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MARION COUNTY ASSESSOR

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DULY ENTERED FOR RECORDED
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

155731



Cross References: 850025682; 860006013

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SUNSET COVE

This Amended and Restated Declaration was made as of the date set forth below by the Sunset Cove Homeowners Association, Inc. (“Association”), an Indiana not-for-profit corporation.

WITNESSETH:

WHEREAS, Woodcreek Development, Inc. established the Sunset Cove planned community located in Marion County, Indiana pursuant to a “Sunset Cove Declaration of Covenants, Conditions and Restrictions,” recorded in the Office of the Recorder of Marion County, Indiana as Instrument No. 850025682; as amended by “First Amendment to Declaration of Covenants, Conditions and Restrictions of Woodcreek Development, Inc. for Sunset Cove,” recorded on January 22, 1986 in the Office of the Recorder of Marion County, Indiana as Instrument No. 860006013 (hereafter, collectively referred to as the “Original Declaration”); and

WHEREAS, plats filed with the Office of the Recorder of Marion County, Indiana established residential Lots and Common Properties, comprising the Sunset Cove planned community in accordance with the Original Declaration and all amendments and/or supplements thereto; and

WHEREAS, Article XV of the Original Declaration states that the document may be amended by the affirmative vote of not less than seventy-five percent (75%) of the Owners of Lots in Sunset Cove at a meeting that is duly called and held in accordance with the Sunset Cove By-Laws; and

WHEREAS, notice and a copy of the proposed Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sunset Cove was sent out to all Owners within the community; and

WHEREAS, the Owners holding at least seventy-five percent (75%) in the aggregate of the votes of all Owners voted to approve this Amended and Restated Declaration of Covenants, Conditions and Restrictions pursuant to a duly-constituted meeting of the Owners convened on August 23, 2016; and

WHEREAS, the Owners of said Lots desire to amend certain provisions of the Original Declaration and to restate the same for the convenience of the Owners such that this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sunset Cove in no way nullifies or changes the Original Declaration or the effective date of the Original Declaration. However, upon the date of recording of this Amended and Restated Declaration with the Marion County, Indiana Recorder's Office, the Original Declaration shall no longer be in effect and shall be replaced by the following Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sunset Cove; and

WHEREAS, the Original Declaration contained exhibits. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to them as they were filed with the Marion County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the Original Declaration that may remain relevant, all other provisions of the Original Declaration are hereby modified in their entirety, and superseded by this Amended and Restated Declaration; and

WHEREAS, no mortgagees have made their interests known to the Sunset Cove Board of Directors for the purpose of asserting any rights to vote on this Amended and Restated Declaration or any other rights that may have been granted to mortgagees under the terms of the Original Declaration.

NOW, THEREFORE, the Owners of seventy-five percent (75%) of the total number of Lots in Sunset Cove hereby amend and restate the Original Declaration such that all of the platted dwellings, Lots and lands located within the Sunset Cove planned community as they have been platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said

dwellings, Lots and lands in Sunset Cove. Such restrictions below were and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the development as a whole and of each of said dwellings and Lots situated therein. All of the restrictions shall run with the land and shall be binding upon the Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of all successors in title to any real estate in the development. Now, therefore, the Original Declaration, which is applicable to all Owners and residents within the Sunset Cove subdivision, is hereby amended and restated as follows:

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 Action of 1991, as amended;
- (b) “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;
- (c) “Articles” shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (d) “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;
- (e) “Building” shall mean and refer to a structure having more than one “Dwelling Unit”;
- (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 (or Blocks which are to be divided into 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 (or Common Property) even though located on or constituting part of one or more Lots (or Blocks which are to be divided into Lots), including but not limited to driveway easements, (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, and (iv) items deemed Common Properties for purposes of maintenance;

- (i) "Corporation" shall mean and refer to Sunset Cove Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused to be incorporated under said name or a similar name, its successors and assigns;
- (j) "Declarant" shall mean and refer to Woodcreek Development, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written, recorded instruments to have rights of a Declarant hereunder, including, but not limited to, any builder or builders who purchase more than one Lot for the purpose of the erection of Buildings and the resale of Dwelling Units to Owners, and 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;
- (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. For purposes of this Declaration, a "Lot" shall be any single numbered parcel of land identified as a Lot on a recorded subdivision plat of the Real Estate. The plat or plats will be initially recorded reflecting units described on the plat as "Blocks" and the plats of said areas will be amended and rerecorded to define specific Lot lines;
- (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) "Plat" shall mean and refer to the Subdivision Plat or Plats of the Real Estate recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented;
- (q) "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;
- (r) "Restrictions" shall mean and refer to the agreements, covenants, conditions, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;
- (s) "Zoning Commitments" shall mean and refer to the written Commitments, as amended, heretofore entered into in connection with zoning of the Real Estate, which Commitments are recorded as Instrument No. 84-30197 (84-Z-41) in the office of the Recorder of Marion County, Indiana, said recorded instrument being incorporated herein by reference, as the same may hereafter be amended in accordance with its 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; Easements

Section 1. Declaration. The Real Estate shall be held, transferred, and occupied subject to the Restrictions. Subsequent Owners or contract purchasers of any Lot (i) by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, or (ii) by the act of occupancy of any Lot, shall accept such deed, execute such contract or occupy the Lot subject to each Restriction and agreement herein contained. By acceptance of such deed, execution of such contract or occupancy of the Lot, each Owner, contract purchaser or occupant acknowledges the rights and powers 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 the Corporation, and the Owners and subsequent Owner 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. Each Owner shall have a non-exclusive easement 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 and is hereby granted a non-exclusive easement and right of ingress to, egress from and access

between his Lot and a public street, for pedestrian and vehicular traffic, upon, over and across the private driveways (streets) shown, or to be shown, on a Subdivision Plat of the Real Estate and designated "Common Properties." 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, snow removal vehicles, maintenance vehicles and privately owned delivery trucks shall have the right to enter upon and use said private driveways (streets) for ingress to, egress from and access between the Lots and public streets in the performance of their duties.

Section 3. Easement to Corporation. The Corporation shall have a non-exclusive easement for the maintenance of the Common Properties (including items deemed Common Properties for maintenance only which includes but is not limited to lawns). Said easement shall permit the Board or its agents to enter onto any Lot to maintain lawns or the exterior of Buildings; to make emergency repairs or to do other work reasonably necessary for the proper maintenance or operation of the Subdivision; and to enter onto any Lot for the purpose of reconstruction and restoration in the event of casualty. Maintenance shall include but not be limited to maintenance of utilities which serve more than one Dwelling Unit and utilities owned and utilized by the Corporation.

Section 4. Encroachment Easements. If any Dwelling Unit encroaches upon another Dwelling Unit or Lot as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement shall be deemed to exist and run to the Owner of the encroaching improvement for the encroachment and for the maintenance thereof so long as said encroachment exists.

ARTICLE III

Corporation; Membership; Voting; Functions

Section 1. Membership in Corporation. 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 has one class of members (singularly, a “Member”, and collectively, the “Members”). Members shall be all Owners and shall be entitled to one (1) vote for each Lot owned by such Member with respect to each matter submitted to a vote of Members upon which 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 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.

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 IV

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 who resides within the Subdivision, and is in good standing with the Corporation. For the purposes of the Declaration, “good standing” shall mean an Owner who is not more than sixty (60) days delinquent in the payment of any regular or special assessment owed to the Corporation.

Section 2. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner 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 3. 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 of

assessments and disbursement of the Common Expenses. 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) maintenance, repair, replacement and upkeep of the Common Properties (of items deemed Common Properties for purposes of maintenance only);
- (b) 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 service or security system for protection or surveillance, and the same need not be furnished;
- (c) maintenance of utility facilities used in connection with the Lots and Dwelling Units and the Common Properties (provided, that Owners shall each pay for their respective utility services and the Board shall have no obligation for such services);
- (d) removal of trash and waste from the Real Estate on a basis of not less than weekly, provided further that only the Board or Managing Agent shall contract for such service and no Owner shall contract for such service;
- (e) snow removal from walks, drives, the private driveways (streets) and, if necessary, public streets dedicated to the public by the Plat;
- (f) assessment and collection from the Owners of the Owners’ respective share of the Common Expenses;
- (g) 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;
- (h) 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 at any point prior to the Annual Meeting;
- (i) 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;
- (j) 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;

- (k) 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;
- (l) making available to Owners and Mortgagees, and to holders, insurers or guarantors of any first mortgage, current copies of this Declaration, the By-Laws or other rules concerning the Subdivision and the books, records and financial statements of the Corporation. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances; and
- (m) making available to any Mortgagee or any holder, insurer or guarantor of a first mortgage, upon request, a copy of the Corporation's audited financial statement for the immediately preceding fiscal year free of charge to the party making such request.

Section 4. 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; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed two (2) years, renewable by agreement of the parties for successive two (2) year periods;
- (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 5. Limitation on Board Action. The Board's powers are subject to the following limitations:

(a) The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary.

- (i) 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;
- (ii) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (iii) 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.

(b) The Board shall not, without the prior written approval of at least sixty-seven percent (67%) of the Owners and such approval of the Mortgagees (whose mortgage interests have been made known to the Board of Directors) holding mortgages on Lots which have at least sixty-seven percent (67%) of the votes of Lots which are subject to mortgages:

- (i) by act or omission abandon, partition, subdivide, encumber, sell or transfer the Common Properties owned by the Corporation (provided, the granting of easements for public utilities or for other public purposes shall not be deemed a transfer within the meaning of this clause);
- (ii) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof, pertaining to the architectural design of the exterior appearance of Dwellings, the exterior maintenance of Dwellings, the maintenance of side walls in the Common Properties or common fences, or the upkeep of lawns in the Subdivision;
- (iii) fail to maintain fire and extended coverage insurance on Common Properties on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs; and
- (iv) use hazard insurance proceeds for losses to any of the Common Properties for other than the repair, replacement or reconstruction of Common Properties.

Section 6. Compensation. No Director shall receive any compensation for his services as such except to such extent as, may be expressly authorized by a majority 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 7. 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 8. 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 hid 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 9. Bond. The Board of Directors shall provide surety bonds and shall 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 protections for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense. The amount of the bonds shall be based upon the judgment of the Board of Directors and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Corporation or its Managing Agent at any given time during the term of the bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all units plus reserve funds.

ARTICLE V

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 VI

Maintenance, Repairs and Replacements

Section 1. By Owners. Except as provided in Section 2(b) of this Article, 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 his 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 (a) 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 and (b) lawn maintenance as provided in Section 2 below. 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 Dwelling Unit, 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. Common Properties and Exteriors of Dwelling Units and Lawns by the Corporation.

(a) 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.

(b) The Corporation, as part of its duties, and as part of the Common Expenses, shall provide for:

- (i) maintenance, repairs, replacement and upkeep of the exteriors of each Dwelling Unit. Such exteriors including, but not limited to, roofs, gutters, doors, windows (excluding glass which shall be considered a part of interior maintenance) and exterior walls shall be considered part of the Common Properties for purposes of maintenance only;
- (ii) maintenance of the lawns, which shall be considered part of the Common Properties for purposes of maintenance only. Maintenance of lawns shall include but shall not be limited to the fertilizing, mowing and replanting when necessary of the grass; and the care, fertilizing, trimming, removal and replacement of trees planted by the Declarant. It shall not include the watering of lawns on Lots which shall be the responsibility of the Owner nor the care and maintenance of (i) shrubs, (ii) trees which were not planted by Declarant, (iii) flowers or (iv) other plants on any Lot; provided, however, the watering of lawns may be provided by the Corporation if the Board, at its discretion, provides for such service in the annual budget or if such service is approved by a majority of Owners.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Properties (or items deemed Common Properties for purposes of maintenance only) as it deems necessary.

(c) 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 only), 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 only), 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, and collectable in the same manner as provided herein for collection of assessments.

(d) 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 only, repairs or replacements of or to the Common Properties and items deemed as Common Properties for purposes of maintenance only, 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 VII

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 appointed by the Board of Directors. Members of the Architectural Review Board must be Members of the Corporation and may also be members of the Board of Directors. The Board of Directors, at its discretion, may serve as the Architectural Review Board.

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 or exterior change shall be commenced, erected, maintained, improved, altered, made or done on any Lot and no trees or shrubs may be

planted on any Lot by a Lot Owner without the prior written approval of the Architectural Review Board; provided this restriction shall not be applicable to the original construction of a Dwelling Unit on a Lot..

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) has been given to it, approval will be deemed denied 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 VIII

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 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 IX

Assessments

Section 1. Annual Accounting. Annually, prior to the date of the annual meeting of the Corporation, 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.

(a) Method of Adoption and Limitation. 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 and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided that any increase of more than ten percent (10%) must be approved by a vote of two-thirds (2/3) of Members who are voting in person or by proxy at a duly-constituted meeting; provided further, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed

annual budget as amended. The annual budget, the Regular Assessments and all other sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

(b) Replacement Reserves. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Properties (or items deemed Common Properties for purposes of maintenance only), which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Properties. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Properties (including items deemed Common Properties for purposes of maintenance only) shall be maintained by the Corporation in an interest bearing account with one or more banks or savings and loan associations authorized to conduct business in Marion County or Hamilton County, Indiana, and insured by a Federal depository agency selected from time to time by the Board.

(c) Failure to Adopt Budget. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular 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.

(a) Computation of Regular Assessment. The annual budgets as adopted by the Owners shall, based on the estimated cash requirement 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 computed as follows: all estimated Common Expenses, including the estimated cost of the master casualty insurance policy provided for herein, shall be divided by the total number of Lots in the subdivision, and the sum shall be the Regular Assessment for each Lot. The portion of the Regular Assessment attributable to the replacement reserve funds shall be computed in the same manner as set forth above.

(b) Notice of Regular Assessment, Due Dates and Deficiencies and Surpluses.

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,

- (i) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether quarterly or monthly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (ii) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether quarterly or monthly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

(c) Lien for Assessments. The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to the provisions herein prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such 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.

(d) Advance Payment for Master Casualty Insurance. Each Owner shall prepay to the Corporation at the time his Lot is conveyed to such Owner an amount equal to thirteen (13) monthly installments of the amount required to pay for the Lot Owner's pro rata portion of the master casualty insurance policy based upon the budget for the current fiscal year and the Owner shall maintain such prepayment account at all times. The Corporation shall hold such prepaid funds in a separate escrow account for the purchase of insurance as provided in this Declaration.

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, 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"); provided, that any such assessment shall have the assent of sixty-seven percent

(67%) of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose. 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 only, 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. There shall be a \$25 late fee assessed on all assessments that are not received within ten (10) days of the date on which the assessment is due. 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), late fees, court costs, and costs assessed to the Corporation by the Managing Agent in connection with attempts to collect the debt.

(b) The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. 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).

ARTICLE X

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's 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 Certain Actions or Conditions. The Corporation shall, upon request of a Mortgagee (or insurer or guarantor) who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee (or insurer or guarantor) with written notice of:

- (i) any condemnation loss or any casualty loss which affects a material portion of the Subdivision or any Dwelling Unit on which there is a first mortgage;
- (ii) 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;
- (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Corporation; and
- (iv) any proposed action which would require the consent or approval of Mortgagees.

Section 3. 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 this Declaration.

Section 4. Unpaid Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which have or may become a lien against any Common Properties (excluding items deemed Common Properties for maintenance only) and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for any Common Properties (excluding items deemed Common Properties for maintenance only), and the Mortgagees making such payments shall be owed immediate reimbursement therefor by the Corporation.

ARTICLE XI

Insurance

Section 1. Casualty Insurance.

(a) The Corporation shall purchase a master casualty insurance policy with an “agreed amount and inflation guard endorsement” and a “blanket building endorsement” affording fire and extended coverage insurance insuring the Common Properties and each Dwelling Unit in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Dwelling Units, excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Owner and excluding any personal property owned by any Owner whether located on any Lot or elsewhere. If the Board of Directors can obtain such coverage for reasonable amounts it 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 be for the benefit of each Owner, and, if applicable, the Mortgagee of each such Owner.

(b) The Corporation shall purchase a casualty insurance policy with an “agreed amount and inflation guard endorsement” affording fire and extended coverage insurance insuring all Common Properties owned by the Corporation including, but not limited to, utilities in an amount consonant with the full replacement value of the improvements. If the Board of Directors can obtain such coverage for reasonable amounts it shall also obtain “all risk” coverage for said improvements. 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 of all Owners. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner.

(c) 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, 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 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 of the Corporation. 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 casualty insurance policies, and “all risk” coverages 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/or (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; provided, such coverage shall be for at least One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. 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 Lot or 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.

Section 4. General Provisions.

(a) Premiums. 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. All policies shall also contain an endorsement to the effect that such policy shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice to the Mortgagee of each Lot.

(b) Delegation of Authority by Owners. 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.

(c) Distribution of Proceeds to Owners and Mortgagees. 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 or the Board has notice of a Mortgagee 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 restriction on distribution shall 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 in excess of amounts needed to repair damage or pay off any first mortgage or any 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 XII

Casualty and Restoration; Condemnation; Termination

Section 1. Casualty and Restoration. In the event of damage to or destruction of the structure or exterior of any Building or Dwelling Unit or 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, or in the event there are no insurance proceeds, (i) the cost for restoring the damage and repairing and reconstructing a Building or Dwelling Unit 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 and (ii) the cost for restoring the damage and repairing and reconstructing any Common Properties so damaged or destroyed for 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 Building so damaged or destroyed to as near as possible the same condition as it 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 Building shall not constitute a claim or basis of a proceeding or action for the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the original plans and specifications or as the Building was originally constructed.

Section 2. Total or Partial Condemnation.

(a) In the event of the condemnation of all or any part of the Common Properties or of all or any part of any Building, Dwelling Unit or Lot, the Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Properties, Buildings or Dwelling Units. For the purpose of such negotiation and/or of contest of such award to the Board as to Buildings and Dwelling Units and Lots, the Board is hereby declared to be the agent and attorney-in-fact of any Owner affected by the condemnation. This appointment of the Board shall be deemed coupled with an interest and shall be irrevocable. Nothing contained herein, however, shall preclude any Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board.

(b) Awards for the taking of all or part of a Building, Dwelling Unit or Lot shall be collected by the Board and distributed to the affected Owners. To the extent possible, negotiated awards or awards resulting from a contest shall specify the allocation of the award among Owners affected. In the event that an Owner does not agree with the distribution of an award, said Owner shall be entitled to have the dispute settled by arbitration. The protesting Owner shall appoint one arbitrator, the Board acting as agent for all other affected Owners shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator. A majority decision of the arbitrators shall be binding on all Owners and shall be enforceable.

Section 3. Termination. In the event of condemnation of two-thirds (2/3) or more of the Dwelling Units in the Subdivision, the remaining Owners may, by a majority vote terminate this Declaration and dissolve the Corporation, provided, however, that the restrictions set forth in the Subdivision Plat and in this Declaration shall remain in full force and effect in accordance with the terms of the Plat and this Declaration.

ARTICLE XIII

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 Dwelling Unit or on any Lot without the prior consent of the Architectural Review Board. Satellite dishes must be attached to fascia boards and cannot be attached to the roofs of the Buildings. The Board has the right to regulate and approve location of an antenna or satellite dish, provided that the Board does not require the antenna or dish to be placed in a location where reception would be impossible or substantially degraded.
- (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 on the exterior of an Owner's 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 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 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 or any public street. 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 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.
- (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) Restrictions on Vehicles and Parking.
- (i) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini-bikes, mopeds, scooters, all-terrain vehicles or any other vehicles of any description other than normal passenger automobiles shall be permitted to park on the Real Estate of Sunset Cove, except as enclosed within a garage.
 - (ii) No repair work shall be done on any vehicles, including passenger vehicles, in driveways, streets, or on the Real Estate of Sunset Cove.
 - (iii) Vehicles are to be parked on the streets and driveways and not on the grass or planting areas.
 - (iv) Vehicles are allowed to be parked on the streets where there is no yellow curbing between the hours of 5 a.m. and 12 a.m.
 - (v) Vehicles are allowed to be parked on the streets between the hours of 5 a.m. and 12 a.m. unless there are “No Parking” signs posted.
 - (vi) Owners must park their vehicles on their own Lot, using their own driveway and garage.
 - (vii) Owners’ vehicles, including those with trailer hitches, are to be entirely on the driveway beyond the street and curb area.
 - (viii) Owners and guests are allowed to park on the streets in designated areas between 5 a.m. and 12 a.m., but in no case shall any vehicles be parked on the street overnight. For the purposes of these parking restrictions and the Declaration, “Overnight Parking” is defined as the time between 12 a.m. and 5 a.m., pursuant to the Guidelines of the local Fire Marshal.
 - (ix) Owners are to obey all posted signs throughout the Real Estate of Sunset Cove, including those applicable to Guest Parking.
 - (x) If any vehicle is not moved from Guest Parking after seventy-two (72) consecutive hours in the same space, the vehicle will be considered abandoned and shall be subject to towing, as set forth in the applicable Marion County, Indiana ordinances.
 - (xi) All vehicles in Guest Parking must be entirely off the street and curb area, including all four (4) wheels and trailer hitches.
 - (xii) The Corporation may have any vehicle found to be in violation of these Guidelines and Restrictions above towed from the Real Estate of Sunset Cove without notice, at the owner’s expense.
- (l) No Owner shall remove any tree without the written approval of the Board.

- (m) Each Owner shall keep his Lot in good order, condition and repair and free of debris, 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, the Corporation after notice to the Owner, shall have the right to enter upon said Lot to correct, repair, maintain and restore the Lot. 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 upon demand by the Corporation and collectable in the same manner as set forth in Article IX for collection of Assessments.
- (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 Commitments are in effect, no use shall be made of any part of the Real Estate which violates said Covenants, 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 described in the Zoning Commitments. 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 any and all parties who, at any time, may have right to approve any changes in the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Commitments.
- (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.

ARTICLE XIV

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 fifty-one percent (51%) of such 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) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation (as applicable) and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

ARTICLE XV

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 XVI

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 XVII

Benefit and Enforcement

In the event of a violation, or threatened violation, of any of the covenants, conditions or restrictions set forth in this Declaration, the Board or any Owner shall have the right to enforce the covenants, conditions and restrictions contained herein and to pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof. The failure or delay at any time of 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 XVIII

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, 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, subsections, 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.

ARTICLE XIX

Leasing Restrictions

Section 1. General Purposes of Leasing Restrictions. The Corporation's members recognize that an owner-occupant is both psychologically and financially invested in a home to a greater extent than a renter, and thus owner-occupants maintain their property better than renters generally. The Corporation's members wish to insure that the residents within Sunset Cove share the same proprietary interest in and respect of the Lots and the Common Properties. They also want to encourage residents to not only maintain property values but also to improve them and recognize that owner occupants have more incentive to do so compared to non-owner occupants. Thus, the provisions of this Article XIX shall be applicable. Except as allowed by this Article XIX, residents of a Lot can only consist of the Owner(s) thereof and members of their immediate family.

Section 2. Limits on the Number of Leased Lots ("Rental Cap"). No more than twenty (20) of the one hundred thirty five (135) Lots may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Article XIX. The Lots described in Section 3 below shall count toward the twenty (20) Lot "rental cap". If at any time such number of Lots are leased or rented, an Owner who wants to rent or lease his or her Lot which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors or Managing Agent of such fact and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Lot. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Lots may be leased or

whether the maximum number of Lots within Sunset Cove is currently being leased. If the maximum number of Lots is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Section 3. Effective Date of "Rental Cap" on Existing Rentals. Within fifteen (15) days after the date on which this Amendment is recorded in the Office of the Recorder of Marion County (the "Recording Date"), the Board of Directors or Managing Agent shall provide written notice to all Owners setting forth the Recording Date and the then current address of the Managing Agent. The provisions of Section 2 (the "Rental Cap") shall not apply to the Owner of any Lot in Sunset Cove which, as of the Recording Date, is rented or leased by its Owner to a non-owner occupant, so long as the Owner-landlord mails or otherwise delivers to the Managing Agent of the Corporation (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot (or Lots) which is in effect as of the Recording Date. Such lease copies may have the rental amount deleted. The Owners of such pre-Recording Date rented Lots shall not be subject to the provisions of Section 2 herein, but shall be subject to the remaining provisions of this Article XIX. However, when the legal owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such Lot(s) to another Owner after the Recording Date, such Lot(s) shall immediately become subject to the rental cap set forth in Section 2. The failure of any such Owner-landlord of a leased or rented Lot to deliver a copy of such pre-Recording Date lease within said sixty (60) day period to the Managing Agent shall result in said Owner-landlord's Lot being subject to the Rental Cap (from and after the date of expiration of such pre-Recording Date lease). However, in no event shall the Rental Cap apply to any lease executed prior to the Recording Date or to any renewals thereof provided for in any such leases, so long as the Lot continues to be occupied by one or more of the non-owner occupants in possession of the Lot as of the Recording Date. Any Lot that falls under the exception of this Section 3 shall, nevertheless, be counted as one of the twenty (20) maximum Lots that may be rented at any given time even though such maximum does not apply to the Owner of such pre-Recording Date leased Lot.

Section 4. Hardship Exceptions and Waiver. Notwithstanding Section 2 above, if an Owner wishes to rent or lease his or her Lot, but the maximum number of Lots is currently being leased, the Owner may request the Board of Directors to waive the "rental cap" and approve a

proposed lease if the Owner establishes to the Board's satisfaction that the "rental cap" will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of this Article XIX. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (a) death, dissolution or liquidation of an Owner;
- (b) divorce or marriage of an Owner;
- (c) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Sunset Cove due to a change of employment or retirement of at least one (1) of such Owners;
- (d) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (e) difficult local real estate market conditions; and
- (f) other similar circumstances.

Section 5. General Lease Conditions.

- (a) All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors.
- (b) A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors or the Managing Agent by the Owner within thirty (30) days after execution.
- (c) No portion of any Lot other than the entire Lot shall be leased for any period.
- (d) No subleasing shall be permitted.
- (e) All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, the Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Corporation;
- (f) All leases shall provide for direct action by the Corporation and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.
- (g) The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease.

- (h) The Owner cannot be delinquent in the payment of any assessments or other charges to the Corporation. If at any time an Owner becomes delinquent, the Board shall have the right to revoke said Owner's right to lease the Owner's Lot, even if during the term of a lease.
- (i) The Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.
- (j) All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home, and also their own address(es).

Section 6. One Year Waiting Period. In addition to all other provisions of this Article XIX, for a period of at least one (1) year after an Owner's acquisition of a Lot, said Owner cannot lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Article XIX are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Corporation. Notwithstanding this Section 6, if an Owner wishes to lease a Lot prior to the end of the one-year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 4 above.

Section 7. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Corporation and the other Owners for compliance with the provisions of the Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Corporation for payments of assessments or any other charges.

Section 8. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article XIX shall be voidable at the election of the Corporation's Board of Directors or any other Owner, except that neither party to such lease may assert the provisions of this Article XIX to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Corporation, or any Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 9. Maximum Number of Lots Owned by a Single Owner. In order to encourage Sunset Cove being and remaining a community where the Owners reside on the property:

- (a) No Owner may own more than two (2) Lots within Sunset Cove at any time. This

restriction shall not apply to any Owner who owns more than two (2) Lots which were purchased or with respect to which there was a binding purchase agreement prior to the recording of this restriction.

- (b) If any Owner is the Owner of more than one (1) Lot, such Owner or the majority of the principals of such Owner shall and must reside in Sunset Cove in at least one (1) of such Lots, unless otherwise approved in writing by the Board of Directors upon a showing by such Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 4 above.

As defined in Article I, Section 1 of the Declaration, "Owner" means the record owner, whether one or more Persons, of the fee simple title to a Lot. As used in this Section 9 above, "Owner" also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Lot and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Lot. As an example, if any person or entity owns or has any interest in the ownership of two (2) Lots, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own a third Lot, whether in his, her or its name only, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Section 10. Institutional Mortgagees. The provisions of this Article XIX shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure. However, when a Lot is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser shall be bound by the provisions of this Article XIX.

Section 11. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased subject to the provisions of this Article XIX and the Owners shall have the burden of proving to the satisfaction of the Board of Directors that the occupancy is not in violation of the terms of this Article XIX, including but not limited to the delivery to the Board of Directors of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this

Article XIX and this Section 11, any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board of Directors a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot.

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Certification. The undersigned officers of Sunset Cove Homeowners Association, Inc. hereby represent and certify that all requirements for and conditions precedent to the foregoing Amendments have been fulfilled and satisfied, and that the attached homeowner approval signatures, ballots and proxies are true and accurate originals, copies of which are part of the records of Sunset Cove Homeowners Association, Inc.

Executed this 26 day of January, 2017.

In witness whereof, SUNSET COVE HOMEOWNERS ASSOCIATION, INC., has caused this document to be executed by the undersigned officers.

SUNSET COVE HOMEOWNERS ASSOCIATION, INC.

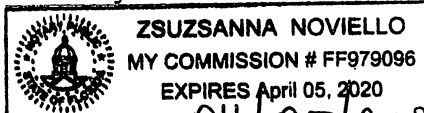
BY [Signature]
Larry Longman
President

BY [Signature]
Dana Scruggs
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a notary public in and for said County and State, this day personally appeared Larry Longman and Dana Scruggs, President and Secretary of Sunset Cove Homeowners Association, Inc., respectively, and acknowledged the execution of the foregoing Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sunset Cove, for and on behalf of Sunset Cove Homeowners Association, Inc.

WITNESS my hand and Notarial Seal this 26 day of January, 2017.



Zsuzsanna Novello
Notary Public

My commission expires: 04/05/2020

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law." Gregory A. Chandler, Esq.

This instrument prepared by, and should be returned to, Gregory A. Chandler, EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street, Suite B, Indianapolis, IN 46216. (317) 536-2565.

