopeds, or any other vehicles of any description other than normal passenger automobiles, shall be permitted, parked or stored anywhere within the Real Estate; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage. No repair work shall be done on the Real Estate on any vehicles, including passenger automobiles.
- (l) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Properties, except with express permission from the Board.
- (m) Each Owner shall keep all Lots owned by him in good order, condition and repair and free of debris including, but not limited to, the seeding, watering and mowing of all lawns, the pruning, trimming and cutting of all trees and shrubbery, the painting (or other appropriate external care) of all buildings and improvements, and the prompt repair, reconstruction and restoration of any building and improvements located on his Lot which are damaged or destroyed by fire, casualty or other disaster, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot shall fail to so maintain his Lot and improvements situated thereon as provided herein, the Corporation, after notice to the Owner and approval by two-thirds (2/3) vote of all Owners, shall have the right to enter upon said Lot to correct, repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon, or any part thereof. All costs incurred by the Corporation related to such correction, repair, maintenance or restoration shall be and constitute a Special Assessment against such Lot, payable by the Owner on demand by the Corporation.
- (n) All garbage, trash and refuse shall be stored in appropriate containers inside the Dwelling Units (including garages) and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.
- (o) So long as the Zoning Covenants are in effect, no use shall be made of any part of the Real Estate which violates, and all

Owners, members of their families, their guests, tenants, invitees and all occupants or other parties entitled to use or who may use any part of the Real Estate shall at all times fully comply with, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and standing in the Zoning Covenants. Notwithstanding anything to the contrary contained herein or otherwise, this subparagraph (o) may not be amended or modified in any manner whatsoever without the prior written consent of Declarant (so long as it owns any part of the Real Estate or any Lots) and of any and all parties who, at any time, may have the right to enforce or prevent violations of, or the right to approve any changes in, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Covenants, except that, notwithstanding the immediately preceding clause, Declarant shall have the right to amend the Zoning Covenants in any manner therein permitted or described without the consent or approval of any other party at any time having any interest in any part of the Real Estate.

(p) Common Properties shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including, but not limited to any covenants and restrictions set forth herein, or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such Lumber and Pipe and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction and sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained

by Declarant be or become part of the Common Properties, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real estate at any time.

#### ARTICLE XV

##### Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.
- (e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XII of this Declaration with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Article XIII of this Declaration with respect to reconstruction or repair of the Common Properties in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Architectural Review Board and providing for its functions, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(E) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements or (d) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to

act pursuant to rights reserved or granted under this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

#### ARTICLE XVI

##### Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the By-Laws and the rules and regulations as adopted by the Board of Directors, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the By-Laws and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any Person having at any time any interest or estate in a Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

#### ARTICLE XVII

##### Negligence

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by



his negligence or by that of any member of his family or his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Lot or Dwelling Unit or its appurtenances or of the Common Properties.

#### ARTICLE XVIII

##### Benefit and Enforcement

This Declaration and the Restrictions shall run with and bind the Real Estate for a term commencing on the date this Declaration is recorded in the office of the Recorder of Marion County, Indiana and expiring May 23, 2013, after which time they shall be automatically extended for successive periods of ten (10) years each unless by vote of a majority of the then Owners of the Lots it is agreed to change this Declaration or the Restrictions in whole or in part, or to terminate the same. The failure or delay at any time of Declarant, the Corporation, the Owners, or any other person entitled to enforce this Declaration and the Restrictions, to enforce any of the same shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

#### ARTICLE XIX

##### Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time,

80 14673

WITNESS my hand and Notarial Seal this 29<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:

1-11-88

My County of Residence:

Hamilton

STATE OF INDIANA )  
                              ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Arnold Valencia and Janet Valencia, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.



WITNESS my hand and Notarial Seal this 29<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:

1-11-88

My County of Residence:

Hamilton

STATE OF INDIANA )  
                              ) SS:  
COUNTY OF MARION )

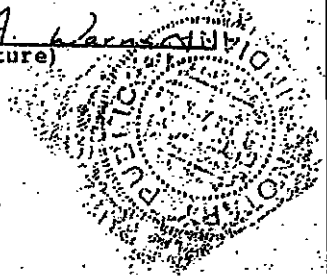
Before me, a Notary Public in and for said County and State, personally appeared Eugene Wright and Elizabeth Wright, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.



650076827

WITNESS my hand and Notarial Seal this 28<sup>th</sup> day of June, 1985.

Mary C. Warner  
Notary Public  
Mark A. Warner  
(Printed Signature)



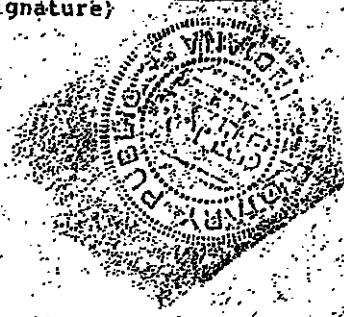
My Commission Expires:  
1-11-88  
My County of Residence:  
Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Fred Simon and Helene Simon, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day of June, 1985.

Mary C. Warner  
Notary Public  
Mark A. Warner  
(Printed Signature)



My Commission Expires:  
1-11-88  
My County of Residence:  
Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared M. Janet Keller, General Partner, who, being first duly sworn upon her oath, acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 28<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:  
1-11-88

My County of Residence:  
Hamilton



STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Homer Woods and Josephine Woods, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:  
1-11-88

My County of Residence:  
Hamilton



STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert Schwartz and Susan Schwartz, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

850076827

WITNESS my hand and Notarial Seal this 29<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:

1-11-88

My County of Residence:

Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert Pierson and Naomi Pierson, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 28<sup>th</sup> day  
of June, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:

1-11-88

My County of Residence:

Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert E. Tarplee, who, being first duly sworn upon his oath, acknowledged the execution of the foregoing "Consent" as his voluntary act and deed.

WITNESS my hand and Notarial Seal this 29<sup>th</sup> day of  
June, 1985.

850076827

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires:

1-11-85

My County of Residence:

Hamilton

LEGAL DESCRIPTION OF REAL ESTATE INVOLVED IN  
PETITION FOR AMENDMENT OF ZONING ORDINANCE

PETITIONER: GEORGE M. CHORAN, JR.  
BY: Philip A. Nicely

Part of the southeast quarter of Section 15, Township 17 North, Range 3 East,  
more particularly described as follows:

Beginning at the southeast corner of said quarter section and running thence  
north on and along the east line thereof 404.28 feet to a point, thence west  
parallel to the south line of said quarter section 660.33 feet to a point; thence  
south parallel to said east line 404.28 feet to a point on the south line of  
said quarter section; thence east on and along said south line 660.33 feet to  
the place of beginning, said real estate being also described as Tract 1 through  
6, inclusive, of Spring Mill Pleasant View Survey recorded March 7, 1951, in Deed  
Record 1408 page 455 in the office of the Recorder of Marion County, Indiana.

850076827

85-AP-115

FILED
JUN 3 1955
DEPT. OF DEVELOPMENT
By <u>5/10</u>

860012895

222  
15

NOTE: Rules of the Metropolitan Development Commission requires use of this form in recording commitment modification(s) or terminations(s) with respect to rezoning and approval cases in accordance with P.L. 185 of the Acts of 1973, Article VI, Section 3. (b).

~~XXXXXXXXXX~~

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS RELATIVE TO USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION OR REZONING OF PROPERTY.

In accordance with I.C. 1971, 18-7-2-20 as amended by P.L. 185 of the Acts of 1973 and 18-7-2-84.1 as added by P.L. 185 of the Acts of 1973, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or terminations(s) of commitment(s) relative to the use and development of that parcel of real estate:

Legal Description:

See legal description attached hereto.

Statement of Commitments:

1. See Exhibit "B" FIFTH AMENDMENT TO COVENANTS

\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

RECEIVED FOR RECORDING  
BETH STAMERLIN  
RECORDER-MARION CO.  
FEB 13 9 05 AM 1985

These COMMITMENTS shall be binding on the owner, successors, assigns of the real estate and other persons claiming an interest therein for a period of ~~xx years~~ ~~from date of recording~~ ~~unless otherwise provided~~. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition # \_\_\_\_\_

85-AP-252

MD-153, 4/30/80

FILED  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the rezoning petition who were not petitioners for the rezoning. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the bound volumes of the most recent real estate tax assessment records as they appear in the offices of the various township assessors of Marion County. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning under the rules in force at the time the commitment was made); and

3. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The undersigned hereby authorizes the Division of Planning and Zoning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana upon final approval of modification and/or termination of commitment(s) of petition # \_\_\_\_\_ by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 2 day of December, 19 85.

SUGAR TREE, INC.  
 Signature \_\_\_\_\_ (Seal) Signature \_\_\_\_\_ (Seal)  
 Printed by Aaron Cohen, President Printed \_\_\_\_\_

STATE OF INDIANA } SEE CONSENT ATTACHED HERETO  
 ) SS:  
 COUNTY OF MARION }

Before me, a Notary Public in and for said County and State, personally appeared Aaron Cohen on behalf of Sugar Tree, Inc. owner(s) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 2d day of December, 19 85.

Signature Sandra S. Smith  
 Printed Sandra S. Smith  
 County of residence: Damascus

Commission expires: March 3, 1989

This instrument was prepared by Philip A. Nicely, 8900 Keystone Crossing, Indianapolis, IN 46240

This Modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 2nd day of February, 19 86.

Robert Samuelson  
 Secretary, Metropolitan Development Commission  
Robert Samuelson

860012895

MD-153, 4/30/80

FILED - 252  
 DEC 17 1985  
 DEPT. METRO DEVELOPMENT  
 By \_\_\_\_\_



PETITION FOR AMENDMENT OF ZONING ORDINANCE

PETITIONER: GEORGE M. CHGBAN, JR.  
BY: Philip A. Nicely

Part of the southeast quarter of Section 15, Township 17 North, Range 3 East,  
more particularly described as follows:

Beginning at the southeast corner of said quarter section and running thence  
north on and along the east line thereof 404.28 feet to a point, thence west  
parallel to the south line of said quarter section 660.33 feet to a point; thence  
south parallel to said east line 404.28 feet to a point on the south line of  
said quarter section; thence east on and along said south line 660.33 feet to  
the place of beginning, said real estate being also described as Tract 1 through  
6, inclusive, of Spring Hill Pleasant View Survey recorded March 7, 1951, in Deed  
Record 1408 page 455 in the office of the Recorder of Marion County, Indiana.

85-AP-252

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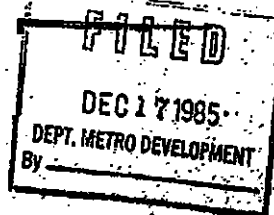


Exhibit A

7740B

FIFTH AMENDMENT TO COVENANTS

The persons executing the attached Consent are the owners of all the real estate described herein which real estate was the subject of a petition for rezoning in Case No. 77-2-207 (77-DP-5) and make the following amendment to covenants relating to such case as recorded in the Office of the Recorder of Marion County, Indiana on the 20th day of June, 1978 as Instrument No. 78-038863 as amended on the 26th day of September, 1979 as Instrument No. 79-73323 and subsequently amended on the 3rd day of April, 1981 as Instrument No. 81-19591 and as further amended on April 21, 1982 and recorded as Instrument No. 82-40109 and as further amended on August 21, 1985 and recorded as Instrument No. 85-76827:

1. Paragraph 11 is hereby amended to read as follows:

Setback lines on north, south and west. No building shall be closer than 20 feet to the north and west property lines; provided, however, on Lots 1, 2, 3 and 4 a porch may be constructed so that the north side of the porch is 10 feet from the north property line. No building (other than a garage) shall be built closer than 23 feet to the south property line; provided, however, no garage shall be built closer than 10 feet to the south property line and further provided that the setback for any building along the angle area at the southeast corner of the real estate shall be 10 feet as designated on the plan; provided, however, on Lot 10 a room enclosure and/or pool may be constructed within 7.5 feet of the south property line of such lot. It is understood that the present Lot 4 was part of Lot 4 and part of Lot 5 of the original plat and Lot 10 was part of Lot 12 and part of Lot 13 of the original plat.

2. Except as designated herein, all other items and provisions of the covenants shall remain as originally written or as such may have been subsequently amended.

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85-AP-252



Exhibit B

CONSENT

The following persons being the owners of all the lots or common area in the development known as Sugar Tree:

John and Patricia Reel  
410 Sugar Tree Lane  
Indianapolis, IN 46260

Arnold and Janet Valencia  
426 Sugar Tree Lane  
Indianapolis, IN 46260

Eugene and Elizabeth Wright  
434 Sugar Tree Lane  
Indianapolis, IN 46260

Fred and Helene Simon  
438 Sugar Tree Lane  
Indianapolis, IN 46260

Galbreath Partnership  
M. Janet Keller, General Partner  
427 Sugar Tree Lane  
Indianapolis, IN 46260

Josephine Woods  
419 Sugar Tree Lane  
Indianapolis, IN 46260

Robert and Susan Schwartz  
415 Sugar Tree Lane  
Indianapolis, IN 46260

Robert and Naomi Pierson  
411 Sugar Tree Lane  
Indianapolis, IN 46260

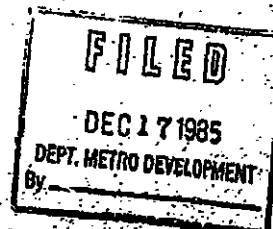
Dr. Robert and Marjorie Tarplee  
414 Sugar Tree Lane  
Indianapolis, IN 46260

Richard DeMars  
418 Sugar Tree Lane  
Indianapolis, IN 46260

hereby consent to the amendment to the Commitments in Case No.  
77-Z-207 (77-DP-5) as amended, which amendment is designated as

85-AP-252

860012895



"Fifth Amendment to Covenants" and to which this Consent is attached.

*[Handwritten Signature]*  
John Reel

*[Handwritten Signature]*  
Patricia Reel

Arnold Valencia

Janet Valencia

*[Handwritten Signature]*  
Eugene Wright

*[Handwritten Signature]*  
Elizabeth Wright

Fred Simon

Helene Simon

Galbreath Partnership  
M. Janet Keller, General Partner

85-AP-252

860012995

*[Handwritten Signature]*  
Josephine Woods

*[Handwritten Signature]*  
Robert Schwartz

*[Handwritten Signature]*  
Susan Schwartz

*[Handwritten Signature]*  
Robert Pierson

FILED  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

"Sixth Amendment to Covenants" and to which this Consent is attached.

John Reel

Patricia Reel

*Arnold Valencia*  
Arnold Valencia

*Janet Valencia*  
Janet Valencia

Eugene Wright

Elizabeth Wright

Fred Simon

Helene Simon

*M. Janet Keller, General Partner*  
Gall, South Partnership  
M. Janet Keller, General Partner

860012895

*Josephine Woods*  
Josephine Woods

Robert Schwartz

Susan Schwartz

*Robert Pierson*  
Robert Pierson

FILED-252  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

Naomi Pierson  
Naomi Pierson

Robert Tarplee  
Robert Tarplee

Marjorie Tarplee  
Marjorie Tarplee

Richard DeMars  
Richard DeMars

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared John Reel and Patricia Reel, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

860012895

Before me, a Notary Public in and for said County and State, personally appeared Arnold Valencia and Janet Valencia, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 5<sup>th</sup> day of December, 1985.

Mary A. Williams  
Notary Public

Mary A. Williams  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

85-AP-252

FILED  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

Naomi Pierson  
Naomi Pierson

\_\_\_\_\_  
Robert Tarplee

\_\_\_\_\_  
Marjorie Tarplee

\_\_\_\_\_  
Richard DeMars

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared John Reel and Patricia Reel, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 5 day of December, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Arnold Valencia and Janet Valencia, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

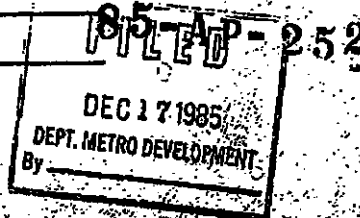
**860012895**

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_



STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Eugene Wright and Elizabeth Wright, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 5<sup>th</sup> day of December 1985.

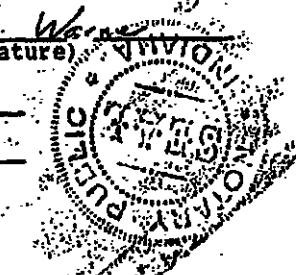
Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )



Before me, a Notary Public in and for said County and State, personally appeared Fred Simon and Helene Simon, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

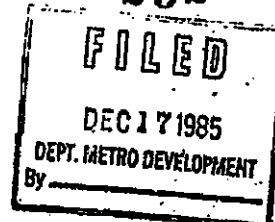
My County of Residence: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

**860012895**

Before me, a Notary Public in and for said County and State, personally appeared M. Janet Keller, General Partner of the Galbreath Partnership, and acknowledged the execution of the foregoing "Consent" as her voluntary act and deed on behalf of said Partnership.

**85-AP-252**





STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Eugene Wright and Elizabeth Wright, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

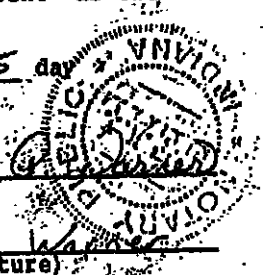
STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Fred Simon and Helene Simon, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 25 day  
of December, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)



My Commission Expires: \_\_\_\_\_

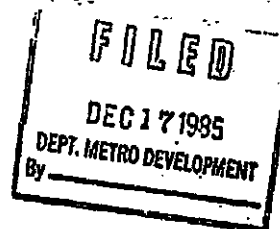
My County of Residence: \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

860012895

Before me, a Notary Public in and for said County and State, personally appeared M. Janet Keller, General Partner of the Galbreath Partnership, and acknowledged the execution of the foregoing "Consent" as her voluntary act and deed on behalf of said Partnership.

25-AP-252



WITNESS my hand and Notarial Seal this 5 day  
of December 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Josephine Woods and acknowledged the execution of the foregoing "Consent" as her voluntary act and deed.

WITNESS my hand and Notarial Seal this 22nd day  
of November, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert Schwartz and Susan Schwartz, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Notary Public

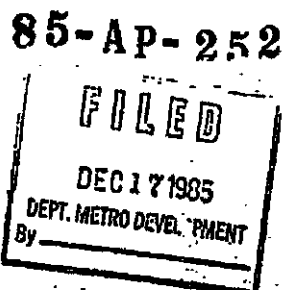
\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

860012895

-5-



WITNESS my hand and Notarial Seal this \_\_\_\_\_ day  
of \_\_\_\_\_, 1985.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Printed Signature)

My Commission Expires: \_\_\_\_\_

My County of Residence: \_\_\_\_\_

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared Josephine Woods and acknowledged the execution of the foregoing "Consent" as her voluntary act and deed.

WITNESS my hand and Notarial Seal this 22nd day  
of November, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared Robert Schwartz and Susan Schwartz, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 5 day  
of December, 1985.

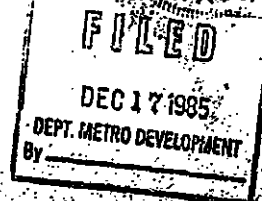
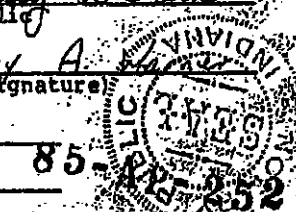
860612895

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton



STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert Pierson and Naomi Pierson, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 22nd day of November, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert E. Tarplee and Marjorie Tarplee, and acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 5 day of December, 1985.

Mary A. Warner  
Notary Public

Mary A. Warner  
(Printed Signature)

My Commission Expires: 1-11-88

My County of Residence: Hamilton

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Richard DeMars and acknowledged the execution of the foregoing "Consent" as his voluntary act and deed.



860612895

85-AP-252

FILED  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

WITNESS my hand and Notarial Seal this 25<sup>th</sup> day  
of November, 1985.

Charlene J. Egan  
Notary Public

Charlene J. Egan  
(Printed Signature)

My Commission Expires: Oct 7, 1989

My County of Residence: Johnson



860012895

85-AP-252

FILED  
DEC 17 1985  
DEPT. METRO DEVELOPMENT  
By \_\_\_\_\_

860053792

CROSS REFERENCE

9.50

SECOND AMENDMENT  
TO DECLARATION OF COVENANTS AND  
RESTRICTIONS OF SUGAR TREE, INC.

THIS SECOND AMENDMENT (hereinafter referred to as "the Amendment"), made this 20<sup>th</sup> day of June, 1986, by SUGAR TREE, INC., an Indiana corporation (formerly Bent Tree, Inc.) (hereinafter referred to as "Declarant"),

WITNESSETH:

WHEREAS, Declarant has hereto executed a "Declaration of Covenants and Restrictions of Sugar Tree, Inc.", dated March 5, 1980 (hereinafter referred to as the "Original Declaration") which was recorded on March 6, 1980 as Instrument No. 80-14673 in the office of the Recorder of Marion County, Indiana, which Original Declaration has been amended by that certain "Amendment to Declaration of Covenants and Restrictions of Sugar Tree, Inc." dated July 15, 1981 (hereinafter referred to as the "First Amendment") which was recorded on August 24, 1981 as Instrument No. 81-53511 in said Recorder's office (the Original Declaration as amended by the First Amendment being hereinafter referred to as the "Declaration"); and

WHEREAS, pursuant to the Declaration, the real estate therein described, and described in Exhibit "A" attached hereto and hereby incorporated herein by reference (therein and herein referred to as the "Real Estate"), was subjected to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens set forth in the Declaration; and

WHEREAS, pursuant to Section 2 of Article XV of the Declaration, Declarant has reserved the right and power, acting along and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person (each as defined in the Declaration), to amend or supplement the Declaration for certain purposes, including the purpose of bringing the Declaration into compliance with any statutory requirements, which reserved right and power may be exercised by Declarant at any time and from time to time so long as Declarant holds title to any part or portion of the Real Estate; and

WHEREAS, Declarant is still the owner of portions of the Real Estate; and

WHEREAS, the Real Estate has heretofore been platted by Declarant into a subdivision known as Sugar Tree, an Addition in Marion County, Indiana, the plat of which is recorded as Instrument No. 80-15616 in the office of the Recorder of Marion County, Indiana; and

WHEREAS, Declarant desires and intends hereby to amend the Declaration in the particulars hereinafter described for the purpose of bringing the Declaration into compliance with statutory requirements;

NOW, THEREFORE, in consideration of the premises, and in order to amend the Declaration so as to bring certain of its provisions into compliance with statutory requirements, Declarant, pursuant to its reserved rights and powers set forth in the Declaration, hereby covenants, agrees and declares as follows:

1. Section 4 of Article V of the Declaration shall be, and the same hereby is, amended to read as follows:

APPROVED THIS 20<sup>th</sup>  
DAY OF June, 1986  
Attest: \_\_\_\_\_  
Michael J. Calvo CLERK

DULY ENTERED  
FOR TAXATION  
JUN 20 1986 16023  
COUNTY JUDITOR  
Sugar Tree, Inc.

RECORDED IN MARION CO.  
JUN 20 3 11 PM '86

"Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting occurring on or after the Applicable Date provided herein. After the Applicable Date, except as otherwise permitted by the Act and authorized by the By-Laws, each member of the Board of Directors shall be elected for a term of one (1) year. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy."

2. The Declaration, as amended, modified, corrected and supplemented by this Second Amendment, is and shall remain in full force and effect as to the Real Estate in accordance with its terms.

Sugar Tree Homeowners Association, Inc., an Indiana not-for-profit corporation (hereinafter referred to as the "Corporation"), executes this Second Amendment in accordance with and in satisfaction of the requirements of the Declaration that Corporation execute amendments to the Declaration, even though Corporation has no right of consent to or approval of the terms hereof.

IN WITNESS WHEREOF, Declarant and the Corporation have executed this Second Amendment on the day and year first hereinabove set forth.

ATTEST:

Dixon B. Dann  
Dixon B. Dann,  
Assistant Secretary

SUGAR TREE, INC.

By:

Aaron Y. Cohen  
Aaron Y. Cohen, President

ATTEST:

Carolyn H. Cohen  
Carolyn H. Cohen, Secretary

SUGAR TREE HOMEOWNERS  
ASSOCIATION, INC.

By:

Aaron Y. Cohen  
Aaron Y. Cohen, President

This Instrument was prepared by Dixon B. Dann, Attorney-at-Law.

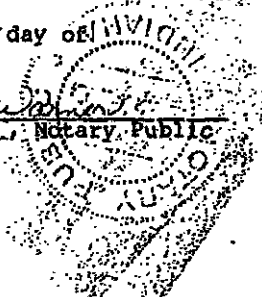
B6005370E  
86-53702

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Dixon B. Dann, the President and Assistant Secretary, respectively, of SUGAR TREE, INC., an Indiana corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 20<sup>th</sup> day of JUNE, 1986.

My Commission Expires: 1-11-88  
My County of Residence: Hamilton

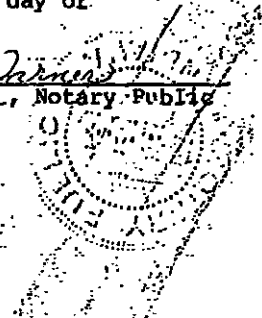
Mary A. Warner  
Mary A. Warner Notary Public  


STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Carolyn H. Cohen, the President and Secretary, respectively, of SUGAR TREE HOMEOWNERS ASSOCIATION, INC., an Indiana not-for-profit corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 20<sup>th</sup> day of JUNE, 1986.

My Commission Expires: 1-11-88  
My County of Residence: Hamilton

Mary A. Warner  
Mary A. Warner Notary Public  


This Instrument was prepared by Dixon B. Dann, Attorney-at-Law.

86058702  
86-53702



Part of the Southeast Quarter of Section 15, Township 17 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of said Quarter Section 404.28 feet; thence North 89 degrees 09 minutes 14 seconds West parallel with the South line of said Quarter Section 660.33 feet; thence South 00 degrees 53 minutes 10 seconds West parallel with the East line of said Quarter Section 404.28 feet to the South line of said Quarter Section; thence South 89 degrees 09 minutes 14 seconds East along said South line 660.33 feet to the PLACE OF BEGINNING, containing 6.129 acres, more or less.

Subject to all legal highways and rights-of-way, and to all easements, covenants, conditions, restrictions, limitations and other matters of record.

860053702

Exhibit "A"

the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 2. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Properties or by abandonment of his Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.

Section 4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.


Section 5. Interpretation. The captions and titles of the various articles, sections, sub-sections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

IN WITNESS WHEREOF, SUGAR TREE, INC., Declarant, has executed this Declaration on the day and year first hereinabove set forth.

SUGAR TREE, INC.

By:   
Aaron Y. Cohen, President.

ATTEST:

  
Dixon B. Dann, Assistant Secretary

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

80 14673

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Dixon B. Dann, the President and Assistant Secretary, respectively, of SUGAR TREE, INC., an Indiana corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 5 day of March, 1980.

My Commission Expires:

5-7-81

*Patricia A. Sheppard*  
PATRICIA A. SHEPPARD, Notary Public

My County of Residence:

Marion

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

60 14673

3675 North Post Road  
Indianapolis, Indiana 46226  
(317) 898-8282  
Mailing Address  
P. O. Box 26068



Job #329  
Vincent J. Schneider, PE LS, President  
John V. Schneider PE LS, V.P.

SCHNEIDER ENGINEERING CORPORATION  
Civil Engineers - Land Surveyors

LAND DESCRIPTION

SUGAR TREE LANE

Part of the Southeast Quarter of Section 15, Township 17 North, Range 3 East in Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the said Southeast Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of the said Southeast Quarter Section 265.61 feet; thence North 89 degrees 34 minutes 12 seconds West 45.00 feet to the West right-of-way line for Springmill Road and the POINT OF BEGINNING OF THIS DESCRIPTION; thence South 00 degrees 53 minutes 10 seconds West along the said West right-of-way line and parallel with the said East line 18.00 feet; thence North 89 degrees 34 minutes 12 seconds West 20.00 feet; thence North 81 degrees 02 minutes 21 seconds West 40.45 feet; thence North 89 degrees 34 minutes 12 seconds West 351.38 feet to a curve having a radius of 60.00 feet, the radius point of which bears South 00 degrees 25 minutes 48 seconds West; thence Westerly along said curve 44.74 feet to a point which bears North 42 degrees 17 minutes 19 seconds West from said radius point (said point also being on a curve having a radius of 38.00 feet, the radius point of which bears North 42 degrees 17 minutes 19 seconds West); thence Northerly along said curve 176.04 feet to a point which bears North 43 degrees 08 minutes 56 seconds East from said radius point (said point also being on a curve having a radius of 60.00 feet, the radius point of which bears North 43 degrees 08 minutes 56 seconds East); thence Easterly along said curve 44.74 feet to a point which bears South 00 degrees 25 minutes 48 seconds West from said radius point; thence South 89 degrees 34 minutes 12 seconds East 351.36 feet; thence North 81 degrees 53 minutes 58 seconds East 40.45 feet; thence South 89 degrees 34 minutes 12 seconds East 20.29 feet to the West right-of-way line for Springmill Road; thence South 00 degrees 53 minutes 10 seconds West along said West right-of-way line and parallel with the East line of the said Southeast Quarter Section, 18.00 feet to the POINT OF BEGINNING, containing 0.363 acres (15806 Square Feet), more or less.

80 14673

EXHIBIT "A"

GRANT OF RIGHT TO USE  
RECREATIONAL FACILITIES

THIS INDENTURE, made this 14 day of March, 1980, by  
ROUNDTREE, INC., an Indiana corporation (hereinafter referred  
to as "Declarant"),

WITNESSETH THAT:

WHEREAS, the following facts are true:

A. Declarant, on the 12th day of December, 1978, executed a Declaration of Horizontal Property Ownership for Roundtree Horizontal Property Regime, which was recorded in the office of the Recorder of Marion County, Indiana, on the 12th day of December, 1978, as Instrument No. 78-87914 (hereinafter, as amended and supplemented to date, referred to as the "Condominium Declaration") establishing and creating Roundtree Horizontal Property Regime (hereinafter and in the Declaration referred to as "Roundtree").

B. Declarant reserved the right in the Condominium Declaration to grant to the owners from time to time of the real estate described therein as the "Bent Tree Property", which real estate is more particularly described on Exhibit "A" attached hereto and hereby made a part hereof by reference (hereinafter referred to as the "Sugar Tree Property"), the right to the use, enjoyment and benefit of the Recreational Facilities (as defined in the Condominium Declaration and herein) which, at any time and from time to time, are located upon or constitute a part of the common areas and facilities of Roundtree, upon the terms and conditions set forth in the Condominium Declaration.

C. Declarant desires hereby to so grant such rights to the use, enjoyment and benefit of the Recreational Facilities to the owners of the Sugar Tree Property.

NOW, THEREFORE, in consideration of the premises, Declarant, in accordance with its rights reserved in the Condominium Declaration, makes this Grant as follows:

1. **Definitions.** In addition to the words and terms defined elsewhere herein, the following words and terms, when used herein, shall have the following meanings:
  - (a) "Sugar Tree Property" shall mean and refer to the real estate described in Exhibit "A" attached hereto, and each and every part thereof if heretofore or hereafter subdivided or conveyed in separate parcels;
  - (b) "Recreational Facilities" shall mean and refer to such buildings, improvements and facilities, if any, from time to time located on the Real Estate as are designed and intended for the social and leisure-time use, enjoyment and recreation of the owners of the condominium units in Roundtree, together with a means of access thereto and therefrom over the streets and sidewalks included in the common areas and facilities of Roundtree; at the date hereof, said Recreational Facilities consist of a clubhouse, swimming pool and one (1) tennis court, all located on that portion of the Real Estate more particularly described as Parcel 2 of Additional Tract VII in the

RECEIVED FOR RECORD  
BY  
REC'D

MAR 14 3 52 PM '80

Seventh Amendment and Supplement to the Condominium Declaration which is recorded as Instrument No. 80-03465 in the office of the Recorder of Marion County, Indiana, together with a means of access thereto and therefrom;

- (c) "Family Unit" shall mean and refer to each owner, taken collectively, of a dwelling unit located on the Sugar Tree Property, together with the members of his family and their tenants, guests and invitees; and
- (d) "Real Estate" shall mean and refer to those portions of the real estate in Marion County, Indiana more particularly described on Exhibit "B" attached hereto and hereby made a part hereof by reference which have, from time to time, been submitted to the Condominium Declaration and form a part of the common areas and facilities of Roundtree.

2. Grant of Rights. Declarant hereby grants to the owners from time to time of the Sugar Tree Property, their successors and assigns, an absolute perpetual, non-exclusive right, license and easement for the use, enjoyment and benefit of the Recreational Facilities, in common with and to the same extent as owners of condominium units within Roundtree, subject, however, to the following provisions, conditions and limitations:

- (a) Such rights of use, enjoyment and benefit of the Recreational Facilities by owners of real estate included in the Sugar Tree Property shall be limited to owners of those portions of the Sugar Tree Property developed or to be developed for single or multi-family dwelling units either for lease or sale (as condominiums, townhouses, or otherwise) and such rights shall not be enjoyed by more than seventeen (17) Family Units residing on the Sugar Tree Property;
- (b) Each owner of real estate included within the Sugar Tree Property who desires to exercise such right to the use, enjoyment and benefit of the Recreational Facilities shall pay to Roundtree Homeowners Association, Inc. (or its successor as the association of owners of the condominium units in Roundtree) (the "Association") an annual fee as hereinafter provided. Such fee shall be an annual fee, payable in full in advance, on or before May 1 of each year. Such annual fee, for each year prior to the year beginning May 1, 1980, shall be in the amount of Three Hundred and No/100 Dollars (\$300.00). Commencing with the year beginning May 1, 1980, and thereafter, such annual fee may be increased annually by the Association by an amount not greater than an amount equal to the percentage increases, if any, in the Consumer Price Index between the Consumer Price Index for the month of March, 1979 and the Consumer Price Index for the month of March of the then current year. As used herein, the term "Consumer Price Index" shall mean "Consumer Price Index

80 16596

for All Urban Consumers, U.S. City Average of all items (CPI-U, reference base of 1967=100.)" published by the Bureau of Labor Statistics of the U.S. Department of Labor. If the publication of the Consumer Price Index of the U.S. Bureau of Labor Statistics is either discontinued, or revised by changes in the weights assigned by the 1972-73 Consumer Expenditure Survey to the expenditure groups, in the sample of items priced, in the sample of places where the pricing takes place or in the statistical methods employed in the calculation of the Consumer Price Index, then and in any of such events, comparable statistics on the purchasing power of the consumer dollar published by a responsible financial periodical selected by the Association shall be used for making such computations. Such right of use, enjoyment and benefit of the Recreational Facilities shall be available to each owner of real estate included within the Sugar Tree Property on an annual basis and the failure of any such owner to avail himself of such right during any year or years or to pay the annual fee for such year or years shall not preclude such owner from thereafter availing himself of such right upon payment of the annual fee for the year of such use. No owner of any part of the real estate included within the Sugar Tree Property shall have any obligation to pay any such annual fee except as a condition precedent to the use and enjoyment of the Recreational Facilities for the then current year and the failure to pay any such annual fee shall not in any manner be construed to create any charge or lien against any part of the Sugar Tree Property;

- (c) All persons having the right to the use, enjoyment and benefit of the Recreational Facilities, including both the owners of condominium units in Roundtree and the owners of real estate included in the Sugar Tree Property, shall abide by the rules and regulations, if any, adopted by the Association for the use of the Recreational Facilities, provided, however, that all such rules and regulations shall neither discriminate against nor in favor of either the owners of the condominium units in Roundtree or the owners of real estate included in the Sugar Tree Property, and shall apply with equal force to both groups. No preference in the use and enjoyment of the Recreational Facilities shall be given to either such group; and
- (d) Nothing herein contained shall be deemed or construed to impose any obligation, duty, responsibility or liability upon the Association or the owners of the condominium units in Roundtree to maintain the Recreational Facilities in good condition or state of repair for the benefit of the owners of the Sugar Tree Property, and the owners of the Sugar Tree Property shall have no right or grounds to object to the condition or state of repair of the Recreational Facilities.

3. Binding Effect. This Grant, and the rights, licenses and easements hereby created and granted, and all covenants and agreements herein contained, shall be binding upon and shall inure to the benefit of the Association, the owners of condominium units in Roundtree, the owners of real estate included in the Sugar Tree Property, and their respective successors and assigns, and shall run with each and every parcel of real estate herein described or referred to.

IN WITNESS WHEREOF, the undersigned has caused this Grant Of Right To Use Recreational Facilities to be executed the day and year first hereinabove set forth.

ROUNDTREE INC.

By: *[Signature]*  
Aaron Y. Cohen, President

ATTEST:

*[Signature]*  
Dixon B. Dann, Assistant Secretary

This Instrument was prepared by Dixon B. Dann, Attorney-at-Law.

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Dixon B. Dann, the President and Assistant Secretary, respectively, of Roundtree, Inc., an Indiana corporation, who acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 14 day of March, 1980.

My Commission Expires: 10-16-82

My County of Residence: Marion

*[Signature]*  
Barbara J. Dann, Notary Public  
1982

This Instrument was prepared by Dixon B. Dann, Attorney-at-Law. ✓

80 16596



LEGAL DESCRIPTION OF  
SUGAR TREE PROPERTY

Part of the Southeast Quarter of Section 15, Township 17 North, Range 3 East in Marion County, Indiana more particularly described as follows:

Beginning at the Southeast corner of said Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of said Quarter Section 404.28 feet; thence North 89 degrees 09 minutes 14 seconds West parallel with the South line of said Quarter Section 660.33 feet; thence South 00 degrees 53 minutes 10 seconds West parallel with the East line of said Quarter Section 404.28 feet to the South line of said Quarter Section; thence South 89 degrees 09 minutes 14 seconds East along said South line 660.33 feet to the PLACE OF BEGINNING, containing 6.129 acres, more or less.

Said real estate being also described as Sugar Tree, an Addition in Marion County, Indiana, as per plat thereof, recorded as Instrument No. 80-15616 in the office of the Recorder of Marion County, Indiana.

EXHIBIT "A"

80 16596

Part of the Northeast Quarter of Section 22,  
Township 17 North, Range 3 East in Marion  
County, Indiana, more particularly described  
as follows:

Beginning at a brass plug marking the Northeast  
corner of said Quarter Section; thence South  
01 degrees 00 minutes 41 seconds West (Assumed  
Bearing) along the East line of said Quarter  
Section 670.00 feet; thence North 89 degrees  
09 minutes 19 seconds West along the North line  
of William Creek Heights, Second Section, per  
plat thereof recorded in Plat Book 30, pages  
237 and 238 in the Office of the Recorder of  
Marion County, Indiana 972.10 feet; thence  
North 02 degrees 38 minutes 41 seconds East  
670.30 feet by Deed and 670.35 feet by  
measurement to the North line of said Northeast  
Quarter Section; thence South 89 degrees 09  
minutes 14 seconds East along said North line  
302.50 feet; thence South 01 degrees 00 minutes  
41 seconds West parallel with the East line  
of said Quarter Section 165.00 feet; thence  
South 89 degrees 09 minutes 14 seconds East  
parallel with the North line of said Quarter  
Section 344.00 feet; thence North 01 degrees  
00 minutes 41 seconds East parallel with the  
East line of said Quarter Section 165.00 feet  
to the North line of said Quarter Section;  
thence South 89 degrees 09 minutes 14 seconds  
East along the North line of said Quarter Section  
306.60 feet by Deed and 306.49 feet by measurement  
to the PLACE OF BEGINNING.

ALSO:

Part of the Northeast Quarter of Section 22,  
Township 17 North, Range 3 East in Marion County,  
Indiana, more particularly described as follows:

Beginning on the North line of said Quarter  
Section 306.60 feet by Deed and 306.49 feet by  
measurement North 89 degrees 09 minutes 14  
seconds West (Assumed bearing) from a brass plug  
marking the Northeast corner of said Quarter  
Section; thence South 01 degrees 00 minutes 41  
seconds West parallel with the East line of said  
Quarter Section 165.00 feet; thence North 89  
degrees 09 minutes 14 seconds West parallel with  
the North line of said Quarter Section 344.00  
feet; thence North 01 degrees 00 minutes  
41 seconds East parallel with the East line  
of said Quarter Section 165.00 feet to the  
North line of said Quarter Section; thence  
South 89 degrees 09 minutes 14 seconds East  
along the North line of said Quarter Section  
344.00 feet to the PLACE OF BEGINNING.

EXHIBIT "B"

81 19591

660  
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NOTE: Rules of the Metropolitan Development Commission requires use of this form in recording commitment modification(s) or terminations(s) with respect to rezoning and approval cases in accordance with P.L. 185 of the Acts of 1973, Article VI, Section 3. (b).

EXHIBIT C

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS RELATIVE TO USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION OR REZONING OF PROPERTY.

In accordance with I.C. 1971, 18-7-2-20 as amended by P.L. 185 of the Acts of 1973 and 18-7-2-84.1 as added by P.L. 185 of the Acts of 1973, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or terminations(s) of commitment(s) relative to the use and development of that parcel of real estate:

Legal Description:

SEE ATTACHED EXHIBIT "A"

Statement of Commitments:

1. SEE ATTACHED EXHIBIT "B" ENTITLED  
"SECOND AMENDMENT TO COVENANTS"
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

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RECORDER-MARION CO.  
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These commitments may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition # 81-AP-1

MD-153, 4/30/80

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FILED  
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DEPT. METRO DEVELOPMENT

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the rezoning petition who were not petitioners for the rezoning. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the bound volumes of the most recent real estate tax assessment records as they appear in the offices of the various township assessors of Marion County. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning under the rules in force at the time the commitment was made); and

3. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The undersigned hereby authorizes the Division of Planning and Zoning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana upon final approval of modification and/or termination of commitment(s) of petition # 81-AP-1 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this 12<sup>th</sup> day of January, 1981.

Signature \_\_\_\_\_ (Seal)      Signature By [Signature] (Seal)  
 Printed \_\_\_\_\_                      Printed Aaron Y. Cohen

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen, on behalf of Sugar Tree, Inc., owner(s) of the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 12<sup>th</sup> day of January, 1981.

Signature [Signature]  
 Printed Carleton H. Sage  
 County of residence: Marion

My Commission expires: September 10, 1983  
 This instrument was prepared by Philip A. Nicely, Attorney at Law

This Modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 7<sup>th</sup> day of January, 1981.

[Signature]  
 Secretary, Metropolitan Development Commission  
 EDEN J. COX

81 19591

Part of the southeast quarter of Section 15, Township 17 North, Range 3 East,  
more particularly described as follows:

Beginning at the southeast corner of said quarter section and running thence  
north on and along the east line thereof 404.28 feet to a point, thence west  
parallel to the south line of said quarter section 660.33 feet to a point; thence  
south parallel to said east line 404.28 feet to a point on the south line of  
said quarter section; thence east on and along said south line 660.33 feet to  
the place of beginning, said real estate being also described as Tract I through  
6, inclusive, of Spring Hill Pleasant View Survey recorded March 7, 1951, in Deed  
Record 1408 page 455 in the office of the Recorder of Marion County, Indiana.

COPY

EXHIBIT "A"

81 19591

SECOND AMENDMENT TO COVENANTS

The undersigned, Sugar Tree, Inc., now the owner of the real estate described herein, which real estate was the subject of a petition for rezoning in Case 77-2-207 (77-DP-5), hereby makes the following amendments to covenants relating to such case as recorded in the Office of the Recorder of Marion County, Indiana, on the 20th day of June, 1978, as Instrument No. 78-038863:

1. Paragraph 1(d) is deleted in its entirety.
2. Paragraph 4 is amended to read as follows:

"Number of Units. The maximum number dwelling units, either attached or unattached to be built or developed on the Real Estate shall be seventeen (17). Developer reserves the right to construct those seventeen (17) units as (1) seventeen (17) single family units on each of the seventeen (17) lots, or (2) attached single family dwellings with buildings consisting of either two or three units, or (3) any combination of the above. By way of example, the following could occur:

- (a) A single dwelling on a single lot.
- (b) A two-unit building constructed on two lots.
- (c) A two-unit building constructed on one lot and a fraction of another lot.
- (d) A three-unit building constructed on two lots.
- (e) A three-unit building constructed on two lots and a fraction of another lot.

EXHIBIT "B"

81 19591

In addition, each dwelling unit shall have an attached two-car garage. The maximum ground floor square footage of all dwelling units in the total development shall not exceed 52,700 square feet excluding basements and garages and the maximum square footage of all dwelling units in the total development shall not exceed 66,800 square feet excluding basements and garages.

No unit shall have more bedrooms than three and a den, provided, however, the dens may also be used as bedrooms."

3. Except as designated herein, all other items and provisions of the Covenants shall remain as originally written or as are in the First Amendment to Covenants.

81 53511

AMENDMENT TO DECLARATION  
OF COVENANTS AND RESTRICTIONS OF  
SUGAR TREE, INC.

CROSS REFERENCE

CROSS REFERENCE

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THIS AMENDMENT (hereinafter referred to as "the Amendment"), made this 15th day of ~~JANUARY~~ 1981, by SUGAR TREE, INC., an Indiana corporation (formerly Bont Tree, Inc.) (hereinafter referred to as "Declarant") and the other parties signatory hereto hereinafter defined and designated as "Other Signatories",

WITNESSETH:

WHEREAS, Declarant has hereto executed a "Declaration of Covenants and Restrictions of Sugar Tree, Inc.", dated March 5, 1980 (hereinafter referred to as the "Declaration") which was recorded on March 6, 1980 as Instrument No. 80-14673 in the office of the Recorder of Marion County, Indiana, by which Declarant, as the owner of the real estate therein described and described in Exhibit "A" attached hereto and hereby incorporated herein by reference (therein and herein referred to as the "Real Estate"), subjected the Real Estate to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens set forth in the Declaration; and

WHEREAS, Declarant is still the owner of the Real Estate, except such portions of the Real Estate as have been conveyed by Declarant to and are now owned by the parties hereinafter defined and designated as the "Other Signatories"; and

WHEREAS, the Real Estate has heretofore been platted by Declarant into a subdivision known as Sugar Tree, an Addition in Marion County, Indiana, the plat of which is recorded as Instrument No. 80-15616 in the office of the Recorder of Marion County, Indiana; and

WHEREAS, Declarant and the Other Signatories desire and intend hereby to amend the Declaration in the particulars hereinafter described;

NOW, THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party signatory hereto, Declarant and the Other Signatories hereby covenant, agree and declare as follows:

1. Subsection (1) of Section 1 of Article I of the Declaration shall be, and the same hereby is, amended to read as follows:

"(1) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Properties) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any single numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a lot on such a subdivision plat, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial

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conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purpose. Any part of a "Lot" reconveyed to Declarant shall, upon such re-conveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason."

2. The first sentence of Section 2 of Article III of the Declaration shall be, and the same hereby is, amended to read as follows:

"Section 2. Agreement to Construct and Convey Other Common Properties.  
Declarant has constructed or provided for, or will construct or provide for, the following Common Properties (in addition to Sugar Tree Lane) consisting of the following items required by, and in accordance with, the Zoning Covenants, or otherwise:

- (a) storm and sanitary sewer systems to serve the Real Estate.
- (b) installation of utility equipment, facilities and systems to serve the Real Estate,
- (c) street lighting facilities for Sugar Tree Lane, and
- (d) perimeter treatment of the Real Estate, including brick walls, chain link fencing and landscaping."

There shall be no requirement as to the installation of any off-street parking spaces on the Real Estate, exclusive of garages, driveways and private parking spaces on Lots.

3. Article III of the Declaration shall be, and the same hereby is, amended by adding a new Section thereto as Section 3, immediately following Section 2 of said Article III, to read as follows:

"Section 3. Additional Common Properties at Declarant's Option.  
Declarant may, at its option but without obligation to do so, convey portions of the Real Estate to the Corporation for, or construct, install or provide for other items for or on, or services to serve, the Real Estate as amenities for, the mutual benefit, use or enjoyment of the Owners. Included as examples of the foregoing, but not limited thereto, might be a community television antenna or receiving device to serve all of the Dwelling Units, storage buildings for storage of articles by Owners or provision of portions of the Real Estate for recreational or other common uses or purposes for the Owners; provided, however, that any of such items which would not have an exterior appearance harmonious with the residential character of the Real Estate shall be adequately screened or enclosed by Declarant with walls, landscaping or a combination of the same in order to provide such a harmonious appearance. Any such portions of the Real Estate, or other items, or services, which Declarant, at its sole option, elects to convey, construct, install or provide as Common Properties shall become a part of the Common Properties only when so designated by Declarant in a written instrument executed by Declarant and delivered to the Corporation. Upon any such designation by Declarant, Declarant shall convey all of its right, title and interest in and to the Common Properties so designated to the Corporation and all such right, title and interest in and to the Common Properties so

designated and conveyed shall then and thereupon be and become the property of the Corporation, whether or not the same constitutes, or may be located entirely or partially on, any one or more of the Lots or parts thereof. As to any of such Common Properties so designated and conveyed pursuant to the foregoing provisions of this Section 3 which are located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein or thereto, as described in Article II, Section 2 of this Declaration."

4. Subsection (d) of Section 6 of Article V of the Declaration shall be, and the same hereby is, amended to read as follows:

"(d) surfacing, paving and maintaining Sugar Cree Lane;"

5. Section 7 of Article V of the Declaration shall be, and the same hereby is, amended as follows:

(A) by deleting the period (.) appearing at the end of subsection (g) thereof and substituting therefor the following: "; and"; and

(B) by adding a new subsection thereto as subsection (h) immediately following subsection (g) of said Section 7, to read as follows:

"(h) to grant to such public or private companies, entities or bodies as the Board shall approve, such easements as may be necessary to provide the Lots and Dwelling Units with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more utility easements shown upon and identified as utility easements on, any recorded subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded,"

6. Subsection (a) of Section 6 of Article X of the Declaration shall be, and the same hereby is, amended to read as follows:

"(a) From the date of the first conveyance of a Lot by Declarant to any other Person until the earlier of the Applicable Date or December 31, 1981, the Regular Assessment shall be One Thousand Two Hundred Dollars (\$1,200.00) per year upon each Lot owned by someone other than Declarant, prorated on a daily basis for any period of time less than a full year; provided, however, that if a Lot is so conveyed by Declarant to another Person without a completed Dwelling Unit thereon, then the Regular Assessment shall be One Hundred Twenty Dollars (\$120.00) per year, prorated on a daily basis, until the earlier of (i) the date a Dwelling Unit is completed on the Lot, or (ii) one (1) year from the date of conveyance of such Lot to said Person, at which time the Regular Assessment shall be raised to the full amount first mentioned in this subparagraph (a);"

7. The first paragraph of Section 4 of Article XII of the Declaration shall be, and the same hereby is, amended to read as follows:

"Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Corporation, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof, together with copies of such policies and any changes thereto or certificates indicating the coverages included therein, shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notices and copies or certificates shall be furnished by the officer of the Corporation who is required to send notices of meetings of the Corporation."

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8. Subsection (a) of Section 1 of Article XIV of the Declaration shall be, and the same hereby is, amended to read as follows:

"(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family; provided, however, that the foregoing restriction of "used exclusively for residential purposes" shall not apply to any Lot or part thereof or any other part of the Real Estate at any time owned by the Corporation which constitutes a part of the Common Properties, and upon which no Dwelling Unit is located."

9. Subsection (b) of Section 1 of Article XIV of the Declaration shall be, and the same hereby is, amended to read as follows:

"(b) Nothing shall be done or kept by any Owner on the Common Properties which will cause an increase in the rate of insurance on any of the Common Properties. No Owner shall permit anything to be done or kept on any of the Common Properties which will result in a cancellation of insurance on any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau."

10. Article XIV of the Declaration shall be, and the same hereby is, amended by adding a new Section thereto as Section 2, immediately following Section 1 of said Article XIV, to read as follows:

"Section 2. Non-applicability to Corporation. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in Section 1 of this Article XIV shall not apply to or be binding upon the Corporation in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Properties to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Corporation in the performance of its duties, obligations and responsibilities as to the Common Properties."

11. The first sentence of Section 2 of Article XV of the Declaration shall be, and the same hereby is, amended to read as follows:

"Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) functions similar to those performed by such agencies or entities, or (e) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto."

12. The last sentence of Article XVII of the Declaration shall be, and the same hereby is, amended to read as follows:

"An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or lessees."

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13. Declarant certifies that it is the owner of all of the Real Estate except for the following portions thereof which have been conveyed to and are now owned by others, as follows:

- (A) the portions of the Real Estate comprising the private street known as Sugar Tree Lane, more particularly described in Exhibit "B" attached hereto and hereby incorporated herein by reference, which have been conveyed to Sugar Tree Homeowners Association, Inc., an Indiana not-for-profit corporation (the "Corporation"), and
- (B) the portions of the Real Estate comprising the property commonly known as 438 Sugar Tree Lane, Indianapolis, Indiana, more particularly described in Exhibit "C" attached hereto and hereby incorporated herein by reference, which have been conveyed to Fred Simon and Helene Simon, husband and wife (the "Simons").

The Corporation and the Simons are herein referred to, collectively, as the "Other Signatories". The Other Signatories who have executed this Amendment have executed the same for the purpose of agreeing to all of the terms and provisions hereof and agreeing that the respective portions of the Real Estate owned by each of them are subject to all of the terms and provisions of the Declaration as amended and modified by this Amendment. Corporation also executes this Amendment in accordance with and in satisfaction of the requirements of the Declaration that Corporation executes amendments to the Declaration.

IN WITNESS WHEREOF, Declarant and the Other Signatories have executed this Amendment on the day and year first hereinabove set forth.

ATTEST:

  
Dixon B. Dann, Assistant Secretary

SUGAR TREE, INC.

By:

  
Aaron Y. Cohen, President

ATTEST:

  
C. Willis Adams, III, Secretary

SUGAR TREE HOMEOWNERS ASSOCIATION, INC.

By:

  
Aaron Y. Cohen, President

  
Fred Simon

  
Helene Simon

This Instrument was prepared by Dixon B. Dann, Attorney-at-Law.

81 53511

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Dixon B. Dann, the President and Assistant Secretary, respectively, of SUGAR TREE, INC., an Indiana corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 15<sup>th</sup> day of <sup>July</sup>~~June~~, 1981.

My Commission Expires:

5-7-85

*Patricia A. Sheppard*  
Patricia A. Sheppard, Notary Public

My County of Residence:

Marion

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and C. Willis Adams, III, the President and Secretary, respectively, of SUGAR TREE HOMEOWNERS ASSOCIATION, INC., an Indiana not-for-profit corporation, and acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 15<sup>th</sup> day of <sup>July</sup>~~June~~, 1981.

My Commission Expires:

5-7-85

*Patricia A. Sheppard*  
Patricia A. Sheppard, Notary Public

My County of Residence:

Marion

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared FRED SIMON and HELENE SIMON, Husband and Wife, and acknowledged the execution of the above and foregoing instrument as their free and voluntary act and deed for the purposes and uses therein set forth.

WITNESS my hand and Notarial Seal this 27<sup>th</sup> day of <sup>July</sup>~~June~~, 1981.

My Commission Expires:

7-24-84

*Heleen P. Lovelady*  
Heleen P. Lovelady, Notary Public

My County of Residence:

Marion

81 53511

This instrument was prepared by Dixon B. Dann, Attorney-at-Law.

Part of the Southeast Quarter of Section 15, Township 17 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of said Quarter Section 404.28 feet; thence North 89 degrees 09 minutes 14 seconds West parallel with the South line of said Quarter Section 660.33 feet; thence South 00 degrees 53 minutes 10 seconds West parallel with the East line of said Quarter Section 404.28 feet to the South line of said Quarter Section; thence South 89 degrees 09 minutes 14 seconds East along said South line 660.33 feet to the PLACE OF BEGINNING, containing 6.129 acres, more or less.

Subject to all legal highways and rights-of-way, and to all easements, covenants, conditions, restrictions, limitations and other matters of record

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Exhibit "A"

Part of the Southeast Quarter of Section 15, Township 17 North, Range J East in Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the said Southeast Quarter Section; thence North 00 degrees 53 minutes 10 seconds East (Assumed Bearing) along the East line of the said Southeast Quarter Section 265.61 feet; thence North 89 degrees 34 minutes 12 seconds West 45.00 feet to the West right-of-way line for Springmill Road and the POINT OF BEGINNING OF THIS DESCRIPTION; thence South 00 degrees 53 minutes 10 seconds West along the said West right-of-way line and parallel with the said East line 18.00 feet; thence North 89 degrees 34 minutes 12 seconds West 20.00 feet; thence North 81 degrees 02 minutes 21 seconds West 40.45 feet; thence North 89 degrees 34 minutes 12 seconds West 351.38 feet to a curve having a radius of 60.00 feet, the radius point of which bears South 00 degrees 25 minutes 48 seconds West; thence Westerly along said curve 44.74 feet to a point which bears North 42 degrees 17 minutes 19 seconds West from said radius point (said point also being on a curve having a radius of 38.00 feet, the radius point of which bears North 42 degrees 17 minutes 19 seconds West); thence Northerly along said curve 176.04 feet to a point which bears North 43 degrees 08 minutes 56 seconds East from said radius point (said point also being on a curve having a radius of 60.00 feet, the radius point of which bears North 43 degrees 08 minutes 56 seconds East); thence Easterly along said curve 44.74 feet to a point which bears South 00 degrees 25 minutes 48 seconds West from said radius point; thence South 89 degrees 34 minutes 12 seconds East 351.36 feet; thence North 81 degrees 53 minutes 58 seconds East 40.45 feet; thence South 89 degrees 34 minutes 12 seconds East 20.29 feet to the West right-of-way line for Springmill Road; thence South 00 degrees 53 minutes 10 seconds West along said West right-of-way line and parallel with the East line of the said Southeast Quarter Section, 18.00 feet to the POINT OF BEGINNING, containing 0.363 acres (15806 Square Feet), more or less.

Said real estate being the same real estate shown on, and identified as "Sugar Tree Lane" on, the plat of Sugar Tree, an addition in Marion County, Indiana, as per plat thereof recorded as Instrument No. 80-15316 in the office of the Recorder of Marion County, Indiana.

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Exhibit "B"

Part of Lots 9, 8, and 7 in Sugar Tree, an Addition in Marion County, Indiana, the plat of which is recorded as Instrument Numbered 80-15616 in the Office of the Recorder of Marion County, Indiana, being more particularly described as follows:

Beginning at the Northwest corner of Lot 8 in said Addition; thence South 89 degrees 09 minutes 14 seconds East along the North line of Lot 8 and Lot 7 192.43 feet; thence South 00 degrees 53 minutes 10 seconds West 129.00 feet to a point on the North right of way line of Sugar Tree Lane said point also being on a 95.49297 degree curve to the right, the radius point of said curve being North 11 degrees 16 minutes 40 seconds East 60.00 feet from said point; thence Northwesterly along the said curve 33.38 feet to the Point of Reverse Curvature of a 150.77842 degree curve to the left radius point of said curve being South 43 degrees 08 minutes 54 seconds West 38.00 feet from said point; thence Southwesterly along the said curve 73.83 feet to a point, the radius point of said curve being South 68 degrees 09 minutes 50 seconds East 38 feet from said point; thence North 68 degrees 09 minutes 50 seconds West 27.25 feet; thence North 51 degrees 53 minutes 31 seconds West 95.96 feet to the Northwest corner of Lot 9; thence North 00 degrees 53 minutes 10 seconds East along the West line of Lot 8, 67.00 feet to the POINT OF BEGINNING, containing 20,373 square feet, more or less.

Together with a non-exclusive easement for ingress and egress upon, over and across the private street known as Sugar Tree Lane, as shown on the recorded plat of said Addition, and as provided in the Declaration of Covenants and Restrictions of Sugar Tree, Inc., recorded as Instrument No. 80-14673 in the office of the Recorder of Marion County, Indiana.



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NOTE: Rules of the Metropolitan Development Commission requires use of this form in recording commitment modification(s) or terminations(s) with respect to rezoning and approval cases in accordance with P.L. 185 of the Acts of 1973, Article VI, Section 3. (b).

EXHIBIT C

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS RELATIVE TO USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION OR REZONING OF PROPERTY.

In accordance with I.C. 1971, 18-7-2-20 as amended by P.L. 185 of the Acts of 1973 and 18-7-2-84.1 as added by P.L. 185 of the Acts of 1973, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or terminations(s) of commitment(s) relative to the use and development of that parcel of real estate:

Legal Description:

See Attached Exhibit A

Statement of Commitments:

See Exhibit "B" THIRD AMENDMENT TO COVENANTS

Multiple horizontal lines for recording commitments, mostly blank.

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LUCILLE CAMP  
RECORDER-MARION CO.  
Jul 29 8 52 AM '82

5. **82 40109**

These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition # 82-AP-28

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the rezoning petition who were not petitioners for the rezoning. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the bound volumes of the most recent real estate tax assessment records as they appear in the offices of the various township assessors of Marion County. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning under the rules in force at the time the commitment was made); and
3. \_\_\_\_\_

The undersigned hereby authorizes the Division of Planning and Zoning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana upon final approval of modification and/or termination of commitment(s) of petition # 82-AP by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this

day of May 1982

SUGAR TREE, IN

Signature \_\_\_\_\_ (Seal)

Printed By Aaron Cohen

Signature \_\_\_\_\_ (Seal)

Printed Fred Simon

STATE OF INDIANA )

) SS:

COUNTY OF MARION )

Signature \_\_\_\_\_

Printed Helene Simon

Before me, a Notary Public in and for said County and State, personally appeared Fred Simon, Helene Simon and Sugar Tree, Inc. by Aaron Cohen owner(s) of

the real estate who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witnessed by hand and Notarial Seal this 18<sup>th</sup> day of May



Signature Patricia A. Sherwood

Printed Patricia A. Sherwood

County of residence: Marion

My Commission expires: 5-7-85

This instrument was prepared by Philip A. Nicely

This Modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 31st day of July, 1982.

82 40109

Signature Elden J. Cox  
Secretary, Metropolitan Development Commission

ELDEN J. COX

Part of the southeast quarter of Section 15, Township 17 North, Range 3 East,  
more particularly described as follows:

Beginning at the southeast corner of said quarter section and running thence  
north on and along the east line thereof 404.28 feet to a point, thence West  
parallel to the south line of said quarter section 660.33 feet to a point; thence  
south parallel to said east line 404.28 feet to a point on the south line of  
said quarter section; thence east on and along said south line 660.33 feet to  
the place of beginning, said real estate being also described as Tract 1 through  
6, inclusive, of Spring Hill Pleasant View Survey recorded March 7, 1951, in Deed  
Record 1408 page 455 in the office of the Recorder of Marion County, Indiana.

82 40109

EXHIBIT "A"

THIRD AMENDMENT TO COVENANTS

The undersigned, SUGAR TREE, INC. and FRED SIMON and HELENE SIMON, husband and wife, the owners of all of the Real Estate described herein, which Real Estate was the subject of a petition for rezoning in Case No. 77-2-207 (77-DP-5) hereby make the following Amendments to Covenants relating to such case as recorded in the Office of the Recorder of Marion County, Indiana, on the 20th day of June, 1978, as Instrument No. 78-038863, as amended on the 26<sup>th</sup> day of September, 1979 as Instrument No. 79-73323 and subsequently amended on the 3<sup>rd</sup> day of April, 1981 as Instrument No. 81-19591 :

1. Paragraph 11 is amended to read as follows:

Setback Lines on North, South and West. No building shall be closer than twenty (20) feet to the north and west property lines, provided, however, on lot one (1) a porch may be constructed so that the north side of the porch is ten (10) feet from the north property line. No building (other than a garage) shall be built closer than 23 feet to the south property line, provided, however, no garage shall be built closer than 10 feet to the south property line, and further provided that the setback for any building along the angle area at the southeast corner of the Real Estate shall be 10 feet as designated on the Plan.

2. Except as designated herein, all other items and provisions of the Covenants shall remain as originally written or as such have been subsequently amended.

82 40109

APPROVAL OF THIRD AMENDMENT TO COVENANTS  
BY  
86th STREET ASSOCIATION

Pursuant to Paragraph 19 of the Covenants filed in Case No. 77-2-207 (77-DP-5) and recorded in the Office of the Recorder of Marion County, Indiana, on June 20, 1978, as Instrument No. 78-038863, the 86th Street Association, by its President, Robert A. Rose and its Secretary, Eugene C. Miller, Jr., hereby approves the foregoing "Third Amendment to Covenants" relating to Case No. 77-2-207 (77-DP-5).

DATED this 1 day of April, 1982.

86th STREET ASSOCIATION

By Robert A. Rose, President  
Robert A. Rose, President

ATTEST:

Eugene C. Miller  
Eugene C. Miller, Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Robert A. Rose and Eugene C. Miller, Jr., by me known and by me known to be the President and Secretary, respectively, of the 86th Street Association, and who acknowledged the execution of the foregoing "Approval of Third Amendment to Covenants by 86th Street Association" on behalf of the 86th Street Association.

82 40109  
WITNESS my hand and Notarial Seal this 5<sup>th</sup> day of April, 1982.

Julius A. Samanski  
Notary Public

My Commission Expires:

July 31, 1984

My County of Residence:

Johnson

77  
13-

CROSS REFERENCE

83 53711

CROSS REFERENCE

FIRST AMENDMENT OF PLAT RESTRICTIONS  
OF SUGAR TREE

On March 11, 1980, Sugar Tree, Inc. recorded the subdivision plat and plat restrictions for a subdivision to be known as Sugar Tree (Subdivision) as Instrument No. 80-15616 in the Office of the Recorder of Marion County, Indiana. Sugar Tree, Inc., Fred Simon and Helene Simon, husband and wife, and John C. Reel and Patricia A. Reel, husband and wife, the owners of all of the lots in Sugar Tree, and Sugar Tree Homeowners Association, Inc., the owner of all of the common property in Sugar Tree, desire to and hereby do amend the plat restrictions in order to provide for the more appropriate and effective development and use of the Subdivision in accordance with the following:

1. Paragraph 1 of the restrictions is amended to read as follows:

All numbered lots in this subdivision shall be designated as residential lots and shall be used for residential purposes; provided, however, such provision shall not be applicable to those lots owned by the Homeowners Association which may be used for accessory residential purposes such as recreational facilities and maintenance facilities.

2. Paragraph 9 of the restrictions is amended to read as follows:

Building lines are established as shown on this plat between which lines and the nearest right-of-way line of the street or other property line no structure shall be erected or maintained, except fences and brick walls and except driveways and walkways; provided, however, the side and rear building lines as shown on this plat shall apply only to the primary buildings containing dwelling units and shall not apply to porches or to any other accessory structures (whether attached or detached) otherwise permitted by this plat or by the zoning commitments described in paragraph 8 of these plat restrictions, as such may be amended from time to time. For the purposes of porches and accessory structures as

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BETH O'LAUGHLIN  
RECORDER-MARION CO.  
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described above, the side and rear building setback lines shall be 10 feet. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty (20) feet from the intersection of said street lines, or in the case of a rounded corner, from the intersection of the street line extended. The same sightline limitation 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 distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

3. Paragraph 11 of the restrictions is amended to read as follows:

No trailer, boat, camper, motorcycle, truck or other vehicle not related to residential use shall be stored, temporarily or permanently on any lot in this subdivision, nor shall any tent, shack, barn or other outbuilding or temporary structure be used for temporary or permanent residence purposes or any other purpose in any lot in this Addition; provided, however, that this shall not be applicable to temporary structures or trailers used in connection with construction of improvements on the real estate nor shall such restrictions against outbuildings preclude accessory residential structures such as gazebos, hot tubs, storage buildings or playhouses and the same shall be permitted; provided, however, such accessory residential structures must be located in the side or rear yard and may not be constructed unless such construction or improvement is approved by the architectural review board as established in the Declaration of Covenants and Restrictions referred to in the last paragraph of these plat restrictions. None of the foregoing restrictions shall be interpreted or construed to preclude any buildings, structures or improvements owned by the Homeowners Association which are otherwise permitted hereunder.

4. Paragraph 14 of the restrictions is amended by adding the following thereto:

In addition, the Homeowners Association shall have, and is hereby granted, authority to grant to such public or private companies as it may

approve, such easements as may be necessary or desirable to provide the lots and dwelling units in this subdivision with facilities for utility and similar services, including, but not limited to, cable television facilities and service; provided, however, that any such easements are located within or are co-extensive with any one or more Utility Easements shown on this plat.

5. Paragraph 21 of the plat restrictions is hereby deleted in its entirety.

6. The portions of the Drainage and Utility Easement shown on the plat on Lots 9 and 10, as designated by cross-hatching on the attached drawing marked Exhibit "A," and to which reference is made in paragraph 14 of the plat restrictions, are hereby deleted. All other Utility and Drainage Easements which appear on the plat (including other portions thereof on said Lots 9 and 10) and to which reference is made in paragraph 14 of the plat restrictions, shall remain as shown on the plat. The Indianapolis Power and Light Company, The Indianapolis Water Company, Citizens Gas and Coke Utility, the Indiana Bell Telephone Company and the Department of Public Works of the City of Indianapolis, by execution of this First Amendment hereby consent to the deletion of the Drainage and Utility Easement as described in this Paragraph 6 of the First Amendment.

7. This First Amendment of Plat Restrictions of Sugar Tree was approved by the the Metropolitan Development Commission on July 6, 1982, as Resolution No. 30, 1982.

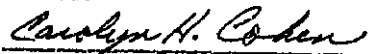
EXECUTED this 12 day of January, 1982.

SUGAR TREE, INC.

By 


Aaron H. Cohen

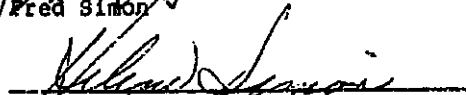
ATTEST:

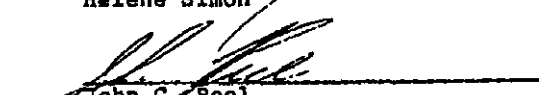
  
Carolyn H. Cohen

83 53711




  
Fred Simon

  
Helene Simon

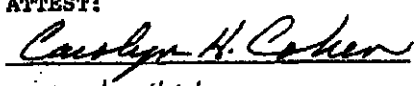
  
John C. Reel

  
Patricia A. Reel


SUGAR TREE HOMEOWNERS ASSOCIATION,  
INC.

By  president  
Aaron Y. Cohen


ATTEST:

  
Carolyn H. Cohen

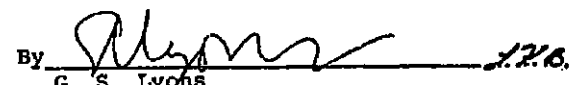
INDIANAPOLIS POWER AND LIGHT  
COMPANY

By   
Gerald D. Waltz  
Senior Vice President -  
Engineering and Construction

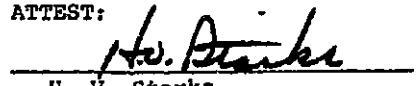
ATTEST:

  
Arnold A. Gordus  
Assistant Secretary

INDIANAPOLIS WATER COMPANY

By  12/6  
G. S. Lyons  
Senior Vice President

ATTEST:

  
H. V. Starks  
Secretary

83 53711

CITY OF INDIANAPOLIS, by and through its Board of Directors for Utilities of its Department of Public Utilities, d/b/a CITIZENS GAS & COKE UTILITY

By [Signature]  
Roy D. Montsamy

ATTEST:  
[Signature]  
V. V. [Signature]

INDIANA BELL TELEPHONE COMPANY

By [Signature]  
VICE PRESIDENT D.S. [Signature]

ATTEST:  
[Signature]  
SECRETARY AND GENERAL ATTORNEY

DEPARTMENT OF PUBLIC WORKS OF THE CITY OF INDIANAPOLIS

By [Signature]  
Richard Rippe

ATTEST:  
[Signature]  
Luis Pond

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared AARON Y. COHEN and [Signature], by me known and by me known to be the PRESIDENT and [Signature] respectively, of Sugar Tree, Inc., who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said corporation.

WITNESS my hand and Notarial Seal this 18<sup>th</sup> day of Jan, 1982.

[Signature]  
Notary Public  
PATRICIA A. SHERWOOD  
(Printed Signature)

My Commission Expires:  
3-7-85

My County of Residence:  
Marion

83 53711

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Fred Simon and Helene Simon, husband and wife, who, being first duly sworn upon their oaths, acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 21st day  
of January, 1983.

*Kenneth W. Underhill*  
Notary Public

KENNETH UNDERHILL  
(Printed Signature)

My Commission Expires:  
KENNETH W. UNDERHILL

NOTARY PUBLIC STATE OF INDIANA  
My Commission Expires MARCH 23, 1984  
My County of Residence: MARION

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared John C. Reel and Patricia A. Reel, husband and wife, who, being first duly sworn upon their oaths, acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 19th day  
of Jan, 1983.

*Patricia A. Sherwood*  
Notary Public

PATRICIA A. SHERWOOD  
(Printed Signature)

My Commission Expires:

5-7-85

My County of Residence:

Marion

83 53711'

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared HAARON Y. COHEN and PRESIDENT, by me known and by me known to be the \_\_\_\_\_ and \_\_\_\_\_, respectively, of Sugar Tree Homeowners Association, Inc., who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said corporation.

WITNESS my hand and Notarial Seal this 18<sup>th</sup> day of Jan, 1982.

Patricia A. Sherwood  
Notary Public

PATRICIA A. SHERWOOD  
(Printed Signature)

My Commission Expires:  
5-7-84

My County of Residence:  
Marion

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Gerald D. Waltz and Arnold A. Gordus, by me known and by me known to be the Senior Vice President and Assistant Secretary, respectively, of the Indianapolis Power and Light Company, who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said corporation.

WITNESS my hand and Notarial Seal this 28<sup>th</sup> day of October, 1982.

Dinah L. Kirkham  
Notary Public

Dinah L. Kirkham  
(Printed Signature)

My Commission Expires:  
June 23, 1984

My County of Residence:  
Johnson

83 53711

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared G. S. Lyons and H. V. Starks, by me known and by me known to be the Senior Vice President and Secretary, respectively, of the Indianapolis Water Company, who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said corporation.

WITNESS my hand and Notarial Seal this 2nd day of November, 1982.

  
Notary Public

L. Kenneth Blackwell  
(Printed Signature)


My Commission Expires:  
February 12, 1986

My County of Residence:  
Marion

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Roy D. Montgomery and Harry V. Huffman, by me known and by me known to be the Senior Vice President and Assistant Secretary, respectively, of the City of Indianapolis, by and through its Board of Directors for Utilities of its Department of Utilities, d/b/a Citizens Gas & Coke Utility, who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said City of Indianapolis.

WITNESS my hand and Notarial Seal this 2nd day of November, 1982.

  
Notary Public

Kenneth E. Winecoff  
(Printed Signature)  
Resident of Johnson County

My Commission Expires:  
November 4, 1983

My County of Residence:  
Johnson

83 53711

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared D. S. Orr and H. T. Schuhofer, by me known and by me known to be the Vice President and Secretary, respectively, of Indiana Bell Telephone Company, who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said corporation.

WITNESS my hand and Notarial Seal this 9th day of November, 1982.

Mary Ruth Yates  
Notary Public

Mary Ruth Yates  
(Printed Signature)

My Commission Expires:  
June 30, 1985

My County of Residence:  
Marion

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Richard Beppel and Richard Beppel, by me known and by me known to be the Director of Department, respectively, of the Department of Public Works of the City of Indianapolis, who acknowledged the execution of the foregoing "First Amendment of Plat Restrictions of Sugar Tree" on behalf of said Department.

WITNESS my hand and Notarial Seal this 16th day of November, 1982.

Lois Pona  
Notary Public

Lois Pona  
(Printed Signature)

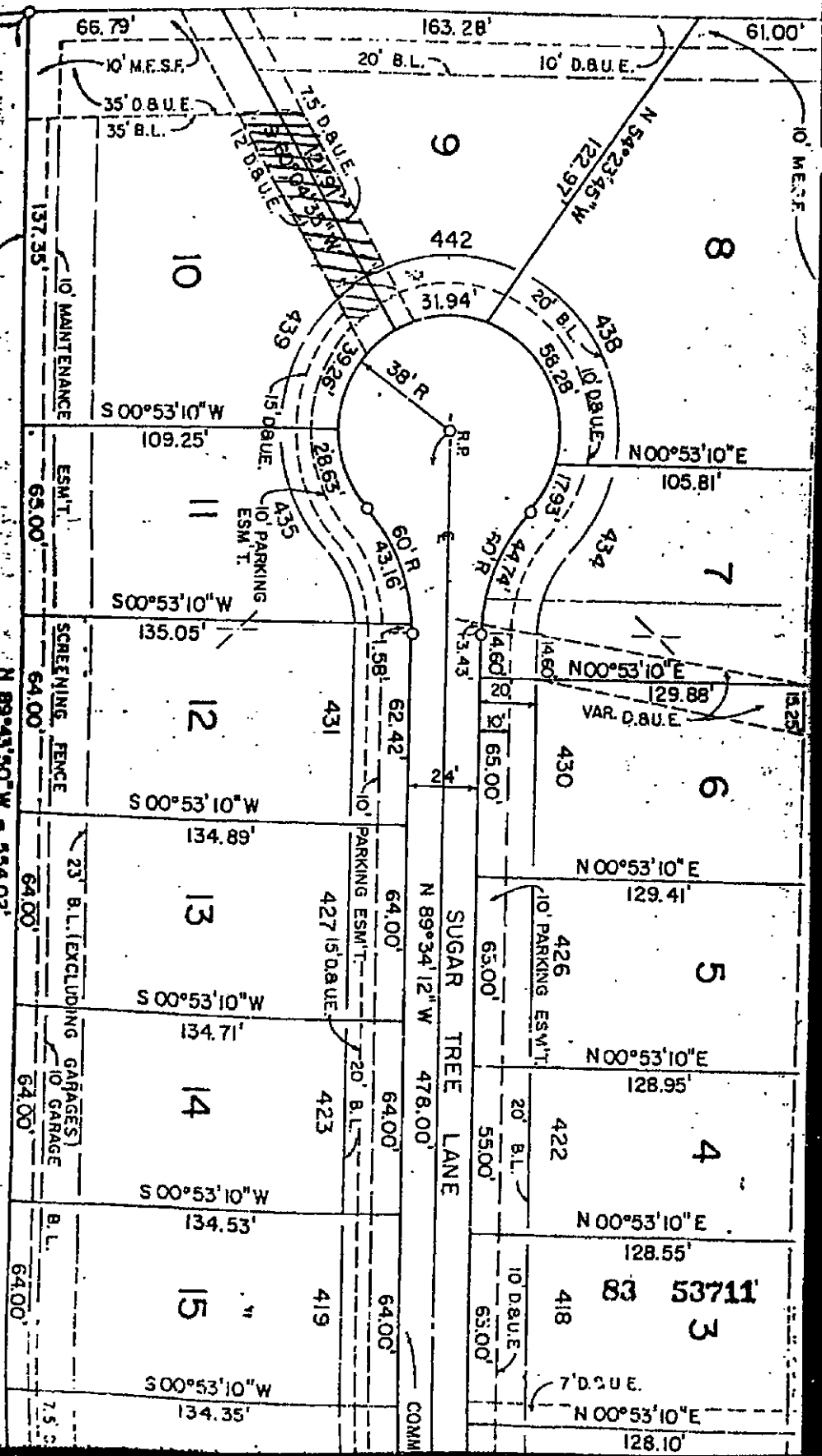
My Commission Expires:  
September 13, 1984

My County of Residence:  
Marion

This instrument was prepared by Philip A. Nicely, Attorney at Law, BOSE MCKINNEY & EVANS, 8900 Keystone Crossing, Suite 1101, Indianapolis, Indiana 46240.

S3 53711

S 00°53'10"W - 404.28'



R/W LINE PER INDIANA STATE  
 HWY PLANS FOR PROJ. 246(8)-1946

N 89°43'50"W - 554.02'

EXHIBIT "A"

ACE  
 LITY

COMM

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CONSENT TO FIRST AMENDMENT  
OF PLAT RESTRICTIONS OF SUGAR TREE

The undersigned, ROBERT I. PIERSON and NAOMI R. PIERSON, Husband and Wife, having purchased from SUGAR TREE, INC., the following described real estate, which constitutes a portion of the Subdivision [as defined in the above and foregoing First Amendment of Plat Restrictions of Sugar Tree (the "First Amendment")], after the execution of said First Amendment but prior to the recording thereof, to-wit:

Lot 17 in Sugar Tree, an Addition in Marion County, Indiana, the plat of which is recorded as Instrument Numbered 80-15616 in the office of the Recorder of Marion County, Indiana.

Except part of Lot 17 being more particularly described as follows:

Beginning at a point on the West line of said Lot 17, South 00 degrees 53 minutes 10 seconds West 60.76 feet from the Northwest corner of said Lot 17; thence South 89 degrees 06 minutes 50 seconds East 0.67 feet; thence South 00 degrees 53 minutes 10 seconds West, parallel with the West line of said Lot 17 a distance of 64.40 feet; thence North 89 degrees 06 minutes 50 seconds West 0.67 feet to the West line of said Lot 17; thence North 00 degrees 53 minutes 10 seconds East along said West line 64.40 feet to the Beginning Point.

hereby CONSENT TO AND JOIN IN the First Amendment as parties thereto, AGREE to all of the terms thereof, and AGREE that all portions of said Subdivision owned by them are and shall at all times be subject to the terms of said First Amendment.

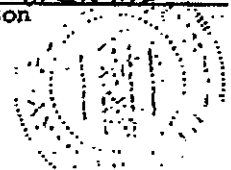
The undersigned further consent to the recording of the First Amendment and hereby authorize the said SUGAR TREE, INC. to attach this Consent to the First Amendment and to record this Consent as a part of the First Amendment.

IN WITNESS WHEREOF, the undersigned have executed this Consent this 24<sup>th</sup> day of March, 1983.

Robert I. Pierson  
Robert I. Pierson

Naomi R. Pierson  
Naomi R. Pierson

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )



Before me, a Notary Public in and for said County and State, personally appeared ROBERT I. PIERSON and NAOMI R. PIERSON, Husband and Wife, who, being first duly sworn upon their oaths, acknowledged the execution of the foregoing Consent to First Amendment of Plat Restrictions of Sugar Tree as their voluntary act and deed.

WITNESS my hand and Notarial Seal this 24<sup>th</sup> day of March, 1983.

Paul H. Haney  
Paul H. Haney     Notary Public

My Commission Expires:  
Nov 3, 1983

My County of Residence:  
Marion

83 53711

This Instrument was prepared by Dixon B. Dann, Attorney-at-law.



CONSENT TO FIRST AMENDMENT  
OF PLAT RESTRICTIONS OF SUGAR TREE

The undersigned, GALBREATH PARTNERSHIP, a partnership, having purchased from SUGAR TREE, INC., the following described real estate, which constitutes a portion of the Subdivision [as defined in the above and foregoing First Amendment of Plat Restrictions of Sugar Tree (the "First Amendment")], after the execution of said First Amendment but prior to the recording thereof, to-wit:

Part of Lot 14 and 13 in Sugar Tree, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument numbered 80-15616 in the Office of the Recorder of Marion County, Indiana, being more particularly described as follows:

Beginning at a point on the North line of said Lot 14 North 89 degrees 34 minutes 12 seconds West 8.93 feet from the Northeast corner thereof; thence South 01 degrees 00 minutes 42 seconds West 134.56 feet to the South line of said Lot 14; thence North 89 degrees 43 minutes 50 seconds West along the South line of Lot 14 and 13 a distance of 80.00 feet; thence North 01 degrees 00 minutes 42 seconds East 134.78 feet to the North line of said Lot 13; thence South 89 degrees 34 minutes 12 seconds East along the said North line of Lot 13 and 14 a distance of 80.00 feet to the Beginning Point.

hereby CONSENTS TO AND JOINS IN the First Amendment as a party thereto, AGREES to all of the terms thereof, and AGREES that all portions of said Subdivision owned by it are and shall at all times be subject to the terms of said First Amendment.

The undersigned further consents to the recording of the First Amendment and hereby authorizes the said SUGAR TREE, INC. to attach this Consent to the First Amendment and to record this Consent as a part of the First Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Consent this 21<sup>st</sup> day of June, 1983.

GALBREATH PARTNERSHIP

By: M. Janet Keller  
M. Janet Keller, General Partner

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF MARION     )

Before me, a Notary Public in and for said County and State, personally appeared M. JANET KELLER, a General Partner of GALBREATH PARTNERSHIP, a partnership, who, being first duly sworn upon her oath, acknowledged the execution of the foregoing Consent to First Amendment of Plat Restrictions of Sugar Tree as her voluntary act and deed as such partner for and on behalf of said partnership, and that she was thereunto duly authorized to do so.

WITNESS my hand and Notarial Seal this 21<sup>st</sup> day of June, 1983.

My Commission Expires:

5-7-85

My County of Residence:

Marion

Patricia A. Sherwood  
Patricia A. Sherwood, Notary Public

83 53711

This Instrument was prepared by Dixon B. Dann, Attorney-at-law.

**CONSENT TO FIRST AMENDMENT  
OF PLAT RESTRICTIONS OF SUGAR TREE**

The undersigned, WOODS REAL ESTATE, INC., an Indiana corporation, having purchased from SUGAR TREE, INC., the following described real estate, which constitutes a portion of the Subdivision [as defined in the above and foregoing First Amendment of Plat Restrictions of Sugar Tree (the "First Amendment")], after the execution of said First Amendment but prior to the recording thereof, to-wit:

Part of Lot 14 and 15 in Sugar Tree, an addition in Marion County, Indiana, the plat of which is recorded as Instrument #80-15616 in the Office of the Recorder of Marion County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of said Lot 14; thence North 89 degrees 34 minutes 12 seconds West along the North line of said Lot 14 a distance of 8.93 feet; thence South 01 degrees 00 minutes 42 seconds West 134.56 feet to the South Line of said Lot 14; thence South 89 degrees 43 minutes 50 seconds East along the South line of Lot 14 and 15 a distance of 70.59 feet; thence North 01 degrees 05 minutes 11 seconds East 134.36 feet to the North line of said Lot 15; thence North 89 degrees 34 minutes 12 seconds West along the said North line of Lot 15 a distance of 61.83 feet to the Beginning Point.

hereby CONSENTS TO AND JOINS IN the First Amendment as a party thereto, AGREES to all of the terms thereof, and AGREES that all portions of said Subdivision owned by it are and shall at all times be subject to the terms of said First Amendment.

The undersigned further consents to the recording of the First Amendment and hereby authorizes the said SUGAR TREE, INC. to attach this Consent to the First Amendment and to record this Consent as a part of the First Amendment.

IN WITNESS WHEREOF, the undersigned has executed this Consent this 14<sup>th</sup> day of July, 1983.

WOODS REAL ESTATE, INC.

ATTEST:

Josephine T. Woods  
Josephine T. Woods, Secretary

By Homer A. Woods, Jr.  
Homer A. Woods, Jr., President

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared Homer A. Woods, Jr. and Josephine T. Woods, the President and Secretary, respectively, of WOODS REAL ESTATE, INC., an Indiana corporation, who, being first duly sworn upon their oaths, acknowledged the execution of the foregoing Consent to First Amendment of Plat Restrictions of Sugar Tree as their voluntary act and deed as such officers for and on behalf of said corporation, and that they were duly authorized to do so.

WITNESS my hand and Notarial Seal this 14 day of July, 1983.

Marilyn M. Bradford  
Marilyn M. Bradford, Notary Public

My Commission Expires:  
May 5, 1987

My County of Residence:  
Hendricks

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This Instrument was prepared by Dixon B. Dann, Attorney-at-law.

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NOTE: Rules of the Metropolitan Development Commission requires use of this form in recording commitment modification(s) or terminations(s) with respect to rezoning and approval cases in accordance with P.L. 185 of the Acts of 1973, Article VI, Section 3. (b).

~~EXHIBIT~~

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS RELATIVE TO USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH AN APPROVAL PETITION OR REZONING OF PROPERTY.

In accordance with I.C. 1971, 18-7-2-20 as amended by P.L. 185 of the Acts of 1973 and 18-7-2-84.1 as added by P.L. 185 of the Acts of 1973, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following modification(s) or terminations(s) of commitment(s) relative to the use and development of that parcel of real estate:

Legal Description:

See legal description attached hereto.

Statement of Commitments:

1. See Exhibit "B" FOURTE AMENDMENT TO COVENANTS
- 2.
- 3.
- 4.
- 5.

RECEIVED FOR RECORD  
SEAL OF MARION IN  
MARION CO.  
AUG 6 3 22 PM '85

These COMMITMENTS shall be binding on the owner and the successors in title of the real estate and shall not be modified or terminated by any agreement or instrument unless modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Metropolitan Development Commission in petition # 85-AP-115

MD-153, 4/30/80

**FILED**  
AUG - 2 1985  
DEPT. METRO DEVELOPMENT  
By

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the rezoning petition who were not petitioners for the rezoning. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the bound volumes of the most recent real estate tax assessment records as they appear in the offices of the various township assessors of Marion County. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning under the rules in force at the time the commitment was made); and

3.

The undersigned hereby authorizes the Division of Planning and Zoning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana upon final approval of modification and/or termination of commitment(s) of petition # 85-AP-115 by the Metropolitan Development Commission.

IN WITNESS WHEREOF, owner has executed this instrument this \_\_\_\_\_ day of May 19 85

SUGAR TREE, INC.  
Signature [Signature] (Seal) Signature \_\_\_\_\_ (Seal)  
Printed by Aaron Cohen President Printed \_\_\_\_\_

STATE OF INDIANA )  
                                  ) SS:     SEE CONSENT ATTACHED HERETO  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Aaron Cohen on behalf of Sugar Tree, Inc. owner(s) of the real estate who acknowledged the execution of the foregoing instrument and who having been duly sworn, stated that any representations therein contained are true

Witness my hand and Notarial Seal this 29th day of June 19 85

Signature Mary A. Wiener  
Printed Mary A. Wiener  
County of residence: Hamilton

My Commission expires: 1-11-88

This instrument was prepared by Philip A. Nicely

This Modification and/or Termination Agreement was approved by the Metropolitan Development Commission on the 21st day of August, 1985.

850076327

Paul G. Roland  
Secretary, Metropolitan Development Commission  
PAUL G. ROLAND

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FOURTH AMENDMENT TO COVENANTS

The persons executing this attached Consent being the owners of all the real estate described herein, which real estate was the subject of a petition for rezoning in Case No. 77-Z-207 (77-DP-5) hereby make the following amendment to covenants relating to such case as recorded in the Office of the Recorder of Marion County, Indiana on the 20th day of June, 1978, as Instrument No. 78-038863 as amended on the 26th day of September, 1979 as Instrument No. 79-73323 and subsequently amended on the 3rd day of April, 1981 as Instrument No. 81-19591 and as further amended on April 21, 1982 and recorded as Instrument No. 82-40109:

1. Paragraph 11 is amended to read as follows:

Setback lines on North, South and West. No building shall be closer than 20 feet to the north and west property lines; provided, however, on Lots 1, 2 and 3 a porch may be constructed so that the north side of the porch is 10 feet from the north property line. No building (other than a garage) shall be built closer than 23 feet to the south property line; provided, however, no garage shall be built closer than 10 feet to the south property line and further provided that the set back for any building along the angle area at the southeast corner of the real estate shall be 10 feet as designated on the plan.

2. Except as designated herein, all other items and provisions of the covenants shall remain as originally written or as such have been subsequently amended.

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CONSENT

The following persons being the owner of all of the lots  
or common area in Sugar Tree, Inc.:

John and Patricia Reel  
410 Sugar Tree Lane  
Indianapolis, IN 46260

Arnold and Janet Valencia  
426 Sugar Tree Lane  
Indianapolis, IN 46260

Eugene and Elizabeth Wright  
434 Sugar Tree Lane  
Indianapolis, IN 46260

Fred and Helene Simon  
438 Sugar Tree Lane  
Indianapolis, IN 46260

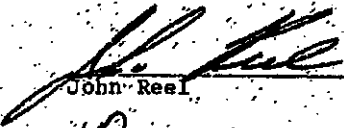
427 Sugar Tree Lane  
Indianapolis, IN 46260

Homer and Josephine Woods  
419 Sugar Tree Lane  
Indianapolis, IN 46260


Robert and Susan Schwartz  
415 Sugar Tree Lane  
Indianapolis, IN 46260

Robert and Naomi Pierson  
411 Sugar Tree Lane  
Indianapolis, IN 46260

hereby consent to the amendment to the Commitments in Case No.  
77-2-207 (77-DP-5) which amendment is designated as "Fourth  
Amendment to Covenants" and to which this Consent is attached.

  
John Reel

  
Patricia Reel

  
Arnold Valencia

850076827

Janet Valencia  
Janet Valencia

Eugene Wright  
Eugene Wright

Elizabeth Wright  
Elizabeth Wright

Fred Simon  
Fred Simon

Helene Simon  
Helene Simon

M. Janet Keller, General Partner  
Galvesta Partnership  
M. Janet Keller, General Partner

Homer Woods  
Homer Woods

Josephine Woods  
Josephine Woods

Robert Schwartz  
Robert Schwartz

Susan Schwartz  
Susan Schwartz

Robert E. Tarplee  
Robert E. Tarplee

Robert Pierson  
Robert Pierson

Naomi Pierson  
Naomi Pierson

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared John Reel and Patricia Reel, who, being first duly sworn upon their oath(s), acknowledged the execution of the foregoing "Consent" as their voluntary act and deed.