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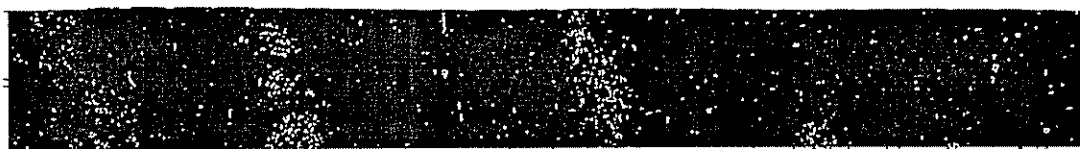
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**MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WINDHAM LAKE DEVELOPMENT HOMEOWNERS, INC.,
WINDHAM LAKE I HOMEOWNERS, INC. AND
WINDHAM LAKE II HOMEOWNERS, INC.**

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MASTER
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
 FOR
THE WINDHAM LAKE DEVELOPMENT

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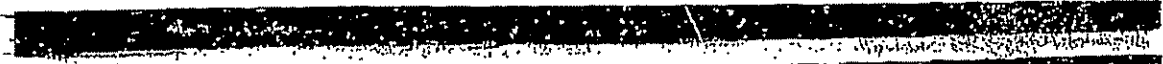
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EXHIBITS

- Exhibit "A" Potential Total Acreage Subject to Declaration
- Exhibit "B" Conceptual Plan Windham Lake Development
- Exhibit "C" Initial Acreage Subject to Declaration (Phase I of Windham Lake I)
- Exhibit "D" Initial Multi-Family Acreage Subject to Declaration
(Block "A" of Windham Lake II)



**MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WINDHAM LAKE DEVELOPMENT HOMEOWNERS, INC.,
WINDHAM LAKE I HOMEOWNERS, INC. AND
WINDHAM LAKE II HOMEOWNERS, INC.**

THIS DECLARATION, made on the date hereinafter set forth by **E F B DEVELOPMENT CO.**, an Indiana General Partnership (hereinafter called "Declarant"), its successors or assigns, having its principal office at 6900 South Gray Road, Indianapolis, Indiana 46237,

WITNESSETH

WHEREAS, Declarant is the owner of certain real estate in Indianapolis, County of Marion, State of Indiana, which is more particularly described on Exhibit "A" (subject to certain Easements for utilities servicing the Properties) attached hereto and made a part hereof. The real estate described on Exhibit "A" is hereinafter called **WINDHAM LAKE, WINDHAM LAKE DEVELOPMENT** or "Properties", and

WHEREAS, the ultimate subject of this Declaration may consist of a development of up to 44 single family detached residences on individual platted lots and up to 104 townhouse condominiums in 23 buildings containing 4 to 6 residential units accessible through the dedicated public streets within the development known as Windham Lake Road and Windham Lake Way (all other streets within the condominium areas being private streets and common areas as hereinafter detailed) and which development is interlaced and interfaced a multitude of bodies of water (Lakes) separated by outfall structures (Lake Outfalls) except for one such lake that is not interconnected to other lakes. Aesthetic treatment is contemplated at the entranceway to the development and on the perimeters associated with Interstate 74 and Dandy Trail. A Conceptual Plan for the proposed development is attached as Exhibit "B" for illustrative purposes only and shall not be controlling as to the final "as built" arrangement of buildings, streets and common areas for the development, and

WHEREAS, the subject of this Declaration embodies the first portion of the single family detached residential lots titled **WINDHAM LAKE I**, attached hereto as Exhibit "C" comprised of 14 divisible lots Also subject to this Declaration is the first segment of the townhouse condominium portion of the development attached hereto as Exhibit "D" and depicted on the Exhibit "B" Conceptual Plan as **BLOCK A**. Both of these legal descriptions include dedicated public streets and common areas for the benefit of all residential property owners subject to this Declaration which common areas will be delineated in detail herein as to location, use, ownership and maintenance.

WHEREAS, it is the intent of Declarant that the single family detached residential portion of the development within the Properties shall have its own organization which shall be designed **WINDHAM LAKE I HOMEOWNERS, INC.** (Windham Lake I) with the townhouse condominium portion of the development also having its own organization which shall be designated **WINDHAM LAKE II HOMEOWNERS, INC.** (**WINDHAM LAKE II**), with the latter to own the Common Areas within the condominium portions of the development and be responsible for the maintenance thereof by mandatory assessments. Further, an umbrella organization designated **WINDHAM LAKE DEVELOPMENT HOMEOWNERS, INC.** (**WINDHAM LAKE DEVELOPMENT** or "ASSOCIATION") which shall own all of the other Common Areas including but not limited to bodies of water (Lakes) and their interconnecting structures (Lake Outfalls), entrance and perimeter areas for aesthetic development landscaping. The umbrella ASSOCIATION shall establish the budgeting and assessment procedures for the maintenance

of these Common Areas of the development. In addition, the "ASSOCIATION" shall handle the billing and collection of assessments established by WINDHAM LAKE I and WINDHAM LAKE II, respectively, as well as such other services that may be agreed upon by them. Where the term "ASSOCIATION" is used in this Declaration hereinafter it shall be deemed to refer to WINDHAM LAKE DEVELOPMENT HOMEOWNERS ASSOCIATION, INC.

The annexation of all or any part of the additional territory contained in Exhibit "A" may be automatically included within this Declaration by a simple Supplemental Declaration as executed and recorded by Declarant, and such action shall require no approvals or other action by either the Owners or Board of Directors of the members of the "ASSOCIATION", WINDHAM LAKE I or WINDHAM LAKE II.

WHEREAS, Declarant intends to develop the Properties in the townhouse condominium portion of the development that will contain Common Area, around the buildings that contain the Condo Lot Units, that are owned by WINDHAM LAKE II to which the Owner of a Dwelling Condominium in the Properties must belong and pay lien-supported maintenance assessments, and

WHEREAS, at the time of the completed development or at any earlier time in the sole judgment of the Declarant, the Properties described in Exhibit "A", excluding the Lots (whether in the single family or condominium portion of the development) and except for the common areas around the condominium buildings in totality or in portions of the common areas shall be conveyed without cost or charge to the "ASSOCIATION".

NOW, THEREFORE, Declarant hereby declares that all of the real estate described in Exhibits "C" and "D" ("D" being BLOCK A of WINDHAM LAKE II) (subject to certain easements servicing the Properties) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real estate and be binding on all parties having any right, title or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

All the Recitals aforesaid are incorporated herein by reference as if set out in full.

Definitions

Section 1. "Declarant" shall mean and refer to E F B DEVELOPMENT CO., its successors and assigns and shall also mean and refer to a successor Declarant(s) by virtue of a written Assignment executed by the successor Declarant and the immediately preceding Declarant as evidenced in such Assignment referring this Declaration and as recorded with the office of the Recorder of Marion County, Indiana.

Section 2. "ASSOCIATION" shall mean WINDHAM LAKE DEVELOPMENT HOMEOWNERS, INC., an Indiana not-for-profit corporation, its successors and assigns.

Section 3. "WINDHAM LAKE I" shall mean WINDHAM LAKE I HOMEOWNERS, INC., an Indiana not-for-profit corporation, its successors and assigns.

Section 4. "WINDHAM LAKE II" shall mean WINDHAM LAKE II HOMEOWNERS, INC., an

Indiana not-for-profit corporation, its successors and assigns.

Section 5. "Owner" shall mean and refer to the record Owner, excluding Declarant, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Properties" shall mean and refer to the certain real estate described on Exhibit "A" (subject to easements servicing the Properties) and such additions thereto as may hereafter be brought within the jurisdiction of the "ASSOCIATION".

Section 7. "Cluster" shall mean an attached housing plan in the condominium portion of the development as approved by the Plat Committee of the Department of Metropolitan Development of the City of Indianapolis consisting of one or more buildings with a number of Lots (units) within each building with interconnecting party walls between each unit. A Cluster includes a group of Lots contained within a Cluster. All area other than the Lot conveyed to an Owner within a Cluster is Initial Cluster-Common Area. (Example - A designated building plus some surrounding realty in BLOCK A would be a CLUSTER with all buildings within BLOCK A and all Common Area in BLOCK A comprising in the aggregate BLOCK A in its entirety.)

Section 8. "Lot" or otherwise designated as "unit", "condo unit" or "condo dwelling unit" in the condominium portion of the development shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area. Each Lot shall contain a single family residential Dwelling. Each Lot in the condominium portion of the Development shall contain an area that exceeds the exterior face of the foundation wall dimensions of the structure by one (1) inch; and shall include the Lot's side of one-half (1/2) of any party wall dividing a dwelling structure on a Lot for any other dwelling structure or Lot. The Final Plat of each Cluster may include for each platted Lot in each Cluster areas specifically reserved for landscape gardening as determined by the Windham Lake II organization. Building setback lines and Lot sizes shall be depicted upon the plat of the single family detached residential portion of the development.

Section 9. "Dwelling" shall mean and refer to single family residence erected on a Lot within the Properties.

Section 10. "Common Area" shall mean all the real estate (including improvements thereto) designated as such on the plats for the common use and enjoyment of their Owners, which shall be owned by the "ASSOCIATION" (Windham Lake Development Homeowners, Inc.) except for the Common Areas noted as Initial Cluster - Common Area and Final Cluster - Common Area which shall be owned by Windham Lake II.

Section 11. "Limited Common Area" shall mean all the real estate (including improvements thereto) owned by the Windham Lake II organization but restricted in use to the Lot appurtenant thereto such as patios, decks, individual condominium driveways and/or parking space(s), as more particularly identified by designation on the plats which shall be incorporated in this Declaration.

Section 12. "Recreational Common Area" shall mean all the real estate that embodies water filled areas and their connecting out fall structures plus adjacent realty thereto owned by the "ASSOCIATION" for the use and benefit of all Owners within all of the Properties.

Section 13. "Aesthetic Common Areas" shall mean all the real estate whose primary purpose is landscaping or identification signage for the development owned by the "ASSOCIATION" for the use and

benefit of all owners within all of the Properties and includes the Landscape Island at the entranceway allowed as an encroachment by the Department of Transportation.

Section 14. "Initial Cluster-Common Area" shall include all the real estate (including improvements thereto), other than Lots, located within each Cluster of the condominium portion of the development as illustrated on the Conceptual Plan (Exhibit "B") but defined on Plat Documents approved by the Plat Committee of the Metropolitan Department of Development of the City of Indianapolis. Declarant reserves the right to relocate the Lots within each Cluster prior to recording the Final Plat Documents for each Cluster approved by the Plat Committee of the Department of Metropolitan Development of Marion County, Indiana. In the event Declarant relocates the Lots within a Cluster, the description of the Initial Cluster-Common Area shall be adjusted accordingly.

Section 15. "Final Cluster-Common Area" the aggregate of all Initial Cluster-Common Areas of those lands remaining in condominium portion of the development, if any, to be conveyed to the WINDHAM LAKE II following platting on the Final Cluster in the condominium portion of the development committed of record to this Declaration.

Section 16. "Phases of Development" means that Declarant contemplates the subject Declaration to be the first of additional phases of the single family detached residential portions of the development with the Declarant also contemplating the addition of a condominium portion of the development to be made subject to this Declaration in the form of separate buildings and surrounding realty to the building (Cluster). All phases of development shall be placed of record not later than ten (10) years from date of recording of the first phase of development, namely Exhibits "C" and "D".

Section 17. "Lake/Lakes" refers to Common Areas designed as Common Area and/or "Block" followed by a letter of the alphabet on recorded plats which are to be owned by the "ASSOCIATION" and designed to contain water with no representation by the DECLARANT as to the water level therein to be maintained. The right to use, limitations to use and maintenance thereof shall be as determined by the "ASSOCIATION" as hereinafter detailed.

Section 18. "Lake Outfalls" (sometime referred to as Waterfalls) refers to structures that interconnect the Lakes which are owned by the "ASSOCIATION". The right to use, limitations to use and maintenance thereof shall be in the "ASSOCIATION" as hereinafter detailed.

Section 19. "Wood Retainer Walls". Portions of the shorelines of the Lake(s) shall contain and embody wood retainer walls, the ownership, maintenance and use thereof shall be in the jurisdiction of the "ASSOCIATION".

Section 20. "Perimeter Fence". A fence may be constructed on the west portion of the development and also on a portion of the south side of the development the type, timing and specific locations thereof to be in the sole judgment of DECLARANT. The ownership, maintenance and use thereof shall be in the control of the "ASSOCIATION".

Section 21. "Condominium" means townhouse construction per lot (unit) in the condominium portion of the development. THE WORD CONDOMINIUM IS USED IN THE GENERIC SENSE AND IN NO WAY IS A REPRESENTATION THAT THE HORIZONTAL PROPERTY REGIME UNDER INDIANA STATUTES APPLIES.

Section 22. "Common Expense(s)". As respects the "ASSOCIATION" or WINDHAM LAKE I or WINDHAM LAKE II this term shall include the expenses of administration of the particular Corporation involved, its expenses for the upkeep, maintenance and repair and replacement of Common Areas titled

in the particular corporation involved, or items specifically reserved for its maintenance and all sums lawfully assessed against the membership of the involved corporation.

ARTICLE II

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the "ASSOCIATION" and of the applicable Windham Lake I or Windham Lake II to suspend the voting rights and the right to the use of any Recreational Common Area by 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 any infraction of the "ASSOCIATION's" and the applicable Windham Lake I or Windham Lake II published rules and regulations;
- b. The right of the "ASSOCIATION" to dedicate or transfer all or any part of the Common Area to any public Agency, authority, or utility for such purposes and subject to such conditions as solely determined by the applicable corporation's Board of Directors without any vote of members being required;
- c. The right of individual Owners to the exclusive use of parking spaces as provided in this Article.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area to the members of his family, his tenants, guests or contract purchasers who reside on a Lot.

Section 3. Parking Rights-Condominium Portion of Development. Ownership of each Lot in this portion of the development may entitle the Owner or Owners thereof to the use of one (1) or more parking spaces, in the area of the common drive immediately in the vicinity of the Lot's parking space. The parking space, if provided, shall be permanently designed by the Windham Lake II for the exclusive use of the Owner of the Lot or his guest or invitee. Additional parking spaces may be provided as part of the Common Area for the use of the guests or invitees of the Owners. The ASSOCIATION may restrict the Owners' rights to use any additional parking spaces not specifically designated for the Owner's use.

Section 4. Property Subject to Declaration. The Properties which are, and may be, held, conveyed, hypothecated or encumbered, sold, rented, used, occupied and improved subject to this Declaration are located in Marion County, State of Indiana, and are more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

Section 5. Title to Initial Cluster-Common Area. Declarant shall convey the Initial Cluster-Common Area in a Cluster in the condominium portion of the development in fee simple absolute to Windham Lake II at the time of the last conveyance of a Lot (unit) in the Cluster but Windham Lake II shall be responsible for the taxes and maintenance responsibility for the common areas in the applicable Cluster commencing with the date of conveyance of the first Lot (unit) in the applicable Cluster.

in the particular corporation involved, or items specifically reserved for its maintenance and all sums lawfully assessed against the membership of the involved corporation.

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- a. The right of the "ASSOCIATION" and of the applicable Windham Lake I or Windham Lake II to suspend the voting rights and the right to the use of any Recreational Common Area by 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 any infraction of the "ASSOCIATION's" and the applicable Windham Lake I or Windham Lake II published rules and regulations;
- b. The right of the "ASSOCIATION" to dedicate or transfer all or any part of the Common Area to any public Agency, authority, or utility for such purposes and subject to such conditions as solely determined by the applicable corporation's Board of Directors without any vote of members being required;
- c. The right of individual Owners to the exclusive use of parking spaces as provided in this Article.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area to the members of his family, his tenants, guests or contract purchasers who reside on a Lot.

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Section 4. Property Subject to Declaration. The Properties which are, and may be, held, conveyed, hypothecated or encumbered, sold, rented, used, occupied and improved subject to this Declaration are located in Marion County, State of Indiana, and are more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

Section 5. Title to Initial Cluster-Common Area. Declarant shall convey the Initial Cluster-Common Area in a Cluster in the condominium portion of the development in fee simple absolute to Windham Lake II at the time of the last conveyance of a Lot (unit) in the Cluster but Windham Lake II shall be responsible for the taxes and maintenance responsibility for the common areas in the applicable Cluster commencing with the date of conveyance of the first Lot (unit) in the applicable Cluster.

ARTICLE III

Membership and Voting Rights

Section 1. Membership. Every Owner of a Lot which is subject to assessment as defined in ARTICLE IV, Section 1, shall be a member of Windham Lake Development Homeowner's Association, Inc. ("ASSOCIATION").

Section 2. Classes of Membership. The "ASSOCIATION" shall have two (2) classes of membership.

- a. **Class A.** Every person, group of persons or entity, other than Declarant, who is a record Owner of a fee interest in any Lot which is or becomes subject, by covenants of record, shall be a member of the "ASSOCIATION"; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member. A Class A membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record owner of a fee interest in any Lot, then the vote for the membership appurtenant to 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 Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.
- b. **Class B.** The Class B member shall be the Declarant who shall be entitled to three (3) votes for each platted and unplatted Lot Owned. For purposes of determining voting rights and duties, it shall be assumed there is a total of not more than one hundred forty-eight (148) platted and unplatted Lots within the Properties and Declarant shall not have the automatic right to plat and record Lots or Clusters in excess of one hundred forty-eight (148) Dwellings without the consent or approval of the ASSOCIATION. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier:
- (i) Thirty (30) days after the total votes outstanding of Class A membership equal the total votes outstanding in Class B membership, or
 - (ii) The date upon which the written resignation of the Class B member is delivered to the ASSOCIATION with copies to Windham Lake I and Windham Lake II.
 - (iii) Ten (10) years after the date of recordation of the plat for Exhibit "C" in the event all of the Lots have not been conveyed to the Owners.

Said date of occurrence hereinafter called "APPLICABLE DATE".

DECLARANT SHALL ONLY BE REQUIRED TO PAY TWENTY-FIVE PERCENT (25%) OF THE REGULAR ASSESSMENTS OF WINDHAM LAKE I HOMEOWNERS, INC. AND WINDHAM LAKE DEVELOPMENT HOMEOWNERS INC. WITH THE COMMENCEMENT DATE OF SUCH PAYMENTS AND THE MAXIMUM OF SAID DECLARANT'S PAYMENTS DETAILED IN THE BY-LAWS OF THE APPLICABLE CORPORATION SAID BY-LAWS BEING INCORPORATED BY REFERENCE.

DECLARANT SHALL ONLY BE REQUIRED TO PAY TWENTY-FIVE PERCENT (25%) OF THE

REGULAR ASSESSMENTS OF WINDHAM LAKE II HOMEOWNERS, INC. ON THE DEVELOPED LOTS (UNITS) COMMENCING WITH THE DATE OF CONVEYANCE OF THE FIRST UNIT IN ANY PLATTED CLUSTER AND CONTINUING UNTIL THE CLASS B MEMBERSHIP CEASES FOR THIS CORPORATION AFTER WHICH DECLARANT SHALL PAY THE FULL REGULAR ASSESSMENT FOR ANY PLATTED LOT (UNIT) FOR PLATTED CLUSTERS ALL AS MORE FULLY DETAILED IN THE BY-LAWS OF THIS CORPORATION WHICH BY-LAWS ARE INCORPORATED BY REFERENCE.

Section 3. Windham Lake I Membership. Every Owner in the single family detached residential portion of the development shall also be a member of Windham Lake I whose function shall be to manage the affairs of the Owners residing therein. Classes of membership in Windham Lake I shall be held in the same manner as set forth in Section 1 and 2, above.

Section 4. Windham Lake II Membership. Every Owner in the condominium portion of the development shall also be a member of Windham Lake II whose function shall be to own and maintain Common Area therein for the mutual use and benefit of Owners and to also manage the affairs of the Owners in that portion of the development. Classes of membership in Windham Lake II shall be held in the same manner as set forth in Section 1 and 2, above.

Section 5. Comity of Voting Rights. Membership and voting rights as defined in this ARTICLE shall be the same for Windham Lake I and Windham Lake II and their respective Articles of Incorporation and By-Laws shall accordingly so provide.

ARTICLE IV

Board of Directors of ASSOCIATION, Windham Lake I and Windham Lake II

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

Section 2. Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated in this Article, to-wit: Bruce Gunstra, Pamela Smith and Jim Keene (hereinafter referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of this Declaration, the organization's Articles or the By-Laws (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type or juridical acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the organization are entitled to vote under the Declaration, the organization's Articles, the By-Laws or otherwise; provided, however, this right to vote granted to Declarant shall not extend to votes of Members (if a vote is required) on matters of Special Assessments, mortgaging Common Area or merger/consolidation of the organization with another organization. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy,

shall be deemed a Member of such organization and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the organization nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of the organization).

Section 2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article, one (1) member of the Board of Directors shall be elected at each annual meeting of the organization. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, and one for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

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

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of its respective organization representing all of the Owners and being responsible for the functions and duties of that organization, including, but not limited to, providing for the administration of its organization, the management, maintenance, repair, upkeep and replacement of the Common Areas owned by the organization as hereinafter delineated (unless the same are otherwise the responsibility or duty of Owners), and the maintenance, repair, upkeep and replacement of such exte. or portions of the Dwelling Units in the condominium portion of the development as designated in this Declaration. The Board may, on behalf of its organization, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary, provided any such management agreement shall be for a term of three (3) years or less and shall provide that any such agreement may be terminated by either party upon ninety (90) days written notice to the other party. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, as defined in such management agreement. The Board's duties as to common areas by its organization and other duties include, but are not limited to:

- (i) protection, surveillance and replacement of the Common Area, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty

shall not include or be deemed or interpreted as a requirement that the organization, its Board or its Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished:

- (ii) procuring of utilities in connection with the Lots and Dwelling Units, removal of garbage and waste, and snow removal from the Common Area;
- (iii) landscaping, painting, decorating, furnishing, maintenance and upkeep of the Common Area, and in the instance of Windham Lake II, the upkeep of such exterior portions of the Dwelling Units as designated in this Declaration;
- (iv) surfacing, paving and maintaining any off-street parking spaces constituting a part of the Common Area;
- (v) assessment and collection from the Owners of each Owner's respective share of the Common Expenses which collection shall be the primary right of the ASSOCIATION;
- (vi) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (vii) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each owner simultaneously with delivery of the proposed annual budget for the current year;
- (viii) keeping a current, accurate and detailed record of receipts and expenditures affecting its Common Area and the business and affairs of the organization, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, By-Laws and Rules) shall be available for examination by an Owner, Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours;
- (ix) procuring and maintaining for the benefit of the organization and its Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (x) paying taxes assessed against and payable with respect to the Common Area and paying any other necessary expenses and costs in connection with the Common Area; and
- (xi) to furnish, upon request of any Mortgagee, insurer or guarantor of first mortgage, a certified financial statement for the immediately preceding fiscal year.

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

- (i) to employ a Managing Agent to assist the Board in performing its duties;
- (ii) to purchase, lease or otherwise obtain for its organization, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors to perform its functions and duties;

- (iii) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the organization;
- (iv) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (v) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (vi) to open and maintain a bank account or accounts in the name of the organization;
- (vii) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of its Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners;
- (viii) to grant permits, licenses and easements over its Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of its jurisdictional area; and
- (ix) For Windham Lake II to enter the Dwelling Unit of any Owner of a condominium in case of any emergency whether the Owner is present at the time or not and in the case of non-emergency repairs to enter the Dwelling Unit provided the request is made in advance and is at a time reasonably convenient to the Owner.

Section 8. Limitation on Board Action. After the Applicable Date, the Board of Directors may enter into contracts without obtaining the prior approval of a majority of the Owners, which include but are not limited to the following:

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

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

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The applicable organization shall indemnify and hold harmless and defend each of its Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board

on behalf of the organization, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors. The organization shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the organization, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relating to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The organization shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the organization to render advice or services unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors may provide blanket fidelity bonds for the Managing Agent (if any), the treasurer of the organization, and such other officers or directors of the organization that handle or are responsible for funds indemnifying the organization against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors (provided, however, in no event shall the aggregate amount of the bond be less than a sum equal to three (3) months aggregate assessments on all Dwelling Units, subject to the organization's jurisdiction and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. Fidelity bonds shall name the organization as an obligee and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. Such bonds shall provide that they may not be cancelled or substantially modified for any reason without at least ten (10) days prior written notice to the organization. The expense of any such bonds shall be a Common Expense.

ARTICLE V

Assessments Re: Association, Windham Lake I and Windham Lake II

Section 1. Creation of the Lien and Personal Obligation Assessments. Each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the "ASSOCIATION" and the applicable Windham Lake I and Windham Lake II, according to where his Lot is located: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

Section 2. Annual Accounting. Annually, after the close of each fiscal year of an organization and prior to the date of the annual meeting of said organization next following the end of such fiscal year, its Board shall cause to be prepared and furnished to each member Owner a financial statement prepared

by a certified public accountant or firm of certified public accountants then servicing the organization, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 3. Proposed Annual Budget. Annually, before the date of the annual meeting of an organization, its Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of its Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the organization for adoption, and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for that organization for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting. The annual budget, the Regular Assessments and all sums assessed by the organization shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget may include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and in the case of Windham Lake II may include such a fund for such exterior portion of the Dwelling Units in the condominium area development as designated in this Declaration, which replacement reserve fund (if established) shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior portion of the Dwelling Units as designated in this Declaration shall be maintained by the applicable organization in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of an organization, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

The budget for annual and special assessments applicable only to Windham Lake I and Windham Lake II, respectively, shall be established by the Windham Lake I and Windham Lake II, respectively, and the sole responsibility of the "ASSOCIATION" shall be the billing, collection and enforcement of such assessments. Budgeting for the "ASSOCIATION" for the Common Area mutually shared by the owners within Windham Lake I and Windham Lake II but owned by the "ASSOCIATION" shall follow the same procedure. For these purposes the "ASSOCIATION" shall maintain separate books of account of the financial affairs of the Windham Lake I and Windham Lake II with the sole right to designate applicable expenses to the organization involved.

Section 4. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to

reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid quarterly in advance commencing on the first day of the first month of each fiscal year and quarterly. Payment of the quarterly installments of the Regular Assessment shall be made as follows:

It is the intent of this Article that the "ASSOCIATION", Windham Lake I and Windham Lake II shall each establish their respective budgets, but the "ASSOCIATION" shall collect same and enforce the lien of assessments as to each of the three legal entities. In so doing, the "ASSOCIATION" shall designate that portion of the assessment applicable to the "ASSOCIATION" and that portion which is applicable to the Windham Lake I or Windham Lake II, according to which Owner holds title to a Lot. Notwithstanding the above, the "ASSOCIATION" in its sole judgment shall determine the practicability of legal proceedings and if it chooses not to pursue the legal remedy to enforce collection of assessment owed the "ASSOCIATION" may delegate the pursuit thereof to the applicable homeowner's corporation involved. The "ASSOCIATION" in its sole judgment may negotiate settlements for outstanding assessments and allocate partial payments deduction expenses for collection in proportion to amounts allocable to the "ASSOCIATION" and the other involved homeowner's corporation.

provided, however, Owners may elect to pay assessments semi-annually or annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget.

- (i) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (ii) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner of the first day of the second quarterly period following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

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

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

Section 5. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that such assessment shall have the assent of two-thirds (2/3) of the votes of EACH CLASS OF MEMBERS who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that the Declarant shall not be any Owner's agent, attorney-in-fact or proxy in this vote heretofore described in this Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 6. Regular Assessments Prior to the Applicable Date. During the period that Declarant is constructing Dwelling Units within the Windham Lake Development, it is difficult to accurately allocate the common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the applicable organization to perform its duties and functions. Accordingly, and notwithstanding any other provision contained in the Declaration, the organization's Articles or the By-Laws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without any meeting or concurrence of the Owners; provided, however, the Regular Assessments shall be determined in accordance with the provisions contained in this Article.

Declarant shall guarantee that until one (1) year after the date of execution of this DECLARATION the Quarterly Regular Assessment, ON AN ANNUALIZED BASIS shall not exceed \$120.00 per year for the ASSOCIATION, \$120.00 per year for Windham Lake I and \$780.00 per year for Windham Lake II (the "Guaranteed Charge"). After this date Declarant guarantees that the yearly Regular Assessment shall not exceed the amount of the Guaranteed Quarterly Charge plus a maximum of a twenty percent (20%) increase in the Guaranteed charge for each year. Such adjustments to the Guaranteed Charge (up to a twenty percent (20%) increase as determined by the Board) shall be made annually on January 1 of each year. Such yearly charge shall during such guaranteed period entirely defray the Owner's obligation for his share of Common Expenses or shall be the Owner's entire Regular Assessment. Declarant shall be responsible for any deficit during such guarantee period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations. Such expenditures would be covered through Special Assessments, or, if sufficient the replacement reserve fund, if any such fund exists.

That portion of the Regular Assessment collected by Declarant prior to the Applicable date applicable to any replacement reserve created shall be held by the Initial Board and if required, applied to the replacement of Common Areas or those portions of Dwelling Units obligated to be repaired and replaced by the applicable organization. To the extent that any such replacement reserve is not so applied, the balance thereof shall be retained by the organization at the Applicable Date.

Payment of Regular Assessment prior to the Applicable Date with respect to each Dwelling Unit (that is not owned by Declarant) shall commence on the date of conveyance by Declarant to such new owner. The first payment shall be payable on the date of conveyance prorated to the first quarterly payment date next ensuing. FOR EACH LOT OR UNIT DECLARANT OWNS DECLARANT SHALL PAY THE PORTION OF ANY REGULAR ASSESSMENT AS DETAILED IN ARTICLE III HEREOF.

Declarant, however, shall not be required to pay assessments on Lots until such time as these Lots are platted, Dwellings erected thereon and the Common Area within such plats is conveyed to the applicable homeowners corporation or said Corporation assume the obligation of taxes, insurance and maintenance of the common areas designated to be owned by a given homeowners corporation.

Section 7. Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments and Special Assessments or from contributing toward the Common Expense or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person the liability of such person shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the applicable Board of Directors for and on behalf of the organization as a mortgage on real property or as otherwise provided by law. Upon the failure of the owner to make timely payments of any Regular Assessment or Special Assessment when due such applicable Board may in its discretion accelerate the entire balance of unpaid assessments the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment of reasonable rental for such Lot and Dwelling Unit and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the organization to be applied to the unpaid Regular Assessments or Special Assessments. The Board may at its option bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. Any action to recover a Regular Assessment or Special Assessment whether by foreclosure or otherwise, the Board for and on behalf of the organization shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to, reasonable attorney's fees) and interest from the date such assessments were due until paid at the rate equal to the prime interest rate then being charged by National Bank of Detroit in Indianapolis to its largest and best corporate customer (or if said bank is no longer in existence then such rate charged by another national bank in Marion County, Indiana selected by the Board of Directors). The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage.

Section 8. Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the organization's Articles or the By-Laws, any sale or transfer of a Lot to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

Section 9. Real Estate Taxes. Real estate taxes are to be separately taxed to each Lot. Real

estate taxes upon Common Area and Limited Common Area shall be paid by Declarant until such time as they are transferred in title to the respective organization which thereafter shall pay such taxes.

Section 10. Utilities. Each Owner shall pay his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expense of the applicable organization unless otherwise determined by the organization.

ARTICLE VI

Party Walls in Windham Lake II ONLY

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Dwelling Unit upon the Tract and which connects two Dwelling Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

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

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

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

Section 5. Right of Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor from another party the Board of Directors of the Corporation shall select an arbitrator for the refusing party.) The cost of the arbitrators shall be borne equally by the parties.

ARTICLE VII

Maintenance Responsibility and Right to Limit Use of Common Areas

Section 1. Common Areas in the Condominium Portion of the Windham Lake

development (including Limited Common Areas). Commencing with the title transfer of the first Lot (unit) in of any platted and recorded Cluster, Windham Lake II shall have the responsibility of maintenance described and the right to govern its use by published rules and regulations the use thereof.

Section 2. All other Common Areas including Recreational and Aesthetic Common Areas, Lake(s), Lake Outfalls, Wood Retainer Walls, Landscape Island and Perimeter Fence. Commencing with the title transfer for the Common Area here described to the "ASSOCIATION" the "ASSOCIATION" shall have the responsibility of maintenance described and the right to govern by published Rules and Regulations the use thereof. Access, Control and Maintenance Easements (A.C.&M.) as shown and designated on recorded plats for the single family detached residential Lots or the Condo Lots are for the benefit of the "ASSOCIATION" and the Department of Public Works of Marion County, Indiana, to access the designated areas for maintenance and/or inspection and to also control what by way of improvements, landscaping and/or aesthetic treatment may occur in these areas which also represent the shoreline of the Lakes.

Since some of the Lot lines of the platted Lots in the single family detached residential areas of the Windham Lake Development extend into certain of the Lakes the use of the Lakes into which such extension take place shall be LIMITED TO THE LAKE OWNERS whose detached single family Lots extend into a given Lake. Enforceable means to deny Condo Lot Owners intrusion into the single family detached Lot Owners property lines located in the Lake is not practical consequently the "ASSOCIATION" can not enforce but will render its assistance to the extent "ASSOCIATION" thinks appropriate to insure respect against such intrusion. In no event shall the right to use the Lake by Condo property owners include the right to use any portion of the shoreline of Lots of the single family detached residences of this Windham Lake Development.

Section 3. Exterior Maintenance and Repairs Condo Dwellings Windham Lake II. In addition to maintenance upon the Common Area with the Condominium portion of the Development the Windham Lake II shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces. Such exterior maintenance shall not include glass surfaces, screens and screen doors, door and window fixtures and other hardware, patios, and such other items as the Board of Directors of Windham Lake II may so designate (unless specifically designated in this Declaration as this organization's obligation) so long as such items of exception shall apply to all units equally. However, Windham Lake II shall be responsible for staining or painting of the exteriors of exterior doors and it shall also be responsible for painting or staining the outside or exterior surfaces of patio fences, if any. Each Owner shall be responsible for maintaining and keeping his Lot and all improvements thereon in a good, clean and sanitary condition and shall do all work thereon which is not required hereunder to be performed by Windham Lake II, including the interiors of patio areas and patio fences. Windham Lake II shall not be responsible for repairing and maintaining any patio fences other than painting or staining the interior unless its Board of Directors shall otherwise provide.

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

If any Owner herein described shall fail so to maintain and keep his property or any part thereof in a good, clean and sanitary condition, Windham Lake II may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by Windham Lake II's lien on the Owner's property.

So long as an Owner's Lot in the condominium portion of the development is subject to this Declaration each Owner, by his acceptance of a deed to any Lot, irrevocably grants to Windham Lake II, its agents and employees, the right to enter upon, across and over such a Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair or other work contemplated herein.

Section 4. Proposed Lot 1 in the Single Family detached residential portion of the Windham Lake Development. The recorded plat of Exhibit "C" which will depict this Lot 1 will also designate a portion thereof "variable landscape easement" (Variable L.E.) which is committed to aesthetic landscaping for the development to be designed and installed by the DECLARANT but with maintenance therefore to be performed by the title owner of said Lot 1. Any alteration, modification or replacement of landscaping materials within this Variable L.E. area shall be at the expense of the title owner of this Lot 1, but subject to the advance written consent of the "ASSOCIATION".

ARTICLE VIII

Insurance

Section 1. Casualty Insurance (Windham Lake II). Windham Lake II shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Dwelling Units and the Common Area in an amount consonant with the full replacement value of the improvements which in whole or in part, comprise the Dwelling Units and Common Area. If its Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. Such insurance coverage shall be for the benefit of each Owner, and if applicable, the Mortgagees of each Owner upon the terms and conditions hereinafter set forth.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by its Corporation as hereinabove set forth shall be paid to it or to the Board of Directors, who shall act as the insurance trustees and hold such proceeds for the benefit of the individual Owners and Mortgagees. The proceeds shall be used or disbursed by this Corporation or Board of Directors, as appropriate, and only in accordance with the provisions of this Declaration and any surety bond or bonds obtained by the Board of Directors concerning the officers of the Corporation as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of such Owner's damaged Dwelling Unit to the damages of all Dwelling Units and Common Area directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are obtainable) contain provisions that the policy of insurance contains an endorsement that such policy shall not be terminated for non-payment of premiums or for any other reason or shall not be substantially modified without at least ten (10) days prior written notice to Mortgagees and at least ten

(10) days prior written notice to Windham Lake II.

Each Owner shall be solely responsible for loss or damage to the contents of his Dwelling Unit however caused (including, but not limited to, all floor, ceiling and wall covers as originally installed or if not available equivalent thereto, and fixtures, betterments and improvements installed by him) but Windham Lake II Corporation shall have no liability to the Owner for loss or damage to the contents of any Dwelling Unit or any personal property stored elsewhere on the Properties. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

Section 3. Public Liability Insurance (Windham Lake I, Windham Lake II & ASSOCIATION). Each Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time but not less than \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover the applicable Corporation, its Board of Directors, any committee or organ of said Corporation or Board, any managing Agent appointed or employed by said Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing, all Owners of Lots within the jurisdiction of the Corporation and all other persons entitled to occupy any Lot or Dwelling Unit therein. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the applicable Corporation or other Owners. Such public liability insurance policy shall contain a provision that such policy shall not be cancelled or substantially modified without at least ten (10) days written notice to the applicable Corporation.

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

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

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Area involving Windham Lake II or the ASSOCIATION. In the event of condemnation of all or any part of the Common Area the referenced Corporation, as owner of the Common Area, shall represent the Owners in any negotiation or

settlement regarding such condemnation. No Owners or any other party shall have priority over any rights of any mortgage pursuant to its mortgage in the case of distribution to such Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area. Notwithstanding the foregoing, under no circumstances shall any Contribution of insurance proceeds or condemnation awards be made by the referenced Corporation to any Owners or Mortgagees if to do so would be in violation of the Indiana Not-For-Profit Corporation Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of said Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by said Corporation for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall have the right to purchase such additional insurance at his own expense as he may deem necessary.

Section 6. Condemnation Awards. All proceeds payable as a result of condemnation shall be paid to the applicable Corporation who shall act as trustee and hold such proceeds for the benefit of the individual Owners and Mortgagees. Such proceeds shall be distributed as provided above.

ARTICLE IX

Casualty of Dwelling Units/Common Areas

Section 1. Restoration of Dwelling Units (Windham Lake II only).

- (1) Damage to or destruction of any Dwelling Unit within the Windham Lake II jurisdiction due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by this Corporation and the proceeds of insurance, if any, shall be applied for that purpose.
- (2) If the insurance proceeds, if any, received by this Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Dwelling Units so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Owners of the Dwelling Units damaged in proportion to the ratio that damages to an Owner's Dwelling unit have to the total damage to all Dwelling Units that are damaged. Any such amounts payable by the Owners of damaged Dwelling Units shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.
- (3) For purposes of subparagraphs (1) and (2) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Dwelling Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.
- (4) Immediately after a fire or other casualty or disaster causing damage to any property for which the Windham Lake II's Board of Directors have the responsibility of maintenance and repair, said Board of Directors shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as this Board of Directors desire.

(6) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against the Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Dwelling Units are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

- (i) If the estimated cost of reconstruction and repair of the Dwelling Units is more than Ten Thousand and 00/100 Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, sub-contractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the said architect for the services and materials described; and (3) that the costs, as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, do not exceed the amount of the construction fund remaining after payment of the sum so requested.
- (ii) Encroachments upon or in favor of Dwelling Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Dwelling Units were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Dwelling Units stand.
- (iii) In the event that there is any surplus of monies in the construction funds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners of the Dwelling Units affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damaged Dwelling Units shall not constitute a waiver of any rights against another Owner for committing wilful or malicious damage.

Section 2. Restoration of Common Area (Windham Lake II & ASSOCIATION. In the event of damage to or destruction of any of the Common Area due to fire or any other casualty or disaster, the applicable Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the applicable Corporation, if any, shall be applied to the cost of such repair and reconstruction.

In the event the insurance proceeds, if any, received by the applicable Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Area, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the applicable Corporation against all of the owners in equal shares. Any such amounts assessed against the Owners shall be assessed

as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

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

ARTICLE X

Mortgagees' Rights

Section 1. Notice of Rights of Mortgagee of a Lot. Upon written request by a mortgagee to the ASSOCIATION or the applicable Windham Lake I or Windham Lake II, mortgagee of a Lot shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of any obligation of the Owner under the Declaration, the By-Laws of the applicable organization or the Articles of Incorporation of said organization. The request for notification can be made by any mortgagee of a Lot, its successors or assigns. The notification shall be sent not later than the sixty-fifth (65th) day after the occurrence of an uncured default.

Section 2. Rights of Mortgagee. Unless at least sixty-six and two-thirds percent (66-2/3%) of the first mortgagees (based upon one vote for each first mortgage owned) and the Class A members have given their prior written approval, the said organizations shall not:

- a. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Properties or Common Area or improvements located thereon which are owned directly or indirectly by the applicable organization for the benefit of the Lots. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Properties by the applicable organization shall not be deemed a transfer within the meaning of this clause.
- b. Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot or Owner.
- c. By act or omission change, waive or abandon any scheme of regulation or enforcement in that portion of the Windham Lake Development designated for condominiums thereof pertaining to the architectural design or exterior appearance of the Dwellings, the exterior maintenance of the Dwellings, the maintenance of party walls or common fences, driveways or the upkeep of lawns and plantings in the Properties.
- d. Fail to maintain fire and extended coverage insurance or insurable common property on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).
- e. Use hazard insurance proceeds for losses to any common property improvements for other than the repair, replacement or reconstruction of such improvements.

Section 3. Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the applicable organization.

Section 4. Taxes and Other Charges. First mortgagees of Dwellings may, jointly or singly,

pay taxes or other charges which are in default and which may or have become a charge against any Common Area or Limited Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common and Limited Common Areas and first mortgagees making such payments shall be owed immediate reimbursement therefor from the applicable organization. Entitlement to such reimbursement shall be reflected in an agreement in favor of all first mortgagees duly executed by such organization, and an original or certified copy of such agreement shall be possessed by the Owner.

Section 5. Insurance Proceeds and Condemnation Awards. No provision of the constituent documents shall give a Lot or Owner or any other party priority over any rights of first mortgagees of Dwellings within the Properties pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area or Limited Common Area.

ARTICLE XI

Architectural Control - Windham Lake I & Windham Lake II

Section 1. The Architectural Review Board. As a standing committee of each of these Corporations, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more persons as may, from time to time, be provided in the By-Laws of the organization. Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors of the applicable organization.

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

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

Section 4. Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a sixty-six and two-thirds percent (66- $\frac{2}{3}$ %) vote of the Directors of said organization then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

Section 5. Maintenance of Architectural Control. Windham Lake I and Windham Lake II may not waive or abandon the procedure for regulating and enforcing the architectural design or in the

case of Windham Lake II exterior appearance of the Condo Dwelling Units nor for maintaining the exterior of the Condo Dwelling Units or the Common Area within the jurisdiction of Windham Lake II (including the upkeep of common fences, driveways, lawns and plantings) without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

ARTICLE XII

Covenants and Restrictions (All Residential Areas and Common Areas)

Section 1. Preface. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Final Plat, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation.

Section 2. Covenants, Conditions and Restrictions. These covenants and restrictions are as follows:

- (a) **Land Use.** The Properties shall be developed and used only for single family attached or detached residential uses and for the use and maintenance of non-commercial recreational facilities constructed as an amenity to and owned in common by the Owners of single family Dwellings thereon.
- (b) **Owner's Liability for Increased Insurance Rates.** Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or on the Common Area which will cause an increase in the rate of insurance on any Dwelling Unit or the contents thereof or on any Common Area. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance on any Dwelling Unit or any part of Common Area, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (c) **Nuisance.** No noxious or offensive trade or activity shall be carried on upon any Lot, within any Dwelling situated upon a Lot, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners. The applicable organization's Board of Directors where the alleged nuisance occurs shall determine what is a nuisance and their determination will be conclusive.
- (d) **Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept in any dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Area, caused by his pet. The tethering of pets in any area outside an Owner's fenced patio does not constitute "attended". The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Properties within ten (10)

days after written notice from the Board to the respective Owner to do so.

- (e) Signs. No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the applicable organization's Board of Directors.

No "for sale", "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Properties, any Lot or any Dwelling Unit without the prior consent of the applicable Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Properties in connection with any unsold or unoccupied Lots and Dwelling Units.

- (f) Outside Display, Trash, etc. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be stored in closed sanitary containers in areas designated by the applicable Corporation, shall be regularly removed from the premises, and shall not be allowed to accumulate on any part of the Properties. Trash may be stored in enclosed containers provided by the Corporation for that purpose. All clotheslines shall be confined to patio areas and shall be below the height of the patio fence. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Area. The Common area shall be kept free and clear of rubbish, debris and other unsightly materials.

Except as hereinafter elsewhere provided, no junk, unlicensed or disabled vehicle, motorcycle, commercial vehicle, trailer, truck, camper or camp truck, house-trailer, boat or the like, shall be kept upon the Properties (except in enclosed garages) nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. Windham Lake II may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like.

- (g) Garage Doors. Garage doors and the doors of any other storage room or the like shall be maintained in a closed position when not being used for immediate ingress and egress.
- (h) Boats, Campers, etc. No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles, trucks (larger than 3/4 ton), motorcycles, mini-bikes, or mopeds shall be permitted, parked or stored anywhere within the Common Areas except as otherwise specifically permitted by the Board. No repair work shall be done on or within the Common Areas on any vehicles, including passenger automobiles.
- (i) Promulgated Rules and Regulations. There shall be no violation of any rules for the Common Area which may, from time to time, be adopted by the Board of Directors of the "ASSOCIATION", or promulgated among the membership by them in writing, and the Board of Directors are hereby and elsewhere in the By-Laws, authorized to adopt such rules. These Rules and Regulations shall include but not be limited to the use of the Lakes for swimming, boating and/or fishing from any shorelines of the Lake.
- (j) Limitations on Renting. No Owner may rent or lease his Dwelling Unit for transient or hotel purposes.

- (k) Requirement for Lease Provision. Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease which shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.
- (l) Separate Lots. Each Dwelling Unit shall be separately platted in such a manner as will permit it to be individually sold as a part of a permanent home community.

Section 3. Declarant's Rights. Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Properties (other than individual Dwelling Units and Lots owned by Persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Properties at any time.

Section 4. Right of 'ASSOCIATION', Windham Lake I and Windham Lake II to Remove or Correct Violations of this ARTICLE. The applicable organization may, in the interest of the general welfare of all the Owners in the applicable area of the organization and after reasonable notice to the Owner, enter upon a Lot or the exterior of any Dwelling at reasonable hours on any day for the purpose of removing or correcting any violations or breach of any attempted violation of any of the covenants and restrictions contained in this ARTICLE, or for the purpose of abating anything herein defined as a prohibited use or nuisance; provided, however, that no such action shall be taken without a resolution of the Board of Directors of the applicable organization.

Section 5. Perpetual Easement for Encroachments - Condominium Area Only. If any part of the Common Area in the condominium portion of the development encroach(es) upon any Lot, or if any Lot or any improvement, building, overhead, fixture or other structure or improvements of whatever type shall for any reason encroach upon any other Lot or upon any portion of the Common Area as a result of the construction of the building or improvements in said area, a valid, perpetual easement for the encroachment and for its maintenance is retained by Declarant for its benefit and for the benefit of the such organization and any Owner whose Lot is affected thereby and shall exist perpetually. In the event the building or the improvement shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings in said area, and then rebuilt, any resulting encroachment shall be permitted, and a valid easement of such encroachment is hereby reserved by Declarant for its benefit and for the benefit of such organization and any Owner whose Lot is affected thereby and shall exist perpetually.

Section 6. Additional Restrictions Upon The Single Family Detached Residential Portion of the Windham Lake Development Only. In order to afford adequate protection to all present and future Owners of Lots in this single family detached portion of the development area, the following protective covenants are established, each and all inuring to the benefit of each and every Owner therein, their heirs, successors and assigns, and shall be binding upon each grantor, his heirs, successors and assigns.

- a. Land Use. No portion of any Lot may be sold or subdivided whereby a greater number of Dwellings may be erected thereon which could exceed the total number of Lots platted.
- b. Dwelling Size. No Dwelling may be constructed on any Lot unless such Dwelling, exclusive of open porches and attached garages, shall have a minimum ground or multiple floor area of 900 square feet of living area in the case of a single story Dwelling and an aggregate floor area of 900 square feet for a multi-story Dwelling but with no less than 360 square feet for its ground floor area.
- c. Building Location. No building may be erected between the building line shown on the recorded plat and the front Lot line; and no structure or part thereof may be built or erected nearer to any side yard line than specified under applicable zoning ordinances. Before construction commences, said grade line shall be physically checked on the Lot and certified by a licensed professional engineer or a licensed land surveyor.
- d. Limitation on Time To Build. Any party other than the Declarant who secures title to a lot in the single family detached residence portions of the overall development agree to complete construction of any residence on or before one (1) year from the date such construction commences on said Lot. Failure to honor this condition/restriction shall establish an Option to Purchase said lot and improvements thereon for cash at an appraised price as hereinafter detailed, exercisable by written notice from Windham Lake I to the owners of said lot within sixty (60) days of the expiration of the aforesaid one (1) year period.

The appraised price shall be agreed upon within ten (10) days of the Lot Owners receipt of the above-written notice and if that is not possible the lot owner and Windham Lake I agree to submit the question of appraised value to appraisal and be bound by same as follows:

- (i) Each party shall select an appraiser and the two appraisers shall select a third, and this third appraiser shall proceed to determine the value of the Lot and improvements. Both parties agree to name their respective appraiser within fifteen (15) days of the date of the aforesaid written notice.
 - (ii) The appraisal shall be made within twenty-five (25) days of the date of the aforesaid notice and the appraiser shall make his report in writing and furnish a copy thereof to each of the parties within five (5) days thereafter.
 - (iii) Each party shall pay one-half (1/2) of the cost of this appraiser and shall be conclusively bound by the appraisers' determination.
- e. Driveways. All Dwelling driveways shall be constructed with a dust-free all-weather surface.
 - f. Fencing. No fence, wall, hedge or shrub planting higher than eighteen (18) inches shall be permitted between the front property line and the front building setback line except where such planting is part of the Dwelling landscaping and the prime root thereof is within four (4) feet of the Dwelling. In any case, no fence shall be erected on or along any Lot line, nor on any Lot, the purpose or result of which will be to obstruct reasonable vision, light or air; and all fences shall be kept in good repair and erected so as to enclose

the Lot or decorate the same without hindrance or obstruction of any other Lot.

- g. Vegetation. Owners shall not permit the growth of weeds and volunteer trees and bushes, and shall keep their Lots reasonably clear from unsightly growth at all times. Failure to comply shall warrant any Owner to cut weeds and clear the Lot of such growth at the expense of the Owner, and such Owner shall have a lien against said Lot for the expense thereof.
- h. Storage Tanks. The use and location of any gas or oil storage tanks used in connection with a Lot shall be subject to the written approval of the Architectural Control Board of Windham Lake I or Windham Lake II depending on which organization has jurisdiction.

ARTICLE XIII

Amendment of Declaration (ASSOCIATION)

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

- (i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.
- (ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors of the ASSOCIATION of Owners having in the aggregate at least a majority of the votes of all Owners.
- (iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws of the ASSOCIATION.
- (iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than a majority in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the ASSOCIATION's Board of Directors in accordance with the provisions hereof.
- (v) Special Amendments. No amendment to this Declaration shall be adopted which changes (a) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same (separately determined by ASSOCIATION, Windham Lake I and Windham Lake II) or (2) (Re: Windham Lake II only) the provisions of this Declaration with respect to casualty insurance or fidelity bonds to be maintained by the Corporation, or (3) (Windham Lake II only) the provisions of this Declaration with respect to reconstruction or repair of the Common Area or Dwelling Units in the event of Fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Architectural Review Board and providing for its functions, or (5) the provisions of this Declaration with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interest have been made known to the Board of Directors in accordance with the provisions of this Declaration.

- (vi) Additional Special Amendments. No amendment to this Declaration shall be adopted which imposes a right to first refusal or similar restriction or which changes (1) the method of voting, or (2) reserves for and responsibility for maintenance, repair and replacement of the Common Area and Dwelling Units, or (3) right to use the Common Area, or (4) annexation of property to Windham Lake Development, or (5) the boundaries of any Dwelling Unit, or (6) termination of the applicability of this Declaration, or (7) any provisions which are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after recording of this Declaration and thereafter at least sixty-six and two-thirds percent (66-2/3%) of the votes of Owners and the consent of Mortgagees holding mortgages on fifty percent (50%) of the Dwelling Units subject to mortgages.
- (vii) Amendments Requiring FHA/VA Approval. As long as there is a Class B membership, the following action will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties (other than as provided in this Declaration), dedication of Common Area and amendment of this Declaration.
- (viii) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.
- (ix) Failure of Mortgagees to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements or (d) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph 24 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. This right of the Declarant to act pursuant to rights reserved or granted as heretofore described shall terminate at such time as the Declarant no longer hold or controls title to any part or portion of the Properties.

Section 3. Amendment Prior to the Applicable Date. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration prior to the applicable Date without the consent and approval of Declarant.

ARTICLE XIV

Annexation

As each phase is developed, Declarant shall record a Supplemental Declaration as hereinbefore described annexing and adding such Phase to this Declaration making it a part of the Windham Lake development. Each Owner, by acceptance of a deed to a home, acknowledges, consents and agrees as to each Supplemental Declaration that is recorded as follows:

- a. The phase described in each Supplemental Declaration shall be governed in all respects by the provisions of this Declaration.
- b. Common Area (including Recreation and/or Aesthetic Common Areas) and Limited Common Area shall automatically be conveyed to the ASSOCIATION, or Windham Lake II as hereinbefore provided.
- c. The recording of a Supplemental Declaration shall not alter the amount of the lien for Common Expenses assessed to a Lot prior to such recording.
- d. Each Owner, by acceptance of the deed conveying his Lot, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each Supplemental Declaration is and shall be deemed to be in accordance with the Law, and for the purposes of this Declaration and the Act, any changes in the conveyance of additional Common Area and Limited Common Area to the "ASSOCIATION" and/or Windham Lake II resulting from any Supplemental Declaration and additional platting shall be deemed to be made by agreement of all Owners.
- e. Each Owner agrees to execute and deliver such documents as are necessary or desirable to cause the provisions of this paragraph to comply with the law as it may be amended from time to time.

In the event Declarant does not annex to Windham Lake development the additional area or any particular phase thereof, as permitted by this paragraph, Declarant shall file a Supplemental Declaration which shall permanently remove that part of the additional area from any right to be made a part of Windham Lake development; provided, however, any phase for which a Supplemental Declaration has not been filed within ten (10) years from date of recordation of the plat of Exhibit "C" hereof, shall automatically be removed from the possibility of becoming a part of Windham Lake development

ARTICLE XV

Enforcement of Covenants and Restrictions

The right to enforce each of the foregoing restrictions by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is reserved to the Declarant, the Owners, their heirs, successors and assigns, who are entitled to such relief without being required to show any damage of any kind, by or through any such violation or attempted violation. The right of enforcement of the covenants is hereby also granted to the Department of Metropolitan Development of Marion County, Indiana, its successors or assigns. In the event of a judgment for violation of any covenant or restriction, the plaintiff shall be entitled to recover his costs laid out and expended together with reasonable attorneys' fees.

ARTICLE XVI

Miscellaneous

Section 1. Severability. Invalidation of any of these covenants and restrictions or any part thereof by judgment or court order shall not affect or render the remainder of said covenants and restrictions invalid or inoperative.

Section 2. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include genders. And the singular shall include and refer to the plural and vice versa as appropriate.

Section 3. Interpretation. The captions and titles of the various articles, section, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

ARTICLE XVII

Grant of Airspace Easement

Declarant has heretofore granted certain rights to the air space which lies 100 feet and beyond the ground of Exhibit "A" real estate, the details of which are contained in a recorded easement recorded as Instrument # 84-05449 in the Office of the Recorder of Marion County, Indiana, and which is incorporated herein by reference for the breadth and depth of rights granted.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 23rd day of February, 1904.

E F B DEVELOPMENT COMPANY
(an Indiana General Partnership)

By Justice Family Limited Partnership No. 1
(an Indiana Limited Partnership)
AS GENERAL PARTNER

By Justice Enterprises Inc.
(an Indiana Corporation)
AS GENERAL PARTNER of Justice
Family Limited Partnership No. 1

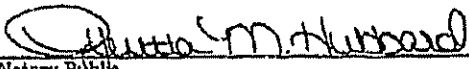
By: Brady R. Justice, Jr.
Brady R. Justice, Jr., President
of Justice Enterprises Inc. (an Indiana Corporation)
who is the General Partner of Justice Family
Limited Partnership No. 1 (an Indiana Limited Partnership)
who in turn is a General Partner of E F B Development
Company, an Indiana General Partnership

STATE OF INDIANA)
) SS:
COUNTY OF)

ACKNOWLEDGMENT

Before me, a Notary Public, in and for said County and State, personally appeared Brady R. Justice, Jr., who acknowledged the execution of the foregoing Master Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that any representations therein are true.

Witness my hand and Notarial Seal this 23rd day of February, 1994.



Notary Public

Genetta M. Hubbard
(Printed)

My Commission Expires:

County of Residence: Johnson

August 16, 1995

Instrument Prepared By:
Raymond Good, #7201-49
SCHNORR, GOOD & SCAHILL
144 North Delaware Street
Indianapolis, IN 46204-2551
317/284-3636

31-A1\windham

LEGAL DESCRIPTION

A PART OF THE SOUTHWEST QUARTER AND PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WAYNE TOWNSHIP, MARION COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 86 DEGREES 47 MINUTES 32 SECONDS WEST, 892.11 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE POINT OF BEGINNING; THENCE SOUTH 43 DEGREES 00 MINUTES 32 SECONDS WEST, 298.04 FEET; THENCE NORTH 46 DEGREES 34 MINUTES 17 SECONDS WEST, 56.43 FEET TO THE POINT OF CURVATURE OF A CURVE HAVING A CENTRAL ANGLE OF 21 DEGREES 01 MINUTES 08 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS NORTH 43 DEGREES 25 MINUTES 43 SECONDS EAST; THENCE ALONG SAID CURVE 84.23 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, THE RADIUS POINT OF THE LATTER CURVE BEARS SOUTH 54 DEGREES 27 MINUTES 48 SECONDS WEST; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID CURVE 29.24 FEET TO THE POINT OF TANGENCY THEREOF; THENCE SOUTH 77 DEGREES 22 MINUTES 23 SECONDS WEST, 98.19 FEET; THENCE NORTH 12 DEGREES 37 MINUTES 37 SECONDS WEST, 74.74 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 75 FEET THE RADIUS POINT OF SAID CURVE BEARS SOUTH 77 DEGREES 22 MINUTES 23 SECONDS WEST FROM SAID POINT; THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE 97.08 FEET; THENCE NORTH 03 DEGREES 12 MINUTES 28 SECONDS EAST 29.00 FEET; THENCE SOUTH 86 DEGREES 47 MINUTES 32 SECONDS EAST 62.61 FEET; THENCE NORTH 03 DEGREES 09 MINUTES 50 SECONDS EAST 83.13 FEET THENCE NORTH 69 DEGREES 56 MINUTES 53 SECONDS WEST, 757.63 FEET; THENCE NORTH 38 DEGREES 10 MINUTES 09 SECONDS WEST, 106.59 FEET; THENCE NORTH 31 DEGREES 26 MINUTES 21 SECONDS EAST, 482.84 FEET; THENCE NORTH 29 DEGREES 41 MINUTES 53 SECONDS EAST, 209.18 FEET; THENCE NORTH 17 DEGREES 53 MINUTES 07 SECONDS WEST, 418.96 FEET TO A NON-TANGENT POINT ON A CURVE HAVING A CENTRAL ANGLE OF 08 DEGREES 36 MINUTES 01 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS NORTH 54 DEGREES 37 MINUTES 47 SECONDS EAST, 3929.72 FEET; THENCE ALONG SAID CURVE 589.86 FEET TO A NON-TANGENT POINT, THE RADIUS POINT OF SAID CURVE BEARS NORTH 48 DEGREES 01 MINUTES 46 SECONDS EAST, 3929.72 FEET; THENCE SOUTH 47 DEGREES 30 MINUTES 18 SECONDS EAST, 102.83 FEET TO A NON-TANGENT POINT ON A CURVE HAVING A CENTRAL ANGLE OF 04 DEGREES 30 MINUTES 00 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS NORTH 44 DEGREES 31 MINUTES 46 SECONDS EAST, 3924.72 FEET; THENCE ALONG SAID CURVE 308.25 FEET TO A NON-TANGENT POINT, THE RADIUS POINT OF SAID CURVE BEARS NORTH 40 DEGREES 01 MINUTES 46 SECONDS EAST, 3924.72 FEET; THENCE SOUTH 53 DEGREES 30 MINUTES 30 SECONDS EAST, 102.80 FEET TO A NON-TANGENT POINT ON A CURVE HAVING A CENTRAL ANGLE OF 05 DEGREES 42 MINUTES 00 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS NORTH 38 DEGREES 31 MINUTES 46 SECONDS, EAST, 3919.72 FEET; THENCE ALONG SAID CURVE 389.95 FEET TO A NON-TANGENT POINT, THE RADIUS POINT OF SAID CURVE BEARS NORTH 32 DEGREES 49 MINUTES 46 SECONDS EAST, 3919.72 FEET; THENCE SOUTH 39 DEGREES 34 MINUTES 10 SECONDS WEST, 497.95 FEET; THENCE SOUTH 39 DEGREES 27 MINUTES 36 SECONDS WEST, 31.00 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION, CONTAINING 25.777 ACRES, MORE OR LESS. SUBJECT TO ALL LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.

EXHIBIT "A"

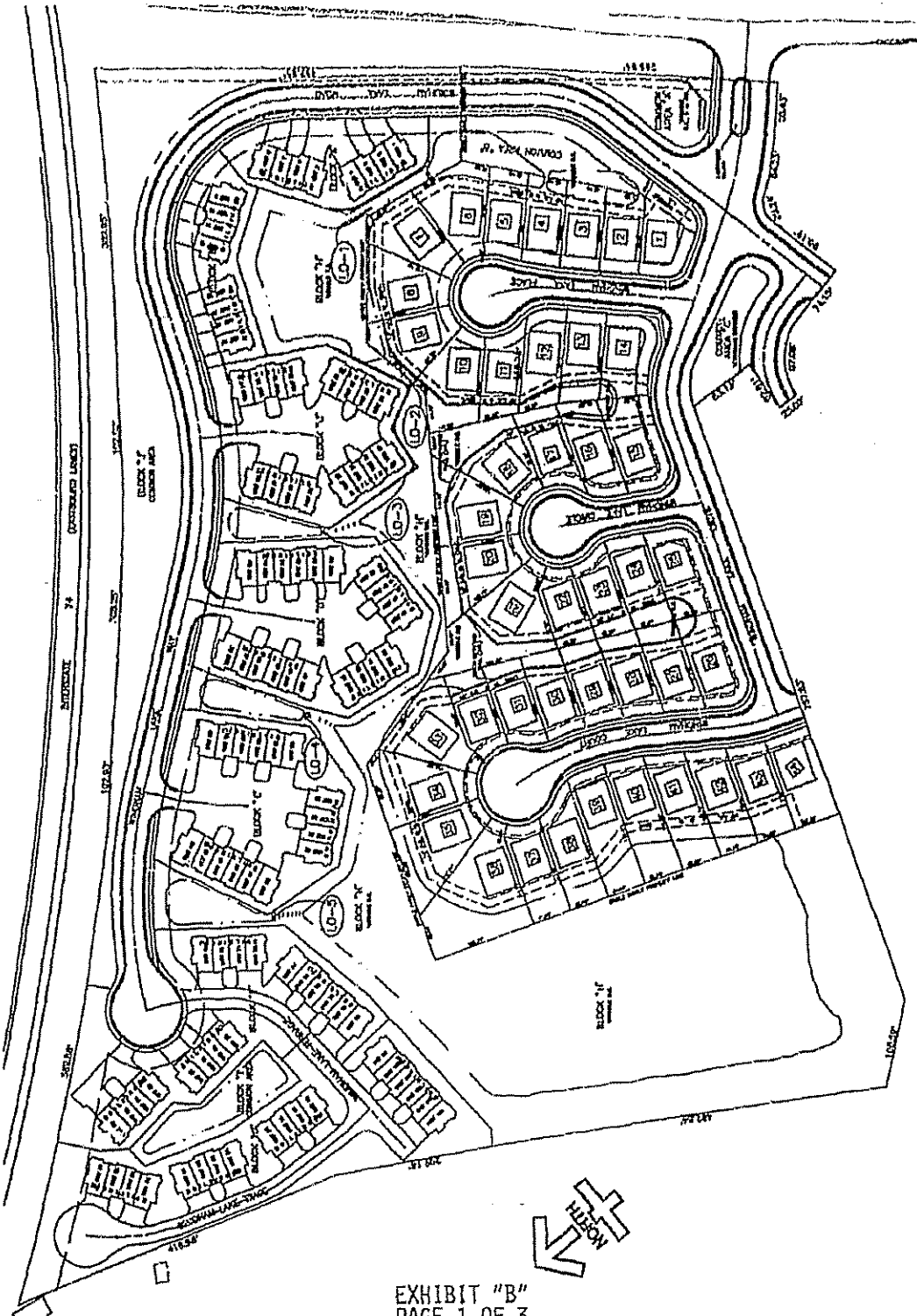


EXHIBIT "B"
PAGE 1 OF 3

CROSS REFERENCE

(BETWEEN RECORDED DECLARATION AND THIS CONCEPTUAL PLAN)

THIS CONCEPTUAL SITE PLAN IS LABELED EXHIBIT "B" IN THE RECORDED MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (DECLARATION) OF:

- WINDHAM LAKE DEVELOPMENT HOMEOWNERS, INC.
- WINDHAM LAKE I HOMEOWNERS, INC.
- WINDHAM LAKE II HOMEOWNERS, INC.

REFERENCE IS MADE TO DEFINITIONS AND/OR WORDS OF IDENTIFICATION IN THE DECLARATION TO CORRELATE THE REFERENCE TO THE ITEM/MATTER AS DEPICTED ON THIS CONCEPTUAL SITE PLAN.

DECLARATION DESCRIPTION

CONCEPTUAL PLAN DESCRIPTION

ART. I SECTION 7 - CLUSTER	} REFERS TO ANY BUILDING IN BLOCK A, B, C, D, E, F & G
ART. I SECTION 14 - INITIAL CLUSTER COMMON AREA	} THE AREA AROUND THE CLUSTER IN EACH OF THE AFORESAID BLOCKS A, B, C, D, E, F & G
ART. I SECTION 15 - FINAL CLUSTER	} THE AGGREGATE OF ALL COMMON AREAS AROUND THE CLUSTERS IN AFORESAID BLOCKS INCLUDE THE LAKE DESIGNATED AS BLOCK "I"
ART. I SECTION 8 - LOT/UNIT	} LOTS 1-44 AS DEPICTED } UNITS 1-104 AS DEPICTED IN THE CONDO AREAS
ART. I SECTION 11 - LIMITED COMMON AREA	} REFERS TO ANY INDIVIDUAL DRIVEWAYS, PATIOS, DECKS OR PARKING SPACES (IF ANY) IN ARTICLE I, SECTION 15
ART. I SECTION 12 - RECREATIONAL COMMON AREA	} BLOCK "H", THE WATER PORTION OF COMMON AREA "B" AND POSSIBLY THE LAND PORTION AREA OF COMMON AREA "B"
ART. I SECTION 13 - AESTHETIC COMMON AREA	} BLOCK "J", COMMON AREA "B" & "C" AND AND THE LAND ONLY PORTION OF COMMON AREA "B"
ART. I SECTION 17 - LAKE/LAKES	} BLOCK "H", AND GENERALLY THE BODY OF WATER IN COMMON AREA "B" AND BLOCK "I"
ART. I SECTION 18 - LAKE OUTFALLS	} THE STRUCTURES INTERCONNECTING WITHIN BLOCK "H" AND LABELED LO - FOLLOWED BY A NUMERAL

ART. I SECTION 19 - RETAINER WALLS } MARKED "WOOD RETAINING WALL (TYP)
) WITHIN BLOCK "H"

ART. VII - ACCESS, CONTROL } DEPICTED AS 10 FT. A C & M EASEMENT
 & MAINTENANCE }
 EASEMENT (A C & M) }
 ON PERIMETER OF LAND }
 SIDE OF LOTS 1-44 IN }
 CONTACT WITH BLOCK }
 "H" }

ART. VII - LANDSCAPE ISLAND } DESIGNATED AS LANDSCAPE ISLAND AT
 (ENCROACHMENT WITH } ENTRANCEWAY
 DEDICATED RIGHT OF }
 WAY) }

ART. VII - SECTION 4-LOT 1 ON } DESIGNATED AS VARIABLE L.E. WITHIN
 WINDHAM LAKE PL. } LOT 1
 VARIABLE LANDSCAPE }
 BASEMENT }

EXHIBITS WITH DECLARATION

EXHIBIT "A" - ALL REAL ESTATE LEGAL

EXHIBIT "B" - CONCEPTUAL

EXHIBIT "C" - WINDHAM LAKE I LEGAL

LEGAL DESCRIPTION
WINDHAM LAKE I-SECTION ONE

A PART OF THE SOUTHWEST QUARTER AND PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 15 NORTH, RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WAYNE TOWNSHIP, MARION COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 86 DEGREES 47 MINUTES 32 SECONDS WEST, 892.11 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE POINT OF BEGINNING; THENCE SOUTH 43 DEGREES 00 MINUTES 32 SECONDS WEST, 298.94 FEET; THENCE NORTH 46 DEGREES 34 MINUTES 17 SECONDS WEST, 56.43 FEET TO THE POINT OF CURVATURE OF A CURVE HAVING A CENTRAL ANGLE OF 21 DEGREES 01 MINUTES 08 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS NORTH 43 DEGREES 25 MINUTES 43 SECONDS EAST; THENCE ALONG SAID CURVE 84.23 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, THE RADIUS POINT OF THE LATTER CURVE BEARS SOUTH 54 DEGREES 27 MINUTES 48 SECONDS WEST; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID CURVE 29.24 FEET TO THE POINT OF TANGENCY THEREOF; THENCE SOUTH 77 DEGREES 22 MINUTES 23 SECONDS WEST, 98.19 FEET; THENCE NORTH 12 DEGREES 37 MINUTES 37 SECONDS WEST, 74.74 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 75 FEET THE RADIUS POINT OF SAID CURVE BEARS SOUTH 77 DEGREES 22 MINUTES 23 SECONDS WEST FROM SAIDPOINT; THENCE NORTHERLY AND WESTERLY ALONG SAID CURVE 97.08 FEET; THENCE NORTH 03 DEGREES 12 MINUTES 28 SECONDS EAST 25.00 FEET; THENCE SOUTH 86 DEGREES 47 MINUTES 32 SECONDS EAST 62.61 FEET; THENCE NORTH 03 DEGREES 09 MINUTES 50 SECONDS EAST 83.13 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 69 DEGREES 56 MINUTES 53 SECONDS WEST FROM SAID POINT; THENCE SOUTHEASTERLY ALONG SAID CURVE 19.00 FEET TO A NON-TANGENT ON SAID CURVE, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 34 DEGREES 34 MINUTES 10 SECONDS WEST FROM SAID POINT; THENCE NORTH 34 DEGREES 34 MINUTES 10 SECONDS EAST, 159.79 FEET; THENCE NORTH 26 DEGREES 56 MINUTES 03 SECONDS EAST, 163.05 FEET; THENCE SOUTH 55 DEGREES 25 MINUTES 50 SECONDS EAST, 47.79 FEET; THENCE NORTH 80 DEGREES 34 MINUTES 10 SECONDS EAST, 94.05 FEET; THENCE SOUTH 50 DEGREES 25 MINUTES 50 SECONDS EAST, 150.00 FEET; THENCE SOUTH 09 DEGREES 34 MINUTES 10 SECONDS WEST, 133.00 FEET; THENCE SOUTH 50 DEGREES 25 MINUTES 50 SECONDS EAST, 112.00 FEET; THENCE SOUTH 39 DEGREES 34 MINUTES 10 SECONDS WEST, 55.00 FEET; THENCE SOUTH 39 DEGREES 27 MINUTES 36 SECONDS WEST, 31.00 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION, CONTAINING 4.194 ACRES, MORE OR LESS. SUBJECT TO ALL LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.

EXHIBIT "C"

LEGAL DESCRIPTION
BLOCK "A"

BLOCK "A" OF WINDHAM LAKE II AS SET FORTH IN THE FINAL CONDITIONAL PLAT OF WINDHAM LAKE II, RECORDED ON DECEMBER 1, 1993, IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, AS INSTRUMENT NO. 93-18182, HAVING, ALSO, THE FOLLOWING METES AND BOUNDS DESCRIPTION:

A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 16 NORTH, RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WAYNE TOWNSHIP, MARION COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 86 DEGREES 47 MINUTES 32 SECONDS WEST, 892.11 FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION; THENCE NORTH 39 DEGREES 27 MINUTES 36 SECONDS EAST, 31.00 FEET; THENCE NORTH 39 DEGREES 34 MINUTES 10 SECONDS EAST, 53.00 FEET; THENCE NORTH 50 DEGREES 25 MINUTES 50 SECONDS WEST, 58.13 FEET; THENCE NORTH 38 DEGREES 46 MINUTES 51 SECONDS EAST, 39.56 FEET TO THE POINT OF BEGINNING; THENCE NORTH 51 DEGREES 13 MINUTES 09 SECONDS WEST, 58.44 FEET; THENCE NORTH 09 DEGREES 34 MINUTES 10 SECONDS EAST, 114.85 FEET; THENCE NORTH 56 DEGREES 04 MINUTES 10 SECONDS EAST, 112.12 FEET; THENCE NORTH 64 DEGREES 12 MINUTES 13 SECONDS EAST, 15.44 FEET; THENCE NORTH 89 DEGREES 12 MINUTES 13 SECONDS EAST, 51.58 FEET TO A POINT ON A NON-TANGENT CURVE HAVING A CENTRAL ANGLE OF 40 DEGREES 01 MINUTES 23 SECONDS, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 88 DEGREES 45 MINUTES 28 SECONDS WEST, 150.00 FEET; THENCE ALONG SAID CURVE 104.24 FEET TO A POINT OF TANGENCY, THE RADIUS POINT OF SAID CURVE BEARS NORTH 51 DEGREES 13 MINUTES 09 SECONDS WEST, 150.00 FEET; THENCE SOUTH 38 DEGREES 46 MINUTES 51 SECONDS WEST, 158.05 FEET TO THE BEGINNING POINT OF THIS DESCRIPTION, CONTAINING 0.482 ACRES, MORE OR LESS. SUBJECT TO ALL LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.

EXHIBIT "D"

6

FIRST AMENDMENT AND FIRST SUPPLEMENT TO DECLARATION

The undersigned, E.F.B. Development Co., an Indiana General Partnership, DECLARANT under the referenced DECLARATION and as title owner of the bulk of real estate, subject to or potentially subject to the Declaration, Bruce Gunstra Builders, Inc., an Indiana Corporation as the only other title owner of the referenced real estate execute this FIRST Amendment and FIRST Supplement to a Master Declaration of Covenants, Conditions and Restrictions of Windham Lake Development Homeowners, Inc., Windham Lake I Homeowners, Inc. and Windham Lake II Homeowners, Inc., recorded as Instrument #94-29001 with the Marion County Recorder on February 23, 1994. (DECLARATION)

WHEREAS, the buying public has demonstrated an interest in having the single family portion of Windham Lake Development (Subject to Windham Lake I) adopt condominium attributes wherein free standing residences on individually owned Lots will be preserved with Windham Lake I assuming certain maintenance responsibilities relative to Lot and exterior portions of the residence; and

WHEREAS, the Declarant chooses to respond to this demonstrated interest by enacting this First Amendment to the DECLARATION to enact defined changes to impart condominium attributes to and within the single family portion of the Windham Lake Development.

WHEREAS, Article XIV of the DECLARATION entitled "Annexation" provides that additional real estate from and within the Exhibit "A" realty (attached to the DECLARATION) could be subjected to the terms and conditions of the DECLARATION with the Exhibit "C" realty (also attached to the DECLARATION) also known as Windham Lake I, Section One, being subject to the DECLARATION as originally recorded with the Marion County Recorder; and

WHEREAS, the DECLARANT desires to subject additional realty to the DECLARATION under Article XIV of the DECLARATION, said additional realty being fully described in Exhibit "D" and Exhibit "E", attached hereto and made a part hereof.

NOW, THEREFORE, the nature of the Amendments to the DECLARATION are as follows:

- (1) The Recitals are incorporated herein as if set out in full.
- (2) Anything to the contrary contained in the DECLARATION notwithstanding the terms and conditions in this First Amendment shall control.
- (3) Re: Yard and Outside Plantings. Windham Lake I shall assume the ongoing obligation of manicuring the grass and original plantings, including the fertilization and reasonable ground insect and weed control, but not the watering of the grass and original plantings, which duty shall remain in the Lot owners.

Windham Lake I obligation aforesaid shall include the replacement of any demised original plantings unless caused by the contributing negligence of the owner of the Lot in which instance the Lot owner shall replace such planting upon written notice from the Architectural Committee and stating the need for timing of plant replacement or bear a special assessment for such replacement being done by Windham Lake I.

In the event the Lot owner seeks to supplement the original plantings and/or establish a vegetable garden said Lot owner shall first seek Architectural Control approval in like manner to structure approval under Item XI of the DECLARATION. An assessment addition to cover the increase in Windham Lake I maintenance obligation shall be a condition of such approval which shall define not only the amount of such supplement addition but also the terms of payment. Any additional assessment shall duplicate the pattern of interest, attorney fees and being subject to the lien set out in Article V of the DECLARATION. All care and maintenance required for any approved vegetable garden shall be the sole responsibility of the Lot owner.

- (4) Re: Exterior Portion of the Residences excluding Glass and Doors, and Patios and Fences. With the exception of the exclusions contained in the title of this sub-section Windham Lake I shall assume the obligation of maintenance of the exterior of the residences in the single family portion of the Windham Lake Development in like manner to that detailed for the multi-family portion of the Windham Lake Development as detailed in Article VII (3) of the DECLARATION. This obligation shall be reflected in the amount of the budget and assessment detailed in Article V of the DECLARATION.
- (5) Insurance. Windham Lake I public liability insurance obligation under Item VIII (2) shall cover the yard and exterior maintenance responsibilities detailed in this First Amendment and, if possible, name the Lot owners as a name insured. Unlike the casualty insurance coverage for the multi-family portion of the Windham Lake Development detailed in Article VIII (1) the Lot owners in the single family portion of the development shall be responsible to secure and maintain fire and extended insurance coverage for the entire residential structure including the exterior irrespective of the maintenance thereof being the Windham Lake I responsibility.
- The Lot owners and Windham Lake I are encouraged to select the same insurance carrier for the aforesaid coverages to avoid potential assertions of a conflict in liability and applicable coverage.
- (6) Declaration. Declarant hereby expressly declares that the realty described in Exhibit "D" (a/k/a Windham Lake II, Block "B") and also described in Exhibit "E" (a/k/a Windham Lake II, Block "C") shall be held, conveyed and transferred in accordance with the provisions of the DECLARATION as if such had originally been included in the DECLARATION and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions and provisions of the DECLARATION as such may be amended from time to time.
- (7) Easements. Regardless of the method of development of any other part of the additional real estate capable of annexation aforesaid and whether or not all or any part of such remaining realty become subject to the DECLARATION, Declarant reserves to itself, its successors and assigns, for the use and benefit of that part of such additional realty not becoming subject to the DECLARATION, the right and easement to enter upon the streets and common area of the realty subject to the DECLARATION to provide ingress and egress to such additional realty capable of annexation.

It is the purpose and intent of the easements herein granted and reserved to provide free and unrestricted use and access across the roadways and streets of the realty subject to the DECLARATION and realty capable of annexation aforesaid no matter how developed, for the owners of same, their guests, invitees, and all public and quasi-public vehicles, including but not limited to, police, fire and emergency vehicles, trash and garbage collections, post office vehicles and privately owned delivery vehicles.

- (8) Acceptance and Ratification. All present and future owners, mortgagees, tenants and occupants of the Exhibit "D" and Exhibit "E" realty shall be subject to and shall comply with the provisions of the DECLARATION, Articles of Incorporation and By-Laws incorporated by reference into the DECLARATION, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot or Unit therein shall constitute an agreement that the provisions of the DECLARATION, the Articles of Incorporation, the By-Laws and rules and regulations, as each may be amended and supplemented from time to time are accepted and ratified by each owner, tenant or occupant and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or Unit as if such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations or other legal entities that may occupy, use, enjoy, or control a Lot or Unit in any manner shall be subject to the DECLARATION, the Articles of Incorporation, the By-Laws and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.
- (9) Plat of Windham Lake II Block "B" and Windham Lake II Block "C". The plat of Windham Lake II Block "B" and Windham Lake II Block "C" is incorporated into the DECLARATION and this First Supplement to the DECLARATION by reference and will be filed in the Office of the Recorder of Marion County, Indiana.

IN WITNESS WHEREOF the undersigned, being the DECLARANT and the title owners of the Exhibit "D" and Exhibit "E" realty detailed in the DECLARATION have hereunto set their hand and seal this 1st day of September, 1994.

E.F.B. DEVELOPMENT COMPANY
(an Indiana General Partnership)

By Justice Family Limited Partnership No. 1
(an Indiana Limited Partnership)
AS GENERAL PARTNER

By Justice Enterprises, Inc.
(an Indiana Corporation)
AS GENERAL PARTNER of Justice
Family Limited Partnership No. 1

By: Brady R. Justice, Jr.
Brady R. Justice, Jr., President
of Justice Enterprises, Inc. (an Indiana Corporation)
who is the General Partner of Justice Family
Limited Partnership No. 1 (an Indiana Limited Partnership)
who in turn is a General Partner of E.F.B. Development
Company, an Indiana General Partnership


BRUCE GUNSTRA BUILDERS, INC.

By: Bruce A. Gunstra
Bruce A. Gunstra, President

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, personally appeared Brady R. Justice, Jr., President of Justice Enterprises, Inc., who acknowledged the execution of the foregoing First Amendment to Declaration this 1st day of September, 1994.


Notary Public

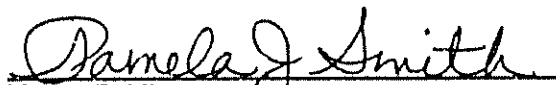
Genetta M. Hubbard
(Printed)

My Commission Expires:
August 16, 1995

County of Residence: Marion

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, personally appeared Bruce A. Gunstra, President of Bruce Gunstra Builders, Inc., who acknowledged the execution of the foregoing First Amendment to Declaration this 20th day of April, ~~1994~~ 1995


Notary Public

Pamela J. Smith
(Printed)

My Commission Expires:
July 1, 1996

County of Residence: Marion

This Instrument prepared by:
Raymond Good, #7210-49
X SCHNORR, GOOD & SCAHILL
144 N. Delaware Street
Indianapolis, IN 46204-2551
317/264-3636

#1-Corp\Windham\First-and-sup

LEGAL DESCRIPTION
WINDHAM LAKE II-BLOCK "B"

BLOCK " " OF THE "WINDHAM LAKE II-FINAL CONDITIONAL PLAT"
AS RECORDED AS INSTRUMENT NUMBER 1994-0052991 IN THE OFFICE
OF THE RECORDER OF MARION COUNTY, INDIANA. BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 16
NORTH. RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN
WAYNE TOWNSHIP. MARION COUNTY. INDIANA, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER SECTION;
THENCE NORTH 86 DEGREES 47 MINUTES 32 SECONDS WEST, 892.11
FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION; THENCE
NORTH 39 DEGREES 27 MINUTES 36 SECONDS EAST, 31.00 FEET;
THENCE NORTH 39 DEGREES 34 MINUTES 10 SECONDS EAST, 55.00
FEET; THENCE NORTH 50 DEGREES 25 MINUTES 50 SECONDS WEST,
58.13 FEET; THENCE NORTH 38 DEGREES 46 MINUTES 51 SECONDS
EAST, 197.71 FEET TO THE POINT OF CURVATURE OF A CURVE
HAVING A CENTRAL ANGLE OF 39 DEGREES 48 MINUTES 55 SECONDS.
THE RADIUS POINT OF SAID CURVE BEARS NORTH 51 DEGREES 13
MINUTES 09 SECONDS WEST, 150.00 FEET; THENCE ALONG SAID
CURVE 104.21 FEET TO THE POINT OF BEGINNING,
THE RADIUS POINT OF SAID CURVE BEARS SOUTH 88 DEGREES 57
MINUTES 59 SECONDS WEST, 150.00 FEET; THENCE CONTINUING
ALONG SAID CURVE HAVING A CENTRAL ANGLE OF 66 DEGREES 14
MINUTES 10 SECONDS, A DISTANCE OF 173.40 FEET TO THE POINT
OF TANGENCY, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 22
DEGREES 43 MINUTES 49 SECONDS WEST, 150.00 FEET; THENCE
NORTH 67 DEGREES 16 MINUTES 11 SECONDS WEST, 100.00 FEET;
TO THE POINT OF CURVATURE OF A CURVE HAVING A CENTRAL ANGLE
OF 00 DEGREES 56 MINUTES 44 SECONDS, THE RADIUS POINT OF
SAID CURVE BEARS NORTH 22 DEGREES 43 MINUTES 49 SECONDS
EAST, 495.00 FEET; THENCE ALONG SAID CURVE 8.17 FEET. TO A
NON-TANGENT POINT, THE RADIUS POINT OF SAID CURVE BEARS
NORTH 23 DEGREES 40 MINUTES 33 SECONDS EAST, 495.00 FEET;
THENCE SOUTH 29 DEGREES 04 MINUTES 10 SECONDS WEST, 73.52
FEET; THENCE SOUTH 67 DEGREES 16 MINUTES 11 SECONDS EAST,
123.76 FEET; THENCE SOUTH 33 DEGREES 17 MINUTES 47 SECONDS
EAST, 87.17 FEET; THENCE NORTH 64 DEGREES 12 MINUTES 13
SECONDS EAST, 15.44 FEET; THENCE NORTH 89 DEGREES 12
MINUTES 13 SECONDS EAST, 51.58 FEET TO THE BEGINNING POINT
OF THIS DESCRIPTION. CONTAINING 0.419 ACRES, MORE OR LESS.
SUBJECT TO ALL LEGAL EASEMENTS, RIGHTS OF WAYS AND
RESTRICTIONS OF RECORD.

EXHIBIT 'D'

LEGAL DESCRIPTION
BLOCK "C"

A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 16 NORTH,
RANGE 2 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WAYNE TOWNSHIP,
MARION COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER SECTION;
THENCE NORTH 56 DEGREES 16 MINUTES 59 SECONDS WEST, 1089.23 FEET
TO THE POINT OF BEGINNING;
THENCE SOUTH 29 DEGREES 04 MINUTES 10 SECONDS WEST, 147.49 FEET;
THENCE SOUTH 66 DEGREES 04 MINUTES 10 SECONDS WEST, 113.73 FEET;
THENCE NORTH 23 DEGREES 55 MINUTES 50 SECONDS WEST, 55.79 FEET;
THENCE NORTH 84 DEGREES 25 MINUTES 50 SECONDS WEST, 57.01 FEET;
THENCE NORTH 05 DEGREES 34 MINUTES 10 SECONDS EAST, 129.71 FEET;
THENCE NORTH 55 DEGREES 34 MINUTES 10 SECONDS EAST, 132.95 FEET
TO A POINT ON A NON-TANGENT CURVE HAVING A CENTRAL ANGLE OF 18
DEGREES 22 MINUTES 18 SECONDS, THE RADIUS POINT OF SAID CURVE
BEARS NORTH 42 DEGREES 02 MINUTES 51 SECONDS EAST, 405.00 FEET;
THENCE ALONG SAID CURVE 158.72 FEET TO A POINT OF TANGENCY, THE
RADIUS POINT OF SAID CURVE BEARS NORTH 23 DEGREES 40 MINUTES 34
SECONDS EAST. 405.00 FEET TO THE BEGINNING POINT OF THIS
DESCRIPTION, CONTAINING 0.925 ACRES, MORE OR LESS. SUBJECT TO
ALL LEGAL EASEMENTS, RIGHTS OF WAYS AND RESTRICTIONS OF RECORD.

EXHIBIT 'E'

3

SECOND AMENDMENT TO DECLARATION

The undersigned, E.F.B. Development Co., an Indiana General Partnership, DECLARANT under the referenced DECLARATION and as title owner of the bulk of real estate, subject to or potentially subject to the Declaration, Bruce Gunstra Builders, Inc., an Indiana Corporation as the only other title owner of the referenced real estate execute this SECOND Amendment to a Master Declaration of Covenants, Conditions and Restrictions of Windham Lake Development Homeowners, Inc., Windham Lake I Homeowners, Inc. and Windham Lake II Homeowners, Inc., recorded as Instrument #94-29001 with the Marion County Recorder on February 23, 1994. (DECLARATION)

WHEREAS a document entitled the FIRST AMENDMENT AND FIRST SUPPLEMENT TO DECLARATION was filed of record subsequent to February 23, 1994 which among other things adopted condominium attributes for the residences proposed for the Windham Lake I Homeowner's Inc. has assured greater maintenance responsibility and accompanying financial exposure; and

WHEREAS Article V, Section 6 of the DECLARATION in its second paragraph presently calls for a "regular assessment prior to the applicable date of" One Hundred Twenty Dollars (\$120.00) per year for the Association, One Hundred Twenty Dollars (\$120.00) per year for Windham Lake I and Seven Hundred Eighty Dollars (\$780.00) per year for Windham Lake II (the "guaranteed charge"); and

WHEREAS the figure in Article V, Section 6 aforesaid for Windham Lake I needs to be changed from One Hundred Twenty Dollars (\$120.00) per year to Seven Hundred Eighty Dollars (\$780.00) per year for Windham Lake I with all provisions of Article V, Section 6 to remain as written.

NOW, THEREFORE, the nature of the Amendments to the DECLARATION are as follows:

- (1) The Recitals are incorporated herein as if set out in full.
- (2) Article V, Section 6 in its second paragraph is revised wherein it states a "guaranteed charge" i.e. "Regular Assessment" for Windham Lake I of One Hundred Twenty Dollars (\$120.00) to instead be Seven Hundred Eighty Dollars (\$780.00) per year.

In the event the Lot owner seeks to supplement the original plantings and/or establish a vegetable garden said Lot owner shall first seek Architectural Control approval in like manner to structure approval under Item XI of the DECLARATION. An assessment addition to cover the increase in Windham Lake I maintenance obligation shall be a condition of such approval which shall define not only the amount of such supplement addition but also the terms of payment. Any additional assessment shall duplicate the pattern of interest, attorney fees and being subject to the lien set out in Article V of the DECLARATION. All care and maintenance required for any approved vegetable garden shall be the sole responsibility of the Lot owner.

IN WITNESS WHEREOF the undersigned, being the DECLARANT and the title owners of the realty detailed in the DECLARATION have hereunto set their hand and seal this 17th day of April, 1995.

E.F.B. DEVELOPMENT COMPANY
(an Indiana General Partnership)

By Justice Family Limited Partnership No. 1
(an Indiana Limited Partnership)
AS GENERAL PARTNER

By Justice Enterprises, Inc.
(an Indiana Corporation)
AS GENERAL PARTNER of Justice
Family Limited Partnership No. 1

By: Brady R. Justice, Jr.
Brady R. Justice, Jr., President
of Justice Enterprises, Inc. (an Indiana Corporation)
who is the General Partner of Justice Family
Limited Partnership No. 1 (an Indiana Limited Partnership)
who in turn is a General Partner of E.F.B. Development
Company, an Indiana General Partnership

BRUCE GUNSTRA BUILDERS, INC.

By: Bruce A. Gunstra
Bruce A. Gunstra, President

ACKNOWLEDGEMENT

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, personally appeared Brady R. Justice, Jr., President of Justice Enterprises, Inc., who acknowledged the execution of the foregoing Second Amendment to Declaration this 17th day of April, 1995.

Genetta M. Hubbard
Notary Public

Genetta M. Hubbard
(Printed)

My Commission Expires:
August 16, 1995

County of Residence: Marion

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, personally appeared Bruce A. Gunstra, President of Bruce Gunstra Builders, Inc., who acknowledged the execution of the foregoing Second Amendment to Declaration this 20th day of April, 1995.

Pamela J. Smith
Notary Public

Pamela J. Smith
(Printed)

My Commission Expires:
July 1, 1996

County of Residence: Marion

This Instrument prepared by:
Raymond Good, #7210-49
SCHNORR, GOOD & SCAHILL
144 N. Delaware Street
Indianapolis, IN 46204-2551
317/264-3698

#1-Corp\Windham\First-and-sup

CORRECTIVE

INSTRUMENT #
1996-0017782

THIRD AMENDMENT TO DECLARATION

The undersigned, EFB Development Company, an Indiana general partnership, DECLARANT under the referenced DECLARATION and as title owner of the bulk of real estate, subject to or potentially subject to the Declaration, hereby executes this THIRD Amendment to the Master Declaration of Covenants, Conditions and Restrictions of Windham Lake Development Homeowners, Inc., Windham Lake I Homeowners, Inc., and Windham Lake II Homeowners, Inc., recorded as Instrument #94-29001 with the Marion County Recorder on February 23, 1994, and re-recorded as Instrument #94-0063187 with the Marion County Recorder on April 20, 1994, hereinafter, the "DECLARATION":

WHEREAS, Declarant desires to amend the Declaration to permit the construction of multi-family condominium buildings in the multi-family/condominium portion of the Real Estate with three (3) units per building, in addition to the 4 to 6 unit buildings already provided for and authorized in the Declaration;

NOW, THEREFORE, in consideration of the above-referenced premises, Declarant, pursuant to the authority set forth in Sections 1 and 2 of Article XIII of the Declaration, hereby amends the Declaration as follows:

The second rhetorical recital paragraph of page 2 of the Declaration, beginning with the words "Whereas, the ultimate subject of this Declaration..." is hereby amended by deleting the words "containing 4 to 6 residential units" from line three of such paragraph, and inserting, in lieu thereof, the words "containing from 3 to 6 residential units".

IN WITNESS WHEREOF, the undersigned, being the DECLARANT and pursuant to the authority granted Declarant in such Declaration, hereunto sets its hand and seal this 8th day of February, 1996.

EFB DEVELOPMENT COMPANY
(an Indiana General Partnership)

By Justice Family Limited Partnership No. 3
(an Indiana Limited Partnership)
AS GENERAL PARTNER

By Justice Enterprises, Inc.
(an Indiana corporation)
AS GENERAL PARTNER of Justice
Family Limited Partnership No. 3

By:
Brady R. Justice, Jr., President
of Justice Enterprises, Inc.,
(an Indiana Corporation) who is the
General Partner of Justice Family Limited
Partnership No. 3 (an Indiana Limited
Partnership) who in turn is a General Partner
of E.F.B. Development Company, an Indiana
General Partnership

Inst # 1996-0022992

02/28/96 10:53AM JOAN N. RORERIL MARION CNTY RECORDER SLS 16.00 PAGES: 2

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JOAN RORERIL
MARION COUNTY RECORDER

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

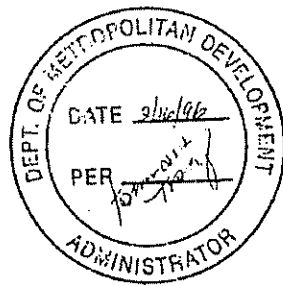
Before me, a Notary Public, personally appeared Brady R. Justice, Jr., President of Justice Enterprises, Inc., who acknowledged the execution of the foregoing Third Amendment to Declaration this 7 day of February, 1996.

Diana K. Weisenbach
Notary Public

(Printed)
County of Residence: _____

My Commission expires:

~~~~~  
Diana K. Weisenbach  
Notary Public, State of Indiana  
Marion County  
My Commission Expires 09/14/99  
~~~~~



This instrument prepared by Teresa C. Williams, Attorney at Law, 6900 South Gray Road, Indianapolis, Indiana 46237.

windhamland 3rd
