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**DECLARATION
OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
VILLAGE GREEN**

**City of Carmel
Hamilton County, Indiana**

DREES PREMIER HOMES, INC.

®

CHICAGO TITLE

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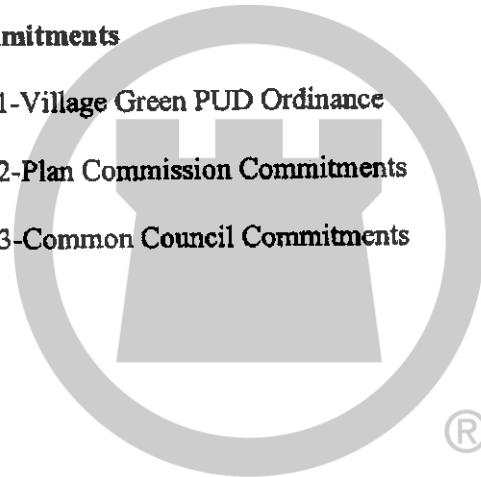
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CHICAGO TITLE

**DECLARATION
OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
VILLAGE GREEN**

This DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS FOR VILLAGE GREEN is made by Drees Premier Homes, Inc., an Ohio corporation ("**Declarant**"), on the date signed below.

Declarant owns the land described in Appendix A of this Declaration, together with all improvements, easement, rights, and appurtenances to the land (collectively, the "**Property**"). Declarant desires to establish a general plan of development for the Property for a planned community to be known as "Village Green". Declarant also desires to provide a reasonable and flexible procedure by which Declarant may expand the Property to include additional real property, and to maintain certain development rights that are essential for the successful completion and marketing of the Property.

Declarant further desires to provide for the preservation, administration, and maintenance of portions of the Property, and to protect the value, desirability, and attractiveness of the Property. As an integral part of the development plan, Declarant deems it advisable to create a homeowners association to perform these functions and activities more fully described in this Declaration and the other Governing Documents described below.

Accordingly, Declarant declares that the Property and any additional property made subject to this Declaration by recording of an amendment of our supplement to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured and encumbered subject to the terms, covenants, conditions, restrictions and easements of this Declaration, including Declarant's reservations in the attached Appendix B. All of these terms, covenants, conditions, restrictions and easements run with the real property and bind all parties having or acquiring any right, title or interest in any part of the Property, their heirs, successors and assigns, and inure to the benefit of each Owner of any part of the Property.

**ARTICLE 1
DEFINITIONS**

DEFINITIONS. The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1. "**Additional Land**" means real property which may be added to the Property and subject to this Declaration by Declarant and the owner of such property, as described in Section B.3.2 of Appendix B of this Declaration.

1.2. "**Applicable Law**" means the statutes and public laws and ordinances in effect at the time a provision of the Governing Documents is applied that pertain to the subject matter of the Governing Document provision, regardless of whether such Applicable Law is specifically or correctly cited in the Governing Documents.

1.3. "**Architectural Reviewer**" Means the entity having jurisdiction over a particular application for architectural approval. During the Development Period (defined below), the Architectural

Reviewer is Declarant or its designee. Thereafter, the Board-appointed Architectural Control Committee, as defined in Article 9 herein, is the Architectural Reviewer.

1.4. "Area of Common Responsibility" means that portion of the Property and those components of the Townhomes for which the Association has maintenance responsibilities, as described with more particularity in Article 4 of this Declaration.

1.5. "Assessment" means any charge levied against a Lot or Owner by the Association, pursuant to the Governing Documents or State law, including but not limited to Initial Assessments, Regular Assessments, Special Assessments, Individual Assessments, and Restoration Assessments, as defined in Article 5 of this Declaration.

1.6. "Association" means the association of Owners of all Lots in the Property, initially organized as Village Green Homeowners Association, Inc., an Indiana non-profit corporation.

1.7. "Board" means the board of directors of the Association.

1.8. "Bylaws" means the bylaws of the Association, as they may be amended from time to time.

1.9. "Common Area" means all of the Property, save and except the Townhome Lots.

1.10. "Common Expenses" means expenses incurred by Declarant or the Association that are to be shared by the Owners, as more particularly described in this Declaration.

1.11. "Declarant" means Drees Premier Homes, Inc., an Ohio corporation, which is developing the Property, or the successors and assigns of Drees Premier Homes, Inc. that acquire any portion of the Property for the purpose of development and which are designated a Successor Declarant (as defined in Appendix B) by Drees Premier Homes, Inc., or by any such successor and assign, in a recorded document.

1.12. "Declarant Control Period" means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix B of this Declaration. The duration of the Declarant Control Period is from the date this Declaration is recorded for a maximum period not to exceed the earlier of: (1) seven (7) years from date this Declaration is recorded; (2) one hundred and twenty (120) days after title to one hundred percent (100%) of the Lots in the Property and in the Additional Land has been conveyed to Owners other than Declarant; or (3) the date Declarant resigns, as evidenced by notice delivered to the Resident Agent of the Association.

1.13. "Declaration" means this document, as it may be amended from time to time

During the Development Period, the rights of Declarant set forth in Appendix B have priority over the main body of this Declaration

1.14. "Development Period" means the 10-year period beginning the date this Declaration is recorded, during which Declarant has certain rights pursuant to Appendix B hereto, including rights relating to development, construction, expansion, and marketing of the Property. The Development

Period is for a term of years and does not require that Declarant own any portion of the Property. Declarant may terminate the Development Period at any time by recording a notice of termination.

1.15. **"Eligible Mortgagee"** means a Mortgagee who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged Lot.

1.16. **"Governing Documents"** means, singly or collectively as the case may be, this Declaration, the Plat, the Association's Articles of Incorporation and the Association's By-Laws, as any of these may be amended from time to time. An appendix, exhibit, schedule or certification accompanying a Document is a part of that Document.

1.17. **"Lot"** means a portion of the Property intended for independent ownership, as shown on the Plat, on which there is or will be constructed a Townhome. Where the context indicates or requires, "Lot" includes all improvements thereon. A lot without a Townhome that is owned by the Association as a Common Area is not included within the meaning of "Lot".

1.18. **"Majority"** means more than half.

1.19. **"Member"** means a member of the Association, each Member being an Owner of a Lot, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

1.20. **"Mortgagee"** means a holder, insurer or guarantor of a purchase money mortgage secured by a recorded senior or first mortgage or deed of trust lien against a Lot.

1.21. **"Municipal Entity"** means any town, city, township, county, political subdivision or public or private utility, as the context shall require.

1.22. **"Owner"** means a holder of recorded fee simple title to a Lot. Declarant is the initial Owner of all Lots. Sellers under land contracts are Owners. Mortgagees who acquire title to a Lot through a deed in lieu of foreclosure or through foreclosure are Owners. Persons or entities having ownership interest merely as security for the performance of an obligation are not owners. Every Owner is a Member of the Association.

1.23. **"Plat"** means the final plat of Village Green, Section One, recorded on November 8, 2006, as Instrument No. 200600066899 in the Office of the Recorder of Hamilton County, Indiana, including all dedications, limitations, restrictions, easements, notes and reservations shown on the Plat, as it may be amended from time to time and the recorded final plat for other Sections of the Property recorded after the recordation of this Declaration.

1.24. **"Property"** has the meaning given to it in the introductory paragraphs of this Declaration. The Property includes every Lot and all Common Area.

1.25. **"Resident"** means an occupant of a Townhome, regardless of whether the person owns the Lot.

1.26. **"Resident Agent"** means the person or entity designated as Resident Agent in the Association's Articles of Incorporation.

1.27. "Rules" means the Association's By-Laws adopted in accordance with the Governing Documents. The initial Rules may be adopted by Declarant for the benefit of the Association.

1.28. "State" means the State of Indiana.

1.29. "Townhome" means an attached single-family dwelling constructed on a Lot. Where the context indicates or requires, "Townhome" includes the exterior appurtenances of the dwelling, such as porches. In some contexts, such as Townhome Owner, "Townhome" has the same meaning as "Lot."

1.30. "Underwriting Lender" means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), Government National Mortgage Association (Ginnie Mae), Federal Housing Administration (HUD/FHA) or U.S. Department of Veterans Affairs (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner's financing options nor as a representation that the Property is approved by any institution.

1.31. "Zoning Commitments" means the standards, zoning commitments and conditions of approval set forth in: (1) Ordinance No. Z-492-06 approved by the Common Council of the City of Carmel, Indiana on June 19, 2007 (the "Village Green PUD Ordinance"); (2) those certain Commitments Concerning the Use and Development of Real Estate made to the City of Carmel Plan Commission in connection with approvals obtained in Carmel Plan Commission Docket Numbers 05120026Z and 05120027DP/ADLS, and Ordinance No. Z-492-06 approved by the Common Council of the City of Carmel, Indiana (the "Plan Commission Commitments"); and (3) those certain Commitments Concerning the Use and Development of Real Estate made to the City of Carmel Common Council in connection with approvals obtained in Carmel Plan Commission Docket Numbers 05120026Z and 05120027DP/ADLS, and Ordinance No. Z-492-06 approved by the Common Council of the City of Carmel, Indiana (the "Common Council Commitments"), copies of which are attached hereto as Appendix C.

ARTICLE 2 PROPERTY THAT IS SUBJECT TO THE DECLARATION AND OTHER GOVERNING DOCUMENTS

2.1. SUBJECT TO GOVERNING DOCUMENTS. In addition to the Zoning Commitments and other easements and rights created by the Governing Documents, the Property is held, transferred, sold, conveyed, leased, occupied, used, insured and encumbered subject to the terms, covenants, conditions, restrictions, liens and easements of this Declaration, including Declarant's reservations in the attached Appendix B, which run with the Property, bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors and assigns, and inure to the benefit of each Owner of the Property.

2.2. NO OTHER DECLARATION OR MASTER RESTRICTIONS. The Property is not subject to any set of declarations or restrictions other than this Declaration.

2.3. ADDITIONAL LAND. Additional real property, which is referred to as Additional Land, may be added to the Property and subjected to this Declaration and the jurisdiction of the Association (i) on approval of Owners representing at least 2/3 of the Lots in the Property, or (ii) on approval of the Declarant during the Development Period as permitted in Appendix B. Additional Land may be added to the Property by recording a supplemental declaration, including an amendment of Appendix A, in the Office of the Recorder of Hamilton County.

2.4. MERGER WITH ANOTHER ASSOCIATION. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by Owners of at least two-thirds (2/3) of the Lots. On merger or consolidation of the Association with another association, the property, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will have the effect of revoking, changing or adding to the covenants established by this Declaration within the Property.

ARTICLE 3 PROPERTY EASEMENTS AND RIGHTS

3.1. GENERAL; RECORDED EASEMENTS.

3.1.1. General. In addition to other easements and rights established by the Governing Documents, the Property is subject to the easements and rights contained in this Article. The Property also is subject to any easements, licenses, leases, dedications, limitations, restrictions, reservations and encumbrances of record, including but not limited to those shown or cited on the Plat, which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Lot, covenants and agrees to be bound by the other easements and other prior-recorded instruments affecting the Property.

3.1.2. Easements Shown on the Plat. As shown on the Plat, portions of the Property are burdened with and benefited by: (i) Drainage & Utility Easements, (ii) Drainage, Utility & Sidewalk Easements; (iii) Sidewalk Easements; (iv) Access & Sidewalk Easements; (v) Gas Line Easements; (vi) Trail Ingress & Egress Easements; and (vii) Regulated Drain Easements. These easements are more particularly described in this Article. ®

3.2. DRAINAGE & UTILITY EASEMENTS. The Drainage & Utility Easements (as shown on the Plat as "Drainage & Utility Easement," "Gas Line Easement," "Regulated Drain Easement" and "Drainage, Utility & Sidewalk Easement"; hereinafter collectively referred to as "**Drainage & Utility Easements**") are created and reserved by the Plat and this Declaration as non-exclusive, perpetual easements over the Property (including portions of the Lots) for the use of all public utility companies (not including transportation companies), governmental agencies, Declarant and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage & Utility Easements are also created and reserved by the Plat and this Declaration for the use of any retention and detention ponds and improvements comprising and/or related to the storm water drainage system, either by surface drainage or appropriate underground installations, and the use of the Association for access to and maintenance, repair and replacement of such drainage system. The Drainage & Utility Easements are also created and reserved by the Plat and this Declaration for the use of Declarant and the Association for the construction, maintenance, use, governance and control of sidewalks, trails, lighting and similar improvements (collectively, the "Sidewalks"). Declarant also grants to the Owners and Residents, and their invitees, the right to use the Sidewalks for ingress and egress to the Common Areas. In connection with these Sidewalks, the Association has the temporary right, from time to time, to use as much of the surface of each Lot as may be reasonably necessary for the Association to perform its work on the Sidewalk improvements. The delineation of the Drainage & Utility Easement areas on the Plat will not be deemed a limitation on the rights of any entity for whose

use any such easement is created and reserved to go on any portion of the Property subject to such easement (including the Lots) temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Section. Except as installed by Declarant or by third party public utility companies as provided above, no structures or improvements, including without limitation decks, patios, fences, walkways or landscaping, may be erected or maintained upon the Drainage & Utility Easements. The water lines and the storm sewer facilities situated on the Property are private.

NOTICE

Although the Property is platted into individually owned Lots and Townhomes, portions of the Lots and Townhomes are maintained by the Association. Any portion of the Lots that is part of streets, sidewalks, and trails may be used by Residents of other Lots.

3.3. **SIDEWALK EASEMENTS.** The Sidewalk Easements (shown on the Plat as "Access & Sidewalk Easement," "Sidewalk Easement" and "Trail Ingress & Egress Easement;" hereinafter collectively referred to as "Sidewalk Easements") are created and reserved by the Plat and this Declaration over the Property and certain portions of the Lots as non-exclusive, perpetual easements for the use of Declarant and the Association for the construction, maintenance, use, governance and control of Sidewalks. Declarant also grants to the Owners and Residents, and their invitees, the right to use the Sidewalks for ingress and egress to the Common Areas. In connection with these Sidewalk Easements, the Association has the temporary right, from time to time, to use as much as the surface of each Lot as may be reasonably necessary for the Association to perform its work on the improvements in the Sidewalk Easements.

PRIVATE SIDEWALKS & PARKING

The private sidewalks and parking areas on the Property are subject to Association control, even if they are located on individual Lots.

3.4. **ACCESS EASEMENT.** Access Easements (shown on the Plat as "Access Easement" and "Access & Sidewalk Easement;" hereinafter "Access Easement") is created and reserved by the Plat and this Declaration over as perpetual easement for the use of Declarant and the Association for the maintenance, use, governance, and control of all streets, sidewalks, lawn areas and parking areas in the Access Easement area. Declarant also grants to the Owners and Residents, and their invitees, the right to use the vehicular areas and sidewalks for vehicular and pedestrian use. The Association has the right, from time to time, to use as much as the surface of each Lot as may be reasonably necessary for the Association to perform work on the improvements in the Access Easement. The Association may assign this easement, or any portion thereof, to a Municipal Entity if the Municipal Entity agrees to accept the assignment.

3.5. **OWNER'S EASEMENT OF ENJOYMENT.** Each Owner and his invitees are granted a right and easement of use and of enjoyment over the Access Easement, the Sidewalk Easements, and any Common Areas, and to the use of improvements therein, subject to other rights and easements contained in the Governing Documents. An Owner who does not occupy a Townhome delegates this right of enjoyment to the Residents of the Owner's Townhome, in which case the Owner is no longer entitled to use the Common Areas. If a portion of the Common Area, such as a recreational feature, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

3.6. OWNER'S MAINTENANCE AND TOWNHOME UTILITY EASEMENTS.

3.6.1. Maintenance Easement. Every Owner is granted an easement ("Maintenance Easement") over adjoining Lots and the Area of Common Responsibility for the maintenance or reconstruction of his Townhome and other improvements on Owner's Lot.

3.6.2. Townhome Utility Easement. Every Owner of a Lot is granted an easement ("Townhome Utility Easement") over, under and through every other Townhome in the same building in which the Owner's Townhome is located for the limited purpose of installing, maintaining and replacing wires, cables, conduit, and pipes that serve the Owner's Townhome, but only to the extent that use of this easement is reasonable and necessary. The Owner of a Townhome that contains wire, cables, conduit or pipes that serve one or more other Townhomes has a duty to refrain from interfering with or damaging those items.

3.6.3. Use of Maintenance Easement and Townhome Utility Easement. An Owner's right to use the Maintenance Easement or the Townhome Utility Easement is subject to the consent of the Owner of the adjoining Townhome or, in the case of the Area of Common Responsibility, the Association. Such consent may not be unreasonable withheld. Any dispute as to whether or not a requested entry by an Owner is appropriate, or whether or not the withholding of consent is reasonable, will be resolved by the Board. An Owner's use of the easement may not damage or materially interfere with the use of the adjoining Townhome or Area of Common Responsibility. If an Owner damages an adjoining Lot, Townhome or Area of Common Responsibility in exercising its rights under this easement, the Owner is obligated to restore the damaged property to its original condition at the Owner's expense, within a reasonable period of time.

3.7. OWNER'S ENCROACHMENT EASEMENT. Every Owner is granted an easement for the existence and continuance of any encroachment by his Townhome (including a Party Wall, as described in Section 8.10) on any adjoining Lot or Common Area now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement or movement of any portion of a building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed.

3.8. ASSOCIATION'S ACCESS EASEMENT. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon, for the below-described purposes. In exercising this easement on an Owner's Lot, the Association is not liable to the Owner for trespass.

- a. To perform inspections and/or maintenance that is permitted or required of the Association by the Governing Documents or by Applicable Law.
- b. To perform maintenance that is permitted or required of the Owner by the Governing Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- c. To enforce the Governing Documents, including without limitation the architectural standards and use restrictions contained therein.

- d. To exercise self-help remedies permitted by the Documents and by Applicable Law.
- e. To respond to emergencies.
- f. To grant such easements to utility providers as may be necessary to install, maintain and inspect utilities serving any portion of the Property.
- g. To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by Applicable Law.

3.9. UTILITY EASEMENT. The Association may grant permits, licenses and easements over the Common Area and the Area of Common Responsibility for utilities, roads and other purposes necessary for the proper operation of the Property.

**THE DECLARANT AND ASSOCIATION ARE NOT
RESPONSIBLE FOR YOUR PHYSICAL SECURITY**

3.10. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner and Resident further acknowledges that Declarant, the Association and their respective directors, officers, committees, agents and employees have made no representations or warranties, nor has the Owner or Resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relating to any fire, burglary and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Resident acknowledges and agrees that Declarant, the Association and their respective directors, officers, committees, agents and employees may not be held liable for any loss or damage by reason of failure to provide security or ineffectiveness of security measures which may be undertaken.

3.11. DECLARANT'S EASEMENT TO INSPECT AND RIGHT TO CORRECT. For a period of 10 years after the last closing of a sale of a Townhome from Declarant to an Owner, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct and relocate any structure, improvement or condition that may exist on any portion of the Property, including the Townhomes, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. This Section should not be construed to create a duty for Declarant or the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Lot, hereby grants to Declarant an easement of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon for the purposes contained in this Section.

ARTICLE 4
LOTS, TOWNHOMES AND AREA OF COMMON RESPONSIBILITY

4.1. **LOTS.** The Property is platted into Lots, the boundaries of which are shown on the Plat, and which may not be obvious on visual inspection of the Property. Portions of the Lots are designated by this Declaration to be Areas of Common Responsibility, and are burdened with easements for the use and benefit of the Association, Owners and Residents. The legal description for each Lot on the Property shall be as follows:

Lot __ in Village Green, a subdivision in Hamilton County, Indiana as per plat thereof recorded on _____, 20__ as Instrument Number _____, in the Office of the Recorder of Hamilton County, Indiana.

4.2. **ALLOCATION OF INTERESTS.** The interests allocated to each Lot are calculated by the following formulas.

4.2.1. **Common Expense Liabilities.** The percentage of liability for Common Expenses allocated to each Lot is uniform for all Lots, regardless of the value, size, or location of the Lot or Townhome.

4.2.2. **Votes.** One vote is appurtenant to each Lot. The one vote appurtenant to each Lot is weighted equally for all votes, regardless of any other allocation appurtenant to the Lot.

4.3. **TOWNHOMES.** Each residential Lot is to be improved with a Townhome. The Owner of a Lot owns every component of the Lot and Townhome, including all the structural components and exterior features of the Townhome. Nevertheless, this Declaration identifies components of the Townhomes as Areas of Common Responsibility to be maintained by the Association as a Common Expense.

SIZE OF TOWNHOME

The size of a Townhome may be measured in different ways for different purposes, such as for tax purposes, appraisal purposes, marketing purposes and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under the roof, or the air conditioned space, or the area within the Lot's building lines. The Townhome's partition wall cavities and/or its perimeter wall cavities may or may not be included. The Townhome's garage area, attic area and/or front porch space, if any, may or may not be included.

4.4. **AREA OF COMMON RESPONSIBILITY.** The Area of Common Responsibility consists of the following components on or adjacent to the Property, even if located on a Lot or a public right-of-way:

- a. Any Common Area shown on the Plat, and all improvements, signage and equipment thereon, including water lines and storm sewers, pipes, structures and water detention areas.

- b. Any private streets or private vehicular areas and sidewalks in the Property.
- c. Any perimeter fences or walls on or near the borders of the Property.
- d. All unfenced grounds in the Property.
- e. Any landscape irrigation system that serves the Property.
- f. Any fixture and improvement on or appurtenant to the street and which is intended for the use, operation or maintenance of a street, including but not limited to curbs, street lamps and traffic signs.
- g. Any right, title or interest in real property that is held by the Association for the use and benefit of Owners or Residents of the Property, including any Lot owned by the Association.
- h. Any area, item, easement or service, the maintenance of which is assigned to the Association by this Declaration or by the Plat.
- i. Any personal property owned by the Association.
- j. Any obligation of the Association under any easements affecting the Property.
- k. The following limited areas and components of the individually-owned Lots and Townhomes, which are to be maintained as a Common Expense:
 - (1) The roofs of the buildings in which the Townhomes are located, including (if any) skylights, gutters and flashing, but not including roof trusses.
 - (2) The foundations of the buildings in which the Townhomes are located.
 - (3) Water lines from the Common Area to the point at which such water lines protrude through the lowest floor of a Townhome.
 - (4) Sanitary sewer lines from the Common Area to the "clean-out" located on the exterior of a Townhome.
 - (6) Exterior materials of the buildings' walls, such as brick veneer, stucco or siding, and including sealants and fillers.
 - (7) Exterior materials of any chimney stacks and caps, but not chimney flues, fireboxes or the periodic cleaning of flues.
 - (8) Exterior painted surfaces of front doors, but not hardware or other aspects of the front door.
 - (9) Exterior painted surfaces.

- (10) Decorative trim and hardware on Townhome facades, including street numbers, railings and shutters (but not door hardware).
 - (11) Exterior light fixtures (but not the light bulbs for the light fixtures).
 - (12) All landscaping and grounds on a Lot (except any Owner-installed or resident-installed landscaping beyond that which is provided by Declarant).
 - (13) Driveways and sidewalks situated on a Lot.
 - (14) Street lights installed by Declarant or the Association, situated on a Lot.
 - (15) Decks.
 - (16) Mailboxes and mailbox posts.
1. Any modification, replacement or addition to any of the above-described areas and improvements.

ARTICLE 5

COVENANT FOR ASSESSMENTS

5.1. **PURPOSE OF ASSESSMENTS.** The Association will use Assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of Owners and Residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. The Board's decision with respect to the use of Assessments is final.

5.2. **PERSONAL OBLIGATION.** An Owner is obligated to pay Assessments levied by the Board against the Owner or his Lot. Payments are made to the Association at its principal office or at any other place (including to the management company) the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Townhome. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

5.3. **ASSESSMENT INCREASES.** In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget. At least thirty (30) days prior to the effective date of a Special Assessment or increase in Regular Assessments, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the Special Assessment or increase. The Special Assessment or increase will automatically become effective unless Owners representing at least a majority of the Lots disapprove the Special Assessment or increase in Regular Assessment by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved by the Board. This Section of the Declaration may not be amended without the approval of Owners of at least 75% of the Lots.

5.4. TYPES OF ASSESSMENTS. There are five (5) types of Assessments: Initial Assessments, Regular Assessments, Special Assessments, Individual Assessments and Restoration Assessments.

**IF YOU BUY A VILLAGE GREEN TOWNHOME,
YOU MUST PAY AN INITIAL
ASSESSMENT TO THE ASSOCIATION.**

5.5 INITIAL ASSESSMENTS.

5.5.1. Initial Assessment. Upon the purchase or transfer of a Lot to an Owner by Declarant, each new Owner (other than Declarant, a Successor Declarant or a Declarant affiliate) will pay to the Association an Initial Assessment ("**Initial Assessment**") in the amount of \$200.00 as initial capital to be deposited with the general funds of the Association to be used by the Association.

5.5.2. Payment and Collection of Initial Assessment. If the funds are collected by the Declarant, on or before termination of the Declarant Control Period, Declarant will provide the Association with an accounting of any contributions collected and will transfer the balance of such fund to the Association. The Initial Assessment is not an advance payment of the Regular Assessment, but is, instead, in addition to the Regular Assessments that will otherwise become due with respect to the Lot. The payment will be deemed to be the property of the Association and will not be refundable or applied as a credit against any subsequent assessments. No Owner will have any vested or other rights with respect to any such payments. If an Owner's contribution is not collected at time of closing on the Lot, for any reason or no reason, the Owner of the Lot (but not Declarant) is thereafter liable for the contribution, which may be collected by the Association.

5.6. REGULAR ASSESSMENTS.

5.6.1. Purpose of Regular Assessments. Regular Assessments ("**Regular Assessments**") are used for Common Expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair and replacement, as necessary, of the Common Area and Area of Common Responsibility, including snow removal.

Most exterior maintenance of your Townhome and Lot, and all maintenance of the Common Area, will be handled and paid for by the Association as a Common Expense.

- b. Utilities billed to the Association, including water and sanitary sewer utility charges for usage by Owners and Residents.
- c. Services billed to the Association and serving the Lots.

- d. Taxes on property owned by the Association and the Association's income taxes.
- e. Management, legal, accounting, auditing and professional fees for services to the Association.
- f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses and educational opportunities of benefit to the Association.
- g. Insurance premiums and deductibles.

SIZE OF TOWNHOME
Insurance premiums for the Townhome building itself (but not for your personal belongings or personal liability) will be paid by the Association as a Common Expense.

- h. Contributions to the Reserve Fund, which is described in Section 5.11.
- i. Any other expense which the Association is required by Applicable Law or the Governing Documents to pay or which, in the opinion of the Board, is necessary or proper for the operation and maintenance of the Property or for enforcement of the Governing Documents.

5.6.2. Annual Budget. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and Common Expenses for the year, contributions to reserve funds and a projection for uncollected receivables. The Board will make the budget or its summary available to an Owner of each Lot, although failure to receive a budget or summary does not affect an Owner's liability for Assessments.

**IF YOU OWN A VILLAGE GREEN TOWNHOME,
YOU MUST PAY ASSESSMENTS TO THE ASSOCIATION.**

5.6.3. Basis of Regular Assessments. Regular Assessments will be based on the annual budget, minus estimated income from sources other than Regular Assessments. Each Lot will be liable for its allocated share of the annual budget. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or if the Board delays in doing so, Owners will continue to pay the Regular Assessment as last determined. Regular Assessments will be paid in monthly installments.

5.6.4. Supplemental Increases. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated restoration.

5.6.5. Initial Regular Assessments. Declarant estimates that the Regular Assessment payable for each Lot will initially be \$200 per month. This amount is attributable to, but is not limited to, the cost of water and sanitary sewer service, basic trash collection (recycling shall be at the election of individual Owners and any expenses associated therewith shall be borne by such electing Owner), and insuring the Townhome buildings. The insurance maintained by the Board does not cover any Owner's personal property, the contents of a Townhome or an Owner's personal liability. This amount is not guaranteed and will almost certainly be increased over time as actual expenses for operating and maintaining the Property are incurred.

5.7. SPECIAL ASSESSMENTS. The Board may, from time to time, levy Special Assessments ("**Special Assessments**") against all Lots for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or Reserve Fund. Special Assessments may be used for the same purposes as Regular Assessments. Special Assessments do not require the approval of the Owners except that Special Assessments for the following purposes must be approved by the Owners of at least a majority of the Lots: (1) acquisition of real property; (2) construction of additional improvements to the Property (not repair or replacement of existing improvements); and (3) any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs or replacement.

5.8. INDIVIDUAL ASSESSMENTS. The Board may levy an Individual Assessment ("**Individual Assessment**") against a Lot and its Owner. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Governing Documents; fines for violations of the Governing Documents; fees for estoppel letters and copies of Governing Documents; insurance deductibles; submetered utilities serving the Townhomes; reimbursement for damage or waste caused by willful or negligent acts; Common Expenses that benefit fewer than all of the Townhomes, which may be assessed according to the benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Townhomes provided through the Association and which are equitably paid by each Lot according to the benefit received.

5.9. RESTORATION ASSESSMENTS. The Board may levy a Restoration Assessment ("**Restoration Assessment**") against Lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

5.10. DUE DATE. Initial Assessments are due upon the sale or transfer of a Lot. Regular Assessments are payable in advance, are due on the first calendar day of each month, and are delinquent if not received by the Association on or before the first day of the month. Special Assessments, Individual Assessments and Restoration Assessments are due on the date stated in the notice of the Assessment or, if no date is stated, within ten (10) days after notice of the Special Assessment, Individual Assessment or Restoration Assessment is given.

5.11. RESERVE FUNDS. The Association may establish, maintain and accumulate a reserve for operations ("**Reserve Fund**"). The Association will establish, maintain, and accumulate a reserve for replacement and repair. For all reserves established by the Association, the Association will budget for the reserves and may fund reserves out of Initial Assessments or Regular Assessments.

5.11.1. Operations Reserves. The Association may maintain operations reserves at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association.

5.11.2. Replacement Reserves. The Association will maintain replacement and repair reserves (the "Replacement Reserve Fund") at a level that anticipates the scheduled replacement or major repair of components of the Common Area and Area of Common Responsibility.

5.12. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of Owners of at least a majority of Lots and the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

ARTICLE 6 ASSESSMENT LIEN

6.1. ASSESSMENT LIEN. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Lot and is secured by a lien on the Lot. Each Owner, and each prospective Owner, is placed on notice that such Owner's title may be subject to the lien for Assessments attributable to a period prior to the date the party purchased the Lot.

6.2. SUPERIORITY OF ASSESSMENT LIEN. The Assessment lien is superior to all other liens and encumbrances on a Lot, except only for: (1) real property taxes and assessments levied by governmental and taxing authorities; (2) a mortgage, deed of trust or vendor's lien recorded before this Declaration; (3) a recorded mortgage or deed of trust lien securing a loan for construction of the original Townhome; and (4) a first or senior purchase money mortgage or vendor's lien recorded before the date on which the delinquent Assessment became due. The Assessment lien is subordinate and inferior to a recorded mortgage lien of any Underwriting Lender. ®

6.3. EFFECT OF MORTGAGEE'S FORECLOSURE. Foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale is liable for Assessments coming due from and after the date of the sale.

6.4. FORECLOSURE OF LIEN. The Association may file and foreclose the lien for Assessments as a mortgage on real property or as otherwise provided by law.

ARTICLE 7 EFFECT OF NONPAYMENT OF ASSESSMENTS

7.1. FAILURE TO PAY ASSESSMENTS. An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through its Board, is responsible for taking action to collect delinquent Assessments. The Association's exercise of its remedies is subject to Applicable Law and pertinent provisions of the Association's By-Laws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's manager, management company, an attorney or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an Assessment. The following remedies outlined

in this Article 7 are in addition to and not in substitution for all other rights and remedies that the Association has at law or by equity.

7.2. INTEREST. Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of 18% per annum or the maximum permitted by law. If the Board fails to establish a rate, the rate is 12% per annum. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Indiana. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with the Association's collection of Assessments, the Association will not be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by Applicable Law. If the Association ever receives, collects or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Special Assessments and Regular Assessments or, if those Assessments are paid in full, reimbursed to the Owner.

7.3. LATE FEES. Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.

7.4. COLLECTION EXPENSES. The Owner of a Lot against which Assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, including attorneys fees and processing fees charged by the management company.

7.5. ACCELERATION. If an Owner defaults in paying an Assessment that is payable in installments, the Association may accelerate the remaining installments on ten (10) days' written notice to the defaulting Owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice.

7.6. SUSPENSION OF USE AND VOTE. If an Owner's account has been delinquent for at least thirty (30) days, the Association may suspend the right of the Owner and the Residents of the Owner's Townhome to use Common Areas and common services during the period of delinquency. The Association may not suspend an Owner or Resident's right of access to the Townhome. The Association may also suspend the right to vote appurtenant to the Lot during the period of delinquency. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments.

7.7. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an owner delinquent in the payment of Assessments, without foreclosing or waiving the Association lien for Assessments.

7.8. NOTICE TO MORTGAGEE. The Association may notify and communicate with any Mortgagee for a Lot regarding the Owner's default in payment of Assessments.

7.9. APPLICATION OF PAYMENTS. The Association may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment (i.e., any amount less than the full amount due and payable). The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Association's policy for applying payments.

ARTICLE 8 **MAINTENANCE AND REPAIR OBLIGATIONS AND LIMITATIONS**

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
VILLAGE GREEN

8.1. **ASSOCIATION MAINTENANCE.** The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs and replaces, as Common Expense, all Common Areas and any component of a Townhome or Lot delegated to the Association by this Declaration as an Area of Common Responsibility. Certain aspects of this obligation are more particularly described in this Article.

HOME OWNERSHIP IS NOT COMPLETELY "MAINTENANCE FREE." AS AN OWNER, YOU WILL HAVE SOME MAINTENANCE RESPONSIBILITIES.

8.2. **OWNER RESPONSIBILITY.** Every Owner has the following general responsibilities and obligations for the maintenance, repair and replacement of the Property:

- a. To maintain, repair and replace his Townhome, except for components expressly designated as an Area of Common Responsibility and assigned to the Association by this Declaration.
- b. The routine cleaning of the windows, patio, porch, deck, sidewalk and driveway area of his Townhome, keeping same in a neat, clean, odorless, orderly and attractive condition.
- c. To maintain, repair and replace all portions of the Property for which he is responsible under this Declaration or by agreement with the Association.
- d. To not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or real property right thereto.
- e. To be responsible for his own willful or negligent acts and those of his or the Resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of the Area of Common Responsibility, any Common Area, the property of another Owner, or any component of the Property for which the Association has maintenance or insurance responsibility.
- f. To (i) keep any portion of the Lot that is subject to the Drainage & Utility Easements free from obstructions so that the storm water drainage will be unimpeded, and (ii) not change or alter any drainage areas, including storm sewers, pipe, and structures (including any water detention areas) without appropriate permission of the Municipal Entity and prior written approval of the Association.

8.3. **DISPUTES.** If a dispute arises regarding the allocation of maintenance responsibilities by this Declaration, the dispute will be resolved by allocating responsibility to the individual Owners. Townhome and Lot maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this

Article that all components and areas not expressly delegated to the Association are the responsibility of the individual Owners.

8.4. CONCRETE AND ASPHALT. Minor cracks in concrete and asphalt, including foundations, garage floors, driveways, streets, sidewalks, porches and patio slabs, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of the building. The Association's duty to maintain and repair foundations and other concrete or asphalt of the Property does not extend to minor or cosmetic cracking. Generally, the Association is responsible for repair of the following conditions: (1) leakage or seepage through walls or floors, (2) cracks in concrete, masonry walls or masonry veneer that exceed one-fourth ($\frac{1}{4}$) inch in width; and (3) improper drainage of water from stoops and patios.

8.5. LAWNS AND LANDSCAPING. The Association will maintain the lawn and landscaping throughout the Property, including the Lots, as set forth in the Zoning Commitments. However, each Owner must keep the lawn located on its Lot clean and free of debris and free from animal waste.

8.6. SNOW REMOVAL & TRASH COLLECTION.

8.6.1 Snow Removal. The Association will hire a snow removal contractor to remove snow from streets, driveways and sidewalks when warranted. However, the Association is not required to cause snow to be removed unless at least two (2) inches of snow have accumulated.

8.6.2 Basic Trash Collection. The Association will hire a trash collection contractor to pick up basic household trash on at least a weekly basis. Recycling service shall be at the election of individual Owners and any additional expenses associated therewith shall be borne by the electing Owner.

8.7. PEST CONTROL. The Association will hire a pest control contractor to perform spraying for pest control on the exterior perimeter of the foundation of the buildings once per year. Owners will be responsible for any other pest control service the Owner deems necessary.

8.8. DECKS. Except for routine cleaning, which is the Owner's responsibility, the Association is responsible for the maintenance, repair and replacement of any decks that are part of a Townhome. If the outside components of the Townhome are most easily accessed through the Townhome, the Owner will cooperate in providing access to the outside components to the Association's agents and contractors. If requested by the Association, the Owner will remove all personal property from the outside components of his Townhome to facilitate the required maintenance, repair or replacement. The Owner is liable to the Association for any additional expense incurred by the Association due to an Owner's failure or refusal to cooperate with reasonable requests for access or removal. This Section may not be construed to prevent an Owner of the Owner's sole expense, without right of reimbursement from the Association, from maintaining, repairing and replacing components of his Townhome's deck, subject to the Association's architectural control.

8.9. WARRANTY CLAIMS. If Owner is the beneficiary of a warranty against defects in the Area of Common Responsibility, Owner irrevocably appoints the Association, acting through the Board, as his attorney-in-fact to file, negotiate, receive, administer and distribute the proceeds of any claim against the warranty that pertains to an Area of Common Responsibility.

8.10. PARTY WALLS. A Townhome wall located on or near the dividing line between two Lots and intended to benefit both Lots constitutes a party wall ("Party Wall"). To the extent not

inconsistent with the provisions of this Section, the Party Wall is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts or omissions.

8.11.1. Encroachments and Easement. If the Party Wall is on one Lot or another due to an error in construction, the midpoint of the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each Lot sharing a Party Wall is subject to the Owner's Encroachment Easement (see Section 3.7).

8.11.2. Right to Repair. If the Party Wall is damaged or destroyed from any cause, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition. The Owners of both Lots and their successors and assigns will have the right to the full use of the repaired or rebuilt Party Wall.

8.11.3. Maintenance Costs. The Owners of the adjoining Lots will share equally in the costs of repair, reconstruction or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions, and subject to the two modifications below. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Office of the Recorder of Hamilton County, Indiana. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

8.11.4. Alterations. The owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner. The Party Wall will always remain in the same location as when originally erected.

8.11. OWNER'S DEFAULT IN MAINTENANCE. If the Board determines that an Owner has failed to properly discharge the Owner's obligation to maintain, repair and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and shall set forth a reasonable period of time for such maintenance work to be completed. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an Individual Assessment against the Owner and the Owner's Lot. In case of an emergency, however, the Board may, without giving the Owner written notice, take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

ARTICLE 9

ARCHITECTURAL COVENANTS AND CONTROL

9.1. PURPOSE. Because the Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be generally considered to be radical, curious, odd, bizarre or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a Lot, including but not limited to Townhomes, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation.

During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

9.2. PROHIBITION OF CONSTRUCTION, ALTERATION AND IMPROVEMENT.

Without the Architectural Reviewer's prior written approval, a person may not construct a Townhome or make an addition, alteration, improvement, installation, modification, redecoration or reconstruction of or to the Property. However, an Owner may make non-structural changes to the interior of a Townhome (such as painting or installing wallpaper) without seeking the Architectural Reviewer's approval. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping and property use that may adversely affect the general value or appearance of the Property.

9.3. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, all aspects of architectural control will be governed by Section B.3.3. of Appendix B.

9.4. ARCHITECTURAL CONTROL BY ASSOCIATION. The Association has no jurisdiction over architectural matters unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC will assume jurisdiction over architectural control.

9.4.1. ACC. The ACC will consist of at least three (3) but not more than seven (7) persons appointed by the Board, pursuant to the Association's By-Laws. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Governing Documents to the ACC are construed to mean the Board. Members of the ACC need not be Owners or Residents, and may but need not, include architects, engineers, and design professionals who may be paid for their services, as determined from time to time by the Board.

9.4.2. Control for Variances. If the ACC is considering approval of an application that seeks a variance or which, in the ACC's opinion, would constitute a variance of the Property's established standards, the ACC must notify an Owner of each Lot, at the applicant's expense, of the nature of the proposed variance at least twenty (20) days before the ACC approves the application. The ACC may approve the variance unless Owners of at least a majority of the Lots disapprove the proposed variance by petition or at a meeting of the Association. This Section of the Declaration may not be amended without the approval of Owners of at least seventy-five percent (75%) of the Lots.

9.4.3. Discretion; Limits on Liability for Decisions Made. The ACC has sole discretion with respect to taste, design and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ACC; (2) supervising construction for the Owner's compliance with approved plans and specifications; or (3) the compliance of the Owner's plans and specifications with Applicable Law.

**BEFORE MAKING ANY IMPROVEMENT OR ALTERATION TO A
LOT OR TOWNHOME, A BUILDER OR OWNER MUST APPLY FOR
WRITTEN APPROVAL**

9.5. ARCHITECTURAL APPROVAL. To request architectural approval, an Owner must make written application and submit two (2) identical sets of plans and specifications showing the nature, kind, shape, color, size, materials and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. The Architectural Reviewer's approval must be in writing to be effective. Verbal approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's manager does not constitute architectural approval by the appropriate Architectural Reviewer.

9.5.1. Deemed Approval. If the Architectural Reviewer fails to respond in writing (negatively, affirmatively or requesting information) within sixty (60) days after the Architectural Reviewer's actual receipt of the Owner's application, the Owner may submit a second request for processing of its original application. If the Board fails to respond within forty-five (45) days after the Board's actual receipt of the Owner's second request, the Owner's application is deemed approved. The Owner may then proceed with the improvement, provided the Owner adheres to the plans and specifications that accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the Owner to document the Board's actual receipt of the Owner's initial application and second request.

9.5.2. Building Permit. If the application is for work that requires a building permit from the Municipal Entity, the Owner must obtain the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that the plans comply with the Municipal Entity's requirements. Alternatively, approval by governmental authorities does not ensure Architectural Reviewer approval.

9.5.3. No Approval Required. No approval is required to rebuild a Townhome in accordance with originally approved plans and specifications. Nor is approval required for an Owner to remodel or repaint the interior of a Townhome, provided the work does not impair the structural soundness of the building.

9.5.4. Declarant Approved. Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

9.6. ARCHITECTURAL GUIDELINES. Declarant (during the Development Period) and the Association (thereafter) may publish architectural restrictions, guidelines, and standards, all of which may be revised from time to time to reflect changes in technology, style and taste.

9.7. PROHIBITED ACTS. The types of acts that may not be commenced without the Architectural Reviewer's prior written approval include, but are not limited to, the following:

- a. Installation of a receiving or transmitting tower, ornamental iron or burglar bars, storm window or door, exterior lighting, storage shed, basketball goal, treehouse, free standing mailbox, trash can enclosure, patio cover, chimney or skylight – if any are visible from another Townhome, Lot or a street.
- b. Installation of equipment that may create a noise annoyance, such as noise-producing security devices, exterior pumps and speakers.
- c. Installation of walls, screens, awnings, fences, gates or carports.
- d. Enclosure of patios, yards, garages or carports.
- e. Installation of impermeable decking or other improvement that may interfere with established drainage patterns.

ARTICLE 10

USE RESTRICTIONS

10.1. **VARIANCE.** The use of the Property is subject to the restrictions contained in this Article, and subject to the Rules adopted pursuant to this Article. The Board or the Architectural Reviewer, as the case may be, may grant a variance or waiver (either fully or with limits or conditions) of a restriction or Rule on a case-by-case basis when unique circumstances dictate. To be effective, a variance must be in writing. The grant of a variance does not become a waiver or estoppel of the Association's right to deny a variance in other circumstances.

10.2. **ASSOCIATION'S RIGHT TO PROMULGATE RULES.** The Association, acting through the Board, is granted the right to adopt, amend, repeal and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance and enjoyment of the Property. Among other things, each Lot is owned and occupied subject to the right of the Board to establish Rules (and penalties for infractions of the Rules) which govern:

- a. Use of Common Areas and Areas of Common Responsibility;
- b. Hazardous, illegal, or annoying materials or activities on the Property;
- c. The use of Property-wide services provided through the Association;
- d. The consumption of utilities billed to the Association;
- e. The use, maintenance and appearance of anything visible from the street or other Townhomes;
- f. Landscaping and maintenance of yards;
- g. The occupancy and leasing of Townhomes;
- h. Animals;
- i. Vehicles;
- j. Disposition of trash and control of vermin, termites and pests; and
- k. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for Residents.

10.3. **ANIMALS.** No animal, bird, fish, reptile or insect of any kind may be kept, maintained, raised or bred anywhere on the Property for food or for any commercial purpose. Customary domesticated household pets may be kept subject to the Rules. The Board may adopt, amend, and repeal

Rules regulating the types, sizes, numbers, locations and behavior of animals on the Property. If the Rules fail to establish animal occupancy units, no more than two (2) dogs, or two (2) cats, or one (1) dog and one (1) cat (or such lesser number as may be prescribed by the Municipal Entity) may be maintained in each Townhome. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board. No pets may be left unattended outside of a Townhome (including a deck). The Board may require or cause the removal of any animal determined to be in violation of the Rules. Each Owner or Resident must clean any animal waste created by its pets anywhere on the Property.

10.4. ANNOYANCE. No Lot or Common Area may be used in any way that: (1) may reasonably be considered annoying to the neighbors; (2) may be calculated to reduce the desirability of the Property as a residential neighborhood; (3) may endanger the health or safety of Residents of other Townhomes; (4) may result in the cancellation of insurance on any portion of the Property; (5) violates any law; or (6) creates noise or odor pollution. The Board has the sole authority to determine what constitutes an annoyance.

10.5. APPEARANCE. Both the Lot and the Townhome must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. the Architectural Reviewer will determine what constitutes acceptable appearance standards.

10.6. DECLARANT PRIVILEGES. In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and Residents, as provided in Appendix B of this Declaration. Declarant's exercise of a Development Period right that appears to violate a Rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

10.7. DRAINAGE. Each Lot has a surface water drainage and grading pattern that relates to the surface water drainage pattern for the entire Property. No person may interfere with the established drainage pattern, systems and improvements over any part of the Property.

10.8. SIDEWALKS & DRIVEWAYS. Sidewalks, driveways and other passageways may not be used for any purpose that interferes with their ongoing use as routes of vehicular or pedestrian access.

10.9. FIRE SAFETY. No person may use, misuse, cover, disconnect, tamper with or modify the fire and safety equipment of the Property, including fire hydrants, or interfere with the maintenance and/or testing of same by persons authorized by the Association or by public officials.

10.10. LANDSCAPING. No person or party (other than the Association) may perform landscaping, planting or gardening anywhere upon the Property or any Lot, except that Owners or Residents may do the following:

- a. Display flower pots or flower boxes on or around the Townhome's front stairs or entry way; and
- b. Install additional plantings (annual plantings only; no perennials) around the Townhome's back patio in an area not to exceed two feet (2') around the Townhome's back patio.

10.11. LEASING OF TOWNHOMES. An Owner may lease his Townhome, but must do so subject to the Governing Documents. Any lease must be for a minimum term of twelve (12) months. An Owner is responsible for providing his/her tenant ("Tenant") with copies of the Governing Documents

and notifying Tenant of changes thereto. The lease must provide that failure by Tenant or Tenant's invitees to comply with the Governing Documents or Applicable Law is deemed to be a default under the lease. When the Association notifies an Owner of his/her Tenant's violation, the Owner shall promptly obtain Tenant's compliance or exercise his rights as a landlord for Tenant's breach of lease. The Owner of a leased Townhome is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Governing Documents against Tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Governing Documents against Tenant.

10.12. NOISE AND ODOR. A Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing or objectionable noises or noxious odors that are likely to disturb or annoy Residents of neighboring Townhomes. The Rules may limit, discourage, or prohibit noise or odor producing activities and items in the Townhomes and on the Area of Common Responsibility.

10.13. OCCUPANCY. The Board may adopt Rules regarding the occupancy of Townhomes. If the Rules fail to establish occupancy standards, no more than two (2) persons per bedroom may occupy a Townhome, subject to the exception for familial status. The Association's occupancy standard for Residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (i.e., the fewest people per Townhome) permitted by the U.S. Department of Housing and Urban Development.

10.14. VEHICLES. This Section pertains to parking on streets and driveways. All vehicles on the Property, whether owned or operated by the Residents or their families and guests, are subject to this Section, the Section 10.16 (below) and any Rules regulating the types, sizes, numbers, conditions, uses, appearances and locations of vehicles on the Property. Without prior written Board approval, the following types of vehicles and vehicular equipment (mobile or otherwise) may not be kept, parked or stored anywhere on the Property: mobile homes, motor homes, buses, trailers, boats, snowmobiles, trailers, aircraft, inoperable vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles that are not customary personal passenger vehicles, and any vehicle that the Board deems to be a nuisance, unsightly or inappropriate. The Board may prohibit sales, storage, washing, repairs, or restorations of vehicles on the Property. This restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a Townhome. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard on the Property. The Association may cause the removal of any vehicle in violation of this Section, the Section 10.16 (below) or the Rules without liability to the owner or operator of the vehicle. The owner or operator of the vehicle will be responsible for any towing charges.

10.15. GARAGES. The original garage area of a Townhome may not be enclosed or used for any purpose that would prevent the parking of operable vehicles therein. The automatic garage door opener is to be maintained by the Owner. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

10.16. PARKING. Residents are expected to park their vehicles in their garages, and use their driveways only for temporary overflow parking. The Association has the right to prohibit or limit parking on streets, and may impose different rules on different streets in the Property, or along sections or sides of streets, and may change the street parking rules from time to time in response to changing conditions, neighborhood standards, Municipal Entity recommendations, aesthetics, or any combination of these. Unless and until the Board adopts different rules for street parking, no vehicle may be parked on any street in the Property. The Board may authorize such vehicles and items parked in violation of this

provision to be towed away and the owner of the vehicle or operator will be responsible for any towing charges.

10.17. RESIDENTIAL USE. The use of a Lot is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using a Townhome for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the Townhome as a dwelling; (2) the uses conform to applicable governmental ordinances; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the Townhome by employees or the public; and (5) the uses do not interfere with Residents' use and enjoyment of neighboring Townhomes. Other than the completed Townhome itself, no thing or structure on a Lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage and campers.

10.18. SIGNS. No sign (other than a "For Sale" sign no larger than 24" high and 30" wide) or unsightly object may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Townhome without the Board's prior written approval. The Board's approval may specify the location, nature, appearance, dimensions, number and time period that a sign or object may be erected, placed or permitted to remain on the Property. The Association may effect the removal of any sign or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.

10.19. SPECIFIC USES. Except for ingress and egress, the front yards, sidewalks, and driveways on the Property may not be used for any purpose that has not been authorized in writing by the Board.

10.20. STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another Townhome (including by making modifications to a Party Wall). No person may directly or indirectly do any work that will impair an easement or real property right on the Property.

10.21. TELEVISION RECEPTION. Each Resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable or satellite reception on the Property. To the extent not inconsistent with Applicable Law, no person may install exterior television or other antennae, including satellite dishes, without the prior written consent of the Architectural Reviewer. To the extent allowed under Applicable Law and approved by the Architectural Reviewer, such approved antennae or dish is referred to as the Antenna/Dish ("**Antennae/Dish**").

10.21.1. Definitions. As used in this Section Antenna/Dish Townhome ("**Antenna/Dish Townhome**") means the Townhome served by a satellite dish or antenna, or the Townhome that is obviously intended to be served by a satellite dish or antenna, regardless of whether the service is operational. Antenna/Dish Owner ("**Antenna/Dish Owner**") means the Owner of a Townhome served by a satellite dish or antenna, regardless of whether the Owner purchases, uses or has actual knowledge of the satellite dish or antenna.

10.21.2. Owner Responsibility. The installation of an Antenna/Dish on the Area of Common Responsibility automatically subjects the Antenna/Dish Townhome and its Owner to this Section, regardless of who installs the Antenna/Dish regardless of whether the Antenna/Dish Owner has actual notice of the installation. The Antenna/Dish Owner is solely responsible for (1) the cost of maintaining, repairing, replacing and removing, as necessary, the Antenna/Dish, and (2) the cost of repairing Common Areas and/or the Area of Common Responsibility if such

repairs are necessitated by the Antenna/Dish or its installation, maintenance, repair or replacement, irrespective of whether the repairs are undertaken by the Antenna/Dish Owner or the Association. If required by the Association, the Antenna/Dish Owner will remove the Antenna/Dish, as necessary, to permit the Association to maintain, repair or replace Common Areas or the Area of Common Responsibility as the Association, in its sole discretion, deems necessary or desirable.

10.21.3. Association Controls. To the extent permitted by Applicable Law, the Association may adopt and amend reasonable standards for the color, appearance, location, method of installation, maintenance, camouflaging, screening and use of Antenna/Dishes. The location and installation of an Antenna/Dish on the Area of Common Responsibility must have the prior written approval of the Association, unless the location and installation comply with the most current standards that have been adopted and published by the Association. No party shall have the right to install an Antenna/Dish on any portion of a building other than that party's own Townhome.

10.21.4. Interference. An Antenna/Dish or the use of an Antenna/Dish may not interfere with satellite or broadcast reception to other Townhomes or the Common Areas, or otherwise be a nuisance to Residents of other Townhomes or to the Association. The Board of Directors may determine what constitutes a nuisance to the Association.

10.21.5. Risk. An Antenna/Dish on the Area of Common Responsibility exists at the sole risk of the Owner and/or occupant of the Antenna/Dish Townhome. The Association does not insure the Antenna/Dish and is not liable to the Antenna/Dish Owner or any other person for any loss or damage to the Antenna/Dish from any cause. The Antenna/Dish Owner will defend and indemnify the Association, its directors, officers and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from the Antenna/Dish Owner's Antenna/Dish.

10.22. WINDOW TREATMENTS. All window treatments within the Townhome that are visible from the street or another Townhome must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Reviewer may require an Owner to change or remove a window treatment that the Architectural Reviewer determines to be inappropriate or unattractive. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments. All interior window coverings shall be specifically designed as window treatments, including but not limited to: blinds, shutters or drapes. No sheets, towels, paper or other similar items, not expressly designed as window treatments, shall be used to cover a window.

10.23. DECKS. An Owner or Resident may not leave any item on his deck, except potted plants, deck or patio furniture and a grill. The Board may adopt Rules further limiting or describing what may be placed on decks.

ARTICLE 11 **ASSOCIATION OPERATIONS**

11.1. THE ASSOCIATION. The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Indiana. Generally, the Association may do any and all things that are lawful and necessary, proper or desirable in operating for the peace,

health, comfort and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents.

**EVERY OWNER OF A VILLAGE GREEN TOWNHOME
AUTOMATICALLY BECOMES A MEMBER OF THE VILLAGE
GREEN TOWNHOME ASSOCIATION.**

11.2. **BOARD.** The association will be governed by a Board of Directors elected by the Members. Unless the Association's Bylaws or the Association's Articles of Incorporation provide otherwise, the Board will consist of 5 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. Unless the Governing Documents expressly reserve a right, action or decision to the Members, Declarant or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Governing Documents to the "Association" may be construed to mean "the Association acting through its Board of Directors."

11.3. **MEMBERSHIP.** Each Owner is a Member of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one person or entity, each co-owner is a Member of the Association and may exercise only one (1) vote per Lot, which vote shall be exercised as such co-owners determine. A Member who sells his Lot under a land contract may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all Assessments attributable to the contract seller's Lot until fee title to the Lot is transferred.

11.4. **MANAGEMENT COMPANY.** The Board may delegate the performance of certain functions to a manager or management company for the Association.

11.5. **BOOKS AND RECORDS.** The Association shall maintain copies of the Governing Documents and the Association's books, records and financial statements. Books and records of the Association shall be made available for inspection and copying pursuant to the requirements of the Indiana Nonprofit Corporation Act of 1991.

11.6. **INDEMNIFICATION.** The Association indemnifies every officer, director and committee member (for purposes of this Section, the "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable only for his willful misfeasance, malfeasance, misconduct or actions taken in bad faith. This right to indemnification does not exclude or limit any other rights to which present or former Leaders may be entitled as a matter of law. As a Common Expense, the Association may maintain general liability and directors and officer liability insurance to fund this obligation.

11.7. **OBLIGATIONS OF OWNERS.** Without limiting the obligations of Owners under the Governing Documents, each Owner has the following obligations:

11.7.1. **Information.** Within thirty (30) days after acquiring an interest in a Lot, within thirty (30) days after the Owner has notice of a change in any information required by this

Subsection (such as a change in Residents), and on request by the Association from time to time, an Owner shall provide the Association with the following information: (1) a copy of the recorded deed by which Owner has title to the Lot; (2) the Owner's address, phone number and driver's license number, if any; (3) any Mortgagee's name, address and loan number; (4) the name and phone number of Owner's managing agent, if any.

11.7.2. Pay Assessments. Each Owner shall pay Assessments properly levied by the Association against the Owner or his Lot, and shall pay Regular Assessments without demand by the Association.

11.7.3. Comply. Each Owner shall comply with the Governing Documents as amended from time to time.

11.7.4. Reimburse. Each Owner shall pay for damage to the Property caused by the negligence or willful misconduct of the Owner, a Resident of the Owner's Lot, or the Owner or Resident's family, guests, employees, contractors, agents or invitees.

11.7.5. Liability. Each Owner is liable to the Association for violations of the Governing Documents by the Owner, a Resident of the Owner's Lot, or the Owner or Resident's family, guests, employees, agents or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

ARTICLE 12

ENFORCING THE GOVERNING DOCUMENTS

12.1. ENFORCEMENT. If an Owner violates the Governing Documents or damages the Property, the Association may exercise all rights and remedies available under the Governing Documents and Applicable Law.

12.2. REMEDIES. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights to enforce the Governing Documents:

12.2.1. Nuisance. If an act or omission that violates any provision of the Governing Documents is a nuisance, any remedy allowed by law against a nuisance is applicable against the violation.

12.2.2. Fine. The Association may levy reasonable charges, as an Individual Assessment, against an Owner and his Lot if the Owner or Resident, or the Owner or Resident's family, guests, employees, agents or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues. The fact that Owner pays a fine for a violation does not give the Owner the right to continue the violation. Payment of a fine does not constitute a waiver or discharge of the Owner's obligations under the Governing Documents.

12.2.3. Suspension. For any period during which the Owner or Resident, or the Owner or Resident's family, guests, employees, agents or contractors violate the Governing Documents, the Association may suspend the right of Owners and Residents: (i) to use Common Areas (except rights of ingress and egress); and (ii) to vote on matters presented to the Owners. A

suspension does not constitute a waiver or discharge of the Owner's obligations under the Governing Documents.

12.2.4. Self-Help. In certain limited circumstances, as limited by Applicable Law, the Association may have the right to enter onto a Lot, but not inside a Townhome, to abate or remove any sign, structure, vehicle or condition that violates the Governing Documents. Prior to exercising such right, the Board shall give the violating Owner five (5) days' notice of its intent to exercise self-help. In exercising this right, the Board is not trespassing and is not liable for damages relating to its actions, provided that it acts reasonably. The Board may levy its costs of abatement against the Lot and Owner as an Individual Assessment.

12.3. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances: (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with Applicable Law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interest, based on hardship, expense or other reasonable criteria.

STATE LAW APPLIES
to many of the Association's enforcement rights and remedies.

12.4. NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens and charges now or hereafter imposed by the Governing Documents. Failure by the Association or by any Owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director or Member of the Association is liable to any Owner for the failure to enforce any of the Governing Documents at any time.

12.5. RECOVERY OF COSTS. The costs of curing or abating a violation are the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

ARTICLE 13 **INSURANCE**

13.1. GENERAL PROVISIONS. The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors or insurers that finance the purchase or improvement of Townhomes. Because the insurance requirements of mortgage underwriters are subject to change, as are State-promulgated insurance regulations and policies, this Article tries to balance the need for certain minimum insurance requirements with the desire to adapt to a periodically changing

insurance environment. The Board will make every reasonable effort to comply with the requirements of this Article. The Association, and its directors, officers and manager, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at a demonstrably unreasonable cost. The cost of insurance coverage and bonds maintained by the Association is a Common Expense.

13.1.1. Requirements Applicable to all Coverage. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Indiana. The Association must be the named insured on all policies obtained by the Association. The loss payee clause should show the Association as trustee for each Owner and Mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies should provide that such policies will not be prejudiced by the act or omission of any Owner or Resident who is not under the Association's control.

13.1.2. Association as Trustee. Each Owner hereby irrevocably appoints the Association, acting through its Board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation or termination of all or any part of the Property. As trustee, the Association will have full and complete authority, right and power to do all things reasonable and necessary to effect the provisions of this Declaration, including, without limitation, the right to receive, administer and distribute funds, awards and insurance proceeds; and to make, execute, and deliver any contract, deed or other instrument with respect to the interest of an Owner.

13.1.3. Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice to the Board before the policy may be canceled, terminated, materially modified or allowed to expire, by either the insurer or the insured. The Board will give to Eligible Mortgagees, and the insurer will give to Mortgagees, prior notices of cancellation, termination, expiration or material modification.

13.1.4. Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or by an Underwriting Lender. In the event of an insured loss, the deductible is treated as a Common Expense of the Association in the same manner as the insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or Resident or their invitee, then the Board may levy an Individual Assessment against the Owner and his Townhome for the amount of the deductible that is attributable to the act or omission.

13.2. PROPERTY INSURANCE. The Association will obtain blanket all-risk insurance, if reasonably available, for all improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover 100% of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

13.2.1. Common Property Insured. The Association will insure Common Areas and property owned by the Association, including any records, furniture, fixtures, equipment and supplies.

13.2.2. Townhomes Insured by Association. In addition to insuring the Common Areas against casualty loss, the Association will maintain property insurance on the Townhomes as originally constructed. The Association may insure betterments and improvements installed by current or previous Owners. In insuring Townhomes, the Association may be guided by types of policies customarily available for similar types of properties.

13.2.3. Endorsements. To the extent reasonably available, the Association will obtain endorsements to its property insurance policy required by an Underwriting Lender.

13.3. LIABILITY INSURANCE. The Association will maintain Association commercial general liability insurance policy over the Common Areas (expressly excluding the liability of each Owner and Resident within his Townhome) for bodily injury and property damage resulting from the operation, maintenance or use of the Common Area. To the extent reasonably available, the amount of coverage should be at least that required by an Underwriting Lender. The purpose of this requirement is, in part, to assure mortgage companies that the Association maintains at least minimum levels of insurance coverage. The policy should contain a "severability of interest" provision. If that is not available, the policy should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

13.4. WORKER'S COMPENSATION. The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of State law or if the Board so chooses.

13.5. FIDELITY COVERAGE. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of (1) the estimated maximum funds, including reserve funds, that will be in the Association's custody at time the policy is in force; or (2) an amount equal to 3 months of Regular Assessments on all Lots. Association management agent that handles Association funds should provide evidence of carrying its own fidelity insurance policy, with the same level of coverage.

13.6. DIRECTORS AND OFFICERS LIABILITY. The Association may maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds or other insurance the board deems advisable to insure the Association's directors, officers, committee members and managers against liability for an act or omission in carrying out their duties in those capacities.

13.7. OTHER POLICIES. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.

13.8. OWNER'S RESPONSIBILITY FOR INSURANCE.

13.8.1. Insurance by Owners. Notwithstanding the foregoing, the Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an Individual Assessment.

13.8.2. Owner's Responsibilities. On request, an Owner will give the Board written notification of any and all structural changes, additions, betterments or improvements to his Townhome, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply with reasonable requests by the Board for periodic inspection of the Townhome for purposes of insurance appraisal. Each Owner, at Owner's expense, will maintain any insurance coverages required of Owners by the Association pursuant to this Article. Each Owner, at Owner's expense, must obtain additional insurance coverage of his real property, improvements, and betterments thereto, or personal property.

13.8.3 Association Does Not Insure. The Association does not insure an Owner's or Resident's personal property. Each Owner and Resident is solely responsible for insuring his personal property in his Townhome and on the Property, including furnishings, vehicles and stored items.

The Association strongly recommends that each Owner and Resident purchase and maintain insurance on his personal belongings.

ARTICLE 14

RECONSTRUCTION OR REPAIR AFTER LOSS

14.1. GENERAL. Any insured portion of the Townhomes that is damaged or destroyed will be promptly repaired or replaced by the Association unless repair or replacement would be illegal under any State or local health or safety statute or ordinance, or if Owners of at least 80% of the Lots, including each Owner of a Lot that will not be rebuilt or repaired, vote to not rebuild. A vote to not rebuild should not change an insurer's loss payment obligation under a policy, and the vote does not cause a presumption of total loss. Except in specific circumstances set out in this Declaration, the cost of repair or replacement in excess of the insurance proceeds and reserves is a Common Expense. If some, but not all, of the damaged Townhomes are not repaired or replaced, the insurance proceeds attributable to Townhomes that are not rebuilt will be distributed to the Owners of those Townhomes or to their Mortgagees, as their interest may appear.

14.2. RESTORATION FUNDS. For purposes of this Article, restoration funds ("Restoration Funds") include insurance proceeds, condemnation awards, Restoration Assessments, Individual Assessments and other funds received on account of or arising out of injury or damage to the Property. All funds paid to the Association for purposes of repair or restoration will be deposited in a federally-insured account. Withdrawal of Restoration Funds requires the signatures of at least two (2) Association directors or that of an agent duly authorized by the Board.

14.2.1. Sufficient Proceeds. If restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed property, the Association, as trustee for the Owners, will promptly apply the funds to the repair or restoration.

14.2.2. Insufficient Proceeds. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board will apply the funds available to the repair or restoration and may levy a Restoration Assessment against certain or all of the Owners, as appropriate, to fund the difference.

14.2.3. Loss Not Covered. Even if the Association and the Owner have adequate amounts of recommended and required coverage, the Property may experience a loss that is not covered by any insurance. (In this context, "not covered by any insurance" is not referring to the portion of a loss that is not covered due to the operation of a deductible under the insurance policy.) If that occurs, the cost of restoring the Common Areas will be shared by Owners as a Common Expense. The cost of restoring individual Townhomes will be borne by the Owners of the affected Townhomes.

14.2.4. Surplus Funds. If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows. If Restoration Assessments were a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the Restoration Assessment levied against them. However, no Owner may receive a sum greater than that actually contributed by him, and any delinquent Assessments owned by the to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in this paragraph will be common funds of the Association to be used as directed by the Board.

14.3. COSTS AND PLANS.

14.3.1. Cost Estimates. Promptly after the loss, the Board shall obtain reliable and detailed estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair.

14.3.2. Plans and Specifications. Common Areas shall be repaired and restored substantially as they existed immediately prior to the damage or destruction. Townhomes shall be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and improvements made by Owners, in which case the Townhomes shall be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either Common Areas or Townhomes must be approved by the Architectural Reviewer, by the Owners of at least 2/3 of the Lots and by certain Mortgagees if so required by Article 16 of this Declaration.

14.4. DUTY TO REPAIR.

14.4.1. Damage to Common Areas. After a casualty or condemnation affecting the Common Area, the Association is responsible for restoring the Common Areas to its original condition, with the cost being borne by the Owner as a Common Expense.

14.4.2. Damage to a Townhome. After a casualty or condemnation to a Townhome, the Owner of a damaged Townhome is responsible for repairing or restoring his Townhome to its original condition. The Owner may be required to do so either with proceeds of the Association's insurance coverage or at his own expense, as set forth elsewhere in this Article. The Association has the right to supervise, approve or disapprove the repair or restoration performed by an Owner during the course thereof.

14.4.3. Association's Right to Coordinate Work. If the work of restoring a Townhome is of such a nature that it requires the cooperation of more than one Owner (for example, because of work to be performed to a Party Wall or to a roof structure) or if the Association otherwise deems it in the best interest of the Property, the Association, at its opinion, may notify Owner that the

Association will coordinate the restoration work for the affected Townhome, in which case the Owner will no longer have the right to perform the work. In assuming the coordination role for the work, the Association may provide that it will coordinate only joint elements of the construction (elements affecting more than one unit), only exterior elements or any other reasonably divisible part of the work leaving the remainder of the work to be coordinated and performed by the Owner. In any case, the cost of the repair or restoration shall be borne and allocated as set forth elsewhere in this Article.

14.4.4. Failure to Repair. If an Owner fails to repair or restore damage as required by this Section, the Association may cause the necessary repairs to be made and levy an Individual Assessment against the Owner and Lot for the cost thereof, after giving the Owner reasonable notice of the Association's intent to do so.

14.4.5. Diligence in Performing Work. Regardless of who performs the repair or restoration work, the work must commence within a reasonable time (i.e., less than 30 days) after receipt of notice from the Association that the work must commence. (Generally speaking, this notice will not be given until the insurance company for the loss is prepared to pay out the proceeds.) The work must then be completed with reasonable diligence.

14.5. OWNER'S LIABILITY FOR INSURANCE DEDUCTIBLE. If repair or restoration of a Townhome is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

ARTICLE 15 **CONDEMNATION**

15.1. CONDEMNATION. If any Townhome, Lot or portion thereof or any of the Common Area is made the subject of a condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Association shall give timely written notice of such proceeding or proposed acquisition to the affected Owners and eligible Mortgagees. The Association shall represent the Owners in any condemnation proceeding or any negotiation settlements or agreements with the condemning authority for acquisition of the Common Area or any part thereof. The condemnation award or proceeds of settlement shall be payable to the Association to be held in trust for the Owners and Mortgagees as their interests may appear. The provisions of the Declaration relating to restoration and application of funds in the event of a casualty shall be applicable in the event of a condemnation.

ARTICLE 16 **MORTGAGEE PROTECTION**

16.1. INTRODUCTION. This Article is supplemental to, not a substitution for, any other provision of the Governing Documents. In case of conflict, this Article controls. Some sections of this Article apply to "Mortgagees" and "Eligible Mortgagees", both as defined in Article 1.

16.2. AMENDMENT TO SATISFY REQUIREMENTS OF UNDERWRITING LENDERS. This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the Board, without seeking approval of Owners or Mortgagees,

may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the Underwriting Lender.

16.3. NOTICE REGARDING EXISTENCE OF MORTGAGEE. An Owner who mortgages his Lot should notify the Association, giving the complete name, and address of his Mortgagee and the loan number. A Mortgagee may also provide such information directly to the Association. In either case, the Mortgagee will become an Eligible Mortgagee. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible Mortgagees. The Association's obligations to Mortgagees under the Governing Documents extend only to Eligible Mortgagees, without regard to other holders of mortgages on Lots not known to the Association. A provision of the Governing Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of Lots subject to mortgages held by Eligible Mortgagees. For example, "51% of Eligible Mortgagees" means Eligible Mortgagees of 51% of the Lots that are subject to mortgages held by Eligible Mortgagees.

16.4. IMPLIED APPROVAL. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within thirty (30) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request is delivered by certified or registered mail, return receipt requested.

16.5. OTHER MORTGAGEE RIGHTS.

16.5.1. Inspection of Books. The Association shall maintain current copies of the Governing Documents and the Association's books, records and financial statements. Mortgagees may inspect the Governing Documents and records, by appointment, during normal business hours.

16.5.2. Financial Statements. If the Property consists of forty-eight (48) Lots or more, and if an Eligible Mortgagee submits a written request, the Association shall give the Mortgagee a reviewed or audited statement for the preceding fiscal year within one hundred and twenty (120) days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

16.5.3. Attendance at Meetings. A representative of an Eligible Mortgagee may attend and address any meeting that an Owner may attend.

16.5.4. Management Contract Any contract for professional management of the Association may not require more than 30 days' notice to terminate the contract, or require payment of a termination penalty.

16.6. INSURANCE POLICIES. If an Underwriting Lender that holds a mortgage on a Lot or desires to finance a Lot has requirements for insurance of planned unit developments, the Association must try to obtain and maintain the required coverages, to the extent they are reasonably available, and must try to comply with any notifications or processes required by the Underwriting Lender.

16.7. NOTICE OF ACTIONS. The Association shall use its best efforts to send timely written notice to Eligible Mortgagees of the following actions:

- a. Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Townhome.

- b. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of the mortgaged Townhome.
- c. A lapse, cancellation, expiration or material modification of any insurance policy maintained by the Association.
- d. Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.
- e. Any proposed amendment of a material nature, as provided in this Article.

ARTICLE 17 **AMENDMENTS**

17.1. **CONSENTS REQUIRED.** As permitted by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by certain Owners alone, or by the Board alone. Otherwise, amendments to this Declaration must be approved by Owners of at least seventy-five percent (75%) of the Lots.

17.2. **METHOD OF AMENDMENT.** This Declaration may be amended by any method selected by the Board from time to time, pursuant to the Bylaws, provided the method gives an Owner of each Lot the substance, if not exact wording, of the proposed amendment, a description in layman's terms of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

17.3. **EFFECTIVE.** To be effective, an amendment must be in the form of a written instrument that: (1) references the name of the Property, the name of the Association, and the recording data of this Declaration and its prior amendments; (2) is signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners; and (3) is recorded in the Office of the Recorder of Hamilton County, Indiana.

17.4. **DECLARANT PROVISIONS.** No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

ARTICLE 18 **DISPUTE RESOLUTION**

18.1. **INTRODUCTION AND DEFINITIONS.** The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

18.1.1. **Claim ("Claim")** means any claim, grievance or dispute between Parties involving the Property, except Exempt Claims (as defined below). Claims include, without limitation:

- a. Claims arising out of or relating to the interpretation, application or enforcement of the Governing Documents.
- b. Claims relating to the rights and/or duties of Declarant as Declarant under the Governing Documents.
- c. Claims relating to the design, construction or maintenance of the Property.

18.1.2. **Claimant ("Claimant")** means any Party having a Claim against any other Party.

18.1.3. **Exempt Claims ("Exempt Claims")** means the following claims or actions, which are exempt from this Article (unless the Party having the Exempt Claim elects not to treat it as exempt from this Article):

- a. The Association's claim for Assessments, and any action by the Association to collect Assessments.
- b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
- c. Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
- d. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.
- e. A dispute that is subject to alternative dispute resolution (such as mediation or arbitration) by the terms of Applicable Law or another instrument, such as a contract or warranty agreement, in which case the dispute is exempt from this Article, unless the Parties agree to have the dispute governed by this Article.

18.1.4. **Respondent ("Respondent")** means the Party against whom the Claimant has a Claim.

18.2. **MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

18.3. **NOTICE.** Claimant must notify Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (3) what Claimant wants

Respondent to do or not do to resolve the Claim; and (4) that the Claim Notice is given pursuant to this Section.

18.4. NEGOTIATION. Claimant and Respondent shall make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within thirty (30) days after Respondent's receipt of the Claim Notice, Respondent and Claimant shall meet at a mutually acceptable place and time to discuss the Claim. At such meeting or at some other mutually agreeable time, Respondent and Respondent's representatives shall have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant shall provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

18.5. MEDIATION. If the parties negotiate but do not resolve the Claim through negotiation within sixty (60) days from the date of the Claim Notice (or within such other period as maybe agreed on by the parties), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

18.6. TERMINATION OF MEDIATION. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

18.7. ALLOCATION OF COSTS. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the "Notice," "Negotiation" and "Mediation" sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

18.8. ENFORCEMENT OF RESOLUTION. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.

18.9. GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

18.10. LITIGATION APPROVAL AND SETTLEMENT. In addition to and notwithstanding the above alternative dispute resolution procedures, the Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least seventy-five percent (75%) of the Lots, except that no such approval is required: (1) to enforce provisions of this Declaration, including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against

the Association or to assert counterclaims in proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo. Also, the Association may not initiate any judicial or administrative proceeding against Declarant without the approval of Owners of at least seventy-five percent (75%) of the Lots. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims. This Section may not be amended without the approval of Owners of at least seventy-five percent (75%) of the Lots and fifty-one percent (51%) of Eligible Mortgagees, as described in Article 16.

ARTICLE 19 **GENERAL PROVISIONS**

19.1. COMPLIANCE WITH LAWS. The Owners hereby covenant and agree that the administration of the Association shall be in accordance with the provisions of the Governing Documents and applicable laws, regulations and ordinances of any governmental or quasi-governmental entity having jurisdiction over the Association or Property, as same may be amended from time to time.

19.2. HIGHER AUTHORITY. The Governing Documents are subordinate to Applicable Law. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with Applicable Law.

19.3. NOTICE. All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration shall be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not the Owner actually receives it.

19.4. LIBERAL CONSTRUCTION. The terms and provisions of each Document are to be liberally construed to give effect to the purposes and intent of the Document. All doubts regarding a provision, including restrictions on the use or alienability of property, shall be resolved in favor of the operation of the Association and its enforcement of the Governing Documents, regardless of which party seeks enforcement.

19.5. SEVERABILITY; ENUMERATED MATTERS. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general statement.

19.6. CAPTIONS. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer, boxed notices within this Declaration are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

19.7. INTERPRETATION. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

19.8. DURATION. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and shall remain in effect perpetually to the

extent permitted by law.

19.9. CONTROLLING DOCUMENT. If there is a conflict between the provisions of this Declaration and the Plat, the terms of this Declaration shall control. Conflict ("Conflict") means a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

19.10. APPENDIXES. The following appendixes are attached to this Declaration and incorporated herein by reference:

- Appendix A – Description of Property
- Appendix B – Declarant Reservations
- Appendix C – Zoning Commitments



CHICAGO TITLE

SIGNED on this 17th day of September, 2007.

DREES PREMIER HOMES, INC.
an Ohio corporation

By: [Signature]
John W. Talbot

Its Land Acquisition and Development Manager

THE STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

This instrument was acknowledged before me on the 17 day of September, 2007, by John W. Talbot in his capacity as Land Acquisition and Development Manager of Drees Premier Homes, Inc., an Ohio corporation.

[Signature]
Notary Public - Signature

Roberta G. Driver
Notary Public - Printed

My Commission Expires:

March 29, 2015

My County of Residence:

Hamilton

CHICAGO TITLE

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: Matthew S. Skelton.

This instrument was prepared by Matthew S. Skelton, AICP, Attorney-At-Law, Baker & Daniels, LLP, 600 East 96th Street, Suite 600, Indianapolis, IN 46240, (317) 569-9600.

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
VILLAGE GREEN

APPENDIX A
Description of Property

Warranty Deed as conveyed to Drees Premier Homes, Inc. as Instrument No. 200600042051, dated July 17, 2006.

A part of the east half of the northeast quarter of section twenty-five (25) Township eighteen (18) North, Range three (3) East, described as follows:

BEGIN at the northwest corner of the east half of the northeast quarter of said section 25, run south on the west line of said east half 847 feet to a stone marked T, thence east on line parallel with the north line of said quarter section 468.93 feet to the west right-of-way line of the Louisville, New Albany and Chicago Railroad (Monon); thence northwesterly along said right-of-way line 847.3 feet to the intersection of the north line of said quarter section; thence west along the north line of said quarter section, 456.8 feet to the place of beginning. Containing 9.00 acres, more or less in Clay Township of Hamilton County, Indiana.



CHICAGO TITLE

APPENDIX B
DECLARANT RESERVATIONS

B.1. GENERAL PROVISIONS.

B.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Appendix.

B.1.2. General Reservation and Constructions. Notwithstanding other provisions of the Governing Documents to the contrary, nothing contained therein may be construed to, nor may any Mortgagee, other Owner or the Association, prevent or interfere with the rights contained in this Appendix that Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Document, this Appendix controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interest in the Property.

B.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly build-out and sellout of the Property, which is ultimately for the benefit and protection of Owners and Mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interest in the Association or through the creation of any contractual agreements that the Association may not terminate without cause with not more than ninety (90) days' notice.

B.2. DECLARANT CONTROL PERIOD RESERVATIONS. For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build-out and sellout of the Property, Declarant will retain control of the Association during the Declarant Control Period, subject to the following:

B.2.1. Initial Board; Transition to Owners: During the Declarant Control Period, the Board will consist of three (3) persons. Within sixty (60) days after the date fifty percent (50%) of the Lots in the Property or the Additional Land have been conveyed to Owners other than Declarant, the Board will call or hold an annual or special meeting of the Members. At that meeting, the Members must elect two (2) additional directors. From and after that election, the Board will consist of five (5) directors. Near the end of the Declarant Control Period, Declarant or the Association will give written notice of an annual or special meeting of the Members to an Owner of each Lot at least ten (10) days before the meeting. For that meeting, Owners of ten percent (10%) of the Lots constitute a quorum. At that meeting, the terms of all five (5) directors expire, and the members must elect five (5) directors. These directors will be elected for staggered three (3) year terms. The Board elected at the end of the Declarant Control Period.

B.2.2. Officer and Directors. During the Declarant Control Period, Declarant may appoint, remove and replace any officer or director of the Association, none of whom

need be Members or Owners. Each of the individuals is indemnified by the Association, under Section 11.6, as a Leader.

B.2.3. Weighted Votes. During the Declarant Control Period, the vote appurtenant to each Lot owned by Declarant is weighted four (4) times that of the vote appurtenant to a Lot owned by another Owner. In other words, during the Declarant Control Period, Declarant may cast the equivalent of four (4) votes for each Lot owned by Declarant on any issue before the Association. On termination of the Declarant Control Period and thereafter, the vote appurtenant to Declarant's Lots is weighted uniformly with all other votes.

B.2.4. Obligation for Assessments. For each Lot owned by Declarant, Declarant is liable for Special Assessments, Individual Assessments and Restoration Assessments in the same manner as any Owner. Regarding Regular Assessments, during the Declarant Control Period only, Declarant will provide any funds necessary to cover the difference between the Association's actual cash outlays for Common Expenses and the Regular Assessments received from Owners other than Declarant, and has no obligation to pay Regular Assessments or to contribute to reserves. The accounting for Declarant's contribution must be construed in favor of Declarant. At any time during the Declarant Control Period, Declarant may elect in writing (to be signed and acknowledged by Declarant) to pay Regular Assessments on each Declarant-owned Lot in the same manner as any Owner, in which event Declarant will no longer have an obligation to provide special funding for the Association. On termination of the Declarant Control Period, Declarant must begin paying Assessments on each Declarant-owned Lot according to the Lot's allocated interest for Assessments.

B.2.5. Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

B.2.6. Budget Control. During the Declarant Control Period, the right of Owners to veto Special Assessments or increases in Regular Assessments is not effective and may not be exercised.

B.2.7. Management Contract. If Declarant enters into a professional management contract on behalf of the Association during the Declarant Control Period, the Association has the right to terminate the contract without cause or penalty, but with at least ninety (90) days notice to the manager, at any time after a Board elected by the Owners takes office.

B.3. DEVELOPMENT PERIOD RESERVATIONS. Declarant reserves the following easements and special Declarant rights, exercisable at Declarant's sole discretion, at any time during the Development Period:

B.3.1. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, changes in the sizes, styles, configurations, materials and appearances of Townhomes, buildings, Lots and Common Areas.

B.3.2. Expansion. The Property is subject to expansion. During the Development Period, Declarant may (but is not required to) annex any real property that is contiguous with, adjacent to or within 1,000 feet of any real property that is subject to this Declaration.

Declarant will annex real property by subjecting it to the Declaration and the jurisdiction of the Association by recording a supplement or an amendment of this Declaration, executed by Declarant, in the Office of the Recorder of Hamilton County, Indiana. The supplement or amendment of annexation must include a description of the additional real property or a reference to the recorded plat that describes the additional real property. Declarant's right to annex land is for a term of years and does not require that Declarant own land described in Appendix A at the time Declarant exercises its right of annexation.

B.3.3. Architectural Control.

B.3.3.1. Declarant's Rights Reserved. During the Development Period, Declarant has the absolute right to serve as or to appoint the Architectural Reviewer. Declarant also has the unilateral right to exercise architectural control over vacant Lots and new Townhome construction in the Property. Neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new Townhomes and related improvements on vacant Lots. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market Townhomes in the Property. Accordingly, each Owner agrees that, during the Development Period, no improvements will be started or progressed on Owner's Lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons (such as Declarant's own employees) from time to time to act on its behalf in reviewing and responding to applications.

B.3.3.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to any person or persons deemed by Declarant to be qualified to exercise architectural control. Any such delegation is at all times subject to the unilateral rights of Declarant to: (1) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (2) veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

B.3.3.3. Modifications. By way of illustration, Declarant may delegate architectural control over modifications of completed Townhomes on Lots owned by persons other than Declarant to a committee comprised of Owners appointed by Declarant, by the Board or by the Members. Such committee will serve at the pleasure of Declarant during the Development Period, and may not involve itself with the approval of new Townhomes on vacant Lots, which is exclusively the domain of Declarant.

B.3.4. Land Transfers. During the Development Period, any transfer of an interest in the Property to or from Declarant is not subject to any transfer-related provision in the Governing Documents. The application of this provision includes, without limitation, Declarant's Lot take-downs, Declarant's sale of Lots to builders, and Declarant's sale of Lots to homebuyers.

B.3.5. **Amendment.** During the Development Period, Declarant may amend this Declaration and the other Governing Documents, without consent of other Owners or any Mortgagee, for the following limited purposes:

- a. To add real property to the Property.
- b. To withdraw real property from the Property.
- c. To create Lots, easements and Common Areas within the Property.
- d. To subdivide, combine or reconfigure Lots.
- e. To convert Lots into Common Areas.
- f. To modify the construction and use restrictions of Article 10 of this Declaration.
- g. To merge the Association with another property owners association.
- h. To comply with requirements of an Underwriting Lender.
- i. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors or omissions in the Governing Documents.
- j. To enable any reputable title insurance company to issue title insurance coverage on the Lots.
- k. To enable an institutional or governmental lender to make or purchase mortgage loans on the Lots.
- l. To change the name or entity of Declarant.
- m. To change the name of the addition in which the Property is located.
- n. To change the name of the Association.
- o. For any other purpose, provided the amendment has no material adverse effect on any right of any Owner.

B.3.6. **Completion.** During the Development Period, Declarant has: (1) the right to complete or make improvements indicated on the Plat; and (2) an easement and right to erect, construct and maintain on and in the Common Area, Area of Common Responsibility and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing and marketing of the Property.

B.3.7. **Sales.** During the Development Period, Declarant reserves for itself the right to sell or lease any Lot owned by Declarant. Lots owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained elsewhere in this Declaration or the other Governing Documents.

B.3.8. **Promotion.** During the Development Period, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Residents. Declarant reserves an easement and right to maintain, relocate, replace or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events (such as open houses, MLS tours, and brokers parties) at the Property to promote the sale of Townhomes.

B.3.9. **Offices.** During the Development Period, Declarant reserves for itself the right to use Townhomes (including any garages attached to such Townhomes) owned or leased by Declarant or trailers parked on the Property as models, storage areas and offices for the marketing, management, maintenance, customer service, construction and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and

alterations on and to Townhomes used by Declarant as models, storage areas and offices, as may be necessary to adapt them to the uses permitted herein. Upon completing its use of such Townhomes, Declarant, at Declarant's sole expense, will restore altered Townhomes to conform to the architectural standards of the Property. The restoration will be done within one hundred and twenty (120) days after termination of the Development Period.

B.3.10. Access. During the Development Period, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing and marketing the Property and the Additional Land, and for discharging Declarant's obligations under this Declaration. Additionally, Declarant has a right of entry and access to all Townhomes to perform warranty-related work, if any, for the benefit of the Townhome being entered, adjoining Townhomes or Areas of Common Responsibility. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.

B.3.11. Utility Easements. During the Development Period, Declarant may grant permits, licenses and easements over, in, on, under and through the Property for utilities, roads and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the easements on any Lot, as shown on the Plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television and security.

B.4. COMMON AREAS. At or prior to termination of the Declarant Control Period, Declarant will convey title to the Common Areas to the Association by deed, with or without warranty. At the time of conveyance, the Common Areas will be free of monetary encumbrances except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to inspection, evaluation, acceptance or approval by the Association or the Owners.

B.5. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants ("Successor Declarant") for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Office of the Recorder of Hamilton County. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

B.6. ANNEXATION. During the Development Period, each Owner, by the acceptance of a deed to a Lot, will be deemed to have waived such Owner's right to remonstrate against any permit, application or request made by or to a Municipal Entity to annex the Property or any part of the Property to become a part of the Municipal Entity. The Owner will also be deemed to have consented to such annexation.

[End of Appendix B]

BYLAWS
OF
VILLAGE GREEN HOA, INC.

ARTICLE I
Name and Principal Office

Section 1. Name. The name of the corporation is VILLAGE GREEN HOA, INC.

Section 2. Registered Office and Agent. Until and unless changed in accordance with law by the Board, the street address of the Corporation's registered office in the State of Indiana is 6650 Telecom Drive, Suite 200, Indianapolis, Indiana 46278-6278, and the name of its registered agent at such office is Dawn Barnett.

ARTICLE II
Definitions

Section 1. "Developer" shall mean Drees Premier Homes, Inc., its successors and assigns as designated in one or more written recorded instruments to have the rights of Declarant under the Declaration, including, without limitation, any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Developer.

Section 2. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for Village Green, dated September 17, 2007, and recorded September 18, 2007, as Instrument No. 2007053006, in the office of the Recorder of Hamilton County, Indiana, as the same may be further amended or supplemented from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth at length herein.

Section 3. "Association" shall mean and refer to this corporation, which is also referred to as the "Association" in the Declaration and the "Corporation" in the Articles of Incorporation of this Corporation.

Section 4. All terms not defined herein shall have the meaning ascribed to them in the Declaration.

ARTICLE III
Membership Transfer and Voting Rights

Section 1. Membership, Transfer, and Voting Rights. Reference is hereby made to Article 11 of the Declaration which sets forth terms, provisions and conditions governing and relating to membership in the Association, voting rights of members and transfer of membership, all of which terms, provisions and conditions are incorporated herein by reference.

Section 2. Quorum. The presence in person or by proxy at any meeting of the members of the Association of persons entitled to vote twenty-five percent (25%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in or required by the Articles of Incorporation of the Association, the Declaration, these Bylaws or statute. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

Section 3. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the secretary of the Association before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

Section 4. Majority Required. A majority of the votes of members present (in person or by proxy) at a meeting at which a quorum is present shall be sufficient for the transaction of all business of the Association except on matters where a greater vote is required by the Declaration, the Articles of Incorporation of the Association, these Bylaws or by statute.

Section 5. Meetings. Meetings of the members of the Association shall be in accordance with the following provisions:

5.1 Place. Meetings of the members shall be held at such place in Hamilton County or Marion County, Indiana as may be designated by the Board.

5.2 Annual Meetings. The first annual meeting of the members shall be held during the first fiscal year of the Association, the exact date to be decided by the Board. At such first annual meeting of the members, the members may designate a regular day or date for successive annual meetings. If the members fail to designate such a regular day or date, the Board may continue to designate the day or date of the next annual meeting until such a designation is made by the members. If any designated day or date falls upon a legal holiday, the actual date of the meeting shall be the next business day succeeding such designated day or date.

5.3 Special Meetings. Special meetings of the members may be called by the president of the Association and shall be called by resolution of the Board or upon a written petition signed by members of the Association who are entitled to vote fifty percent (50%) of all of the votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

5.4 Notice of Meetings. It shall be the duty of the secretary of the Association to serve a notice of each annual or special meeting, stating the purposes thereof, as well as the time and place where it is to be held, upon each member of record, not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. The mailing of a notice to each member at the address shown for such member in the Association's records shall be deemed notice served.

5.5 Order of Business. The order of business at all meetings of the members shall, to the extent applicable, be as follows:

- (1) Roll call.
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of officers.
- (5) Reports of committees.
- (6) Election of directors.
- (7) Unfinished business.
- (8) New business.

ARTICLE IV
Nomination and Election of Directors

Section 1. Nomination. Prior to the expiration of the Declarant Control Period, the Board shall be appointed by the Developer in accordance with the Declaration (including Appendix B), with Articles of Incorporation of the Association and with the provisions of these Bylaws. Beginning with the first annual meeting of the members of the Association after the expiration of the Declarant Control Period, nomination for election to the Board shall be made by a nominating committee (the "Nominating Committee"). Nominations may also be made from the floor at the annual meeting of the members of the Association, beginning with the first annual meeting of the members of the Association held after the expiration of the Declarant Control Period. The Nominating Committee shall consist of a chairman, who shall be a member of the Board, and two or more members of the Association. The Nominating Committee shall consist of the members of the Initial Board or Interim Board (defined in Section 3 of Article V), as the case may be, prior to the first annual meeting of the members of the Association after the expiration of the Declarant Control Period and, thereafter shall be appointed by the Board at each annual meeting of the members. The members of the Nominating Committee shall serve until the close of the next annual meeting, and the announcement of the appointment of a new Nominating Committee at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. The foregoing nominating process shall also be used with regard to the two (2) members of the Board selected by the Owners prior to the termination of the Declarant Control Period, as provided in Appendix B of the Declaration. After the expiration of the Declarant Control Period, such nominations may be made only from among members of the Association, or persons otherwise eligible to serve on the Board in accordance with the Declaration and the Articles of Incorporation of the Association.

Section 2. Election. After the expiration of the Declarant Control Period, election to the Board shall be by secret written ballot at the annual meeting of the members of the

Association. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Bylaws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE V Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors initially composed of three (3) persons. Directors other than those serving on the Initial Board or Interim Board must be members of the Association or otherwise eligible to serve on the Board of the Association in accordance with the Declaration and the Articles of Incorporation. The initial Board shall be increased as set forth in Appendix B to the Declaration.

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, officer or trustee, as the case may be, of the partnership, corporation, trust or other entity Owner shall be eligible to serve on the Board, except that no Lot may be represented on the Board by more than one person at a time.

Section 3. Initial or Interim Boards. The initial Board named in the Articles of Incorporation of the Association (the "Initial Board") shall maintain, manage and administer the affairs and any property of the Association until the appointment of an interim Board (the "Interim Board") by the Initial Board, but in no event later than the expiration of the Declarant Control Period. Any Interim Board appointed by the Initial Board, which appointment shall be at the discretion of the Initial Board, shall maintain, manage, and administer the affairs and any property of the Association after its appointment until the expiration of the Declarant Control Period.

Section 4. Term of Office Generally. At such first annual meeting of the members of the Association after the expiration of the Declarant Control Period, the members shall elect the total number of directors whose terms expire in such year for terms of three (3) years; and at each annual meeting thereafter the members shall elect directors whose terms expire in such year for terms of three (3) years to fill the vacancies created by expiring terms. A director may serve any number of consecutive terms. The directors of the 5-member Board elected according to Section B2.1 of Appendix B of the Declaration shall have the following terms: one (1) director shall have a term of one (1) year; two (2) directors shall have a term of two (2) years; and two (2) directors shall have a term of three (3) years.

Section 5. Powers. The Board shall have such powers as are reasonable and necessary for the administration of the affairs of the Association and to accomplish the performance of their duties, which powers include, but are not limited to, the power:

5.1 To adopt and publish reasonable rules and regulations governing the management and administration of the Association, and to establish penalties for the infraction thereof;

5.2 To suspend the voting rights of a member, but not rights of access and easements necessary for the use of his Lot, during any period in which such member shall be in default for a period of thirty (30) days in the performance of any term of the Declaration or these Bylaws. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;

5.3 To exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation of the Association, the Declaration or statute;

5.4 To declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and

5.5 To do and take all such action as is or may be necessary, desirable or appropriate to perform the duties, obligations and responsibilities of the Board as required by the Declaration, other provisions of these Bylaws, the Articles of Incorporation of the Association or statute.

Section 6. Duties. The Board shall have the following duties:

6.1 To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by members holding fifty percent (50%) of the total votes of the membership entitled to vote; and

6.2 To supervise all officers of the Association.

Section 7. Vacancies. Any vacancy in the Board (including the Initial Board and Interim Board) shall be filled by vote of the majority of remaining directors, even though they may constitute less than a quorum. In the event such remaining directors cannot reach a majority within any period of time deemed reasonable by the members, that person so designated by a majority of the votes cast at any meeting of the members shall fill such vacancy. Each person so elected shall be a director for the unexpired term of his predecessor, or until his successor is elected.

Section 8. Compensation. No director shall receive compensation for any service he may render to the Association as such director.

Section 9. Removal of Directors. With the exception of directors sitting on the Initial Board or Interim Board, who may be removed only by Developer, any director may be removed with or without cause by a majority vote of the members of the Association upon the affirmative vote of a majority of the votes cast at any meeting of the members.

Section 10. Regular Meetings. Regular meetings of the Board shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time

by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 11. Special Meetings. Special meetings of the Board may be called by the president on three (3) days' notice to each director, given personally, by mail, telephone or facsimile, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the president or secretary in like manner and on like notice on the written request of at least two-thirds (2/3) of the directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent of the giving of such notice. Attendance by a director at any meeting of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which quorum is present shall be the acts of the Board except as otherwise provided in or required by the Declaration, Articles of Incorporation of the Association, these Bylaws or statute.

Section 14. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Such approval must describe the action, be signed by each director, and be included in the minutes or filed with the corporate records reflecting the action taken. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI
Officers and Their Duties ®

Section 1. Enumeration of Offices. The officers of the Association shall be a president, a vice president, a secretary and a treasurer, all of whom shall be members of the Board, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board and thereafter at each annual meeting of the members of the Association. During the Declarant Control Period the Declarant may appoint, remove and replace all officers,

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year and until his successor is elected and qualified, unless he shall sooner resign, be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article. Directors may also be officers.

Section 8. Duties. The duties of the officers are as follows:

8.1 **President.** The president shall preside at all meetings of the Board. He shall see that orders and resolutions of the Board are carried out. He shall have the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Association. The president shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

8.2 **Vice President.** The vice president shall act in the place and stead of the president in the event of his absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or as are delegated to him by the president.

8.3 **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association (if any is adopted) and affix it on all papers requiring said seal; authenticate records of the Association as necessary; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

8.4 **Treasurer.** The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board; sign all checks and promissory notes of the Association; keep proper books of account; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VII

Committees

The Board shall appoint the Nominating Committee referred to in Article IV of these Bylaws. In addition, the Board or the president may appoint various other committees to carry out the purposes of the Association. Except as otherwise expressly provided in Article IV of these Bylaws with respect to the Nominating Committee or by statute, members of such committees may, but need not, be members of the Board.

ARTICLE VIII

Books of Account and Fiscal Year

Section 1. Books of Account. The Association shall keep detailed books of account showing all expenditures and receipts of administration which shall specify any expenses incurred by or on behalf of the Association and the members. Such accounts, books, records, financial statements and other papers of the Association shall be open for inspection by the members and other persons having an interest in any Lot, including any Owner), any Mortgagee, and any holder, insurer or guarantor of a Mortgage, during reasonable business hours or under other reasonable circumstances. Any holder, insurer or guarantor of a Mortgage shall be entitled upon written request to receive a financial statement for the immediately preceding fiscal year and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, and the Bylaws of the Association, and other rules concerning the Property, shall be available for inspection by any Owner and Mortgagee, and to holders, insurers or guarantors of any Mortgage, at the principal office of the Association during normal business hours or under other reasonable circumstances, where copies of the same may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Association shall commence January 1 and end the following December 31 each year.

ARTICLE IX

Contracts, Loans, Checks ®

Section 1. Authorization. The Board may authorize any officer or officers or agent or agents of the Association to enter into any contract, to execute any instrument, or to take out any loan on its behalf. Such authorization may be general or confined to specific instances. Except as provided in these Bylaws, no officer, agent, or employee shall have any power to bind the Association or to render it liable for any purpose or amount unless so authorized by the Board.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Association shall be signed by the president, secretary, treasurer, or such other person as the Board may from time to time designate by resolution.

ARTICLE X

Maintenance Expenses

If provided in the Declaration, specified members may be obligated to fulfill certain maintenance obligations. Failure to comply with those obligations outlined in the Declaration may result in the pursuit of any remedies outlined therein.

ARTICLE XI
Assessments

As more fully addressed in the Declaration, each Owner is obligated to pay to the Association initial and/or annual and special assessments which are secured by liens against its respective Lot. Any assessment which shall not have been paid on or before the due date therefor, shall bear interest equal to twelve percent (12%) per annum, or at a higher rate as provided in the Declaration. The Association may bring an action at law against the Owner personally obligated to pay the same for a monetary judgment and to foreclose the lien against the Lot, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such judgment. Association shall also have the right to all remedies under the Declaration, including, without limitation, late fees as the Directors shall establish pursuant to Section 7.3 of the Declaration.

ARTICLE XII
Indemnification

Section 1. Indemnification by the Association. To the extent not inconsistent with applicable law, every person (and the heirs and personal representatives of such person) who is or was a director, officer, employee, or agent of the Association ("Leaders") shall be indemnified by the Association against all liability and reasonable expense that may be incurred by him in connection with or resulting from any claim, action, suit, or proceeding, unless the same is due to their willful malfeasance, misconduct or other actions taken in bad faith. With respect to any criminal action or proceeding, a Leader shall be indemnified if it is determined that said Leader had reasonable cause to believe that the conduct was lawful (or no reasonable cause to believe that the conduct was unlawful). The termination of any claim, action, suit, or proceeding, by judgment, settlement (whether with or without court approval), conviction, or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that a person did not meet the standards of conduct set forth in this Article XII.

Section 2. Definitions. ®

(a) As used in this Article XII, the terms "claim, action, suit, or proceeding" shall include any threatened, pending, or completed claim, action, suit, or proceeding and all appeals thereof (whether brought by or in the right of this Association, any other corporation or otherwise), civil, criminal, administrative, or investigative, whether formal or informal, in which a person (or his heirs or personal representatives) may become involved, as a party or otherwise:

(i) By reason of his being or having been a director, officer, employee, or agent of the Association, or of any corporation where he served as such at the request of the Association, or

(ii) By reason of his acting or having acted in any capacity in a corporation, partnership, joint venture, association, trust, or other organization or entity where he served as such at the request of the Association, or

(iii) By reason of any action taken or not taken by him in any such capacity, whether or not he continues in such capacity at the time such liability or expense shall have been incurred.

(b) As used in this Article XII, the terms “liability” and “expense” shall include, but shall not be limited to, counsel fees and disbursements, and amounts of judgments, fines, or penalties against, and amounts paid in settlement by or on behalf of, a person.

Section 3. Entitlement to Indemnification. Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit, or proceeding) shall be entitled to indemnification (i) if special independent legal counsel, which may be regular counsel of the Association or other disinterested person or persons, in either case selected by the Board, whether or not a disinterested quorum exists (such counsel or person or persons being hereinafter called the “referee”), shall deliver to the Association a written finding that such person has met the standards of conduct set forth in the preceding Section 1 of this Article XII, and (ii) if the Board, acting upon such written finding, so determines. The person claiming indemnification shall, if requested, appear before the referee and answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he relies for indemnification. The Association shall, at the request of the referee, make available facts, opinions or other evidence in any way relevant to the referee’s findings that is within the possession or control of the Association.

Section 4. Relationship to Other Rights. The right of indemnification provided in this Article XII shall be in addition to any rights to which any person may otherwise be entitled.

Section 5. Extent of Indemnification. Irrespective of the provisions of this Article XII, the Board may, at any time and from time to time, approve indemnification of directors, officers, employees, agents, or other persons to the fullest extent permitted by applicable law, or, if not permitted, then to any extent not prohibited by such law, whether on account of past or future transactions.

Section 6. Advancement of Expenses. Expenses incurred with respect to any claim, action, suit, or proceeding may be advanced by the Association (by action of the Board, whether or not a disinterested quorum exists) prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless he is entitled to indemnification.

Section 7. Purchase of Insurance. The Board is authorized and empowered to purchase insurance covering the Association’s liabilities and obligations under this Article XII and insurance protecting the Association’s directors, officers, employees, agents, or other persons.

ARTICLE XIII Amendments

Section 1. Amendments. Subject to applicable statute, these Bylaws may be amended, at a regular or special meeting of the members of the Association, by the affirmative vote of a majority of the votes entitled to be cast by the members present in person or by proxy; provided,

that no amendment of or other change to these Bylaws shall be made during the Declarant Control Period without the consent and approval of Developer, so long as Developer owns any Lot.

Section 2. Control. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.



CHICAGO TITLE

**APPOINTMENT OF THE
BOARD OF DIRECTORS OF
VILLAGE GREEN HOA, INC.**

The undersigned, on behalf of Drees Premier Homes, Inc., the "Declarant" under the Declaration, as defined below, acting on behalf of Village Green HOA, Inc., an Indiana nonprofit corporation (the "Company"), hereby appoints the Board of Directors of Company as permitted by Section B.2 of Appendix B of the Declaration of Covenants, Conditions and Restrictions for Village Green dated September 17, 2007, and recorded September 18, 2007, as Instrument No. 2007-053006 in the office of the Recorder of Hamilton County, Indiana (the "Declaration"), and hereby directs that a copy of this resolution be placed in the minute books of Company;

WHEREAS, the Declarant deems it advisable and in the best interest of the Company to appoint a Board of Directors, which Board will consist of Dawn Barnett, Josh Kilcoyne, and Steve Masuccio (the "Directors").

NOW THEREFORE, BE IT RESOLVED that the Company has appointed the Directors as the Board of Directors as permitted by the Declaration and that such Directors, effective as of the date hereof, shall be vested with all rights and obligations of the Board of Directors of the Company, all as provided in its Articles of Incorporation and Bylaws and in the Declaration.

This Resolution is executed and made effective this 22ND day of FEBRUARY 2009. 2010.

DREES PREMIER HOMES, INC.

By: DAWN BARNETT

Printed: J. Sautter

Title: LAND ACQ & DEV COORD.

CHICAGO TITLE

WRITTEN CONSENT IN LIEU OF
ORGANIZATIONAL MEETING OF
THE BOARD OF DIRECTORS OF
VILLAGE GREEN HOA, INC.

Pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended,
and the Articles of Incorporation of VILLAGE GREEN HOA, INC.
_____ (the "Corporation"), the undersigned initial directors of the Corporation
hereby consent to the adoption of and adopt the following resolutions and direct the Secretary of
the Corporation to place a copy of this written consent in the minute book of the Corporation:

RESOLVED, that the proposed By-Laws of the Corporation, in the form
attached to this written consent as Exhibit A, are approved and adopted.

FURTHER RESOLVED, that each of the following persons is elected to
the office opposite his or her name to serve until his or her successor is elected
and qualified pursuant to the By-Laws:


President	<u>STEVE MASUCCIO</u>
Vice President	<u>JOSH KILCOYNE</u>
Secretary	<u>DAWN BARNETT</u>
Treasurer	<u>DAWN BARNETT</u>

FURTHER RESOLVED, that the officers of the Corporation are authorized
and directed to cause the filing of applications for exemption from federal, state
and local taxes on behalf of the Corporation, and to take such other actions as are
appropriate or necessary in this regard.


FURTHER RESOLVED, that each of the President and the Treasurer is
hereby authorized to execute depository resolutions of a bank to be selected by
the President or the Treasurer, which resolutions are hereby adopted as resolutions
of the Board of Directors, and the Secretary of the Corporation is hereby directed
to file a copy of such resolutions with the minutes of the proceedings of the Board
of Directors immediately following this consent.

FURTHER RESOLVED, that the officers of the Corporation are hereby
authorized to take any such other actions and do any such other things as they
may deem necessary or appropriate to implement the purposes and intent of the
foregoing resolutions.

IN WITNESS WHEREOF, each of the undersigned has duly made this effective as of the
22ND day of FEBRUARY, 20 10.



Steven M. Masaccio



Josh Kiloyne



DAWN BARNETT



CHICAGO TITLE

EXHIBIT A

BY-LAWS



CHICAGO TITLE