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**DECLARATION OF COVENANTS
AND RESTRICTIONS
of
WILLOWOOD**

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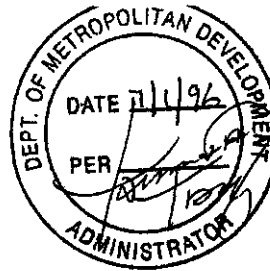
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EXHIBITS

- EXHIBIT "A" LEGAL DESCRIPTION
- EXHIBIT "B" SITE PLAN
- EXHIBIT "C" WILLOWOOD DEVELOPMENT CONTROL COMMITTEE GUIDELINES
FOR ARCHITECTURAL CONTROL

CONSENT OF MORTGAGEE

DECLARATION OF COVENANTS
AND RESTRICTIONS
OF WILLOWOOD



This Declaration (hereinafter referred to as "the Declaration" or "this Declaration"), made this _____ day of _____, 1996, by KEL INVESTMENT CORP., an Indiana corporation (hereinafter referred to as "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real estate in Marion County, Indiana which is more particularly described in Exhibit "A" attached hereto and hereby incorporated herein by reference (hereinafter referred to as the "Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with private streets, landscaped buffer areas, open spaces, lakes or ponds and other common areas and amenities for the benefit of such residential community, to be known as "WILLOWOOD"; and

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

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

APPROVED 6/21/1996
WASHINGTON TOWNSHIP ASSESSOR
BY: Juan Bando Real Estate Deputy

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a nonprofit corporation under the name "Willowood Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

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

ARTICLE I

Definitions

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

- (a) "Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (d) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;
- (e) "By-Laws" shall mean and refer to the Code of By-Laws of the Corporation, as the same may be amended from time to time;
- (f) "Committee" shall mean and refer to the "Willowood Development Control Committee", the same being the committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;

- (g) "Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public and which are not identified as lots on any such plat, whether such plat is heretofore or hereafter recorded, (ii) to the extent hereinafter established, such portions of the Real Estate as are herein declared to be Common Areas even though located on or constituting part of one or more such lots shown on any such plat, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both; PROVIDED, HOWEVER, that the streets shown, or to be shown, on a subdivision plat of the Real Estate, and all of the several parts thereof, and noted, or to be noted, on such plat as such streets, shall, for all purposes, be considered a part of the Common Areas;
- (h) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Corporation, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (i) "Corporation" shall mean and refer to Willowood Homeowners Association, Inc., an Indiana nonprofit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;
- (j) "Declarant" shall mean and refer to KEL Investment Corp., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;
- (k) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family;
- (l) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any individually numbered parcel of land identified as a lot on such subdivision plat, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by

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

- (m) "Mortgagee" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (n) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;
- (o) "Person" shall mean and refer to an individual, firm, corporation, company, partnership, association, trust, or other legal entity, or any combination thereof;
- (p) "Real Estate" shall mean and refer to the parcel of real estate in Marion County, Indiana described in Exhibit "A" attached to and incorporated in this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate;
- (q) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;
- (r) "Site Plan" shall mean and refer to the preliminary plan reflecting Declarant's proposed development of the Real Estate, a copy of which is attached hereto as Exhibit "B" and hereby incorporated herein by reference.

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

ARTICLE II

Declaration; Common Areas and Rights Therein

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, (i) by acceptance of a deed from Declarant conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and Agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Committee and of the Corporation with respect to these Restrictions, and also, for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the committee, the Corporation, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots), subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot. Without limiting the generality of the foregoing, each Owner, his tenants, invitees and guests, shall have, and is hereby granted, a non-exclusive easement and right to ingress to, egress from and access between his Lot and 91st Street and his Lot and Spring Mill Road, for pedestrian and vehicular traffic, upon, over and across the private streets shown, or to be shown, on a

subdivision plat of the Real Estate, the approximate location of which private streets is shown on the Site Plan (herein referred to as the "Streets"). It is intended that the Streets shall be private streets and not for public use; provided, however, the Streets may be dedicated to the public by the Corporation if the Streets are acceptable to the public authority receiving the same without improvement thereof by the Owners or the Corporation and such dedication is approved in writing in advance by at least two-thirds (2/3) of the Mortgagees (based on one vote for each first mortgage owned) and Owners other than Declarant; provided, further, that improvements to the Streets for the purposes of dedication and making the same acceptable to such public authority, and the assessment of the cost thereof to the Owners, shall be subject to and require the approval of the Owners of two-thirds (2/3) of the Lots. In addition to the Owners, their tenants, invitees and guests, all public and quasi-public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection vehicles, post office vehicles, and privately owned delivery vehicles shall have the right to enter upon and use the Streets for ingress to, egress from and access between the Lots and 91st Street and the Lots and Spring Mill Road in the performance of their duties and services.

ARTICLE III

Obligations of Declarant as to Common Areas

Section 1. Construction and Conveyance of Streets. Declarant has constructed, or will construct, the Streets at the approximate locations shown on the Site Plan, and, prior to the conveyance of any particular Lot, Declarant covenants that it will cause the Streets or necessary portion(s) thereof to be improved from the dedicated public streets known as 91st Street and Spring Mill Road, or one of them, to a point at least as far as the furthest intersecting lot line of such particular Lot, and that it will convey (if not theretofore so conveyed) such portion(s) of the

Streets to the Corporation by a special warranty deed free and clear of all liens and encumbrances except the lien of current real estate taxes and assessments, legal highways and rights-of-way, all easements, covenants, conditions, restrictions and other matters of record, and any rights, interests and easements therein referred to herein or in any subdivision plat of the Real Estate. Declarant shall, in any and all events, so construct all of the Streets, and convey all of the Streets to the Corporation, not later than the Applicable Date.

Section 2. Agreement to Construct and Convey Other Common Areas. Declarant has constructed or provided for, or will prior to the Applicable Date construct or provide for, Common Areas (in addition to the Streets) consisting of the following items.

- (a) a storm drainage system for the Real Estate, which may include inlet pipes, open ditches, swales, the lakes or ponds shown on the Site Plan, pipes and other structures and drainage courses; and
- (b) the installation, in the areas shown on the Site Plan (along the west and south boundaries of the Real Estate, or other areas), and in any islands, esplanades, cul-de-sac or cul-de-loop areas within the right-of-way of the Streets, of mounds, landscaping and other screening material (including, without limitation, fences, walls and street signs and directories).

Upon final construction or provision of the Common Areas described in this Section 2, Declarant covenants to convey all of his right, title and interest in and to said Common Areas to the Corporation and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Corporation, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall take and hold title thereto subject to an easement for the maintenance of such improvements as Common Areas, and a right and easement in favor of Declarant and the Corporation for access thereto and thereon for purposes of maintaining such Common Areas.

ARTICLE IV

Corporation; Membership; Voting; Functions

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

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

- (a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Corporation, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (b) Class B. Class B members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the Owner and five (5) votes for each individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Corporation, (ii) the date Declarant no longer owns any Lots nor any portion of any individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate, or (iii) December 31, 2001 (the first to occur of such dates being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each individually numbered parcel of

land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.

- (c) Special. Until the Applicable Date, there shall be three (3) additional Special members of the Corporation, being the persons from time to time appointed by Declarant to serve on the "Initial Board" pursuant to Section 2 of Article V hereof. Persons who are Special members shall not be deemed or considered members of the Corporation nor Owners of Lots for any purpose other than to qualify to act as members of the Initial Board. Special members shall have no voting rights on any matters submitted to a vote of the members (unless such Special member is also a Class A member, in which event his voting rights shall be governed by subsection (a) of this Section 2).

Section 3. Functions. The Corporation has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration or under any recorded subdivision plat of the Real Estate, whether heretofore or hereafter recorded.

ARTICLE V

Board of Directors

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

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated or to be designated in the Articles, to-wit: R.J. Klein, Terry L. Eaton and Robert J. Klein, II (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the

Act (a) the Initial Board shall hold office until the first meeting of the members of the Corporation occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Special member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

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

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

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

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

property management agent (herein called the "Managing Agent") upon such terms as the Board shall determine, in its judgment and discretion, to be reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities used in connection with the Lots, Dwelling Units and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies) and snow removal from the Streets;
- (c) landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) surfacing, paving and maintaining the Streets;
- (e) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (i) procuring and maintaining for the benefit of the Corporation, the Owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (j) paying taxes and assessments levied and assessed against, and payable with respect to, the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- (k) all duties and obligations imposed upon the Corporation or the Board under this Declaration, the Articles, the By-Laws, the Act, or any recorded subdivision plat of the Real Estate, whether heretofore or hereafter recorded.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and to perform all other maintenance, upkeep, repair and replacement duties of the Corporation and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and
- (h) to grant to such public or private companies, entities or bodies as the Board shall approve, such easements as may be necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority of the cumulative vote of the Owners, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

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

Section 10. Non-Liability of Directors and Officers. The Directors and officers of the Corporation shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors and officers, except for their own individual willful misconduct, bad faith or gross negligence; nor shall any such Directors and officers have any liability for any negligent performance of their duties from which they are granted immunity under IC 34-4-11.5-2. The Corporation shall indemnify and hold harmless and defend each of the Directors and officers against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors and officers shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors and Officers. The Corporation shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director or officer of the Corporation, against the reasonable expenses, including attorneys' fees, actually and

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

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

for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Corporation, until the Applicable Date. Declarant may, at its option, engage the services of a Managing Agent affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services.

ARTICLE VI

Real Estate Taxes; Utilities

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

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

ARTICLE VII

Maintenance, Repairs and Replacements

Section 1. By Owners. Each Owner shall, at his own expense, be responsible for, and shall promptly perform as the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in

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

Section 2. By the Corporation. Maintenance, repairs, replacements and upkeep of the Common Areas (including, but not limited to, the storm drainage system for the Real Estate) shall (except to the extent provided herein as the obligation of Owners) be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

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

- (a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Corporation shall have no obligation to maintain any public street, road or highway located within any public right-of-way on or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;
- (b) any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate;

- (c) landscaping and other items installed by Declarant as part of its initial development of the Real Estate or by the Corporation in the right-of-way of the Streets and in the Common Areas adjacent to the Spring Mill Road and 91st Street rights of way which abut the west and south boundaries of the Real Estate, respectively, or other areas, as shown on the Site Plan; and
- (d) the lakes or ponds shown on the Site Plan, including any equipment (such as water wells, fountains or other aeration equipment) installed by Declarant as an appurtenance to or to aid in the functioning of such lakes or ponds, whether or not located on Lots.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

In addition, the Corporation or its Managing Agent may assume responsibility for the maintenance of the lawn, trees, shrubs and other landscaping (hereinafter referred to as "landscape maintenance") on those Lots whose Owners have contracted for such maintenance services with the Corporation or its Managing Agent, in accordance with such rules and regulations concerning such maintenance as may be adopted by the Board from time to time and for such additional fees and charges which may be imposed by the Board for such services in addition to the Common Expenses. Fees and charges for such landscape maintenance on individual Lots shall be separately assessed against each such Lot for which the Owner has contracted with the Corporation or its Managing Agent for such services. Such assessment shall be separate and apart from, and in addition to, the Regular Assessment for Common Expenses and any Special Assessments, but shall be assessed, collected and enforced in the same manner as all other assessments. The fees and charges assessed against an individual Lot for such landscape maintenance services shall constitute a lien against that Lot in the same manner as all other assessments. Such landscape maintenance services shall include lawn mowing, seeding and fertilizing, raking and removal of leaves and debris, pruning, trimming and spraying of trees and shrubs and snow removal from driveways, sidewalks and other paved areas; however, such landscape maintenance shall not include any replacement of lawns, trees, shrubs or other

landscaping or of any driveways, sidewalks or other paved areas, nor shall it include the planting of any flowers, trees or shrubs or the removal of any trash or garbage. All lawns and landscaped areas on an individual Lot for which the Owner has contracted with the Corporation or its Managing Agent for such landscape maintenance shall be deemed Common Areas for purposes of allowing authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) reasonable access to such Lot for the performance of such services, but not for the purpose of including the cost of any such services within the Common Expenses. Notwithstanding anything to the contrary contained herein, the Board may require that such landscape maintenance be performed by the Corporation or its Managing Agent on all improved Lots, in which event, all landscaped areas on each Lot shall be deemed Common Areas for the purpose of landscape maintenance and the cost thereof shall be included in the assessment for Common Expenses.

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

The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) shall be entitled to reasonable access to any Lot as may be required in

connection with maintenance, repairs or replacements of or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII

Willowood Development Control Committee

Section 1. Creation. There shall be, and hereby is, created and established the "Willowood Development Control Committee" (the "Committee") to perform the functions provided to be performed by it hereunder or under any subdivision plat of the Real Estate. Until the Applicable Date, the Declarant, or not more than three (3) persons designated by it, shall constitute the Committee. After the Applicable Date, the Committee shall have a standing committee of the Corporation consisting of three (3) or more Persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not, at any time, provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Character of the Real Estate.

A. In General. Every Lot in the Real Estate, unless it is otherwise designated by the Declarant, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house and such outbuildings and other improvements, appurtenances and facilities as are usual and customary accessory uses to a single family dwelling house.

Prior to the commencement of any construction or demolition activity on a Lot, a delineation of the building area for each Lot shall be submitted to the Committee for approval by the Committee, and all trees outside the building, driving and parking areas shall be designated by type and size and shall not be removed unless approved by the Committee upon proof of unusual hardship in the practical utilization of the Lot and such removal shall not cause

a material adverse effect upon the aesthetic values of adjoining lands and rights-of-way. Trees inside the building area which are designated by the Committee as having special value shall not be destroyed, but shall be moved to other areas of the Lot at the Owner's expense, unless they exceed 12" in diameter and cannot be moved.

Unpermitted removal or destruction of trees by an Owner or his successors in title, other than by acts of God or circumstances beyond the Owner's control, shall, within ninety (90) days after notice in writing from the Committee, be replaced by the Owner, at his expense, with a tree of a type and size established by the Committee, and upon failure to do so, the Committee shall cause such tree to be replaced and the cost of such replacement shall be a lien upon the Lot collectable in any court of law or equity together with reasonable attorney's fees for the enforcement of such lien. For purposes of executing this covenant, an easement for ingress and egress shall be and hereby is reserved on each Lot for the performance thereof.

Adequate physical barriers, such as straw bales or snow fence, shall be provided by builders to protect trees to be preserved from damage by construction equipment or otherwise in the erection of building improvements. Pruning of trees outside the building line shall be permitted subject to the review and approval of the Committee and shall be undertaken only by qualified persons having adequate equipment to properly protect and preserve such trees.

In addition to individual site plan restrictions and tree preservation administered by the Committee, platted building lines, minimum distances between buildings and minimum front, side and rear building lines shall be as established on any plat of the Real Estate. All construction upon the Real Estate shall be done in compliance with the requirements of all applicable zoning, building and other governmental laws, ordinances, codes and other regulations.

B. Residential Use of Accessory Outbuildings Prohibited. No accessory outbuildings or other accessory uses or improvements shall be erected on any of the Lots prior to the erection thereon of a single family Dwelling Unit, and in no event shall any such accessory outbuilding or any temporary structure which may be

constructed upon a Lot subject to these Restrictions ever be used as a residence or dwelling house or place for human occupancy or habitation. No metal outbuildings shall be permitted on any Lot. All outbuildings must be of the same design and materials as the primary structure and shall be subject to the approval of the Committee.

C. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the Dwelling Unit shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

Section 3. Restrictions and Obligations Concerning Size, Placement and Maintenance of Dwelling Units and Other Structures.

A. Minimum Living Space Areas. The minimum square footage of living space of Dwelling Units constructed on the Lots shall be as specified in any recorded plat of the Real Estate.

B. Set-Back Requirements. Set-back and yard size requirements for Lots shall be as set forth on any recorded plat of the Real Estate.

C. Mailboxes. In order to aid in the preservation of aesthetic appearances within the Real Estate, any mailbox installed on the Real Estate must be approved by the Committee as to size, location, height and composition before it is installed. A standard mailbox design will be prepared by the Committee, and such design shall be the standard for all mailboxes installed on the Real Estate.

D. Exterior Construction. The finished exterior of every Dwelling Unit and other building constructed or placed on any Lot shall be of material other than aluminum siding, vinyl siding, rollbrick siding or any other similar artificial material. All materials used on the exterior of any Dwelling Unit and any other building improvements on a Lot shall be subject to the approval of the Committee. All driveways must be paved from their point of

connection with the abutting street or road to their point of connection with the garage apron.

E. Heating Plants and Garages. Every Dwelling Unit located on the Real Estate must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-around human habitation of the Dwelling Unit. Every Dwelling Unit located on the Real Estate must have at least a two-car garage, attached or detached, and of the same architectural design and materials as the Dwelling Unit.

F. Diligence in Construction. Every building whose construction or placement on any Lot is begun shall be completed within eighteen (18) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

G. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no structures shall be relocated or placed on any such Lot.

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

- i) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds and, in any event, not less frequently than once each month during the months of April through October, inclusive, of each year;
- ii) Remove all debris or rubbish;
- iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;
- iv) Cut down and remove dead trees;
- v) Where applicable, prevent debris and foreign material from entering drainage areas;

- vi) Keep the exterior or all improvements in such a state of repair or maintenance as to avoid their becoming unsightly; and
- vii) Within sixty (60) days following completion of a Dwelling Unit on a Lot, the Owner shall landscape the Lot, weather permitting.

I. Declarant's and the Corporation's Right to Perform Certain Maintenance. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Corporation, shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Declarant or the Corporation shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Declarant nor the Corporation, nor any of its agents, employees, or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 4. Provisions Respecting Disposal of Sanitary Waste.

A. Nuisances. No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. Construction of Sanitary Sewage Lines and Disposal Facilities. All sanitary sewage lines and disposal facilities on the Lots shall be designed, constructed, installed and maintained in accordance with the provisions and requirements of Marion County, Indiana, any other governmental or quasi-governmental agencies having jurisdiction over public sanitary sewers (if such sewers are available to service the Lots) and these Restrictions.

Section 5. General Prohibitions. In addition to any restrictions or limitations contained elsewhere in this Declaration or in any recorded plat of the Real Estate, the following limitations, restrictions and prohibitions shall govern the development, use and occupancy of the Real Estate:

A. In General. No noxious or offensive activities shall be carried on on any Lot, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot.

B. Signs. Except as otherwise permitted by any plat of the Real Estate or the Committee, no signs or advertisements shall be displayed or placed on any Lot or structures without the prior written approval of the Committee.

C. Animals. No animals shall be kept or maintained on any Lot except usual household pets, and, in such cases, such household pets shall be kept reasonably confined so as not to become a nuisance and on a leash when elsewhere than on the Owner's Lot within the Real Estate.

D. Vehicle Parking. No trucks, campers, trailers, recreational vehicles, boats, boat trailers or similar vehicles shall be parked on any Streets or Lot, unless the same are parked in a garage.

E. Garbage, Trash and Other Refuse. No Owner of a Lot shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse on his Lot except as may be permitted in subparagraph F below. All houses shall be equipped with a garbage disposal unit.

F. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building shall be buried below the surface of the ground and shall comply with all applicable laws, ordinances and regulations. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any Streets within the Real Estate at any time, except at the times when refuse collections are being made.

G. Model Homes. No Owner of any Lot, other than Declarant, shall build or permit the building upon his Lot of any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant. Such permission is hereby granted to any home building company affiliated with or designated by Declarant for construction of a model home on any Lot owned by Declarant or any such affiliate or designee.

H. Temporary Structures. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

I. Ditches and Swales. It shall be the duty of every Owner of every Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plat material) and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subparagraph I.

J. Utility Services. Utility services shall, to the greatest extent possible, be installed underground and in or adjacent to public rights-of-way or the rights-of-way of the Streets to minimize removal of or damage to trees.

K. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots, nor shall any septic tanks or other sewage disposal systems be installed on any of the Lots, without the approval of the Committee and of the governing public health agency or other civil authority.

Section 6. Committee's Functions.

A. Statement of Purposes and Powers. The Committee shall regulate the exterior design, appearance, use, location and maintenance of lands subject to these Restrictions, and improvements thereon, in such a manner as to preserve and enhance values, to maintain a harmonious relationship among structures and the natural vegetation and topography, and to provide for the proper functioning of the storm drainage system for the Real Estate. For these purposes, the Committee may, from time to time

and at any time, make, amend and modify such rules, regulations and guidelines as it may deem necessary or desirable to guide Owners as to the terms, conditions, procedures and requirements of the Committee for the submission and approval of items to it. Such rules, regulations and guidelines may, in addition, set forth additional specifications to those set forth herein or in any subdivision plat of the Real Estate, so long as the same are not inconsistent with this Declaration or any such subdivision plat. Attached hereto as Exhibit "C" and hereby incorporated herein by reference are the initial "Guidelines For Architectural Control" adopted by Declarant as the initial Committee.

(1) Generally. No dwelling, building, structure or improvement of any type shall be constructed or placed on any Lot without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed (and existing) landscaping, together with any other material or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1/4"=1' and all plot plans shall be drawn to a scale of 1"=30', or to such other scale as the Committee shall require. There shall also be submitted, where applicable, such other permits or reports as may be required under this Declaration. The following drawings shall be considered minimum for approval study:

- (a) Site plan which includes complete topographic study, location of all trees, existing and proposed structures, drives, proposed (or existing) sanitary sewage disposal system location, utility service, terraces and all landscape details (including size of all plantings and type); and
- (b) Foundation plan, floor plans, cross-sections, exterior elevations, interior elevations, electrical drawings, interior details, and complete specifications for all materials to be used both inside and outside the house, building, structure or other improvement.

(ii) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

- (a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions or any rules, regulations or guidelines adopted by the Committee;
 - (b) the design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or
 - (c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interests, welfare or rights of all or any of other Owners.
- (iii) Change, Modification or Amendment of Rules, Regulations and Guidelines. Any rules, regulations and guidelines at any time made by the Committee (including the initial "Guidelines for Architectural Control" attached as Exhibit "C" to this Declaration) may be changed, modified and amended by the Committee at any time, and from time to time, on a prospective basis; provided, however, that no such change, modification or amendment shall be applied by the Committee retroactively as to any construction theretofore completed nor as to the construction of any improvement which has previously been formally approved by the Committee if such construction has been commenced or is commenced within ninety (90) days after such change, modification or amendment is effective. Any rules, regulations or guidelines adopted and made by the Committee, and any changes, modifications or amendments of any such rules, regulations and guidelines at any time made by the Committee, shall be set forth in a written instrument and recorded in the office of the Recorder of Marion County, Indiana, and shall be effective upon such recording; provided, however, that the making, adoption, change, modification and amendment of any such rules, regulations or guidelines by the Committee shall not be considered or deemed to be amendments of this Declaration requiring the consent or approval of any Owners, Mortgages or other Persons.

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within 30 days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor.

C. Liability of Committee. Neither the Committee, nor any member thereof, nor any agent thereof, nor the Declarant shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee does not make, and

shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation nor warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used.

D. Inspection. The Committee and the Declarant may inspect work being performed to assure compliance with these Restrictions, the restrictions contained in any plat of the Real Estate and applicable regulations. However, neither the Committee, nor any member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for defects or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 7. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit.

Section 8. Declarant's Exclusive Right to Build.

In order to promote and assure consistently high quality and architecturally harmonious design and construction of all Dwelling Units on all Lots, Declarant, or any home building company affiliated with or designated by Declarant, shall have the sole and exclusive right to design and construct all such Dwelling Units on all Lots and to perform all original construction associated with the construction of any Dwelling Unit on a Lot, and each Person

acquiring a Lot shall acquire, hold, and own such Lot subject to such exclusive right of Declarant or its affiliate or designee to design and construct the Dwelling Unit on such Lot, unless Declarant expressly waives such exclusive right in writing and such waiver is recorded in the Office of the Recorder of Marion County, Indiana. Declarant's right to perform original design and construction shall not extend to future additions to or remodeling of a Dwelling Unit; provided, however, nothing contained herein shall be construed as a waiver of Declarant's or the Committee's right to review and approve plans and specifications for such future additions as provided in this Declaration. Declarant hereby designates R.J. Klein & Associates, Inc. as the home building company having the sole and exclusive right to design and construct a Dwelling Unit on each Lot, which designation shall remain in effect until Declarant rescinds the same or designates another affiliate or designee for such purpose by executing and recording a statement to either such effect in the Office of the Recorder of Marion County, Indiana.

If the Owner of any Lot does not enter into a definitive and binding contract with Declarant or its affiliate or designee for the design and construction of a Dwelling Unit on such Lot within six (6) months after acquisition of such Lot, then Declarant shall have the exclusive right and option (but not the obligation) to repurchase the Lot from the Owner or his successor(s) for an amount equal to the original purchase price of the Lot, less: (i) the cost of a title insurance policy for Declarant or its nominee; (ii) the cost of brokers' and real estate agents' fees and commissions, if any; and (iii) Declarant's other actual and reasonable costs and expenses in repurchasing the Lot, including reasonable attorneys' fees. To exercise this option, Declarant shall deliver written notice to the Lot Owner of its intent to exercise the option, designating a reasonable place and time for closing the repurchase of the Lot. The repurchase of the Lot shall be accomplished by a warranty deed from the Owner to Declarant or its nominee, subject only to exceptions set forth in the original conveyance from

Declarant to Owner, a Vendor's Affidavit, and such other documents as are reasonably necessary to complete the repurchase. Declarant shall be entitled to satisfy any liens or encumbrances on the Lot and set off the amount against the repurchase price payable by Declarant. This option shall not impair or affect any other rights of Declarant under this Declaration and shall terminate as to each Lot upon completion of the construction of a Dwelling Unit on the Lot by Declarant or its affiliate or designee.

If Declarant does not exercise its option to repurchase the Lot within six (6) months after such option becomes effective, then Declarant's option to repurchase said Lot shall expire and the Owner shall have the right to transfer the Lot to any other Person; however the exclusive right of Declarant or its affiliate or designee to design and construct a Dwelling Unit on the Lot shall remain in full force and effect as to any such transferee and shall constitute a covenant running with such Lot which shall be and remain binding thereon and on each and every Owner thereof and his successors. Declarant's option to repurchase also shall be reinstated as to any subsequent Owner of an unimproved Lot.

ARTICLE IX

Assessments

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

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Corporation at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such meeting is mailed or delivered to such Owners. The annual

budget shall be submitted to the Owners at the designated meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall such meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County or Marion County, Indiana selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the meeting of the Corporation at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against this respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following the adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including the reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall not be earlier than fifteen (15) days after the written notice of such Regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

- (a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether annual or quarterly, shall be increased so that the

Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

- (b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether annual or quarterly, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Section 2 of Article X hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments

shall be due and payable automatically on their respective due dates without any notice from the Board of the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

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

Section 5. Failure of Owner to Pay Assessments; Lien.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed by the Board for and on behalf of the Corporation in the manner provided by law for

a common law lien and foreclosed by the Board for and on behalf of the Corporation in the same manner as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby being deemed to have waived) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other debts, dues or charges owed the Corporation, whether by foreclosure or otherwise, the Board, for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly quoted or published by Bank One, Indianapolis, N.A., of Indianapolis, Indiana (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board).

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant

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

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

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

on any such Lot or other portion of the Real Estate owned by Declarant. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant to an Owner other than Declarant, and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Corporation against each Lot so conveyed by Declarant shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon the closing of the initial conveyance of each Lot by Declarant to another Person, the purchaser of such Lot shall pay to the Corporation, in addition to any other amounts then owed or due to the Corporation, as a contribution to its working capital and start-up fund, an amount equal to one-sixth (1/6th) of the then current annual Regular Assessment against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Corporation with respect to such Lot. Such working capital and start-up fund shall be held and used by the Corporation for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Corporation for its early period of operation of the Real Estate, to enable the Corporation to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE X

Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws, or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless

notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the Mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessment or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IX hereof.

ARTICLE XI

Insurance

Section 1. Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts

they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Corporation as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or disbursed by the Corporation or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of

Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of \$1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Corporation, the Board of Directors, any committee or organ of the corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

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

shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

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

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds of condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording

coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Corporation.

ARTICLE XII

Casualty and Restoration

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

If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

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

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as

that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

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

ARTICLE XIII

Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Areas shall be in addition to any other covenants or restrictions contained herein and in any subdivision plat of any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family.
- (b) Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

- (c) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.
- (d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs of any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.
- (e) No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the subdivision developed or to be developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud speakers.
- (f) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- (g) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.
- (h) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas.
- (i) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board.
- (j) Common Areas shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board. Without limiting the generality of the foregoing, the lakes or ponds to be installed on the Real Estate, as shown on the Site plan, are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of such lakes or ponds which in any way interferes with their proper functioning as part of such storm water drainage system. No boating, swimming, diving, skiing or ice skating shall be permitted in or on said lakes or ponds. No sewage, garbage, refuse, or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes or ponds except the Corporation may take steps to clear and purify the

waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same. Fishing from the shores of such lake or ponds adjacent to an Owner's Lot by the Owner thereof and his invited guests and family shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations.

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

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

ARTICLE XIV

Amendment of Declaration

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

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

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power of acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if

such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, (d) to comply with or satisfy the requirements of any insurance, underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) functions similar to those performed by such agencies or entities, or (e) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XV

Acceptance and Ratification

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

ARTICLE XVI

Negligence

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any

1

violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

ARTICLE XVII

Benefit and Enforcement

This Declaration and the Restrictions shall run with and bind the Real Estate for a term commencing on the date this Declaration is recorded in the office of the Recorder of Marion County, Indiana and expiring December 31, 2020, after which time they shall be automatically extended for successive periods of ten (10) years each, unless by vote of a majority of the then Owners of the Lots it is agreed to change this Declaration or the Restrictions in whole or in part, or to terminate the same. The failure or delay at any time of Declarant, the Corporation, the Owners, the Committee, or any other Person entitled to enforce this Declaration and the Restrictions, to enforce any of the same shall in no event be deemed a waiver of the same, or of the right to enforce the same at any time or from time to time thereafter, or an estoppel against the enforcement thereof.

It is anticipated that monetary damages may be difficult to determine and may not adequately compensate for a violation of the Restrictions contained in this Declaration. Therefore, any Person who is aggrieved by a violation or threatened violation of any of the Restrictions or who is otherwise entitled to enforce them also shall be entitled to injunctive relief to enforce the Restrictions against any Person whose acts or omissions, or threatened acts or omissions, are or would be a violation of the Restrictions. Any such aggrieved Person also shall be entitled to recover his costs and reasonable attorneys' fees incurred in the enforcement of the Restrictions against any Person who violates or threatens to violate them.

ARTICLE XVIII

Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Corporation shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

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

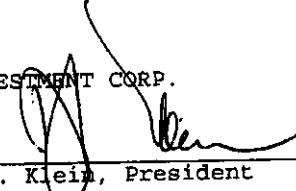
Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws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

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


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

IN WITNESS WHEREOF, KEL INVESTMENT CORP., Declarant herein,
has executed this Declaration on the day and year first hereinabove
set forth.

KEL INVESTMENT CORP.

By: 
R. J. Klein, President

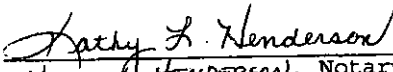
ATTEST:


Terry L. Eaton, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State,
personally appeared R.J. Klein and Terry L. Eaton, the President
and Secretary, respectively, of KEL INVESTMENT CORP., an Indiana
corporation, who acknowledged the execution of the above and
foregoing instrument as their voluntary act and deed as such
officers for and on behalf of said corporation, for the uses and
purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto affixed my hand and
Notarial Seal this 27 day of FEBRUARY, 1996.


KATHY S. HENDERSON, Notary Public

My Commission Expires:
12/19/98

My County of Residence:
HAMILTON

This Instrument was prepared by Norman R. Newman, Esq., Dann Pecar
Newman & Kleiman, One American Square, Suite 2300, Box 82008,
Indianapolis, Indiana 46282.

LEGAL DESCRIPTION

A part of the West Half of the Northwest Quarter of Section 14, Township 17 North, Range 3 East of the Second Principal Meridian in Washington Township, Marion County, Indiana, more particularly described as follows:

Commencing at a PK nail marking the southwest corner of said northwest quarter section, thence on an assumed bearing along the west line thereof North 00°22'35" West 832.64 feet to a PK nail at the point of beginning; thence continuing along said west line North 00°22'35" West 502.21 feet to a PK nail on the prolongation westward of the south line of Belle Meade Estates, a Subdivision in Marion County, Indiana, as described in the plat thereof, which is recorded in Plat Book 31, page 433 in the Office of the Recorder of said county; thence along said prolongation North 88°47'37" East 151.13 feet to a point on the south line of land described in a deed to Gene S. Alig Family Trust, recorded as Instrument Number 90-111935 in said Recorder's office; thence on said south line North 88°57'12" East 78.89 feet to the southeast corner of said land; thence north on the east line of said land North 00°22'35" West 0.22 feet to the aforesaid south line of Belle Meade Estates; thence on the south line of said subdivision North 88°47'37" East 1116.58 feet to the east line of the west half of said northwest quarter section, marked with a 1/2" rebar with plastic cap stamped "MSE CORP." (hereinafter called MSE rebar); thence along said east line South 00°22'45" East 1333.20 feet to the southeast corner of said half-quarter section, marked with a PK nail; thence along the south line of said northwest quarter section South 88°43'24" West 770.90 feet to a PK nail; thence North 00°21'31" West 832.64 feet to an MSE rebar; thence parallel with the south line of said northwest quarter section South 88°43'24" West 576.05 feet to the point of beginning.

EXHIBIT "A"

EXHIBIT

Instrument Number

Legal Description part of w¹/₂ NW¹/₄ of S¹/₄ T¹/₂N
R 3 E

Microfilm:

- 1 reel
- 1 master jacket
- 1 duplicate jacket

WILLOWOOD DEVELOPMENT CONTROL COMMITTEE
GUIDELINES FOR ARCHITECTURAL CONTROL

INTRODUCTION

Pursuant to the Declaration of Covenants and Restrictions of Willowood (herein referred to as the "Declaration"), the Willowood Development Control Committee (herein referred to as the "Committee") is charged with the responsibility of preserving and enhancing the values of properties subject to the Declaration, of maintaining a harmonious relationship among structures and the natural vegetation and topography of said properties, and of providing for the proper functioning of the storm drainage system for said properties. For these purposes, the Committee has the right to regulate the exterior improvements thereon, subject to the Declaration. In order to satisfy this responsibility, the Committee has the right to take the following action:

- a. Approve or disapprove plans and specifications for all proposed construction on land subject to the Declaration.
- b. Approve or disapprove plans and specifications for all improvements of property on land subject to the Declaration.

The following guidelines for all construction on and improvement of the land subject to the Declaration are hereby adopted by the Committee for guidance to property owners in preparing and submitting plans and specifications to the Committee for its consideration. These guidelines may be changed, modified and amended by the Committee at any time, and from time to time, in accordance with the procedure therefor set forth in the Declaration.

NOTE: NO NEW CONSTRUCTION OR IMPROVEMENT TO AN EXISTING STRUCTURE MAY BE INITIATED WITHOUT PRIOR WRITTEN APPROVAL FROM THE COMMITTEE.

While the Declaration provides that the Committee shall have up to 30 days for the approval or rejection of submitted plans, the Committee will make every effort to complete its review process in a shorter period when necessary to accommodate the needs of the property owners.

I. CONSTRUCTION APPROVAL

In order to create and maintain a high quality residential development on the subject property, certain criteria for all construction has been established by the Committee.

1. GENERAL REQUIREMENTS FOR CONSTRUCTION

While detailed construction requirements may vary by specific areas or sections of the property, the general requirements are set forth below.

- a. Square Footage. All sections or areas for single family residents have minimum square footage requirements which are or will be specified on the recorded plat of the property. The square footage of a residence as referred to on such plat shall not include porches, terraces, garages, carports, accessory buildings or basements.
- b. Tree Preservation. The Declaration provides that no tree outside of the building, driveway and parking areas of a Lot shall be removed without the prior written approval of the Committee and such approval shall only be granted upon proof of unusual hardship in the practical utilization of the Lot. Accordingly, all plot plans submitted to the Committee for

approval shall designate thereon all trees outside of the building, driveway and parking areas. The removal or destruction of any such trees without the consent of the Committee shall result in liability of the owner of such lot to replace said trees with trees of like kind, quality and size.

- c. Colors and Materials of Homes. Materials used on the exterior of homes and improvements are subject to the approval of the Committee, and all exterior colors are, generally, to be subdued, earthen tones or white and compatible with other structures in or planned for the immediate area.
- d. Front Yards. By applicable zoning ordinance, the "front yard" of a lot is considered to be that area between the public street frontage and the house regardless of how the house is faced. For purposes of these guidelines and the Declaration, where access to a lot is by means of a private (rather than public) street, "front yard" shall be considered to be the area between such private street frontage and the house.
- e. Erosion Control and Tree Protection Measures. During periods of construction of a home or improvements on a lot, the builder shall provide adequate physical barriers such as straw bales or snow fencing in order to protect trees from damage by construction equipment and related activities. In addition, builders shall be required to exercise erosion control measures to prevent silt transportation to the main drainage ways. Builders shall provide appropriate temporary seeding of disturbed earth areas and temporary wood or straw bale dams to restrict silt-sediment transportation. The owner or owners of a lot shall be responsible for the performance of all requirements of these guidelines by builders and contractors employed or engaged by or through such owner or owners.
- f. Sanitary Sewage Disposal Systems. Pursuant to the Declaration, no septic tanks or other sewage disposal systems are to be installed on any lot without the approval of the Committee. Accordingly, all plot plans or site plans submitted to the Committee for its approval shall contain full and complete details regarding the proposed (or existing) sanitary sewage disposal system for the lot.
- g. Storm Water Drainage. To aid in the efficient operation of the sanitary sewage disposal system serving a lot and the storm water drainage system of the entire property subject to the Declaration, all water discharged from improvements on such lot (other than sanitary sewage discharge), including, but not limited to, water discharged from or through roofs, downspouts, sump pumps, gravity drains, water treatment and geothermal devices, patios, pool decks and tennis courts, shall be directed and controlled so that such water does not discharge toward, onto, over, across or under the absorption field (if any) of the sanitary sewage disposal system serving such lot. The site plan or plot plan for a lot submitted to the Committee for its approval shall reflect compliance with the foregoing provisions.

2. PLANS AND SPECIFICATIONS TO BE SUBMITTED TO COMMITTEE

In order to properly review proposed construction the Committee has established the following minimum specifications. All plans and specifications must be submitted for approval IN DUPLICATE.

- a. All plans, drawings and blueprints of proposed homes, additions or other improvements to or upon a lot are to be of professional quality and drawn to a scale of not less than 1/4" = 1'. All plot plans shall be drawn to a scale of not

less than 1" = 30'. The following drawings shall be considered minimum for approval study by the Committee:

- (1) Site plan which includes complete topographic study, location of all trees, proposed structures, drives, sanitary sewage disposal system location, utility service, terraces and all landscape details (including size and type of all plantings).
 - (2) Foundation plan, floor plans, cross-sections, exterior elevations, interior elevations, electrical drawings, interior details, and complete specifications for all materials to be used both inside and outside the house and any other improvements.
- b. The following plans are to be submitted for each element of construction: front elevation, rear elevations, side elevations, floor plan of each floor, foundation plan, and interior details and elevations and sections.
 - c. Specifications of or for all exterior building material, i.e., brick, stone, wood, etc., shall be shown on or submitted with the plans.
 - d. The site plan shall show and identify the following items: proposed location of house and driveway on lot; location of any easements; location of proposed fences, screening, walkways, walls and complete landscape details showing type and size of all plantings, existing and proposed grades, location, size and species of all trees outside of the building, driveway and parking areas, and the type of trees designated on the plot plan. NOTE: A sample plot plan is available for review by contacting the Committee.
3. METHOD OF APPROVAL OR DISAPPROVAL

The Committee shall review plans and specifications submitted to it by reference to a "Checklist of Compliance", a copy of the form of which is attached to these Guidelines. Upon approving a set of plans, the Committee shall stamp both sets of plans "Approved, Willowood Development Control Committee, By _____ Date _____" and keep one set of plans for its files. The second set of plans bearing such approval shall be returned to the lot owner, together with the Checklist as approved by the Committee. If the Committee disapproves the plans, written notice of such fact shall be given to the lot owner and shall specify the reason or reasons for such disapproval.

II. ARCHITECTURAL GUIDELINES

As noted previously, any new building or improvement or any addition to an existing building or an exterior alteration or change to an existing building must have the prior written approval of the Committee before any work is undertaken. The Committee has established the following guidelines for specific types of construction and improvements on land subject to the Declaration. Any addition, exterior alteration or change to an existing building shall be compatible with the design character of the original building. Any new detached structures (if permitted) shall be compatible with the existing structure.

1. FENCES, WALLS AND SCREENING

It is the goal of the Committee to keep all fencing or screening as harmonious as possible with the architectural character of the community. No fence or screen will be approved if its installation will obstruct necessary sight lines for vehicular traffic. Undue obstruction of view or other amenities from adjoining properties will be taken into consideration by the Committee when reviewing

fences for approval. Except for decorative fences, fences shall not be nearer to the front of a home than the rear foundation line of a home. The Committee discourages fencing of the entire back yard due to the effect that this fencing may have on the feeling of spaciousness desired by other property owners. The Committee shall have the right to require landscaping on the exterior side of all solid fencing on a lot (i.e., on the sides of such fencing facing away from the house on such lot). Fences may be privately installed but must be constructed to professional levels of quality. Non-professionally installed fences will be inspected by the Committee after completion in order to insure that the final product is of a professional quality and final approval of the fence shall be deemed withheld until successful completion of this final review.

a. Height restriction. The Committee is of the opinion that the environmental integrity of the community will be materially lessened if the open nature of the community is damaged by a proliferation of fences of excessive height. The Committee, therefore, will approve fences up to 4 feet in height which otherwise meet these guidelines. The Committee will give consideration, however, to a variance in the height limit where the rear line of a lot abuts a major arterial roadway or other clearly unique circumstances exist. The use of 6 foot fences around small patio areas of a backyard of a home in order to secure privacy for the immediate patio area will be permitted. The specific fence height restrictions are as follows:

- (1) Property fencing and walls above grade shall not exceed 4 feet above grade unless otherwise approved by the Committee.
- (2) The Committee will not ordinarily approve any proposed fence which exceeds 4 feet in height unless the rear line of that lot abuts a major arterial roadway or offers some other circumstance clearly unique to that lot.
- (3) Patio screens/privacy fences shall not exceed 6 feet in height.

b. Materials and finish.

- (1) Wood fencing or screening will be approved if the design is in conformity with the architectural design of the community, subject to the Committee's right to require landscaping on the exterior sides thereof.
- (2) The Committee will not approve an application for the installation of a chain link or other galvanized metal fencing unless it is vinyl coated or covered with similar coating material.
- (3) All fencing or screening should preferably have finished material on both sides. If only one side has finished materials, that side must face the public side or adjoining property.
- (4) Walls above grade should be constructed of natural stone, masonry or attractive timber.

2. LANDSCAPING AND PLANTINGS

Landscape improvements are considered by the Committee to be terraces, retaining walls, unusual vegetation coverings, walks, bank treatment, detached patios, and cabanas. With respect to these improvements the applicant shall submit:

- a. Two copies of a plot plan showing the location of the proposed improvements on the lot, existing grades at the nearest property line with proposed finished grades as applicable to the improvement.
- b. Two copies of such additional plans as may in the Committee's opinion be required in order to evaluate the appearance of the improvement and type of construction, including the type of material used, the color of the finished improvement and the type of vegetation, if any.

As noted previously, the removal of any tree located outside a building, driveway or parking areas of a lot requires the prior written approval of the Committee. The intent and purpose of this restriction is to preserve the existing natural environmental quality of the land to as great an extent as possible.

Trees, hedges and shrubs which restrict sight lines for vehicular traffic shall be cut back or removed. Special landscaping beyond that normally associated with a single family residence must be approved by the Committee prior to installation. The owner of each lot shall establish a satisfactory lawn by seeding or sodding the lot as soon as possible following completion of a home, weather conditions permitting.

3. EXTERIOR ANTENNAS

Unless specifically authorized by the Committee, no television, radio or other antennas (including, without limitation, satellite receiving dishes) may be erected by any lot owner on the exterior of a house or on a lot.

4. SWIMMING POOLS

Swimming pools must have the approval of the Committee before any work is undertaken. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool on neighboring properties.

An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool will be required to soften the effect of sound and required pool fencing on adjacent properties.

5. TENNIS COURTS, RACQUETBALL COURTS, PADDLE BALL COURTS, ETC.

Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities will be approved by the Committee only after thorough consideration of the potential effect of such a structure or use on neighboring properties. The Committee will not approve non-baffled lighted courts or facilities. An application for the construction of any such facility will not be considered unless the application is accompanied by an application for an acceptable fence and landscape design approval. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.

6. DRIVEWAYS AND PATIOS.

All driveways and patios must be paved with asphalt, concrete or other approved hard-surface material. Extensions, widening or rerouting of existing driveways and patios must have the approval of the Committee prior to construction.

7. RETAINING WALLS AND BANK TREATMENTS

Any retaining wall must be approved by the Committee before installation is initiated. Retaining walls which divert ground water onto adjoining properties or which otherwise substantially change the existing drainage pattern will not be approved.

8. SOLAR HEATING SYSTEMS

The Committee acknowledges the increased use of residential solar heating systems which utilize solar heating panels and related equipment. The Committee will carefully review solar heating plans to insure that their use and location have a minimum detrimental effect on adjoining properties.

9. PLAY EQUIPMENT

Children's plan equipment such as sandboxes, temporary swimming pools having a depth less than 24 inches, swing and slide sets, playhouses and tents shall not require approval by the Committee provided such equipment is not more than six feet high, maintained by the lot owner in good repair (including painting) and every reasonable effort has been made by the lot owner to screen or shield such equipment from view. Equipment higher than six feet shall require approval of the design, location, color, material and use by the Committee.

10. MAILBOX UNIFORM DESIGN

In order to preserve the overall aesthetic appearance of the properties subject to the Declaration, any mailbox must be approved by the Committee as to size, location, height and composition before it may be installed. The specifications for the standard type of mailbox that will be approved by the Committee can be obtained by contacting the Committee.

11. MISCELLANEOUS

All exterior lighting shall be directed in such a manner so as not to create annoyance to adjacent properties.

Trash and garbage containers shall not be permitted to remain conspicuous except on days of trash collection.

Lot owners shall keep garage doors closed at all times except during times of actual use of the garage facility. All garage doors must have automatic closing devices.

Collapsible and removable clothes lines will be permitted by the Committee, but permanent clothes lines will not be approved by the Committee.

III. ADDITIONAL STANDARDS

1. All lot owners will be required to furnish and install dusk-to-dawn light fixtures at all driveway entrances to their lots, the style and type of which will be selected by the Committee and shall be the standard for the entire property subject to the Declaration. The fixtures shall disperse low ground light for the drive entrances and shall feature the address number of the house the drives serve.
2. All roofing of structures on the property shall be shake shingle, tile, a minimum of 300#/square asphalt shingle, or other material approved by the Committee.
3. All interior trim shall be of custom design, of architectural merit, as no standard lumber yard mouldings will be accepted.

4. All construction lumber shall be kiln dried, construction grade. All subfloors shall be 3/4" tongue and groove (T&G) plywood with waterproof adhesive applied to each joist or 1" x 6" solid boards or approved equal.
5. All insulation shall comply with Indianapolis Power & Light Company minimum requirements for electrically heated homes.
6. All windows will be weatherstripped and thermopane or double glazed.
7. All homes shall have a minimum water service line of 1" copper, but larger shall be sized to represent the number of bathrooms and utilities being served.
8. Minimum standards for hardware would be Sledge Georgian series. All doors must be supplied with three hinges. All exterior doors shall be weatherstripped with metal weatherstripping.
9. All basements shall have a minimum 1/8" coating of waterproofing material, reinforced by fiberglass netting, and shall be constructed with total perimeter drains and interior drains connected to either gravity drains or sump pumps. Should sump pumps be required, there shall be two required and they shall be staged so that the second one will activate should the primary one fail. All crawl space walls shall require the application of at least a single layer of waterproofing material of not less than 1/16" in thickness.
10. All construction trades performing work on any structure or other improvement on any lot in the property subject to the Declaration will be expected to do their work in a professional manner, and in accordance with all standards published by the recognized trade councils of their respective industries, and it shall be understood that all work performed in such property shall be of the highest quality known to the trade. It is not the duty or the responsibility of the Committee to supervise or inspect the quality of construction performed by the construction trades, but should the Committee discover what it considers "low quality work" or work being performed which is not in accordance with the plans approved by the Committee, the owner of the lot and the holder of the building permit for the work in question (if known) may be notified and the work shall be corrected to a professional standard and made to conform to the approved plans.

Should the determination of the Committee in this regard be challenged by the owner of the lot or the holder of the building permit, such challenge shall be in writing and served upon the Committee accompanied by a certified letter from an Architect registered to practice in the State of Indiana and bearing his signed seal stating that, in his professional opinion, the work in question is in accordance with the plans approved by the Committee and meets the quality standards hereinabove required.

Should the Committee still disagree and feel the work is substandard or not in accordance with the approved plans, a panel of three architects will be chosen to review the work and their majority vote shall constitute the final determination as to what, if any, action is required. Should such panel of architects rule the work substandard or not in accordance with the approved plans, then the work shall be re-executed to professional standards and in accordance with the approved plans within thirty days. In any case in which such a panel of architects is to make a determination hereunder, one such architect shall be selected by the Committee, one by the owner of the lot (or his builder), and the third by the

two so selected. If either party fails to select its architect and advise the other of such selection within five (5) days after the date upon which the Committee notifies the owner of the lot or the holder of the building permit that the Committee still feels the work is substandard or not in accordance with the approved plans, then the single architect selected by one of the parties shall serve alone as the panel of architects to make such final determination. The costs and expenses of the architectural review panel selected to determine any such dispute shall be borne and paid in equal shares, one-half (1/2) by the Corporation and one-half (1/2) by the owner of the affected lot.

Neither the developer of the property subject to the Declaration nor any member of the Committee shall at any time have any liability whatsoever to the owner of any lot in such property or to any holder of a building permit for any improvements to be located thereon nor to any person for any determination or decision made by the Committee in the exercise of its duties and responsibilities or for any actions taken or attempts made by the developer or the Committee to enforce quality construction practices in the subject property.

11. The manufacturer's printed instruction and directions for the application or installation of their products shall always constitute the minimum standard for the application or installation of that product.

**CURRENT CHECKLIST OF COMPLIANCE
WILLOWOOD ADDITION**

1. General Information:

- (A) Lot No.: _____
 (B) Complete name(s) of owners(s) of record: _____
 (C) Size of House to be constructed on Lot:
 (1) Number of Stores: _____ square feet. _____
 (2) (a) 1st Floor square footage: _____ square feet. _____
 (b) 2nd Floor square footage: _____ square feet. _____
 (c) Other (specify): _____ square feet. _____
 (d) Total square footage: _____ square feet. _____

2. Site Plan:

- (A) Prepared by: _____
 (B) Latest revision date: _____
 (C) Required information:
 (1) Topography. _____ (7) Landscaping. _____
 (2) Trees shown. _____ (8) Driveway and Sidewalk Plan. _____
 (3) House location. _____ (9) Fences. _____
 (4) Sanitary sewage disposal system. _____ (10) Miscellaneous (other): _____
 (5) Utilities. _____
 (6) Storm drainage. _____

3. Construction (Working) Drawings:

<u>Type of Plan/Drawing:</u>	<u>Prepared By:</u>	<u>Latest Revision Date</u>
(1) Foundation Plan	_____	_____
(2) Floor Plan	_____	_____
(3) Cross Sections	_____	_____
(4) Exterior Elevations	_____	_____
(5) Interior Details	_____	_____
(6) Specifications	_____	_____
(7) Electrical Plans	_____	_____
(8) Roof Plans	_____	_____
(9) Sanitary Sewage Disposal Plan	_____	_____
(10) Drainage Plan	_____	_____
(11) Materials Shown	_____	_____
(12) Trim Details	_____	_____
(13) Miscellaneous (other):	_____	_____

4. Style of Architectural Design: _____

5. Owner's Request For Approval: The undersigned, owner or owners of the Lot in the Willowood Addition identified above (collectively, "Owner"), as an inducement to the Willowood Development Control Committee ("Committee") to consider the approvals herein requested, hereby states and certifies (A) that he is the sole owner of said Lot, (B) that the information set forth in Items 1, 2, 3 and 4 above is true and correct, and (C) that the plans and drawings identified above and submitted herewith to the Committee are the only plans and drawings being considered for approval by the Committee. The undersigned represents, warrants and agrees that all construction upon and improvement of the subject Lot will be performed in accordance with such plans and drawings as finally approved by the Committee. The undersigned acknowledges and understands that any changes in plans and drawings, after the approval of those submitted to the Committee, must be re-submitted to the Committee for its consideration and ultimate approval. The undersigned further agrees to abide by all of the terms, provisions and requirements of the Declaration of Covenants and Restrictions of Willowood, the subdivision plat of Willowood, the Guidelines For Architectural Control governing Willowood and the requirements of Willowood Property Owners Association, Inc. and the Committee. The undersigned hereby requests approval by the Committee of the plans and drawings identified above and submitted herewith to the Committee.

Dated: _____, 199____.

Witness: _____

Owner(s): _____

(Note: All owners of record must sign the Request for Approval.)

* * * * *

6. Action by Committee:

(A) Date this Checklist and all plans and drawings referred to herein were received by the Committee: _____, 199__.

(B) Plans and drawings are:

_____ (1) Disapproved since they are incomplete in the following respects:

_____ (2) Disapproved for the following reasons: _____

_____ (3) Approved as submitted and the Committee hereby authorizes the issuance by the Building Commissioner, in his discretion, of an improvement location permit and a building permit for the construction reflected on the plans and drawings approved by the Committee, each page of which bears the "Approved" stamp of the Committee, subject, however, to revocation of any such permits in accordance with the provisions of the Declaration of Covenants and Restrictions of Willowood.

(C) Date of action by the Committee: _____, 199__.

(D) The foregoing action by the Committee is valid only when this Checklist is executed by the Committee and all plans and drawings listed herein have been stamped "Approved" by the Committee.

WILLOWOOD DEVELOPMENT CONTROL COMMITTEE

By: _____

* * * * *

Instructions:

The applicant for approval of any construction upon or improvement of a Lot (that is, the owner or owners of such Lot) must complete this Checklist by supplying all information required under Items 1, 2, 3 and 4 hereof. The applicant must then date and execute the Request for Approval (Item 5), have his signature witnessed, and submit this Checklist in duplicate, together with two (2) copies of all plans and drawings referred to herein to the Committee for its action.

* * * * *

CONSENT OF MORTGAGEE

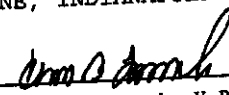
The undersigned, BANK ONE, INDIANAPOLIS, National Association ("Bank One"), being the holder of the following described mortgage encumbering the Real Estate described in the above and foregoing Declaration of Covenants and Restrictions of Willowood (the "Declaration"), to-wit:

Real Estate Mortgage and Security Agreement (Fixture Filing) from KEL Investment Corp., an Indiana corporation, to Bank One, dated November 9, 1995, and recorded November 14, 1995 as Instrument No. 95-146386 in the Office of the Recorder of Marion County, Indiana (the "Mortgage")

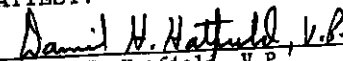
hereby CONSENTS to the execution and recording of the above and foregoing Declaration by KEL INVESTMENT CORP. and the imposition of the covenants and restrictions contained therein upon the subject Real Estate; and the undersigned further AGREES that its said Mortgage with respect to said Real Estate shall be, and the same is hereby declared to be, subject and subordinate to the terms and provisions of the above and foregoing Declaration and all exhibits attached thereto and the documents incorporated therein; provided, however, that, except and to the extent that said Mortgage is modified by this Consent, such Mortgage shall remain in full force and effect, unaltered and enforceable in accordance with its terms.

EXECUTED this 11 day of March, 1996.

BANK ONE, INDIANAPOLIS, NA

By: 
Charles B. Lauck, V.P.


ATTEST:


Daniel H. Hatfield, V.P.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Charles B. Lauck and Daniel H. Hatfield, by me known, and by me known to be the Vice President and Vice President, respectively, of BANK ONE, INDIANAPOLIS, National Association, who acknowledged the execution of the above and foregoing Consent for and on behalf of said association for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto affixed my hand and Notarial Seal this 11 day of March, 1996.



Jane Willis, Notary Public

My Commission Expires:
3-7-98

My County of Residence:
MARION

This Instrument was prepared by Norman R. Newman, Esq., Dann Pecar Newman & Kleiman, One American Square, Suite 2300, Box 82008, Indianapolis, Indiana 46282.