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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WILLOW POINTE**

THIS DECLARATION (hereinafter called "the Declaration" or "this Declaration"), made this 24th day of April, 2000, by Willow Pointe, L.P., an Indiana Limited Partnership (hereinafter called "Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of the Real Estate in the Town of Plainfield, Hendricks County, Indiana, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Real Estate" or the "Tract"); and upon which Declarant intends to develop a residential community to be known as Willow Pointe; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, and opportunities in Willow Pointe and the common facilities therein contained, and for the maintenance of the Real Estate and the improvements thereon, and to this end desires to subject the Real Estate to the covenants, Restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefit of the Lots and lands in the Tract and the future Owners thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in Willow Pointe, to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering the common facilities located on the Property (hereinafter defined), administering and enforcing the covenants and Restrictions contained in this Declaration, collecting and disbursing the Assessments and charges imposed and created hereby and hereunder, performing certain maintenance and repairs, as hereinafter provided, and promoting the health, safety and welfare of the Owners of the Lots in Willow Pointe, and all parts thereof; and

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

NOW, THEREFORE, Declarant hereby declares that all of the Lots and lands in the Tract, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are declared to be in furtherance of a plan for the improvement and sale of Lots in the Tract, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and

attractiveness of the Tract as a whole and of each of the Residences, Lots and lands situated therein. The Restrictions shall run with the land and shall be binding upon Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Tract or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Declarant and its successors in title to the Tract or any part or parts thereof.

ARTICLE I DEFINITIONS

Section 1. The following words, when used in this Declaration or any supplemental declaration, unless the context clearly requires otherwise, shall have the following meanings:

A. "Annual Assessment" means the assessment levied by the Association pursuant to Article V, Section 3.

B. "Applicable Date" shall mean the "Applicable Date" as defined and determined in accordance with Article III, Section 3B.

C. "Architectural Review Board" means that entity established pursuant to Article VI of this Declaration for the purposes therein stated.

D. "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

E. "Assessments" means all sums lawfully assessed against the members of the Association or as declared by this Declaration, the Articles or the By-Laws.

F. "Association" shall mean the Willow Pointe Homeowners Association, Inc., an Indiana non-profit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns.

G. "Board of Directors" means the governing body of the Association elected in accordance with the By-Laws.

H. "By-Laws" means the code of By-Laws of the Association, as amended from time to time.

I. "Common Area" shall mean (i) those portions, if any, of the Tract shown upon any recorded subdivision Plat of the Tract, or any part thereof (including the Primary Plat), which are not Lots (reserving, however, unto Declarant the right to replat any of such areas as part of one (1) or more Lots), other

than portions thereof (such as streets) which are dedicated to the public, whether such Plat is heretofore or hereafter recorded, including all improvements and structures constructed or to be constructed thereon, and (ii) such portions of the Tract (if any) as are hereafter declared to be "Common Area" by an instrument executed and recorded by Declarant, whether or not such areas comprise part or all of a Lot or Lots shown upon any recorded subdivision Plat of the Tract, and (iii) any areas conveyed to, acquired by or to be maintained by the Association, together with all improvements thereto, that are intended to be devoted to the use or enjoyment of some, but not necessarily all, of the Owners of Lots.

J. "Declarant" means Willow Pointe, L.P., its successors and assigns to its interest in the Real Estate other than Owners purchasing Lots or Residences by deed from Declarant (unless the conveyance indicated an intent that the grantee assume the rights and obligations of Declarant).

K. "Development" shall mean the improvements to the Tract as designated on the Plat.

L. "Development Period" shall mean the period of time beginning with the date of execution of this Declaration and ending with the date the Declarant is no longer the owner of any part of the Property.

M. "Drainage Board" means the Hendricks County, Indiana, Drainage Board, its successors or assigns.

N. "Drainage System" means the open drainage ditches and swales, the subsurface drainage tiles, pipes and structures, the Retention Area and the pond thereon, and the other structures, fixtures, properties, equipment and facilities located in the Tract and designed for the purpose of controlling, retaining or expediting the drainage of surface and subsurface waters from, over and across the Real Estate, including but not limited to those shown or referred to on the approved General Plan of Development as filed with the Town of Plainfield.

O. "Entry Ways" means the structures constructed (including signage) as an entrance to Willow Pointe or a part thereof (exclusive of the street pavement, curbs and drainage structures and tiles), the traffic islands depicted on the Plat as Common Area "B", and the landscaping and grassy areas surrounding such structures.

P. "General Plan of Development" means that plan prepared by Declarant and approved, as necessary, by appropriate public agencies, that outlines the total scheme of development and general uses of land in the Tract, as such may be amended from time to time.

Q. "Home" shall mean a residential housing unit designed or intended for use as living quarters for one (1) family or housekeeping unit.

R. "Initial Assessment" means the initial assessment for the operation of the Association as described in Article V, Section 7.

S. "Landscape Easement" means a portion of a Lot denoted on the Plat as an area to be landscaped.

T. "Lot" shall mean and refer to any and each plot of land included in the Tract (with the exception of Common Areas) designed and intended for use as a building site for a Home, and identified as a Lot on any recorded subdivision Plat of the Property or any part thereof (including the Primary Plat).

U. "Lot Development Plan" means (i) a site plan prepared by a licensed engineer, architect, or land surveyor, (ii) foundation plan and proposed finished floor elevations, (iii) building plans, including elevation and floor plans, (iv) material plans and specifications, (v) landscaping plan, and (vi) all other data or information that the Architectural Review Board may request with respect to the improvement or alteration of a Lot (including, but not limited to, the landscaping thereof) or the construction or alteration of a Residence or other structure or improvement thereon.

V. "Maintenance Costs" means all of the costs necessary to keep the Common Areas, Entry Ways and Landscape Easements operational and in good condition, including, but not limited to, the cost of all upkeep, maintenance, repair, replacement of all or any part thereof, payment of all insurance with respect thereto, all taxes imposed thereon and on the underlying land, leasehold, easement or right-of-way, and any other expense related to the continuous maintenance, operation or improvement thereof.

W. "Members" shall mean any person or entity holding membership in the Association as provided in Article III hereof.

X. "Mortgage" shall mean any mortgage or other security instrument by which a Lot or any part thereof or any structure thereon is encumbered.

Y. "Mortgagee" shall mean any person or entity named as the Mortgagee under any such Mortgage or any successors or assigns to the interest of such person or entity under such Mortgage prior to acquisition of the fee simple title to the property encumbered by such Mortgage.

Z. "Owner" shall mean the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot which is a part of the Property,

including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

aa. "Person," whether appearing in upper case or lower case form, shall mean an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

bb. "Plat" means any secondary Plat of the Tract recorded in the office of the Recorder of Hendricks County, Indiana.

cc. "Primary Plat" shall mean the subdivision Plat(s) of the Real Estate as approved by the Plainfield Plan Commission.

dd. "Property" shall mean and refer to the Real Estate described in Exhibit "A."

ee. "Real Estate" shall mean the parcel or parcels of Real Estate in the Town of Plainfield, Hendricks County, Indiana, described in Exhibit "A," attached to and incorporated as part of this Declaration.

ff. "Register of Regulations" means the document containing rules, regulations, policies and procedures adopted by the Board of Directors or the Architectural Review Board, as the same may from time to time be amended.

gg. "Residence" means any structure intended exclusively for occupancy by a single family together with all appurtenances thereto, including private garage and outbuildings and recreational facilities usual and incidental to the use of a single family residential Lot.

hh. "Restrictions" means the covenants, conditions, easements, charges, liens, rules and regulations and all other provisions set forth in this Declaration and the Register of Regulations, as the same may from time to time be amended.

ii. "Retention Area" means the area depicted on the Plat which is engineered to accommodate from time to time surface water drainage.

jj. "Tract" means the land described in Exhibit "A."

kk. "Willow Pointe" means the name by which the Tract shall be known.

ll. "Zoning Authority," with respect to any action, means the Director of the Plainfield Plan Commission, or where he lacks the capacity to take action, or fails to take such action, the governmental body or bodies, administrative or

judicial, in which authority is vested under applicable law to hear appeals from, or review the action, or the failure to act, of the Director.

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

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Declaration. Declarant hereby expressly declares that the Property shall be held, transferred, sold, conveyed and occupied subject to all the terms, covenants, conditions, Restrictions and provisions of this Declaration. As of the date of execution of this Declaration, the Property consists solely of the Real Estate, described in Exhibit "A". The Owner of any Lot, at any time subject to this Declaration, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall accept such deed, execute such contract and undertake such occupancy subject to all of the terms, covenants, conditions, Restrictions and provisions of this Declaration. By acceptance of such deed, execution of such contract or undertaking such occupancy, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to or under this Declaration, and, for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Association and the Owners and subsequent Owners of each of the Lots affected by this Declaration to keep, observe, perform and comply with the terms and provisions of this Declaration.

Section 2. The Retention Area. Declarant shall convey title to the Retention Area to the Association, but subject to the limitations described below. Declarant shall have no liability to any Person with respect to the Retention Area, the use thereof or access thereto, or with respect to any damage to any Lot resulting from the Retention Area or the proximity of a Lot thereto, including loss or damage from erosion.

Since the Retention Area constructed adjacent to Lots 48 through 62, inclusive, will likely not be maintained by the Town of Plainfield, Hendricks County, Indiana, or any other public agency, use and maintenance thereof shall be governed by the following provisions and the Owner of any of such Lots, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof from Willow Pointe, L.P. or from a subsequent Owner of said Lot, shall conclusively be deemed to have accepted such deed or executed such contract, subject to the following conditions:

A. The Retention Area shown on the Plat described above and referred to herein, is a facility set aside for retaining storm water as part of the Drainage

System of Willow Pointe, but, except to the extent that it adjoins Common Area A, is for the exclusive recreational use and enjoyment of the Owners of the fee title or other interest in the Lots designated in this Article II, Section 2, but not the Owners of other Lots in Willow Pointe.

B. The Owners of Lots described in this Section 2 shall take their titles subject to the rights of the Town of Plainfield, Department of Public Works, in any drainage easement on said Lot, and subject to a non-exclusive easement in favor of the other Owners of Lots designated in this Section.

C. No change may be made and no structure shall be installed in the Retention Area or its inlet or outlet facilities that will obstruct or interfere with its retention of storm water or with its maintenance or free use by the Owners of the easement thereon.

D. The Retention Area will be maintained perpetually in a safe, sanitary and attractive condition by the Owners as specified in this Section.

E. "Maintenance" as pertains to the Retention Area includes, without limitation, the cost and expense of all material, labor, equipment and machinery required for cleaning out plant growth, seeding banks to prevent erosion, together with the costs to remove debris from inlet and outlet structures. The Owner of each Lot which adjoins the Retention Area shall at their expense keep the grass, trees, shrubs and other plantings located between their rear lot line and the top of pool in the Retention Area neatly cut, cultivated or trimmed as reasonably necessary to maintain the same at all times in a good and sightly condition appropriate to a first-class subdivision and, if such Owner fails to do so, the Owners of other Lots adjoining the Retention Area may take such action as described in (M) below.

F. In determining the fraction of the cost of Maintenance each Owner must contribute, each Lot will be assumed to have but one (1) Owner having an undivided one-fifteenth (1/15) interest in the Retention Area, even if title to a Lot is shared by two (2) or more grantees as tenants by the entirety, joint tenants, tenants in common or otherwise.

G. Every grantee under one (1) ownership shall be jointly and severally liable for the ownership's proportionate share of the costs and expenses of Maintenance.

H. An Owner may serve notice by certified or registered mail to the other Owners surrounding the Retention Area that Maintenance is required.

I. Such notice shall specify and describe the Maintenance needed, estimate the cost thereof and name any contractors solicited or propose a means for performing the work without a contractor.

J. Unless the notified Owners object in writing within thirty (30) days after receipt of said notice the notifying Owner may proceed with the cost-shared Maintenance.

K. If any notified Owner objects in writing to the proposed Maintenance, one (1) or more Owners may bring an action at law or equity for adjudication and judgment shall include reasonable attorneys' fees and costs of such action.

L. Should the Retention Area become incapable of receiving or retaining storm water or if it becomes unsafe or unsanitary for any reason, an Owner may (without giving notice as provided above) proceed with any emergency repairs or Maintenance necessary to render said Retention Area safe and able to serve the purposes for which it was constructed.

M. The costs of repairing any and all damages to the Retention Area caused by equipment and/or vehicles used in the construction of a Residence or other improvements on a Lot, or caused by an Owner's use of the Retention Area, shall not be divided among the Owners of the Lots, but shall be paid for solely by the Owner whose house or other improvements are being constructed, or by the party responsible for such damages arising out of the exercise of rights reserved for the Lot Owners.

N. After completing any work described above, the Owner who performed such work, or who had such work performed, may serve notice by certified or registered mail to the other Owners that satisfactory repairs have been made, and that the total cost thereof has been paid as verified by a copy of a paid receipt attached to said notice, together with any reasonable itemized bill for the total amount of any work performed by the notifying Owner, including labor, material and equipment.

O. The notified Owners shall, within thirty (30) days after receipt of said notice, reimburse the Owner who did the work or had it done, in an amount equal to one-fifteenth (1/15) of the sum of said receipt and said itemized bill, if any, or in an amount equal to one hundred percent (100%) where work was performed to remedy damages described in (M) above.

P. If a notified Owner fails to pay his share within thirty (30) days after receipt of such notice, then said costs and the expenses of collection thereof, shall thereupon become a continuing lien on that Owner's Lot which shall bind such Lot in the hands of the then Owner, devisees, personal representatives and/or assigns.

Q. If the expense is not paid within the said thirty (30) day period, then interest at the rate of twelve percent (12%) per annum may be added to the delinquent balance and the Owner who had the Maintenance done may bring an

action at law against the Owner personally obligated to pay the same or to foreclose the lien against the Lot; and in that event, judgment shall include interest on the total amount as above provided, reasonable attorneys' fees and costs of the action.

R. The lien of the expense provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Lot subject to such expense; provided, however, that such subordination shall apply only to the expenses that become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure.

S. Such sale or transfer shall not relieve such Lot from liability for any expense thereafter becoming due, nor from the lien or any such subsequent expense.

T. Each Owner shall save the other Owners, Willow Pointe, L.P., its partners, employees, agents, contractors, engineers, successors and assigns, harmless from any and all liability and claims for damages due to death or injury to persons or damage to property resulting from acts of the Owner, his contractors and agents.

Section 3. Drainage System. The Drainage System has or will be constructed for the purpose of controlling drainage within and adjacent to the Tract and the occasional discharge thereof to the Retention Area as reasonably required from time to time. Declarant shall maintain the Drainage System in good condition satisfactory for the purpose for which it was constructed until the earlier of December 31, 2000, or the date the Drainage System is accepted as a part of the Public Works of the Town of Plainfield. Each Owner shall be individually liable for the cost of maintenance of any part of the Drainage System located entirely upon his Lot which is devoted exclusively to drainage of their Lot and is not maintained by the Town of Plainfield. Declarant shall not have any liability to an Owner or to any other Person with respect to drainage on, over or under a Lot. Such drainage shall be the responsibility of the Owner of the Lot upon which a Residence is constructed and of the builder of such Residence and an Owner, by an acceptance of a deed to a Lot, shall be deemed to agree to indemnify and hold Declarant free and harmless from and against any and all liability arising from, related to, or in connection with drainage on, over and under the Lot described in such deed. Declarant shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Declarant, and no duty of, or warranty by, Declarant shall be implied by or inferred from any term or provision of this Declaration.

Section 4. The Common Areas, Entry Ways and Landscape Easements. The Common Areas shown on the Plat shall be used only for the purpose of landscaping, signage and fencing installed by Declarant and replaced or supplemented as appropriate by the Association and for the recreation of the Members and their guests. The Association shall maintain the Entry Ways, the Common Areas and the Landscaping Easements appurtenant thereto, and all improvements and plantings thereon, inclusive of signage and fencing, and the Maintenance Costs thereof shall

be assessed as part of the Annual Assessment against all Lots subject to Assessment. In the event the Town of Plainfield should remove or damage said fencing, signage or landscaping as a direct use of any of their easements, the Town of Plainfield shall not be responsible for the necessary repair and/or replacement of those improvements. Grass, trees, shrubs and other plantings located on an Entry Way shall be kept neatly cut, cultivated or trimmed as reasonably required to maintain an attractive entrance to Willow Pointe, or a part thereof. All entrance signs located on an Entry Way shall be maintained at all times in good and sightly condition appropriate to a first-class residential subdivision. The Common Areas shall be maintained to the same standard as that established for Entry Ways. Unless the Board of Directors determines that all or some of the Landscape Easements should be maintained by the Association and the Maintenance Costs thereof assessed as part of the Annual Assessment, the Owner of each Lot upon which a Landscape Easement is located shall at his/her expense keep the grass, trees, shrubs and other plantings located on a Landscape Easement neatly cut, cultivated or trimmed as reasonably necessary to maintain the same at all times in a good and sightly condition appropriate to a first-class residential subdivision and, if such Owner fails to do so, the Association may undertake such maintenance and assess the Maintenance Costs thereof as a special Assessment against such Lot.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION**

Section 1. Membership. Every Owner of a Lot, except as herein provided to the contrary, shall be entitled and required to be a Member of the Association. If title to a Lot is held by more than one (1) person, each of such persons shall be a Member. An Owner of more than one (1) Lot shall be entitled to, and there shall be required, one (1) membership for each such Lot. Each such membership shall be appurtenant to the Lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the title of that Lot. Except as herein otherwise expressly provided, no person or entity other than an Owner or Declarant may be a Member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of title to a Lot.

Section 2. Transfer. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of the record title of a Lot and then only to such transferee, by assignment, intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of each Owner, upon becoming entitled to membership, to so notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a Member, in its sole discretion. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the transferee of title of such Lot, the Association may issue a new membership to the transferee and

thereupon the old membership outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 3. Voting. The Association shall have two (2) classes of voting membership, as follows:

A. **Class A.** Class A Members shall be all Owners of Lots, with the exception of the Declarant prior to termination of Class B membership, and shall be entitled to one (1) vote for each Lot owned 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 holds title to any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot. There can be no split vote. Prior to or at the time of any meeting at which a vote is to be taken, each co-Owner or other person entitled to a vote at such meeting shall file with the secretary of the Association the name of the voting co-Owner or other person entitled to a vote at such meeting, unless such co-Owner or other person has filed a general voting authority with the secretary applicable to all votes until rescinded.

B. **Class B.** Class B Members shall be the Declarant and all successors and assigns of the Declarant designated by the Declarant as Class B Members in a written notice mailed or delivered to the resident agent of the Association. Each Class B Member shall be entitled, on all matters requiring a vote of the membership of the Association, to five (5) votes for each Lot owned by them or it and five (5) votes for each single numbered parcel of land shown upon and identified as a Lot on any recorded Plat of the Real Estate. 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 Association; (ii) one hundred twenty (120) days after ninety-five percent (95%) of the Lots in the Property have been conveyed to Owners other than Declarant; (iii) six (6) years after the date of recording of the first conveyance of a Lot to an Owner other than Declarant (that date being herein referred to as the "Applicable Date"). Declarant shall each be entitled to one (1) Class A membership for each Lot of which it is the Owner on or after the termination of the Class B membership.

Section 4. Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, or shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's right to vote as a Member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

Section 5. Board of Directors. Following the Applicable Date, the Owners shall elect a Board of Directors of the Association as prescribed by the Association's

Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Until the Applicable Date, the Board shall consist of three (3) persons designated by Declarant pursuant to the Articles of Incorporation, as long as it shall own one (1) or more Lots.

**ARTICLE IV
PROPERTY RIGHTS**

Section 1. General Provisions.

A. All easements described in this Declaration are permanent easements appurtenant to and running with the land. They shall at all times inure to the benefit of and be binding on the Owner and the Mortgagee from time to time of any Lots and the Owner and Mortgagee, if any, from time to time of the Common Areas, and their respective heirs, successors, personal representatives and/or assigns.

B. The covenants and Restrictions contained in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to the Declaration, their respective personal representatives, heirs, successors and/or assigns, for an initial term commencing on the date this Declaration is recorded and ending January 1, 2030, after which time the covenants and Restrictions shall be automatically renewed for successive periods of ten (10) years each, as the same may be amended or modified as herein permitted and provided.

Section 2. Right of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Areas limited, however, to and for the uses and purposes for which any portion of the Common Areas is designed and intended. Such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to pass reasonable rules, with respect to the Common Areas, for the health, comfort, safety and welfare of persons using the same;

B. The right of the Association to suspend the voting rights of an Owner for any period during which any Assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published Register of Regulation;

C. The right of the Association to levy Assessments as provided in this Declaration; and

D. The rights of the Association and Declarant reserved under this Article IV or elsewhere in this Declaration.

Section 3. Association's Rights and Obligations.

A. The Association shall have the obligation to manage, repair, maintain, improve and operate the Common Areas, Entry Ways and Landscape Easements, and to perform all additional obligations described in this Declaration. To the extent Willow Pointe has custom street lighting and street signage, the Association shall be responsible for all costs in repairing, maintaining and replacing such custom light fixtures and street signs in the event of loss or damage and the Town of Plainfield shall have no responsibility to provide such custom fixtures. The Association shall assume all operating costs for the custom street lighting over and above that provided by the Town of Plainfield. To assist the Association in these responsibilities, Declarant will provide the Town of Plainfield with two custom stop sign posts of the same style and design as that initially installed in Willow Pointe during development to insure availability of such posts in the event of loss or damage. The Association shall provide the Town of Plainfield additional custom stop sign posts above and beyond the original posts provided by Declarant to replenish such posts in the event of loss or damage.

B. The Association shall have the right to mortgage all or any portion of the Common Areas for the purpose of securing a loan of money to be used for any of the purposes specified in Section 3A hereinabove, provided that the rights of such Mortgagee in the Common Areas shall be subordinate to the rights of the Owners under this Declaration, and subject to the provisions of Article VII, Section 6, hereinbelow.

C. The Association shall have the right to dedicate or transfer all or any part of the Common Areas to any governmental subdivision or public agency or utility, and to grant permits, licenses and easements over the Common Areas for utilities and other purposes necessary or useful for the proper maintenance or operation of the project, subject to Article VII, Section 6B, hereinbelow. The Association may enter into agreements on behalf of the Members for the providing of services and utilities to the Property and/or the Members so long as the rates in such agreement(s) are at or below the prevailing market rate for such services in the greater Indianapolis area, such agreement does not solely benefit the Declarant and in no way should the Board of Directors benefit through the contracts other than by the favorable rates received.

D. The Property shall be subject to easements of record on the date the various portions thereof become subject to this Declaration, and to any easements in the Common Areas which may at any time be granted by Declarant or the Association (subject to the approval referred to in the preceding paragraph) to any public or private utilities or governmental bodies for the installation and

maintenance of electrical and telephone conduit and lines, gas pipes, sewers or water pipes, coaxial cable or any other utility services serving any Lots or the Common Areas.

E. Anything herein apparently to the contrary notwithstanding, except as otherwise expressly herein provided, no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Areas or other common property or any part thereof shall be effective unless approved as specified in Article VII, Section 6, hereinbelow.

Section 4. Declarant's Rights. Declarant shall have the same rights as any other Owner as to Lots owned by it from time to time, except as otherwise specified herein. In addition, until the last single numbered parcel of land shown upon, and identified as a Lot on any recorded Plat(s) of the Real Estate, whether heretofore or hereafter recorded, including the Primary Plat is conveyed to an Owner other than Declarant, or until the Applicable Date (whichever event shall first occur), Declarant shall have the right and easement over the Common Areas for the completion of improvements and making repairs to improvements (whether on the Common Areas, or upon unsold Lots, or upon other portions of the Real Estate, and the right to maintain signs upon the Common Areas and any other portions of the Property other than Lots owned by an Owner other than Declarant) for the purpose of marketing Homes and to invite and escort the public thereon for such purpose.

Section 5. Non-Dedication to Public Uses. Nothing contained in this Declaration or in any subdivision Plat of any part of the Property shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Areas to the public or to or for any public use or purpose whatsoever, all of such Common Areas being reserved to the Owners and the Association as provided in this Declaration, but subject, however, to the rights of the Association and the Declarant to thereafter dedicate portions of such Common Areas to the public or to or for public uses or purposes but only to the extent, and upon all of the conditions, set forth in this Declaration.

Section 6. Title to Common Areas and Retention Area. Declarant hereby covenants that it shall convey and transfer the Common Areas and Retention Area included in and constituting a part of the Real Estate to the Association prior to Declarant's resignation as a Class B member. The Common Areas and Retention Area so conveyed by Declarant to the Association shall, at the time of such conveyance, be subject to all easements, covenants, conditions, limitations and Restrictions then of record, but shall be free and clear of all liens and financial encumbrances other than the lien of the then current non-delinquent installment of real estate taxes and assessments and subsequent installments thereof which shall thereafter be paid when due by the Association.

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ARTICLE V
ASSESSMENTS

Section 1. Personal Obligations. Each Owner of a Lot, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed therein, shall be and is deemed to covenant and agree to pay to the Association: (a) Annual Assessment or charge, which may be payable in regular installments, for the payment or provision of all expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas, Entry Ways and Landscape Easements and all other expenses incurred or to be incurred by the Association for or in connection with the performance by the Association of its duties, obligations and responsibilities under this Declaration, which expenses may include, but shall not be limited to, the expenses and costs of liability insurance for the Common Areas and any other common property; snow removal and trash removal (if provided by the Association); street lighting costs over and above that provided by the Town of Plainfield; and an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Areas and any other property that must be maintained, repaired or replaced on a periodic basis and which the Association may be obligated to maintain, and (b) special Assessments for capital improvements, such Assessments to be established and collected as hereinafter provided. Any Assessment authorized herein, together with interest, costs and reasonable attorneys' fees, shall be a continuing lien from the first day of January (for Annual Assessment) and from the date the first installment is payable (for special Assessments) against the Lot assessed. Such Annual Assessment shall be due and payable in a lump sum in advance of such twelve (12) month periods or if the Association so allows, in twelve (12) equal monthly installments on the first day of each and every month or, if so determined by the Association, in such other periodic installments as may be specified by the Association. Each Assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date said Assessment become due and payable. Said personal obligation of an Owner shall not pass to his successors in title or interest unless expressly assumed by them or unless, prior to such transfer, a written notice of the lien for such Assessments shall have been recorded in the office of the Recorder of Hendricks County, Indiana. No Owner shall escape liability for the Assessments which fell due while he was the Owner by reason of non-use of the Common Areas or non-use, transfer or abandonment of his Lot or Home.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Property, to construct, manage, improve, maintain, repair and administer the Common Areas and for payment of any other costs and expenses incurred by the Association in connection with the performance of its duties, obligations and responsibilities hereunder, including, but not limited to, street lighting, taxes and insurance. An adequate reserve fund shall be maintained

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for working capital and for the periodic maintenance, repair and replacement of those improvements and elements of the Common Areas and any other property that must be replaced on a periodic basis. Such reserve fund shall be maintained out of the regular Annual Assessment.

Section 3. Annual Assessment. Until December 31, 2000, the maximum Annual Assessment shall be at the annual rate of One Hundred Seventy-five Dollars (\$175.00) per lot.

A. From and after December 31, 2000, the maximum Annual Assessment may be increased each year not more than ten percent (10%) above the maximum Assessment permitted for the previous year, on a cumulative basis, without a vote of membership.

B. From and after December 31, 2000, the maximum Annual Assessment may be increased by more than ten percent (10%) above the maximum Assessment permitted for the previous year by a vote of two-thirds (2/3) of the total votes of the Members who are voting in person or by proxy, at a meeting called for this purpose.

C. The Board of Directors may fix the Annual Assessment at any amount not in excess of the maximum permitted hereby.

Section 4. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement or maintenance of the Common Areas or other such property/improvements for which the Association is responsible, provided that any such Assessment shall have the assent of not less than two-thirds (2/3) of the total votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum. Written notice of any meeting of Members called for the purpose of taking any action authorized under Article V, Sections 3 or 4, shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the opening of such meeting, the presence in person or by proxy of Members entitled to cast sixty percent (60%) of the total votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both Annual and special Assessments must be fixed at a uniform rate for all Lots. Annual Assessments shall be collected in a lump

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sum or if the Association so chooses, on a monthly basis (or other periodic basis, if and as determined by the Board) and special Assessments shall be collected as the Board determines. The provisions of this Section are subject to the provisions of Section 13 hereafter.

Section 7. Commencement of Initial Assessment. The Initial Assessment provided for herein shall commence and become due as to each Lot subjected to this Declaration on the day such Lot is conveyed to an Owner other than the Declarant. The Initial Assessment shall be in an amount equal to that being currently assessed on an annual basis by the Association, shall not be prorated, and shall be in lieu of the Annual Assessment for the year such Lot is first conveyed to an Owner by the Declarant.

Section 8. Commencement of Annual Assessment. By November 1st of each year the Board shall fix the amount of Annual Assessment against each Lot for the following calendar year and shall send written notice thereof to each Owner. The due date for payment of Annual Assessment shall be March 15th of each calendar year. At the time the Board fixes the amount of Annual Assessment it shall adopt a budget for the following calendar year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

Section 9. Proof of Payment. Upon written demand of an Owner or Mortgagee, at any time and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid Annual or special Assessments levied against such Owner's or Mortgagee's Lot. Such certificate shall be conclusive evidence of payment of any Annual or special Assessments not stated therein as unpaid.

Section 10. Non-Payment of Assessments. Any Assessments which are not paid when due shall be deemed delinquent. If an Assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate of twelve percent (12%) per annum and shall become a continuing lien in favor of the Association on the Lot against which assessed and the improvements thereon, and the Association may bring an action at law or in equity against the person personally obligated to pay the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such Assessment and included in any judgment rendered in such action, and the Association may also enforce and foreclose any lien it has or which may exist for its benefit.

Section 11. Recording and Enforcement of Liens. To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same and a description of the Lot. Such a notice shall be signed

by an officer of the Association and it or a notice of lien or adverse claim thereof may be recorded in the office of the Recorder of Hendricks County, Indiana.

Section 12. Subordination of Lien. The lien of the Assessments provided for herein shall be subordinate to the lien of any First Mortgage ("First Mortgage") and to tax liens and liens for special assessments in favor of any taxing and assessing unit of government. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or remedies provided in a First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to charges which were payable prior to such sale or transfer. No such sale or transfer shall relieve a Lot from liability for any Assessments thereafter becoming payable or from the lien thereof or shall relieve the person personally obligated to pay the same or from personal liability for Assessments payable prior to such sale or transfer or acquisition. Any delinquent Assessments, the lien for which is extinguished by reason of this provision, may be reallocated and assessed to all Lots as a common expense.

Section 13. Limitations on Assessments Owed by Declarant. Notwithstanding anything to the contrary contained herein, the Declarant shall not be obligated to pay, as to any and all Lots owned by it from time to time, any Assessments (whether regular Annual Assessments or special Assessments) payable hereunder by Owners.

**ARTICLE VI
ARCHITECTURAL CONTROLS**

Section 1. The Architectural Review Board. An Architectural Review Board consisting of two (2) or more persons shall be appointed by the Declarant. Following the end of the Development Period, the Architectural Review Board shall be appointed by the Board of Directors.

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

Section 3. Conditions. Except as otherwise expressly provided in this Declaration, no improvements, alterations, repairs, change of colors, excavations, changes in grade, planting or other work that in any way alters any Lot or the exterior of the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board of a Lot Development Plan therefor. Prior to the commencement by any Owner other than Declarant of (i) construction, erection or alteration of any Home, building, fence, wall, swimming pool, tennis court, patio or other structure on a Lot

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or (ii) any plantings on a Lot, a Lot Development Plan with respect thereto shall be submitted to the Architectural Review Board, and no building, fence, wall, Home, swimming pool, tennis court, patio or other structure shall be commenced, erected, maintained, improved, altered, made or done, or any plantings made, by any person other than Declarant without the prior written approval of the Architectural Review Board of a Lot Development Plan relating to such construction, erection, alteration or plantings. Such approval shall be in addition to, and not in lieu of, all approvals, consents, permits and/or variances required by law from governmental authorities having jurisdiction over Willow Pointe, and no Owner shall undertake any construction activity within Willow Pointe unless all legal requirements have been satisfied. Each Owner shall complete all improvements to a Lot strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. As used in this Section 3, "plantings" does not include flowers, bushes, shrubs or other plants having a height of less than eighteen (18) inches.

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing a Lot Development Plan within fifteen (15) days after notice of such plan has been duly filed with the Architectural Review Board in accordance with procedures established by Declarant, or, if Declarant is no longer a Class B member, the Board of Directors, approval will be deemed denied. A decision of the Architectural Review Board (including a denial resulting from the failure of the Architectural Review Board to act on the plan within the specified period) may be appealed to the Board of Directors, which may reverse or modify such decision (including approval of a Lot Development Plan deemed denied by the failure of the Architectural Review Board to act on such plan within the specified period) by a two-thirds (2/3) vote of the Directors then serving.

Section 5. Guidelines and Standards. The Architectural Review Board shall have the power to establish and modify from time to time such written architectural and landscaping design guidelines and standards as it may deem appropriate to achieve the purpose set forth in Section 2 to the extent that such design guidelines and standards are not in conflict with the specific provisions of the Declaration. Any such guidelines or standards may be appealed to the Board of Directors which may terminate or modify such guideline or standard by a two-thirds (2/3) vote of the Directors then serving.

Section 6. Application of Guidelines and Standards. The Architectural Review Board shall apply the guidelines and standards established pursuant to Section 5 in a fair, uniform and reasonable manner consistent with the discretion inherent in the design review process. In disapproving any Lot Development Plan, the Architectural Review Board shall furnish the applicant with specific reasons for such disapproval and may suggest modifications in such plan which would render the plan acceptable to the Architectural Review Board if resubmitted.

Section 7. Exercise of Discretion. Declarant intends that the members of the Architectural Review Board exercise discretion in the performance of their duties consistent with the provisions of Section 6, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceedings challenging a determination by the Architectural Review Board and in any action initiated to enforce this Declaration in which an abuse of discretion by the Architectural Review Board is raised as a defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Architectural Review Board, could only conclude that such determination constituted an abuse of discretion.

Section 8. Design Consultants. The Architectural Review Board may utilize the services of architectural, engineering and other persons possessing design expertise and experience in evaluating Lot Development Plans. No presumption of any conflict of interest or impropriety shall be drawn or assumed by virtue of the fact that any of such consultants may, from time to time, represent persons filing Lot Development Plans with the Architectural Review Board.

Section 9. Existing Violations of Declaration. The Architectural Review Board shall not be required to consider any Lot Development Plan submitted by an Owner who is, at the time of submission of such Lot Development Plan in violation of the requirements of Section 3 of this Article, unless such Owner submits to the Architectural Review Board with such Lot Development Plan an irrevocable agreement and undertaking (with such surety as the Board may reasonably require) to remove from the Owner's Lot any improvements or landscaping constructed and/or installed prior to the submission or approval of a Lot Development Plan (or constructed and/or installed in violation of a previously approved Lot Development Plan) to the extent any such previously constructed and/or installed improvement or landscaping is not subsequently approved by the Architectural Review Board. The Architectural Review Board shall have the power to recommend to the Board of Directors that the Association assess an architectural control Assessment against any Owner who fails to comply with the requirements of Articles II or X of this Declaration. Under no circumstances shall any action or inaction of the Architectural Review Board be deemed to be unreasonable, arbitrary or capricious if, at the time of such decision, the person having submitted a Lot Development Plan for approval by the Architectural Review Board has violated Articles II or X of this Declaration and such violation remains uncured.

Section 10. Liability of Board. Neither the Architectural Review Board, 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 Board 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 or warranty as to the

suitability or advisability of the design, the engineering, the method of construction involved or the materials to be used.

Section 11. Inspection. Members of the Architectural Review Board may inspect work being performed to assure compliance with these Restrictions and applicable regulations.

ARTICLE VII OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Areas. With the exception of the Retention Area described in Article II, Section 2, the Association, subject to the rights and obligations of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Areas, Entry Ways and Landscape Easements and all improvements (if any) thereon (including equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots) shall include, but not be limited to, the maintenance and repair of the Common Areas, Entry Ways and Landscape Easements and all other improvements or material located within or used in connection with the Common Areas Entry Ways and Landscape Easements.

Section 2. Services. The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration or any proceedings or controversy in which the Board determines it is necessary or advisable to have professional advice. The Association may arrange with others to furnish other common services to each Lot. Any agreement for professional management of the Property, or any other contract providing for services by Declarant or an entity owned or controlled by the same persons as Declarant, must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice and by either party for cause upon thirty (30) days or less written notice and shall have a maximum contract term of one (1) year, but may be renewable by agreement of the parties for successive one (1) year terms.

Section 3. Personal Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a Lot,

provided that an Owner may delegate his right of enjoyment of such personal property (if any) to any resident of his Lot. A transfer of title to a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Lot.

Section 4. Hazard and Liability Insurance for Common Property. The Association shall procure extended coverage insurance on Common Areas, reconstruction of such insurable Common Areas and other common property, including insured improvements. The cost of such insurance shall be assessed as provided in Article V above. Holders of First Mortgages ("First Mortgagees") on Homes, jointly or singly, may pay overdue premiums on hazard insurance policies, or may secure new hazard insurance coverage on the lapse of a policy, for the Common Areas and other common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. The Association is authorized to enter into an agreement in favor of all First Mortgagees of Homes establishing entitlement to such reimbursement.

Section 5. Ownership. The Common Areas, including the Retention Area, shall remain private and neither Declarant's execution or recording of an instrument portraying the Common Areas, nor the doing of any other act by Declarant is, or is intended to be, or shall be construed as a dedication to the public of such Common Areas. Declarant or the Association may, however, dedicate or transfer all of any part of the Common Areas to any public agency, authority or utility for use as roads, utilities, parks or other public purposes.

Section 6. Reserved Rights of the Association. The rights of the Owners to the use and benefits of the Common Areas are subject to the following:

(A) The right of the Association to mortgage any or all of the Common Areas and the facilities constructed thereon for the purposes of improvements to, or repair of, the Common Areas or facilities constructed thereon, pursuant to approval of two-thirds (2/3) of the votes of the Members or two-thirds (2/3) of the Mortgagees (based on one (1) vote for each First Mortgage owned), voting in person or by proxy at a regular meeting of the Association or a meeting duly called for this purpose; and

(B) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility, but no such dedication or transfer shall be effective unless an instrument signed by the appropriate officers of the Association acting pursuant to authority granted by two-thirds (2/3) of the votes of the Members or two-thirds (2/3) of the Mortgagees (based on one (1) vote

for each First Mortgage owned), agreeing to such dedication or transfer, has been recorded.

(C) Damage or Destruction by Owner. In the event the Common Areas are damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or member of his family, such Owner authorizes the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. An amount equal to the costs incurred to effect such repairs shall be assessed against such Owner as a special Assessment and shall constitute a lien upon the Lot of said Owner.

(D) Conveyance of Title. Declarant may retain the legal title to the Common Areas or any portion thereof until such time as it has completed improvements thereon, but notwithstanding any provision herein, the Declarant hereby covenants that it shall convey the Retention Area and Common Areas to the Association, free and clear of all liens and financial encumbrances except as otherwise provided herein, not later than the Applicable Date. Owners shall have all the rights and obligations imposed by this Declaration with respect to such Common Areas prior to conveyance, except that the Association shall not be liable for payment of taxes for such Common Areas until title is conveyed.

Section 7. Limitations on Rights of the Association. Prior to the Applicable Date, the Association may not use its resources nor take a public position in opposition to the General Plan of Development or to changes thereto proposed by Declarant. Nothing in this paragraph shall be construed to limit the rights of the Members acting as individuals or in affiliation with other Members or groups as long as they do not employ the resources of the Association or identify themselves as acting in the name, or on the behalf, of the Association.

Section 8. Approvals by Declarant. Notwithstanding any other provisions hereof, prior to the Applicable Date, the following actions shall require the prior approval of Declarant: dedication or transfer of the Common Areas; mergers and consolidations of the Tract with other real estate; mortgaging of the Common Areas; amendment of this Declaration; and changes in the basis for Assessment or the amount, use and time of payment of the Initial Assessment.

**ARTICLE VIII
EASEMENTS**

Section 1. Plat Easements. In addition to such easements as are created elsewhere in this Declaration and as may be created by Declarant pursuant to written instruments recorded in the office of the Recorder of Hendricks County, Indiana, Lots are subject to Drainage Easements, Utility Easements, Retention Area

Maintenance Easements, Landscape Easements and Non-Access Easements, either separately or in any combination thereof, as shown on the Plat, which are reserved for the use of Declarant, Owners, the Association, the Architectural Review Board, public utility companies and governmental agencies as follows:

A. Drainage Easements (DE) are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of Willow Pointe and adjoining ground and/or public Drainage Systems; and it shall be the individual responsibility of each Owner to maintain the drainage across his own Lot. Under no circumstance shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the waterflow. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage, by Declarant, and by the Architectural Review Board, but neither Declarant nor the Architectural Review Board shall have any duty to undertake any such construction or reconstruction. Said easements are for the mutual use and benefit of the Owners.

B. Utility Easements (UE) are created for the use of Declarant, the Association and all public utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, lines and wires, as well as for all uses specified in the case of sewer easements.

C. Retention Area Maintenance Easements (RAME) are created for the use by the Declarant, the Architectural Review Board, the Association and the Town of Plainfield Department of Public Works, at their election, for access to and maintenance of the Retention Area.

D. Landscape Easements (LE) are created for the use by Declarant, the Architectural Review Board and the Association at their election, for the planting and maintenance of trees, shrubs, plantings, and other decorative structures. The landscaping located within the easement may be maintained by the Association, and the Association shall have an easement of ingress and egress on and over such area for the purpose of maintenance. The landscaping and other improvements planted or installed by the Declarant and/or the Association in this area may not be removed by an Owner, and no fence shall be placed in such area by an Owner, except as approved by the Association

E. Non-Access Easements (NAE) are created to preclude access from certain Lots to abutting rights-of-way across the land subject to such easements. See Article X, Section 10, below.

All easements mentioned herein include the right of reasonable ingress and egress for the exercise of other rights reserved. No structure, including fences, shall be

built on any easement if such structure would interfere with the utilization of such easement for the purpose intended or violate any applicable legal requirement or the terms and conditions of any easement specifically granted to a person who is not an Owner by an instrument recorded in the office of the Recorder of Hendricks County, but a paved driveway necessary to provide access to a Lot from a public street and a sidewalk installed by or at the direction of Declarant (and replacements thereof) shall not be deemed a "structure" for the purpose of this Restriction.

Section 2. General Easement. There is hereby created a blanket easement over, across, through and under the Tract for ingress, egress, installation, replacement, repair and maintenance of underground utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for Declarant or the providing utility or service company to install and maintain facilities and equipment on the Tract and to excavate for such purposes if Declarant or such company restores the disturbed area as nearly as is practicable to the condition in which it was found. No sewers, electrical lines, water lines or other utility service lines or facilities for such utilities may be installed or relocated in the Tract except as proposed and approved by Declarant prior to the conveyance of the first Lot in the Tract to an Owner or by the Architectural Review Board thereafter. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on the Tract without conflicting with the terms hereof. This blanket easement shall in no way affect any other recorded easements on the Tract, shall be limited to improvements as originally constructed and shall not cover any portion of a Lot upon which a Residence has been constructed.

Section 3. Public Health and Safety Easements. An easement is hereby created for the benefit of, and granted to, all police, fire protection, ambulance and all similar persons to enter upon the Common Areas in the performance of their duties.

Section 4. Crossing Underground Easements. Easements utilized for underground service may be crossed by driveways and walkways provided prior arrangements are made with the utility company or public agency furnishing service. Such easements as are actually utilized for underground service shall be kept clear of all other improvements, including buildings, patios or other pavings, other than crossings, driveways and walkways, and neither Declarant nor any utility company or public agency using the easements shall be liable for any damage done by either of them or their assigns, agents, employees or servants to shrubbery, trees, flowers, driveways, or other improvements of the Owner located on the land covered by said easements.

Section 5. Association's Easement to Correct Drainage. For a period of ten (10) years from the date of conveyance of the first Lot in the Tract, Declarant reserves, and hereby assigns to the Association, a blanket easement and right on, over and under the ground within the Tract to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Association shall restore the affected property to its original condition as nearly as practicable. The Association shall give reasonable notice of its intention to take such action to all affected Owners, unless in the opinion of the Association an emergency exists which precludes such notice.

Section 6. Water Retention. The Owner of each Lot, by acceptance of a deed thereto, consents to the temporary storage (detention) of storm water within the Drainage Easements (DE) on such Owner's Lot.

ARTICLE IX USE OF LOTS DURING CONSTRUCTION

Section 1. By Declarant. Notwithstanding any provisions to the contrary contained herein or in any other instrument or agreement, Declarant or its sales agents or contractors may maintain during the period of construction and sale of Lots and Residences in the Tract, upon such portion thereof as is owned or leased by Declarant, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of Lots and Residences, including, but without limiting the generality thereof, a business office, storage area, construction yards, signs, model residences and sales offices.

Section 2. By Builders. Notwithstanding any provisions to the contrary contained herein, a builder who has constructed a Residence in Willow Pointe may, with the prior consent of the Board of Directors, use such Residence as a "model" home and may hold such home open to the public, either individually or as part of a "home show" approved by the Board of Directors for such reasonable period as the Board of Directors may specify. With the approval of Declarant, Lots adjacent to or in proximity to such model home may be used for parking by visitors to such model home.

ARTICLE X GENERAL RESTRICTIONS, OBLIGATIONS AND RIGHTS APPLICABLE TO PROPERTY

Section 1. Home and Lot Restrictions. Lot use will conform with the regulations of the Plainfield Plan Commission unless these covenants are more restrictive, in which case these covenants will control. All Lots are restricted to

residential use except as allowed in Section 41 below. The subdivision of a Lot is prohibited unless said division creates two (2) building sites on three (3) adjoining Lots, which building sites comply with Plainfield zoning and subdivision regulations and with these covenants. Where a Lot is subdivided, or where an Owner acquires adjoining Lots for the purpose of building one (1) Residence across the common lot line, the side lot line set-back restrictions specified in Section 2 below shall not apply to said common lot line. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in Willow Pointe than the number of original Lots depicted on the Plat(s). Construction of buildings across drainage easements and utility easements that coincide with lot lines is prohibited.

Section 2. Building Location. Building set-back lines are established on the Plat. No building may be erected between the building line shown on the Plat and the front lot line, and no structure or part thereof may be built or erected nearer than eight (8) feet to any side lot line or nearer than twenty-five (25) feet to any rear lot line for the primary Residence and ten (10) feet for any outbuilding, except as described in Section 1, above. The aggregate side yard setback shall not be less than twenty (20) feet. Lot Owners and/or their plot plan preparers on Lots 48 through 62, inclusive, shall comply with the flood protection grade requirements as established by the Town of Plainfield. No opening (i.e. doors, windows, crawl space access, etc.) shall be lower than said flood protection grade. Lot Owners and/or their plot plan preparers shall indemnify and hold harmless the Declarant, the Architectural Review Board, or their employees, agents, engineers and surveyors from any liability due to loss, damages, injuries or other casualties of whatever kind resulting from the location, design or method of construction of basements and walk-in entrances thereto that violate town, state and/or federal laws or regulations or disregard potential flooding.

Section 3. Home Size. No Home shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family Residence three (3) stories or less in height. Except as otherwise provided herein, no Residence may be constructed on any Lot unless such Residence, exclusive of open porches, attached garages and basements, shall have a ground floor area of two thousand two hundred (2,200) square feet if a one (1) story structure or one thousand two hundred (1,200) square feet if a higher structure, but in the case of a building higher than one (1) story, there must also be at least eight hundred (800) square feet in addition to the ground floor area and the total floor area shall not be less than two thousand four hundred (2,400) square feet.

Section 4. Exterior Building Finish. Masonite, vinyl and aluminum siding shall not be permitted on any Residence or Lot.

Section 5. Garages. No garage shall be erected on any Lot which is not permanently attached to the Home, and no unenclosed storage area shall be erected. No enclosed storage area shall be erected on any Lot which is not permanently

attached to the Home. Every Residence shall have an attached garage that is at least large enough to shelter the equivalent of two and one-half (2½) automotive vehicles.

Section 6. Outbuildings and Accessory Buildings. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot, except that used by a builder during the construction of a Home, which temporary construction structures shall be promptly removed upon completion of construction of the Home, and also except one (1) gazebo-type structure and/or one (1) in-ground pool accessory building/bath house. Said accessory building/bath house must be erected as a part of and in conjunction with a fence surrounding an in-ground pool as provided for in Section 8 below. Before commencement of its construction, any building permitted by this Section 6 must be approved as to location and design by the Architectural Review Board as described in Section 44 below.

Section 7. Driveways. Residential driveways shall be constructed of portland cement concrete, or other hard-surface materials, such as paving stones; however, driveways between the backs of curbs and street right of way boundaries, as well as sidewalks, shall be constructed only of portland cement concrete. Pavement shall be a minimum of four (4) inches thick, excluding subbase materials. All driveways shall be maintained dust free. If a driveway is approved and constructed upon any easement, the Lot Owner shall be responsible for the repair and maintenance of that driveway.

Section 8. Swimming Pools. No swimming pools, where the water level is either partially or completely above natural ground level, shall be permitted. Any in-ground swimming pool shall be properly fenced or covered to protect the safety of others as required by Section 11 below. Before installation, such pool, fence or cover shall receive Architectural Review Board approval as required by Section 44 below.

Section 9. Solar Heat Panels. No solar heat panels shall be permitted on the Property.

Section 10. Access From Vestal Road. All Lots shall be accessed from the interior streets of the Property. For the purpose of establishing a portion of Vestal Road as a limited access facility, all rights and easements of direct ingress and egress to, from and across Vestal Road to and from lots 1, 2, 20, 39, 40, 41, 42, 43, 44, 45, 46 and 47 are hereby permanently extinguished. However, the Owners of said Lots shall have access rights to Vestal Road via Willow Pointe Drive, Willow Pointe North Drive and Willow Pointe South Drive. This access control covenant shall run with the land and shall be binding on all successors in title to said Lots.

Section 11. Fences, Yard Ornaments and Sight Distances. In no event may any fence be erected or maintained on any Lot without the prior approval of the

Architectural Review Board, which may establish design standards for fences and further Restrictions with respect to fencing, including limitations on (or prohibition of) the installation of fences in the rear yard of a Lot and along the bank of the Retention Area. No fence shall be erected or maintained on or within any Landscape Easement except such as may be installed by Declarant and subsequently replaced by the Association in such manner as to preserve the uniformity of such fence. No chain link fence shall be erected upon a Lot. All fences shall be kept in good repair. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Swimming pools shall be properly fenced to protect the safety of others as required by Section 8, above. Such fences shall not be required if a properly installed automated pool cover is maintained in place that will withstand and support a weight of four hundred (400) pounds or more and satisfies the requirements of all governmental authorities and is kept closed at all times when the pool is not in use or otherwise attended. Fences in easements are prohibited except as permitted in Article II, Section 4. No fence shall be placed on any Lot or boundary thereof that will obstruct reasonable light, air or view, or will otherwise hinder or damage the aesthetics of the subdivision. Fences erected in the front yards of Residences shall be open wood fences of a decorative type not exceeding four (4) feet in height. No yard ornament shall be allowed on any Lot, including, but not limited to metallic balls, concrete statues, etc., without the approval of the Architectural Review Board. No improvements of any kind shall be permitted in a dedicated street right of way, excepting erosion control, driveway entrances, sidewalks, landscaping and mailboxes.

Section 12. Trash. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon.

Section 13. Storage Tanks. Oil, gasoline and other storage tanks shall comply with the laws, rules and regulations of the Indiana State Fire Marshal, the Environmental Protection Agency and all other relevant governmental bodies. No portion of a storage tank shall be placed above ground level.

Section 14. Obstruction. There shall be no obstruction of the Common Areas, Entry Ways and Landscape Easements nor shall anything be kept or stored on any part of the Common Areas, without the prior written consent of the Association, except construction materials and equipment during the construction period or except as specifically provided herein. Nothing shall be altered on, constructed in or

removed from the Common Areas, Entry Ways and Landscape Easements except upon the prior written consent of the Association.

Section 15. Prohibition of Damage and Certain Activities. Nothing shall be done or kept on any Lot or in any Home or on or in any Common Areas or any part thereof which would increase the rate of insurance on the Property or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept on any Lot or in any Home or on or in any Common Areas or any part thereof which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof or of the exterior of the Property and buildings thereon shall be committed by any Owner or any invitee or tenant of any Owner and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees or tenants, to the Association and other Owners. No noxious, destructive or offensive activity shall be allowed in any Homes, on any Lots or in the Common Areas or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any other person at any time lawfully residing on the Property. Barking dogs shall constitute a nuisance.

Section 16. Animals. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in or on any Lot. No more than four (4) household pets, such as cats and dogs, are allowed to be kept or maintained on any Lot, but in no event shall there be more than two (2) of any one (1) type of household pet per Lot. No animal shall be kept, bred or maintained for commercial purposes. Household pets shall be kept quiet so as not to disturb the peace and tranquillity of the neighborhood. No such animal shall be allowed to run at large. Should an animal be walked by leash, any debris or animal waste resulting therefrom shall be cleaned up, removed and disposed of immediately by the owner of said animal. Any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property subject to these Restrictions upon three (3) days' written notice from the Board, and provided further, that upon written request of twenty-five percent (25%) of the voting power of the Association, the Board of Directors shall have the authority to, and shall order the removal of, any pet.

Section 17. Storage. Outside storage of any items, including, but without limiting the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment, yard and garden tools and equipment and trash and garbage containers, shall not be allowed unless screened from view by enclosures so as to be effectively screened from view outside the Lot upon which the same are located. The design of such screened enclosure must be approved by the Association in accordance with the architectural control provisions hereof. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the

growing of any noxious or illegal weed or other natural substance, and the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of residents is prohibited. Usual household trash and garbage shall be regularly collected and may be kept outside only if in sanitary containers which are so screened. Notwithstanding the foregoing, no boats, snowmobiles, recreational vehicles, trailers, camping vehicles, buses, mobile homes, tractor/trailers, trucks, motorcycles, mini-bikes, mopeds, unlicensed, inoperable or damaged vehicles or any other vehicles of any description other than normal passenger automobiles (including station wagons and small trucks such as pickups and vans) shall at any time be stored or parked on any Lot outside of a garage, or on any street within the Property, or on any part of the Common Areas, either permanently or temporarily.

Section 18. Signs. Except for such signs as Declarant may in its absolute discretion display in connection with the development of Willow Pointe and the sale of Lots therein and such signs as may be located on the Common Areas, no sign of any kind shall be displayed to the public view on any Lot except that one (1) sign of not more than nine (9) square feet may be displayed at any time for the purpose of advertising the Property for sale or for rent, or may be displayed by a builder to advertise the Property during construction and sale. A single yard sale or garage sale sign may be displayed by the Owner no more often than two (2) days twice each year.

Section 19. Antennae, Receivers and Satellite Dishes. No satellite receiver, down-link or antenna which is visible from a public way or from any other Lot, and no satellite dish greater than twenty-four (24) inches in diameter, shall be permitted on any Lot without the prior written consent of the Architectural Review Board. Unless consent thereto is granted by a majority of the Owners, the Architectural Review Board shall not give its consent to the installation of any exterior television antenna if television reception is available from underground cable connections serving the Lot, nor shall it give its consent to the installation of any other exterior antenna unless all Owners of Lots within two hundred (200) feet of the Lot upon which the proposed antenna would be erected consent in writing to the installation thereof.

Section 20. Rentals. Any lease between an Owner and a lessee shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing. No Home or Lot may be leased for a period of less than ninety (90) days. Other than the foregoing, there shall be no restrictions on the right of any Owner to lease his Home.

Section 21. Rules and Regulations. The Board may adopt and may amend, modify, rescind and cancel, such other rules and regulations from time to time

governing the use and enjoyment of the Property, including the Common Areas, as the Board, in its sole discretion, deems appropriate or necessary.

Section 22. Temporary Structures. No trailer, motor home, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling.

Section 23. Occupancy or Residential Use of Partially Completed Home Prohibited. No Home shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan. The determination of whether the Home shall have been substantially completed in accordance with the approved building plan shall be made by the Board and such decision shall be binding on all parties.

Section 24. Right to Perform Certain Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his Home and all other areas, features or parts of his Lot. In the event that the Owner of any Lot in the Property shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of this Declaration, Declarant shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements thereon, if any, conform to the requirements of this Declaration. The cost therefor to Declarant shall be collected in a reasonable manner from Owner. Declarant or its agents, employees or contractors shall not be liable for any damage which may result from any maintenance work performed hereunder. Upon the Applicable Date, the Association shall succeed to and be vested with the rights of the Declarant as provided for in this Section.

Section 25. Hunting and Trapping. Hunting and trapping are prohibited in this subdivision.

Section 26. Mailboxes. All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Architectural Review Board. Such mailboxes shall be installed upon posts approved as to type, size and location by the Architectural Review Board.

Section 27. Septic Systems and Sanitary Sewer Connections. No septic tank, absorption field or any other on-site sewage disposal system (other than a lateral main connected to a sanitary sewage collection system operated by the Town of Plainfield or a successor public agency or public utility) shall be installed or maintained on any Lot. Every lateral connecting a Residence and a public or semipublic sanitary sewer shall contain a check valve to prevent backflow. The

installation and perpetual maintenance of such laterals and check valves are the responsibility of the Lot Owners.

Section 28. Water Systems. No private or semi-private water supply system may be located upon any Lot which is not in compliance with regulations or procedures adopted or established by the Indiana State Board of Health or other civil authority having jurisdiction. To the extent that domestic water service is available from a water line located within two hundred (200) feet of the lot line maintained by a public or private utility company, each Owner shall connect to such water line to provide water for domestic use on the Lot and shall pay all connection, availability or other charges lawfully established with respect to connections thereto. Notwithstanding the foregoing, an Owner may establish, maintain and use an irrigation water well on his Lot.

Section 29. Utilities Connection Inspection. All materials and workmanship in the installation of connections between Residences and utility facilities shall be subject to access and inspection by the utility companies having jurisdiction, or by their duly authorized representatives or successors, who shall have the right to require correction of any defects discovered.

Section 30. Sidewalks. Each initial Lot Owner taking title from the Declarant, by acceptance of a deed for his Lot, even if not expressed in said deed, is deemed to covenant and agree to build (at the time of construction of the Residence) and maintain in good condition a concrete sidewalk at the sides of all streets upon which said Lot abuts. Sidewalks shall be constructed within two (2) years of the date of said deed if no Residence is erected on the Lot, or prior to the conveyance of title to another party, whichever first occurs. Said walks shall conform with the lines and grades established by the Board. Each said Owner shall be responsible for grading and finishing yard slopes, erosion control and decorative landscaping as required by the Board for sidewalk construction. Said walks shall conform with the General Plan of Development for the subdivision on file in the office of the Plainfield Plan Commission and shall be placed per Town specifications.

Section 31. Outside Burning. No trash, leaves or other materials shall be burned upon a Lot if smoke therefrom would blow upon any other Lot and then, only in acceptable incinerators and in compliance with all applicable legal requirements.

Section 32. Exterior Lights. No exterior lights shall be erected or maintained between the building line and rear lot line so as to shine or reflect directly upon another Lot.

Section 33. Electric Bug Killers. Electric bug killers, "zappers" and other similar devices shall not be installed at a location or locations which will result in the

operation thereof becoming a nuisance or annoyance to other Owners and shall only be operated when outside activities require the use thereof and not continuously.

Section 34. Air Conditioners. No air condition unit shall be installed so as to protrude from any structure located on a Lot (including, but not limited to, the window of any Residence or garage) if the same would be visible from a public way or any other Lot.

Section 35. Street Numbers. Street numbers shall be uniformly displayed on all Residences and shall be of such type, size, color and material as are prescribed by the Architectural Review Board.

Section 36. Staking. Willow Pointe, L.P. will set lot corner stakes one (1) time. Wherever possible to be driven, corner stakes will consist of three-fourths (3/4) inch metal pipes about thirty (30) inches long set so as to leave about one (1) or more inches of pipe protruding above ground unless a different type of monument appears on the recorded Plat. Laths, with or without flagging, driven beside metal pipe stakes do not constitute corner stakes, but serve only to signalize and identify corner stakes. Said corner stakes will not only furnish a means for determining Lot boundaries, but may aid in the location and orientation of improvements to be constructed on the Lots. Lot Owners shall have charge and care of stakes marking their respective Lots and shall be responsible for their preservation. Since restoration will be at the Lot Owner's expense, said Owners should become familiar with stake locations and do all things necessary to maintain and protect them. Lot Owners may hire Declarant to replace stakes damaged or destroyed from any cause, or may engage any registered land surveyor to perform that work.

Accidental displacement of stakes and laths during the construction of public and private improvements and intentional displacement due to vandalism may cause conflicts between Plat locations and staked locations of lot corners and lines. Neither Willow Point, L.P. nor its engineer or surveyors express or imply any warranty with regard to the correctness of disturbed stakes. Therefore, Lot Owners and their independent contractors, including their engineers and surveyors, together with utility companies who may install facilities according to stakes in place, shall recognize and act not only by the actual notice on the ground to which they are exposed, but also by the constructive notice afforded by the recorded Plat of the subdivision. Before starting any excavation, building or other improvement, Lot Owners shall be responsible for comparing all linear and angular measurements between corner stakes found at the site with such dimension exhibited on said recorded Plat. They shall correct at once any discrepancies discovered in the stakes.

Section 37. Mud Control. Prior to, during or after construction of any improvements on any Lot, the Owner of said Lot or his agents shall construct a driveway or similar graveled or other improved surface on said Lot for the delivery of supplies that will discourage or hinder the tracking of mud or other debris from

the Lot upon public streets. To further prevent vehicles from distributing mud or other debris on the public streets or any area of Willow Pointe, said Owner or his agent shall line the Lot side of any curb adjoining that Lot with bales of straw, appropriate fencing or erect any other barrier to block vehicles leaving the Lot excepting at the driveway or other appropriately surfaced area. Should mud or other debris be distributed on any public street or other area of Willow Pointe, as a result of any activity on any Lot, the Owner of that Lot shall be responsible for the removal of that mud or other material on the date of its placement. The Board may enforce this provision by any mechanism or procedure described in Article XIV, Section 1 below. The Owner further holds Willow Pointe, L.P., its partners, agents, engineers, contractors and the Town of Plainfield, Indiana, harmless from any liability that might result from violation of or failure to conform with this or any other Section of these Restrictive Covenants.

Section 38. Drainage. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of such Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement for such flow of water is provided on the Plat. To the extent not maintained by the Town of Plainfield, "Drainage Easements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage along such swale. Lots within the Tract may be included in a legal drain established by the Drainage Board. In such event, each Lot in the Tract will be subject to assessment by the Drainage Board for the costs of maintenance of the portion of the Drainage System and/or the Retention Area included in such legal drain, which assessment will be a lien against the Lot. The elevation of a Lot shall not be changed so as to affect materially the surface elevation or grade of surrounding Lots. Lots shall be graded so as not to restrict the surface water runoff or cause ponding or stoppage of said runoff over any Lot in this subdivision. To facilitate storm water removal from streets and other areas, the Town of Plainfield Department of Public Works may keep castings of inlets and catch basins free of silt, debris and the accumulation of any other foreign matter. However, if any such casting ponds water because said Town has not cleaned it, it shall be the duty of the Owner or Owners whose Lots contribute storm water to said inlet or catch basins to clean said casting and properly dispose of any obstructing debris. Lot Owners failing to clean said castings shall be solely liable for damages that may result.

Section 39. Crawl Space, Basement and Foundation Drains. No crawl spaces, basements, eaves, troughs, gutters, downspouts or foundation perimeter drains shall be constructed to discharge water onto a street. The design and installation of such drains shall be the responsibility of the Owner, builder, contractor and/or sub-contractor of such mechanisms. Such design shall consider actual site conditions and any restrictions or potential flood routing conditions as provided per the approved General Plan of Development on file with the Town of Plainfield. Lot

Owners, builders, contractors and/or sub-contractors shall indemnify and hold harmless the Declarant, the Architectural Review Board, or their employees, agents, engineers and surveyors from any liability due to loss, damages, injuries or other casualties of whatever kind resulting from the location, design or method of construction of such drains that violate town, state and/or federal laws or regulations or disregard potential flooding.

Section 40. Building Foundation. No Residence shall be constructed on a "slab" foundation. Where a basement is constructed on any Lot in this subdivision, a pump ejector system for withdrawing wastewater from basement facilities, as well as other pumps for foundation drains, may be required.

Section 41. Businesses. No mercantile building shall exist, nor shall any manufacturing, wholesaling, retailing business, church or school operate in this subdivision. Day care and preschool facilities for no more than six (6) children twelve (12) years of age or younger are permitted. Home occupancy businesses engaged in by permanent resident Lot Owners are allowed so long as the activities conform with all laws, ordinances and other governmental regulations, and have no signage, generate no additional vehicular traffic and require no parking spaces beyond those needed by Lot Owners and their immediate families. No signs of any nature, kind or description shall be erected, placed or permitted to remain on any Lot advertising a permitted home occupation.

Section 42. Development and Sale Period. Nothing contained in this Article X shall be construed or interpreted to restrict the activities of Declarant in connection with the development of the Property and sale of Lots. Declarant shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities upon any portion of the Property at any time owned or leased by Declarant, as in the sole opinion of Declarant may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model Residences, construction offices, sales offices and business offices.

Section 43. Landscaping. The Lot Owner shall modify his Lot for human use and enjoyment by grading and decorative planting within sixty (60) days following completion of a house thereon, weather permitting.

Section 44. Lot Development Plans. Prior to commencement of any construction on a Lot, a Lot Development Plan shall be submitted to the Architectural Review Board in accordance with the requirements of Article VI. The Architectural Review Board may require as part of a Lot Development Plan a report of a subsurface soils investigation of the Lot made by a qualified soils engineer, which report shall include recommendations for the foundations of the proposed Residence. Each Owner shall comply with the terms and provisions of

Article VI and the requirements of the Architectural Review Board established pursuant to the authority granted by this Declaration.

(i) Construction and Landscaping. All construction upon, landscaping of and other improvement to a Lot shall be completed strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. All landscaping specified on the landscaping plan approved by the Architectural Review Board shall be installed on the Lot strictly in accordance with such approved plan within sixty (60) days following substantial completion of the Residence unless the Board agrees to a later landscaping completion date. Unless a delay is caused by strikes, war, court injunction or acts of God, the Owner of any Lot, which on the date of purchase from Declarant is not improved with a Residence, shall commence construction of a Residence upon the Lot within three (3) years from said acquisition date and shall complete construction of said Residence within one (1) year after the date of the issuance of a building and improvement location permit by the Town of Plainfield, but in no event later than four (4) years after the date the Owner acquired title to the Lot unless such Lot is adjacent to a Lot upon which the Owner has constructed a Residence in which such Owner permanently resides. If the Owner fails to commence or complete construction of a Residence within the time periods specified herein, or if the Owner should, without Declarant's written approval, sell, convey or otherwise dispose of, the Lot before completion of construction of a Residence on the Lot, then, in any of such events, Declarant or the Association may:

(1) Re-enter the Lot and divest the Owner of title thereto by tendering to the Owner or to the Clerk of the Circuit Court of Hendricks County the lesser of (i) the same net dollar amount as was received by Declarant from such Owner as consideration for the conveyance by Declarant of the Lot, together with such actual costs, if any, as the Owner may prove to have been incurred in connection with the commencement of construction of a Residence on the Lot and (ii) the then fair market value of the Lot, as determined by averaging two (2) appraisals made by qualified appraisers appointed by the Judge of any of the Hendricks County Circuit or Superior Courts;

(2) Obtain injunctive relief to force the Owner to proceed with construction of any Residence, a Lot Development Plan for which has been approved by the Architectural Review Board upon application by such Owner; or

(3) Pursue other remedies at law or in equity as may be available to Declarant.

The failure of the Owner of a Lot to apply for approval of, or receive approval from, the Architectural Review Board of a Lot Development Plan shall not relieve such Owner from his obligation to commence and complete construction of a Residence upon the lot within the time periods specified herein. For the purposes of this subparagraph (i), construction of a Residence will be deemed "commenced" when grading of the building site begins and shall be deemed "completed" when the

exterior of the Residence (including, but not limited to, the foundation, walls, roof, windows, entry doors, gutters, downspouts, exterior trim, paved driveway and landscaping) has been completed in conformity with the Lot Development Plan.

Section 45. Building and Improvement Location Permit. In addition to the approval required in Section 44 above, the Town of Plainfield must issue a building and improvement location permit before any structure, improvement or land use may be altered, changed, placed, erected or located in this subdivision. The Plainfield Plan Commission has approved a soil and water conservation plan (erosion control plan) and a General Plan of Development showing building pad areas, pad elevations, and grading plan with slopes for positive surface drainage therefrom. Prior to the closing of the sale of a Lot from the Declarant to an Owner, that Owner shall inspect his Lot to insure that the Declarant's drainage facilities will remove all free standing water from the surface of the Lot. The Owner shall report at once to the Declarant any deficiencies found. The Owner shall develop his Lot in a way that assures that finished slopes, grades and erosion control measures comply with said General Plan of Development after completion of all improvements and landscaping. Said General Plan of Development may be inspected in the office of said Plainfield Plan Commission during regular office hours. Deviations from the General Plan of Development require prior Board approval and may necessitate a site reevaluation and redesign by a registered professional engineer or registered land surveyor at the time of improvement location permit and certificate of occupancy application, which engineer or surveyor shall certify positive surface drainage and that wastewater will gravity flow from the first floor of the Residence to a sanitary sewer. In the improvement of any Lot, the Owner thereof will be accountable to the Declarant and the Town of Plainfield for damages caused by him or his contractors to drainage facilities built by the Declarant. In the event of such damages, the Owner will be given notice by certified or registered mail to repair said damages, after which time, if no action is taken by the Owner, the Board may use the procedure described in Article XIV, Section 1.

ARTICLE XI RIGHTS FOR THE PROTECTION OF FIRST MORTGAGEES

Section 1. Precedence. The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. Notice of Action. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a First Mortgage on a Lot or Home and the address of such party (a holder of a First Mortgage on a Lot or Home who has so requested such notice shall be referred to herein as an "eligible mortgage holder" and an insurer or governmental guarantor of a First Mortgage on a Lot or Home who has so requested such notice shall be referred to herein as an "eligible insurer or guarantor"), any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

A. Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot or Home on which there is a First Mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

B. Any delinquency in the payment of Assessments or charges owed, or any other default in the performance of any obligation under the Declaration, By-Laws or Articles of Incorporation by an Owner of a Lot or Home subject to a First Mortgage held, insured or guaranteed by such holder or insurer or guarantor, which remains uncured for a period of sixty (60) days;

C. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

D. Any proposed action which would require the consent of a specified percentage of mortgage holders as specified in this Article; and

E. Any default in the performance by the Owner of any obligation under the Declaration or By-Laws which is not cured within sixty (60) days.

Section 3. No Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his Lot or Home will not be subject to any right of first refusal or any similar restriction in favor of the Association or other Owners.

Section 4. Liability for Unpaid Assessments. Any First Mortgagee who obtains title to or comes into possession of a Lot pursuant to the remedies provided in its First Mortgage or by foreclosure of the First Mortgage or by deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale in connection with any such First Mortgage shall not be liable for the unpaid Assessments of the Lot which were payable prior to the acquisition of title to or possession of such lot by the First Mortgagee.

Section 5. Certain Amendments. In addition to other requirements set forth herein, unless at least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of the First Mortgagees of the Lots or their assigns (based upon one (1) vote for each First Mortgage owned), and at least seventy-five percent (75%) (or such higher percentage as is required by law or this Declaration) of the Owners, other than any sponsor, developer or builder, including the Declarant of the Lots (based upon one (1) vote for each Lot owned) have given their prior written approval, neither the Association nor the Owner shall be entitled to:

A. Terminate the legal status of the project (except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation);

B. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas, provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas shall not be deemed such a transfer;

C. Use hazard insurance proceeds for losses to any Common Areas or other common property for other than the repair, replacement or reconstruction of such common property;

D. Add or amend any material provisions of this Declaration which establish, provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the Common Areas;
- (4) Insurance or fidelity bonds;
- (5) Rights to use of the Common Areas;
- (6) Responsibility for maintenance and repair of the several portions of the project;
- (7) Boundaries of any Lot;
- (8) The interests in the general Common Areas;
- (9) Leasing of Lots or Homes;
- (10) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Lot or Home;
- (11) Any provisions which are for the express benefit of First Mortgage holders, eligible mortgage holders or eligible insurers or guarantors of First Mortgages on Lots;

except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation or with respect to a reallocation of interests in the Common Areas which might occur pursuant to any plan of expansion or phased development contained in this Declaration; or

E. By act or omission, change, waive or abandon any scheme or regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of Home(s).

For purposes of this Section, an addition or amendment to such documents shall not be considered material if it is made (i) for the purpose of correcting clerical, typographical or technical errors, (ii) for clarification only, (iii) to comply with requirements of the Federal National Mortgage Association, the Government

National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (iv) to induce any of the agencies or entities mentioned or referred to in subsection (iii) hereinabove to make, purchase, sell, insure or guarantee First Mortgages covering Lots and Home(s), or (v) to bring such documents into compliance with any statutory requirements, and any such addition or amendment to such documents which is so considered not to be material may be made by Declarant acting alone and without the consent, approval or joinder of the Owners, the Association, any First Mortgagees, any other Mortgagees or any other person.

An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 6. Examination of Books and Records. First Mortgagees and holders, insurers and guarantors of First Mortgages shall have the right to examine the books and records of the Association, as set forth more fully in the By-Laws.

Section 7. Payment of Taxes and Insurance. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Areas or other common property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Areas or other common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 8. Designation of Representative. Any holder of a First Mortgage on a Lot or Home may designate a representative to attend meetings of Members, but no such representative shall have any voting privileges unless such voting privileges have been granted to the holder of such First Mortgage by the Owner of the Lot involved.

Section 9. Distribution of Insurance Proceeds and Condemnation Awards. No provision of this Declaration or the By-Laws shall be construed as giving to the Owner or to any other party priority over any rights of First Mortgagees of Lots pursuant to their First Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Areas or other common property.

ARTICLE XII
INSURANCE

Section 1. Maintenance of Insurance. Commencing not later than the time of the first conveyance of a Lot to an Owner other than Declarant, the Association shall maintain, to the extent reasonably available, the following insurance which shall be issued by insurance carriers meeting at least the minimum requirements of, and shall otherwise comply with the requirements of the agencies and entities mentioned or referred to herein, to-wit:

A. Master or blanket type of policy of hazard insurance with extended coverage endorsement (including vandalism, debris removal, cost of demolition, malicious mischief, windstorm and water damage) insuring the Common Areas and Retention Area (including all of the fixtures installed therein). Said policy shall afford, as a minimum, protection against the following:

- (1) Loss or damage by perils normally covered by the standard extended coverage endorsement,
- (2) All other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

The name of the insured under such policies must be set forth therein substantially as follows:

"Willow Pointe Homeowners Association, Inc."

The policies may also be issued in the name of an authorized representative of the Association, including any insurance trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such trustee. Loss payable shall be in favor of the Association (or insurance trustee). Policies must provide for the recognition of any Insurance Trust Agreement.

If reasonably available, such policies shall include:

- (1) Agreed amount endorsement (or like endorsement);
- (2) Inflation guard endorsement;
- (3) All such policies must provide for the following: Recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Owner has other insurance covering the same loss.

B. Worker's compensation, occupational disease and like insurance (if the Association has eligible employees);

C. Comprehensive public liability insurance in such amounts and with such coverage as the Board of Directors shall from time to time determine, but at least:

(1) Covering events occurring anywhere on the Common Areas and Retention Area (and public and private ways) or arising out of or in connection with the use, ownership or maintenance of the Common Areas and Retention Area;

(2) Covering, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Retention Area, and legal liability arising out of lawsuits related to employment contracts of the Association, and such other coverages as are customarily covered with respect to projects similar in construction, location and use;

(3) Insuring each officer and member of the Board of Directors, the managing agent and each Owner and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an Owner for the negligent act of another Owner, occupant or the Association; and

(4) In amounts generally required by private institutional investors for projects similar in construction, location and use. (However, such coverage shall be for at least One Million Dollars (\$1,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence).

D. Such other insurance as the Board of Directors may determine;

E. All such policies must provide that they not be changed or substantially modified by any party without at least ten (10) days' prior written notice to the Association and to each holder of a First Mortgage which is listed as a scheduled holder of a First Mortgage in the insurance policy.

Section 2. Owners' Individual Policies. Each Owner should carry, and shall be responsible for carrying, insurance for his own benefit insuring his personal liability, his Lot, his Home, and other personal property, and fixtures, furniture, furnishings and other personal property, and fixtures and other property supplied or installed by him or a previous Owner or tenant.

Section 3. Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (each of whom shall be referred to

herein as the "insurance trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance. Any insurance trustee must be a corporation or association organized or authorized to do business under the laws of the State of Indiana and authorized and permitted by its charter documents and by state law to conduct a trust business.

Section 4. Insurance Premiums. Insurance premiums for any blanket property insurance coverage, and the other insurance coverages purchased by the Association, shall be common expenses to be paid by Assessments levied by the Association for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

**ARTICLE XIII
EMINENT DOMAIN**

Section 1. The Association shall represent the Owners in any condemnation proceedings and in any negotiations, settlements and agreements with the condemning authority for acquisition of the Retention Area or the Common Areas, or part thereof, and by acceptance of a deed for his, her or its Lot, each Owner appoints the Association as such Owner's agent and attorney-in-fact for such purposes. In the event of a taking or acquisition of part or all of the Retention Areas or the Common Areas by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or other trustee (such as a bank or title insurance company appointed as such by the Association), for the use and benefit of the Owners and their Mortgagees as their interests may appear.

Section 2. Reconstructions. In the event of a partial taking of the Common Areas (or conveyance in lieu thereof) the Association shall promptly cause the remaining portions of the Retention Area or the Common Areas to be restored functionally and aesthetically to reasonably the same condition as before the taking, using so much of the proceeds of such taking for such purpose as shall be reasonably necessary. In the event of a total taking of the Retention Area or the Common Areas (or conveyance in lieu thereof), and the project is terminated by the election hereinabove required, the proceeds shall be allocated equally among each Lot, payable jointly to the Owners and mortgage holders thereof.

**ARTICLE XIV
GENERAL PROVISIONS**

Section 1. Enforcement. The Association, any Owner or Declarant shall have the right to enforce, by proceeding at law or in equity, all Restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, but neither Declarant nor the Association shall be liable for damage of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any person to enforce any

of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or an estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In any action to enforce this Declaration, the person seeking enforcement shall be entitled to recover all costs of enforcement, including attorneys' fees, if it substantially prevails in such action.

Section 2. Severability. Invalidation of any one (1) or more of these covenants or Restrictions by legislation, judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

Section 3. Notices. Any notice required to be sent to any Member of the Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member appearing on the records of the Association at the time of such mailing.

Section 4. Interpretation. The underlined titles preceding the various paragraphs and subparagraphs of this Declaration are for convenience of reference only and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 5. Construction. In the event of an apparent conflict between this Declaration and the By-Laws, the provisions of this Declaration shall govern.

ARTICLE XV
AMENDMENT

Except as hereinafter provided, this Declaration may be amended during the initial term provided above in Article IV, Section 1, by an instrument signed by not less than seventy-five percent (75%) of the Owners and thereafter by an instrument signed by not less than sixty percent (60%) of the Owners. Certain amendments also require additional approval as specified in this Declaration.

The foregoing notwithstanding, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval, as the case may be, so long as Declarant owns a Lot or Lots.

The foregoing notwithstanding, this Declaration may also be amended by Declarant at any time prior to the Applicable Date if it has an ownership interest in the Property.

IN WITNESS WHEREOF, Declarant, as Owner and proprietor of the Real Estate, has caused this document to be executed as of the date first above written. The undersigned person, executing this instrument on behalf of Willow Pointe, L.P., represents and certifies that he is the duly elected representative of Stonebridge, Inc., the General Partner of Willow Pointe, L.P., and has been fully empowered by proper resolution of the Board of Directors of said corporation to execute and deliver this Dedication.

WILLOW POINTE, L.P.

BY: *Paul T. Hardin*
Paul T. Hardin, President of Stonebridge, Inc., General Partner of Willow Pointe, L.P.

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
HENDRICKS COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared Paul T. Hardin, the President of Stonebridge, Inc., the General Partner of Willow Pointe, L.P., who acknowledged the execution of the foregoing covenants, conditions and Restrictions on behalf of Willow Pointe, L.P.

WITNESS my hand and Notarial Seal, this 24th day of April, 2000.

Pamela D. Hughes
Pamela D. Hughes, Notary Public
Residing in Putnam County, Indiana



This instrument was prepared by Russell M. Webb, Jr., Attorney at Law, 10 South East Street, Post Office Box 188, Plainfield, Indiana, 46168, telephone 317-839-8099.

LEGAL DESCRIPTION

Part of the Southwest Quarter of Section 27, together with part of the Southeast Quarter of Section 28, all in Township 15 North, Range 1 East in Guilford Township, Hendricks County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Southwest Quarter section; THENCE North 88 degrees 58 minutes 13 seconds East (assumed bearing) along the North line of said Southwest Quarter section 130.32 feet to the Northeast corner of A.S.A. Acres as recorded in Plat Book 7, Page 28, in the Office of the Recorder, Hendricks County, Indiana; thence continue North 88 degrees 58 minutes 13 seconds East along the last described course 316.79 feet to the centerline of Vestal Road as shown on a Land Title Survey prepared by Hahn Surveying Group, Inc. certified December 18, 1997, under Project No. 971122, the following two (2) courses being along said centerline; thence South 55 degrees 56 minutes 21 seconds East 33.51 feet to the point of curvature of a curve to the right having a radius of 431.35 feet and a delta of 19 degrees 24 minutes 45 seconds, said point bearing North 34 degrees 03 minutes 39 seconds East from the radius point of said curve; thence Southeasterly along the arc of said curve 146.15 feet to the end of said curve, which point bears North 53 degrees 28 minutes 24 seconds East from the radius point of said curve, said point also being the POINT OF BEGINNING of this description; thence South 36 degrees 31 minutes 36 seconds East 113.46 feet to the point of curvature of a curve to the left having a radius of 595.34 feet and a delta of 16 degrees 42 minutes 21 seconds, said point bearing South 53 degrees 28 minutes 24 seconds West from the radius point of said curve; thence Southeasterly along the arc of said curve 173.58 feet to the end of said curve, which point bears South 36 degrees 46 minutes 03 seconds West from the radius point of said curve; thence South 53 degrees 13 minutes 57 seconds East 167.15 feet to the point of curvature of a curve to the right having a radius of 291.34 feet and a delta of 45 degrees 28 minutes 51 seconds, said point bearing North 36 degrees 46 minutes 03 seconds East; thence Southeasterly along the arc of said curve 231.26 feet to the end of said curve, which point bears North 08 degrees 42 minutes 48 seconds West from the radius point of said curve; thence North 81 degrees 17 minutes 12 seconds East 235.89 feet; thence South 00 degrees 33 minutes 12 seconds East 194.92 feet; thence South 00 degrees 21 minutes 39 seconds East 756.43 feet to the Northeast corner of a 2.09 acre parcel conveyed to Plainfield Municipal Improvement Corporation by Warranty Deed recorded in Deed Record 346, Pages 336-338 in said Recorder's Office; thence South 75 degrees 28 minutes 44 seconds West along the Northerly line of said 2.09 acre parcel 638.66 feet; thence South 75 degrees 26 minutes 42 seconds West along the Northerly line of said 2.09 acre parcel 351.05 feet to the Northwest corner of said 2.09 acre parcel; thence North 11 degrees 24 minutes 44 seconds West 6.73 feet to a point on the Southerly line of the real estate conveyed to the Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company December 14, 1929, the deed of which is recorded in Deed Record 136, Page 272 in said Recorder's Office; thence South 75 degrees 26 minutes 42 seconds West on and along the Southerly line of said P.C.C. and St. Louis Railroad real estate 381.40 feet to a point on the Southerly projection of the West line of real estate conveyed to Frank and Fern Bauer by Warranty Deed recorded in

Deed Record 215, Page 97 in said Recorders Office; thence North 04 degrees 56 minutes 47 seconds West on and along said projection and West line of said Bauer real estate 791.16 feet; thence North 35 degrees 23 minutes 06 seconds East 69.53 feet; thence North 77 degrees 28 minutes 53 seconds East 105.07 feet; thence North 17 degrees 13 minutes 21 seconds East 41.39 feet; thence North 04 degrees 45 minutes 42 seconds West 195.78 feet; thence North 16 degrees 38 minutes 23 seconds East 123.52 feet; thence North 29 degrees 10 minutes 09 seconds East 271.41 feet; thence North 02 degrees 07 minutes 31 seconds West 78.35 feet; thence North 88 degrees 58 minutes 13 seconds East 127.54 feet; thence South 81 degrees 43 minutes 48 seconds East 42.77 feet; thence North 52 degrees 45 minutes 46 seconds East 131.73 feet; thence North 75 degrees 02 minutes 47 seconds East 37.90 feet to the POINT OF BEGINNING of this description, containing 36.96 acres, more or less. Subject to all legal highways, rights-of-way and easements of record.

20000009089
Filed for Record in
HENDRICKS COUNTY IN
THERESA D LYNCH
On 04-26-2000 At 03:18 pm.
COVENANTS 105.00
OR Book 172 Page 1595 - 1642