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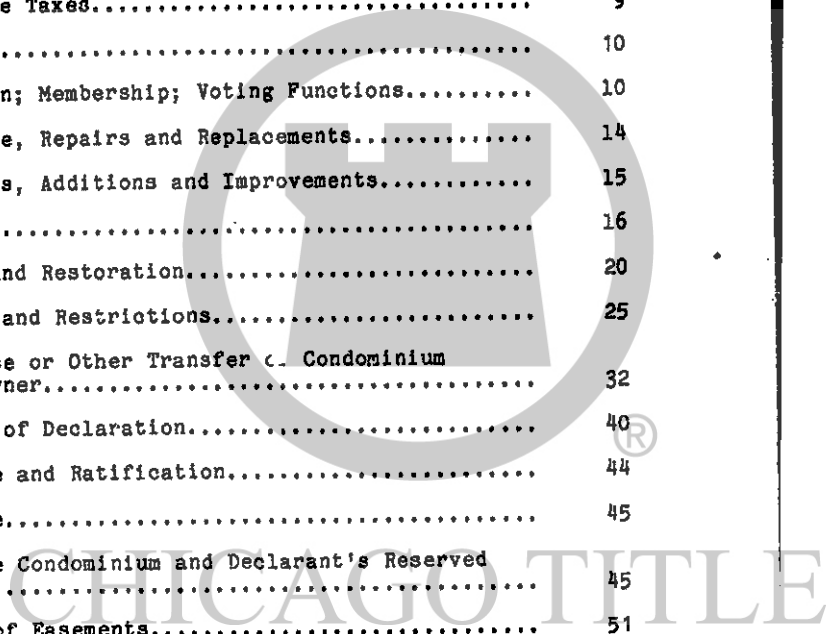
WOODMONT HORIZONTAL PROPERTY REGIME

Index

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1. Definitions.....	1
2. Declaration.....	4
3. Description of Buildings.....	5
4. Legal Description and Percentage Interest.....	5
5. Description of Condominium Units.....	5
6. Common Area and Facilities.....	7
7. Limited Areas and Facilities.....	8
8. Ownership of Common Areas and Percentage Interest..	8
9. Encroachments and Easements for Common Areas.....	9
10. Real Estate Taxes.....	9
11. Utilities.....	10
12. Association; Membership; Voting Functions.....	10
13. Maintenance, Repairs and Replacements.....	14
14. Alterations, Additions and Improvements.....	15
15. Insurance.....	16
16. Casualty and Restoration.....	20
17. Covenants and Restrictions.....	25
18. Sale, Lease or Other Transfer of Condominium Unit by Owner.....	32
19. Amendment of Declaration.....	40
20. Acceptance and Ratification.....	44
21. Negligence.....	45
22. Expandable Condominium and Declarant's Reserved Rights.....	45
23. Granting of Easements.....	51
24. Reservation of Rights to the Use of the Common Areas.....	51
25. Assessments.....	51
26. Mortgages.....	63
27. Costs and Attorneys' Fees.....	64
28. Severability Clause.....	64
29. Provisions.....	64
30. Other Plans.....	65



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APPROVED 6-2-89
WASHINGTON TOWNSHIP ASSESSOR
BY: [Signature] Real Estate Deputy

DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP
FOR WOODMONT HORIZONTAL PROPERTY REGIME

This Declaration is made this _____ day of _____, 1989, by WOODMONT, INC., an Indiana corporation (the "Declarant").

This Declaration arises out of the following circumstances:

A. Declarant is the owner of the fee simple title to the real estate located in Marion County, Indiana, described on attached Exhibit A-1 (the "Real Estate")

B. Declarant is the owner of that portion of the Real Estate described on attached Exhibit A-2 (the "Tract").

C. Declarant, by execution of this Declaration, hereby creates a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Law of the State of Indiana and the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- (a) "Act" means the Horizontal Property Law of the State of Indiana, IC-32-1-6-1 et seq., as amended. The Act is incorporated herein by reference.
- (b) "Woodmont" or "Woodmont Condominiums" means the name by which the Property and Horizontal Property Regime shall be known.
- (c) "Tract" means the real estate described in Paragraph B of the recitals above and such other portions of the Real Estate which have, as of any given time, been subjected to the Act and this Declaration either by this Declaration or a supplemental declaration as herein provided.
- (d) "Property" means the Tract and appurtenant easements, the Condominium Units, the Buildings,

garages, improvements, and property of every kind and nature whatsoever, real, personal or mixed, located upon the Tract and used in connection with the operation, use and enjoyment of Woodmont, but does not include the personal property of the Owners.

- (e) "Condominium Unit" or "Unit" means each one of the living units and garages constituting Woodmont, each individual living unit and garage being more particularly described and identified on the Plans and in Paragraphs 4 and 5 of this Declaration, and each additional living unit and garage which may be submitted and subjected to the Act and this Declaration by supplemental declarations as herein provided. "Condominium Unit" or "Unit" includes the undivided interest in the Common Areas and Limited Areas appertaining to such unit.
- (f) "Association" means Woodmont Homeowners Association of Indianapolis, Inc., an Indiana not-for-profit corporation, being the association of Co-owners of Woodmont, more particularly described in Paragraph 12 hereof.
- (g) "Board" or "Board of Directors" means the governing body of the Association, being the initial Board of Directors referred to in the Bylaws or subsequent Board of Directors elected in accordance with the Bylaws. The term "Board," as used herein and in the Bylaws, shall be synonymous with the term "Board of Directors" as used in the Act.
- (h) "Building" means any structure on the Tract on which one or more Condominium Units are located. The Buildings are more particularly described and identified on the Plans and in Paragraph 3 of this Declaration. "Building" also includes any addi-

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tional structure containing one or more Condominium Units which may be submitted and subjected to the Act and this Declaration by supplemental declarations as herein provided, and will be identified in supplemental declarations and on plans that will be filed therewith.

- (i) "Bylaws" means the bylaws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Act. A true copy of the Bylaws is attached to this Declaration as Exhibit B and incorporated herein by reference.
- (j) "Common Areas" or "Common Properties" means the common areas and facilities appurtenant to the Property as defined in Paragraph 6 of this Declaration.
- (k) "Limited Areas" means the limited common areas and facilities as defined in Paragraph 7 of this Declaration.
- (l) "Common Expenses" means the expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas (to the extent provided herein) and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the Bylaws.
- (m) "Co-owners" means the Owners of all the Condominium Units.
- (n) "Mortgagee" means the holder of a first mortgage lien on a Condominium Unit.
- (o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns the fee simple title to a Condominium Unit.
- (p) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the

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Common Areas and Limited Areas appertaining to each Condominium Unit as specifically expressed in Paragraphs 4 and 8 of this Declaration.

(q) "Percentage Vote" means the percentage of the total vote accruing to all of the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof. The Percentage Vote to which each Owner shall be entitled on any matter upon which the Co-owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Owner's Condominium Unit.

(r) "Plans" means the floor and building plans and elevations of the Buildings and Condominium Units prepared by Schneider Engineering Corporation, certified by John V. Schneider, a licensed professional engineer, under date of May 31, 1989, and a site plan of the Real Estate and Buildings prepared by Edward D. Giacoletti, a registered land surveyor and engineer, under date of May 31, 1989, all of which are incorporated herein by reference.

(s) "Declarant" shall mean and refer to Woodmont, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgages acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(t) "Applicable Date" shall mean and refer to the date determined pursuant to Subsection (2) of Subsection (b) of Paragraph 12 of this Declaration.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

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3. Description of Buildings. There is one (1) Building containing four (4) Condominium Units on the Tract as of the date hereof, as shown on the Plans. A Condominium Unit consists of a living unit and a two car garage. A description of the Buildings and the Condominium Units contained therein is set forth in Exhibit C attached hereto and made a part hereof by reference.

4. Legal Description and Percentage Interest. Each Condominium Unit is defined on the plans by reference to a structure number, which number corresponds to the building in which such Condominium Unit is located and a capital letter which letter corresponds to the Unit in such building. The legal description for each Condominium Unit shall consist of the identifying number for such building and letter for such Condominium Unit as shown on the Plans, and shall be stated as "Condominium Unit (with identifying number and letter) in Woodmont Horizontal Property Regime." The Percentage Interest of each Owner in the Common Areas and Limited Areas as hereinafter defined shall be that percentage interest included in each Condominium Unit as set forth on Exhibit D attached hereto and made a part hereof by reference.

5. Description of Condominium Units.

(a) Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances, and structural components described and intended solely and exclusively for the enjoyment, use and benefit of the Condominium Unit wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Condominium Unit or which may

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be necessary for the safety, support, maintenance, use, and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Condominium Unit shall constitute a part of such Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit. The space within the two car garage, designated in the Plans for use by any Condominium Unit is considered a part of and for the exclusive use of such Condominium Unit. Also, the interior sides and surfaces of all doors and windows in the perimeter walls of a Condominium Unit, whether or not located within or partly within the boundaries of a Condominium Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Condominium Unit, are considered part of the Condominium Unit.

(b) Boundaries. The boundaries of each Condominium Unit shall be as shown on the Plans without regard to the existing construction measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or roof surface of the Condominium Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In

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such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or roof surfaces of the Condominium Unit.

6. Common Area and Facilities.

(a) "Common Areas" or "Common Properties" means:

- (1) The Tract, excluding the Condominium Units;
- (2) The foundations, columns, girders, beams, supports and exterior surfaces of roofs of the Buildings;
- (3) The yards, gardens, sidewalks and parking areas;
- (4) Central electricity, gas, water, air conditioning and sanitary sewer mains serving the Buildings, if any;
- (5) Exterior lighting fixtures and electrical service lighting the exterior of the Buildings unless separately metered to a particular Condominium Unit;
- (6) Pipes, ducts, electrical wiring and conduits and public utilities lines which serve more than one Condominium Unit;
- (7) All streets that are not dedicated;
- (8) Floors, roofs and exterior perimeter walls of the Buildings, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit or Limited Areas; and
- (9) All facilities and appurtenances located outside of the boundary lines of the Condominium Units, except those areas and facilities expressly classified and defined herein as Limited Areas or as part of the Condominium Unit.

(b) Limitation on Enjoyment. The Owner's rights to the Common Areas are subject to the following provisions:

- (1) The right of the Association to charge reasonable fees and charges for the use of recreational facilities situated upon the Common Areas, if any.
- (2) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his

Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

- (3) 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 may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two thirds (2/3) of the members has been recorded.
- (4) The right of the Association to adopt, amend, alter, and revise reasonable rules and regulations on the use and enjoyment of the Common Areas.

7. Limited Areas and Facilities. Limited Areas and those Condominium Units to which use thereof is limited are as follows:

- (a) The halls, corridors, lobbies, stairs, stairways, entrances and exits of each Building (except those located within the interior of Condominium Units), shall be limited to the use of the Condominium Units of such Building.
- (b) The exterior sides and surfaces of doors, windows and frames surrounding the same in the perimeter walls in each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain.
- (c) Any areas designated and shown on the Plans, if any, as Limited Areas shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

8. Ownership of Common Areas and Percentage Interest.

Each Owner shall have an undivided interest in the Common Areas and Limited Areas, as tenants in common with all other Owners, equal to his Condominium Unit's Percentage Interest. The Percentage Interest in the Common Areas and Limited Areas appertaining to each Condominium Unit is set forth in Paragraph 4 of this Declaration. The Percentage Interest of each Condominium

890051887

Unit shall be equal for all purposes and shall be a percentage equal to the number one (1) divided by the total number of Condominium Units which, from time to time, have been submitted and subject to the Act and this Declaration as herein provided and which constitute a part of Woodmont. Except as otherwise provided or permitted herein, the Percentage Interest appertaining to each separate Condominium Unit in the Common Areas and Limited Areas shall be of a permanent nature and shall not be altered without the unanimous consent of all the Owners and then only if in compliance with all requirements of the Act.

The Percentage Interest appertaining to each Condominium Unit shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to Woodmont and the Association upon which the Co-owners are entitled to vote.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction, settling or shifting of a Building, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event a permanent easement shall be deemed to exist and run to the Co-owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his Condominium Unit.

10. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Condominium Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the Property (or the Property and any other portions of the Real Estate) as a whole, then each Owner shall pay his proportionate share of such taxes to the extent attributable to the Property in accordance with his respective Percentage Interest.

11. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses, unless otherwise agreed by a majority of the Percentage Vote of Co-owners.

12. Association; Membership; Voting Functions.

- (a) Association of Owners. Subject to the rights of Declarant reserved in this Declaration, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property shall be by Woodmont Homeowners Association, Inc. (the "Association"), a corporation organized as a not-for-profit corporation under the laws of the state of Indiana. Each Owner of a Condominium Unit shall automatically, upon becoming an owner of a Condominium Unit, be and become a member of the Association and shall remain a member until such time as his ownership ceases, but membership shall terminate when such person ceases to be an Owner and will be transferred to the new Owner.
- (b) Voting Rights. The Association shall have two (2) classes of membership:

- (1) Class A. Each Owner (as defined in this Declaration) of a Condominium Unit (as defined in this Declaration) shall, automatically upon becoming an owner of a Condominium Unit, be and become a member of the Association and shall remain a member until such ownership ceases, but membership shall terminate when such person ceases to be an Owner. Except as provided in Subsection (b) of this Paragraph 12, membership shall be appurtenant to the Condominium Unit and cannot be separated from nor assigned, hypothecated, or transferred in any manner except as an appurtenance to a Condominium Unit.
- (2) Class B. In addition to the persons described in Subsection (a) of this Paragraph 12, until the earliest of (i) April 15, 1994, (ii) the date all of the Real Estate has been subjected and submitted to the Condominium Act and the Declaration by Declarant, and Declarant does not own any Condominium Units, or (iii) the date Declarant files for record in the Office of the Recorder of Marion County, Indiana, an instrument (x) releasing its reserved right to expand or further expand Woodmont Horizontal Property

Regime or (y) fixing a date earlier than that stated in Subsection (i) (the applicable date being hereinafter referred to as the "Applicable Date"), there shall be three (3) additional members of the Association, being the persons from time to time appointed by Declarant to the Initial Board (as defined in the Declaration and Bylaws) to act as the Board of Directors of the Association. Persons who are members of the Association solely by virtue of this Subsection (b) shall not be deemed or considered members of the Association nor Owners of Condominium Units for any purpose other than to qualify to act as members of the Board of Directors of the Association and as members of the Initial Board, and membership of each person described in this Subsection (b) shall terminate upon the earlier of (x) the Applicable Date, or (y) the date such person is no longer a member of the Initial Board; provided, however, that membership in the Association pursuant to this Subsection (b) shall be automatically cancelled and cease to exist on the Applicable Date.

- (3) Voting Rights of Class A. The Class A members described in Subsubsection (1) of Subsection (b) of this Paragraph 12 shall have voting rights equal to their Percentage Interest on all matters submitted to vote at any annual or special meeting of the members; provided, however, that until the Applicable Date each Owner, by acceptance of a deed to a Condominium Unit by any type of juridic acts, inter vivos, causa mortis or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney in fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members are entitled to vote under the Declaration, the Bylaws, the Act or otherwise, and such appointment shall not be affected by incompetence of the Owner granting the same.

- (4) Voting Rights of Class B. The members described in Subsection (b) of this Paragraph 12 shall have no voting rights on any matters submitted to any vote of the members (unless such member is also a member under Subsection (a) of this Paragraph 12, in which event his voting rights shall be governed by Subsection (a) of this Paragraph 12).

- (c) Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated in the Articles, to-wit: Aaron Y. Cohen, Marvin Mitchell and Carolyn Cohen (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the

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Bylaws or the Act, (1) the Initial Board shall hold office until the Applicable Date, and (2) 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 Condominium Unit, or by acquisition of any interest in a Unit by any type of juridic acts inter vivos, causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney in fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote; and to vote as Declarant determines, on all matters as to which members of the Association are entitled to vote under the Declaration, the Articles, the Bylaws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney in fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Association 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 Association nor an Owner of a Unit for any other purpose (unless he is actually the Owner of a Unit and there.. a member of the Association).

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- (d) 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 Condominium Unit may be represented on the Board of Directors by more than one person at a time.
- (e) Term of Office and Vacancy. Subject to the provisions of this Paragraph 12, the members of the Board of Directors shall be elected at each annual meeting of the Association. 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 one (1) year. 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.
- (f) 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 by all members at a special meeting 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.

(g) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration, the management, maintenance, repair, upkeep and replacement of the Common Properties (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Association, employ a professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall determine.

(h) Initial Management. The Initial Board may hereafter enter, into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) under which Declarant (or such affiliate of Declarant, as appropriate) will provide supervision, fiscal and general management and maintenance of the Common Properties and, in general, perform all of the duties and obligations of the Association. Any such agreement may not exceed a term of three years and must provide for termination on 90 days' written notice by either party, without cause and without payment of a termination fee.

13. Maintenance, Repairs and Replacements. Each Owner shall, at his expense, be responsible for maintenance, repairs, decoration and replacements within his own Condominium Unit. Each Owner shall be responsible for the expense of maintenance, repairs, decorations and replacements of the Limited Areas, if any, reserved for his exclusive use. Each Owner shall repair any defect occurring in his Condominium Unit which, if not repaired, might adversely affect any Condominium Unit, Common Area or

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Limited Area. Maintenance, repairs, decorations, and replacements of the Common Areas and Limited Areas shall be furnished by the Association. The expenses for the Common Areas and for Limited Areas reserved for use of all the Units in a building shall be a part of the Common Expenses, except as may be otherwise provided herein or in the Bylaws.

The Board shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate.

The Board or its designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required), to enter into each individual Condominium Unit for the purpose of inspection of the Common Areas and Limited Areas appurtenant thereto and for replacement, repair and maintenance of such Common Areas and Limited Areas.

14. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to or which would affect the Common Areas or Limited Areas without the prior written approval of the Board, nor shall any Owner make any alteration in or to his respective Condominium Unit and within the boundaries thereof which would affect the safety or structural integrity of the Building in which the Condominium Unit is located. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and alter the boundaries between Condominium Units so long as Declarant owns the Condominium Units so altered. No such change shall increase the number of Condominium Units nor change the Percentage Interest applicable to such Condominium Units. If Declarant shall make any changes in the Condominium Units so authorized, such changes shall be reflected by a supplement to the Plans and such supplement to the Plans need not be approved by the Association or any other Owners.

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15. Insurance.

(a) Casualty Insurance. The Co-Owners, through the Association, shall purchase a master casualty insurance policy affording fire and extended coverage insurance and all risk insurance insuring the Property in an amount consonant with the full replacement value of the improvements. The Board 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 protection required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner upon the following terms and conditions:

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board, who shall act as the insurance trustees and hold such proceeds for the benefit of the insured parties. In the event that the Board has not posted surety bonds for the faithful performance of their duties as such directors, or if such bonds do not exceed the funds which will come into its hands, and there is a damage to a part of all of the Property resulting in a loss, the Board shall obtain and post a bond for the faithful performance of its duties as insurance trustee in an amount to be determined by a majority of the Owners, but not to exceed one hundred twenty-five percent (125%) of the loss before the Board shall be entitled to receive the proceeds of the insurance

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payable as a result of such loss. Provided, that this bonding requirement may be waived by the Board, with the written consent of seventy-five percent (75%) or more of the Owners. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Owners and their respective mortgagees. The proceeds shall be used or disbursed by the Association or Board as appropriate, only in accordance with the provisions of this Declaration.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, shall (to the extent the same are obtainable for a reasonable charge) contain provisions that the insurer (a) waive its right to subrogation as to any claim against the Association, the Board, its agents and employees, Owners, their respective agents and guests, and (b) waive any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board is able to obtain such insurance upon reasonable terms, (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted, and (ii) that, notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Paragraph 16 of this Declaration.

(b) Public Liability Insurance. The Co-owners, through the Association, shall also purchase a master

890051887

comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, the Board, any committee or organ of the Association or Board of Directors, any managing agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Woodmont, all Owners of Condominium Units and all other persons entitled to occupy any Condominium Unit or other portions of Woodmont.

(c) Other Insurance. The Co-owners, through the Association, shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board shall from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned by the Association, fidelity bonds, and officers' and directors' liability policies. [®] Such insurance coverage may 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 Association, the Board and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board his right to adjust with the insurance companies all losses under policies purchased by the Board under this Paragraph 15.

(d) General Provisions. The premiums for all such insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When

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any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, 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 Association who is required to send notices of meetings of the Association.

In no event shall any distribution of proceeds be made by the Board directly to an Owner where there is a mortgagee endorsement on the certificate of insurance.

- (e) Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property, the contents of his Condominium Unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him) and his personal property stored elsewhere on the Property, and for his personal liability. Each Owner may obtain casualty insurance at his own expense upon his Condominium Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of

890051887

such reduction, to the Association to be distributed as herein provided.

16. Casualty and Restoration.

- (a) Except as hereinafter provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term "complete destruction of all of the Buildings" means a determination, made by a vote of two thirds (2/3) of all Co-owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Co-owners determined that there was not a complete destruction of all of the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.

890051887

- (b) If the insurance proceeds, if any, received by the Association 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, and if the Property is not to be removed from the horizontal property regime, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Condominium Units in proportion to the ratio that the Percentage Interest of each Condominium Unit bears to the total Percentage Interest of all Condominium Units. Any such amounts payable by the Co-owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Act.
- (c) For purposes of subparagraphs (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units to as near as practicable the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.
- (d) If, under subparagraph (a) above, it is determined by the Co-owners at the special meeting of the Association referred to therein that there has been a complete destruction of all of the Buildings, the Co-owners shall, at said same special meeting, vote to determine whether such complete destruction of the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Co-owners at said special meeting that there has been a complete de-

890051887

struction of all of the Buildings unless by a vote of two thirds (2/3) of all of the Co-owners a decision is made to rebuild, reconstruct and repair the Buildings. If two thirds (2/3) of all of the Co-owners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as hereinabove provided in subparagraphs (a) and (b).

If, in any case of the complete destruction of all of the Buildings, less than two thirds (2/3) of all of the Co-owners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act under Section 28 of the Act and, in accordance with Section 21 of the Act and:

- (1) The Property shall be deemed to be owned in common[®] by the Condominium Unit Owners;
- (2) The undivided interest in the Property owned in common which shall appertain to each Condominium Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;
- (3) Any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Condominium Unit Owner in the Property; and
- (4) The Property shall be subject to an action for partition at the suit of any Condominium Unit

Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided among all the Condominium Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, provided there shall be paid out of the respective shares of the Condominium Unit Owners, to the extent sufficient for the purpose, amounts necessary to satisfy all liens on the undivided interest in the Property owned by each Condominium Unit Owner.

(f) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board or Association has the responsibility for maintenance and repair, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property as near as practicable in the same condition as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desires.

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

(1) If the amount of the estimated cost of reconstruction and repair is less than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided,

890051887

however, that upon the prompt request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following subparagraph (2).

- (2) If the estimated cost of reconstruction and repair of the Building or other improvement is more than Five Thousand Dollars (\$5,000.00), 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, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (i) 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; (ii) that there is no outstanding indebtedness known to the said architect for the services and materials described; and (iii) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.
- (3) Encroachments upon or in favor of Condominium 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 reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

- (4) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board, it may be distributed to the Owners, or if good reason exists, to the Owners in the Buildings affected and their Mortgagees who are beneficial owners of the fund. The action of the Board in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing wilful or malicious damage.

17. Covenants and Restrictions.

- (a) Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Units and Common Properties shall be in addition to any other covenants or restrictions contained herein, 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 Association. Present or future Owners or the

Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (1) All Units shall be used exclusively for residential purposes and for occupancy by a single family.
- (2) Nothing shall be done or kept by any Owner on the Common Properties which will cause an increase in the rate of insurance on any of the Common Properties. No Owner shall permit anything to be done or kept on any of the Common Properties which will result in a cancellation of insurance on any part of the Common Properties, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (3) No nuisance shall be permitted and no waste shall be committed in any Unit.
- (4) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Unit or placed on the outside walls of any Unit, 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 Unit or Building without the prior consent of the Board.
- (5) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or on

890051887

any of the Common Properties, except that pet dogs, cats or customary household pets may be kept in a Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. Pets shall be taken outdoors only under leash or other restraint and while attended by its owner and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Properties, caused by his pet. The tethering of pets in any area 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 Real Estate within ten (10) days after written notice from the Board to the respective Owner to do so.

- (6) Nothing shall be done or permitted in any Unit[®] which will impair the structural integrity of any Building or of any of the Common Properties or which would structurally change any Building or any of the Common Properties. No Unit shall be used in any unlawful manner or in any manner which might cause injury to the reputation of Woodmont or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loudspeakers, electrical equipment, amplifiers or other equipment or machines or loud persons.

- (7) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Properties.
- (8) No industry, trade, or other commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate.
- (9) 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 Real Estate or any Unit without the prior consent of the Board.
- (10) All Owners and members of their families, their guests, or invitees, and all occupants of any Unit or other persons entitled to use the same and to use and enjoy the Common Properties or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board[®] governing the operation, use and enjoyment of the Common Properties.
- (11) No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, minibikes, mopeds, or any other vehicles of any description other than normal passenger automobiles, shall be permitted, parked or stored anywhere within the Real Estate; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage. No repair work shall be done on the Real Estate on any vehicles, including passenger automobiles.

- (12) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Properties, except with express permission from the Board.
- (13) All garbage, trash and refuse shall be stored in appropriate containers inside the Units (including garages) and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.
- (14) So long as any zoning covenants applicable to the Real Estate ("Zoning Covenants") are in effect, no use shall be made of any part of the Real Estate which violates, and all Owners, members of their families, their guests, tenants, invitees and all occupants or other parties entitled to use or who may use any part of the Real Estate shall at all times fully comply with, the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Zoning Covenants. Notwithstanding anything to the contrary contained herein or otherwise, this subparagraph (14) may not be amended or modified in any manner whatsoever without the prior written consent of the Declarant (so long as it owns any part of the Real Estate or any Units) and that Declarant shall have the right to the extent permitted by law, to terminate, alter or amend the Zoning Covenants in any manner without the consent or approval of any

other party at any time having any interest in any part of the Real Estate.

(15) Common Properties shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board.

(16) In the event the Declarant, the Association or any other person having authority to do so grants any approval or permission as provided herein, or fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit the Declarant, the Association, its Board, or any other person having the right to enforce these restrictions from insisting upon strict compliance with respect to all other Owners, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future.

Notwithstanding anything to the contrary contained herein or in the Articles or Bylaws, including but not limited to any covenants and restrictions set forth herein or otherwise, Declarant shall have, so long as it owns any Unit or any part of the Real Estate, the right to use and maintain any Units owned by Declarant and other portions of the Real Estate (other than individual Units owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may deem advisable or necessary in its sole discretion to aid in the construction and marketing of Buildings and Units or for the conducting of any business or activity attendant thereto, including but not limited

890051887

to model 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 Properties, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real Estate at any time.

(b) Nonapplicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in (a) of this Paragraph shall not apply to or be binding upon the Association in its management, administration, operation, maintenance, repair, replacement and upkeep of the Common Properties to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Common Properties.

(1) Existing Easements and Other Restrictions of Record. Nothing in this Declaration shall be deemed to affect any existing easements, including but not limited to easements for utilities, drainage, ingress and egress, maintenance and access, or any covenants and restrictions, or reservations, which have been placed of record prior to the recording hereof.

(2) Additional Easements. The Declarant reserves the right to modify existing easements or to grant additional easements for utility, drainage, irrigation, ingress and egress, sprinkler system, cable television, over, under,

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upon and across any Real Estate owned by it, or any Common Area to any public or quasi-public agency or authority or utility, or to the Association or to owner(s) of such portions of the Real Estate that have not been subjected to the Declaration or to the Act. This right to modify existing easements or to grant additional easements shall be that of the Declarant and shall not require the consent or joinder of any Owner or of the Association, so long as the Declarant maintains any interest in any portion of the Real Estate, either as an Owner or as a mortgagee.

18. Sale, Lease or Other Transfer of Condominium Unit by Owner. For the purpose of maintaining the congenial and residential character of Woodmont, and for the protection of the Owners with regard to insuring having financially responsible residents, the sale, lease or trade of any Condominium Unit by any Owner other than Declarant shall be subject to the following conditions and restrictions:

- (a) Sale. The Association shall have the right of first refusal to purchase any Condominium Unit which an Owner wishes to sell. Any Owner who is agreeable to selling his Unit shall give written notice to the Board of his desire to sell, together with the name and address of the intended purchaser, and an executed copy of the contract of sale containing all of the terms and conditions of the proposed transaction. Within three (3) business days after receipt of such notice, contract and other information, the Board shall determine if it should recommend exercise of the right to purchase or waive the right to purchase. In the event the Board elects to waive the right to purchase, a certificate in recordable form executed by

the President or Secretary of the Association, certifying that the Association, through its Board of Directors, has waived its right to purchase, shall be delivered to the Owner, who may then proceed to sell and convey his Condominium Unit to that person and upon the same terms and conditions set forth in the contract furnished to the Board of Directors. In the event such sale is not completed within ninety (90) days following the date of notice by the selling Owner, then the Condominium Unit shall again become subject to the Association's right of first refusal as herein provided. The waiver of such right to purchase in any instance shall apply only to the proposed sale then under consideration, and any subsequent sale of the Condominium Unit shall again be subject to the Association's right of first refusal as herein provided.

In the event the Board of Directors deems it advisable to exercise the Association's right to purchase the Condominium Unit, then it shall give written notice thereof to the Owner and shall, within three (3) days following the receipt of such notice of proposed sale, contract and other information from the Owner wishing to sell, call a meeting of all the Owners for the purpose of voting upon the proposed purchase. The meeting shall be held within fourteen (14) days of its calling. If the recommendation of the Board of Directors to purchase such Condominium Unit is approved by no less than seventy-five percent (75%) in the aggregate of the total Percentage Vote, then the Association shall proceed to purchase the offered Condominium Unit from the offering Owner upon the same terms and conditions contained in the contract; except, that if such terms and

conditions include on the proposed purchaser's part, any particular or unique property or consideration, the Association shall not be required to provide such unique property or consideration, but may satisfy such obligation by the payment of cash in an amount equal to the value of the unique property or consideration. The amount of such cash shall be determined by an appraiser, paid and selected by the Association, who is a member of the Appraisal Institute holding the designation MAI. The purchase price for the Condominium Unit shall be considered to be a Common Expense and borne by the remaining Co-owners; provided, however, that the Owner who has made the offer to sell his Condominium Unit shall not be assessed for or required to pay any share of the expense incurred in the purchase of the Condominium Unit.

In the event of such a purchase by the Association, title to the Condominium Unit shall be conveyed to the Association as an entity or to those persons then serving as Board of Directors, as trustees for the benefit of the Co-owners, whichever the Board of Directors, in its sole discretion, deems appropriate.

In the event that the proposed purchase is not approved by the required percentage of the Co-owners as set out above, then the Board of Directors, through the President or Secretary of the Association, shall promptly deliver a certificate in recordable form to the selling Owner who may proceed to sell his Condominium Unit under the same terms and conditions as if the Board had not elected to recommend the exercise of the Association's right to purchase.

If for any reason either the Board of Directors or the Co-owners shall fail to act on the Association's

890051887

right of first refusal within the time periods herein provided (and in any event within thirty (30) days from the time the Owner gives written notice of his desire to sell, together with the Contract and other information) then the Association's right of first refusal shall be deemed to have been effectively waived and, upon request of the Owner to the President or Secretary of the Association, a certificate in recordable form shall be delivered to the Owner certifying to the waiver of such right. This Subsection (a) does not apply to a transaction where a trade or exchange of real property is involved, such being subject to the terms of Subsection (c).

- (b) Lease. It is in the best interest of all the Owners that those persons residing in Woodmont have similar proprietary interests in their Condominium Units and be Owners. Accordingly, no Owner shall lease his Condominium Unit or enter into any other rental or occupancy arrangement for his Condominium Unit without the prior written consent of the Board of Directors, which consent may be conditioned on the number of persons to be living in such Condominium Unit. Such consent shall not be unreasonably withheld. However, no lease for a term less than six (6) months shall be approved. Any Owner desiring to enter into a lease or other rental or occupancy arrangement of his Condominium Unit shall make written application to the Board, which application shall state the reasons why the applicant wishes to lease the Condominium Unit, the name of the proposed tenant and family or other persons to reside within the Condominium Unit, the proposed form of written lease, and financial references of the proposed tenant, and such Owner desiring to lease or rent his Condominium Unit shall arrange an

appointment for the prospective tenant, family or other persons to reside within the Condominium Unit to be personally interviewed by the Board. Within five (5) days following the interview, the Board shall issue its written approval or disapproval to the Owner. In the event the Board fails to issue written approval or disapproval within such period, the application shall for all purposes be deemed approved. No Condominium Unit shall be subleased, nor may a change or addition to any existing tenancy be made without the written approval of the Board, nor shall any lease of a Unit be assigned without said approval.

- (c) Trade. If any Owner is agreeable to a trade or exchange of his Condominium Unit for other real property, then the Association shall have the right to purchase such Condominium Unit upon the following terms and conditions. Such Owner shall give written notice to the Board of his desire, together with the name and address of the other party and an executed copy of the contract containing all of the terms and conditions of the proposed transaction. Within three (3) days of presentation to the Board of Directors by an Owner of the notice and contract, the Board of Directors shall determine whether it desires to recommend the purchase of such Condominium Unit by the Association. If it decides in the affirmative, it shall employ an appraiser at the Association's expense who is a member of the Appraisal Institute holding the designation "MAI" who shall submit an appraisal of the Condominium Unit within an additional seven (7) days to the Board of Directors and to the Owner of the subject Condominium Unit. Within an additional three (3) days, the Board shall call a meeting of all of the Owners for the purpose of voting upon the proposed

purchase. The meeting shall be held within fourteen (14) days of its calling. If the recommendation of the Board of Directors to purchase such Condominium is approved by no less than seventy-five percent (75%) in the aggregate of the total Percentage Vote, then the Association shall proceed to purchase the offered Condominium Unit from the Owner for said appraised amount within an additional fourteen (14) days. The purchase price for the Condominium Unit shall be considered to be a Common Expense and borne by the remaining Co-owners; provided, that the selling Owner shall not be assessed for or required to pay any share of the expense incurred in the purchase of the Condominium Unit. If so purchased, title to the Condominium Unit shall be conveyed to the Association as an entity or to those persons then serving as Board of Directors, as trustees for the benefit of the Co-owners, whichever the Board, in its sole discretion, deems appropriate, and the selling owner shall be required at his expense to provide title insurance in the full amount of the purchase price, insuring marketable title by a nationally recognized title insurer and to provide a general warranty deed and other closing documents, the form and content of which shall be subject to the Association's reasonable approval.

In the event that the proposed purchase is not approved by the required percentage of the Co-owners as set out above, or if after receipt of the appraisal the Board of Directors decides to withdraw its recommendation to purchase, then the Board, through the President or Secretary of the Association, shall promptly deliver a certificate in recordable form to the offering Owner who may proceed to trade or exchange his Condominium Unit under the

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same terms and conditions as those previously presented to the Board of Directors, as if the Board had not elected to recommend the exercise of the right of the Association to purchase.

To the extent permitted by his contract for trade or exchange, the owner of the subject Condominium Unit may at any time prior to the approval by the Co-owners of the purchase withdraw his Condominium Unit from the terms of this Subsection (c) by terminating the contract, but he will not be allowed to effect any further sale, lease, trade or exchange of such Condominium Unit for at least six (6) months from the date of such removal without the consent of the Board.

If, for any reason, either the Board or Co-owners fail to act on the Association's rights contained in this subparagraph (c) within the time periods herein provided, then the Association's right to purchase shall be deemed to have been effectively waived and upon request of the Owner to the President or Secretary of the Association a certificate in recordable form shall be delivered to the Owner certifying to the waiver of such right.

(d) Miscellaneous. If the Association shall purchase a Condominium Unit in accordance with this Paragraph 18, the Board shall have the authority at any time thereafter to sell or lease the Condominium Unit upon the terms and conditions as the Board shall, in its sole discretion, deem desirable, without application to or approval of the Co-owners. The proceeds of any such sale shall be returned to the Owners in the same percentage as they had contributed to the purchase. In the event the Board elects to lease such Condominium Unit, then the

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...ase rental payments shall be applied against the
...mon Expenses.

The above provisions with respect to the Associ-
ation's right to approval a lease of a Condominium
Unit or the right to purchase a Condominium Unit
shall remain in full force and effect only until the
Property is removed from the provisions of the Act.

Any sale or attempted sale, or any lease or
attempted lease, or any trade or exchange or
attempted trade, or exchange by an Owner of his
Condominium Unit, except in accordance with the pro-
visions of this Paragraph 18, shall be void; pro-
vided, however, that any certificates waiving or
certifying as to the waiver of the Association's
right to purchase executed by the President or
Secretary of the Association and delivered to an
Owner as provided by this paragraph may be relied
upon by any purchaser or Mortgagee and shall, with
respect to such purchaser or Mortgagee, be binding
upon the Association and the Co-owners unless such
purchaser or Mortgagee has actual knowledge that the
certificate was procured fraudulently or by reason
of a misrepresentation of a material fact.

(e) Limitations to Mortgagee. With respect to a Mort-
gagee which is a bank, life insurance company or
savings and loan association, or an entity described
in Subsection (1) of Subsection (g) of Paragraph 19
the provisions of subparagraphs (a), (b), (c) and
(d) of this Paragraph 18 shall be limited in their
application as follows:

(1) The provisions of subparagraphs (a), (c) and (d)
shall not be applicable to a conveyance of a
Condominium Unit to such Mortgagee as a result
of a foreclosure of its mortgage or a conveyance

in lieu thereof or to the conveyance of a Condominium Unit to any person at a public sale in the manner provided by law with respect to mortgage foreclosures. The provisions of subparagraphs (a), (c) and (d) shall not be applicable to or binding upon such Mortgagee so obtaining title to a Condominium Unit, with respect to any subsequent transfer or conveyance of the Condominium Unit by such Mortgagee; but such provisions shall be applicable to and binding upon any other person so obtaining title to a Condominium Unit at a public sale in the manner provided by law with respect to mortgage foreclosures, with respect to any subsequent transfer or conveyance of the Condominium Unit.

- (2) The provisions of subparagraph (b) shall not be applicable to such Mortgagee if, such Mortgagee acquires possession of a Condominium Unit during the period while a foreclosure proceeding is pending or to such Mortgagee which obtains title to a Condominium Unit as a result of foreclosure of its mortgage or a conveyance in lieu thereof. The provisions of subparagraph (b) shall be binding upon any other person obtaining title to the Condominium Unit from such Mortgagee or at any foreclosure or other judicial sale.

The provisions of this Subsection (e) may not be altered or amended without the consent of all such mortgagees.

19. Amendment of Declaration. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of

890051887

the meeting at which the proposed amendment is to be considered.

- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors.
- (e) Mortgagee's Approval. Without the approval of at least fifty-one (51%) of all mortgagees holding a first mortgage on a Unit (with one (1) vote for each mortgage so held) no Material Amendment to this declaration shall be adopted. A "Material Amendment" is one which changes any of the following other than as is permitted by the Declaration:
- voting rights;
 - assessments, assessment liens, or the priority of assessment liens;
 - reserves for maintenance, repair, and replacement of Common Areas;
 - responsibility for maintenance and repairs;
 - reallocation of interests in the Common or Limited Areas, or rights to their use;

890051887

- redefinition of any Unit boundaries;
- convertibility of Units into Common Areas or Common Areas into Units;
- expansion or contraction of Woodmont, or the addition, annexation, or withdrawal of property to or from Woodmont other than as specified in paragraph 22;
- insurance or fidelity bond;
- leasing of Units;
- imposition of any restrictions on a Owner's right to sell or transfer his Unit;
- a decision by the Association to establish self-management when professional management had been required previously by the Declaration or the Bylaws;
- restoration or repair of Woodmont after a hazard damage or partial condemnation;
- any action to terminate the legal status of Woodmont as a Horizontal Property Regime after substantial destruction or condemnation occurs; or
- any provision that expressly benefits mortgage holders, mortgage insurers, or mortgage guarantors.

Provided, any action terminating the status of Woodmont as a Horizontal Property Regime shall require the approval of at least sixty-seven percent (67%) of mortgagees, unless the termination is a consequence of the substantial destructure or combination of the Property.

A first mortgagee shall be deemed to have granted approval to a Material Amendment if it fails to submit a response to any written proposal for an amendment

890051887

within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(g) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, 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 (i) 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; (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee mortgages covering Units; (iii) to bring this Declaration into compliance with any statutory requirements; (iv) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) functions simi-

agencies lar to those performed by such typographical agencies or entities; (v) to correct clerical or errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto; (vi) to implement expansion pursuant to Declarant's rights under Paragraph 22. 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 subsection (g) 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 Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this subparagraph (g) shall terminate at such time as the Declarant no longer holds or controls title to any part of the Real Estate. ®

20. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the Bylaws appended hereto, and the rules and regulations as adopted by the Board as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the Bylaws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any

890051887

interest or estate in a Condominium Unit or the Property as though 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 who may occupy, use, enjoy or control a Condominium Unit or Condominium Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the Bylaws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

21. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, whether negligent, grossly negligent, reckless or intentional, or by that of any member of his family or of his or their guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Condominium Unit or its appurtenances or of the Common Areas or Limited Areas.

22. Expandable Condominium and Declarant's Reserved Rights. Woodmont is and shall be an "expandable condominium," as defined in the Act, and Declarant expressly reserves the right and option to expand the Property and Woodmont in accordance with the provisions of the Act and the following provisions:

- (a) The real estate described and defined herein as the Tract (in Paragraph B of the introductory recitals of this Declaration) is the real estate being subjected to the Woodmont horizontal property regime by this Declaration and constitutes the first phase of the general plan of development of the Real Estate. The balance of the Real Estate is the area into which expansion of Woodmont may be made by

890051887

Declarant. The maximum number of Condominium Units on the Real Estate as defined in this original Declaration, shall be thirty-six (36). Subject to said limit as to the maximum number of Condominium Units to be developed on the Real Estate, Woodmont may be expanded by Declarant to include additional portions of the Real Estate in one (1) or more additional phases by the execution and recording of one (1) or more amendments or supplements to this Declaration; provided, however, that no single exercise of such right and option of expansion as to any part or parts of the Real Estate shall preclude Declarant from thereafter from time to time further expanding Woodmont to include other portions of the Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Real Estate so long as such expansion is done on or before April 15, 1996. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand Woodmont beyond the Tract (as defined and described in Paragraph A of the introductory recitals of this Declaration) or any other portions of the Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration by amendments or supplements to this Declaration as provided above.

- (b) The Percentage Interest which will appertain to each Condominium Unit in Woodmont as Woodmont may be expanded from time to time by Declarant in accordance with the terms hereof (including the Percentage Interest which appertains to each of the Condominium Units included in this original Declaration) shall

be equal and shall be a percentage equal to the number one (1) divided by the total number of Condominium Units which, from time to time, have been subjected and submitted to this Declaration and then constitute a part of Woodmont.

(c) Simultaneously with the recording of amendments or supplements to this Declaration expanding Woodmont, Declarant shall record new Plans as required by the Act. Such amendments or supplements to this Declaration shall also include provisions reallocating Percentage Interests so that the Condominium Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas on the same basis as the Condominium Units depicted in the prior Plans. Such reallocation of Percentage Interests shall vest when the amendment or supplement to the Declaration incorporating those changes has been recorded.

(d) Each Owner of a Unit in an expandable phase of Woodmont shall have the same voting rights, and the same obligations for the payment of assessments as an Owner of a Unit in the first phase. ®

(e) Improvements constructed on any subsequent phase of Woodmont shall, in terms of quality of construction, be consistent with the improvements constructed in the first phase and such improvements shall be substantially completed prior to the time Woodmont is expanded to include such phase.

(f) When the amendment or supplement to the Declaration incorporating the addition of Condominium Units or expansion of Common Areas or both is recorded, all liens including, but not limited to, mortgage liens shall be released as to the Percentage Interests in the Common Areas described in the Declaration and

shall attach to the reallocated Percentage Interests in the Common Areas as though the liens had attached to those Percentage Interests on the date of the recordation of the mortgage or other lien. The Percentage Interest appertaining to additional Condominium Units being added by the amendment or supplement to the Declaration are thereafter subject to mortgage and liens upon the recordation of the amendment or supplement to the Declaration.

In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant, as attorney in fact, to shift the Percentage Interest in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such amendment or supplement to this Declaration recorded pursuant to this Paragraph 22. Each deed, mortgage or other instrument with respect to a Condominium Unit and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to said attorney in fact and shall be deemed to reserve to said attorney in fact the power to shift and reallocate from time to time the percentages of ownership in the Common Areas appurtenant to each Condominium Unit to the percentages set forth in each such recorded amendment or supplement to this Declaration.

Each Owner of a Condominium Unit by acceptance of a deed thereto, further acknowledges, consents and agrees, as to each such amendment or supplement to this Declaration that is recorded, as follows:

- (1) The portion of the Real Estate described in each such amendment or supplement to this Declaration shall be governed in all respects by the provisions of this Declaration.
- (2) The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall auto-

matically be shifted and reallocated to the extent set forth in each such recorded amendment or supplement to this Declaration and upon the recording of each such amendment or supplement to this Declaration, shall thereby be and be deemed to be released and divested from such Owner and reconveyed and reallocated among the other Owners as set forth in each such recorded amendment or supplement to this Declaration.

(3) Each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed given subject to the conditional limitation that the Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall, upon the recording of each amendment or supplement to this Declaration, be divested pro tanto to the reduced percentage set forth in such amendment or supplement to this Declaration and vested among the other Owners, Mortgagees and others owning an interest in the other Condominium Units in accordance with the terms and percentages of each such recorded amendment or supplement to this Declaration. ®

(4) A right of revocation is hereby reserved by the grantor in each such deed, mortgage or other instrument of a Condominium Unit to so amend and reallocate the Percentage Interest in the Common Areas appurtenant to each Condominium Unit.

(5) The Percentage Interest in the Common Areas appurtenant to each Condominium Unit shall include and be deemed to include any additional Common Areas included in land to which Woodmont is expanded by a recorded amendment or supplement to this Declaration and each deed, mortgage

or other instrument affecting a Condominium Unit shall be deemed to include such additional Common Areas and the ownership of any such Condominium Unit and lien of any such mortgage shall automatically include and attach to such additional Common Areas as such amendments or supplements to this Declaration are recorded.

- (6) Each Owner shall have a perpetual easement appurtenant to his Condominium Unit for the use of any such additional Common Areas described in any recorded amendment or supplement to this Declaration, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners (also known as Limited Areas) of specific Condominium Units as may be provided in any such amendment or supplement to this Declaration.
- (7) The recording of any such amendment or supplement to this Declaration shall not alter the amount of the lien for expenses assessed to or against a Condominium Unit prior to such recording.
- (8) Each Owner, by acceptance of the deed conveying his Condominium Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each amendment or supplement to this Declaration are and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act, any changes in the respective Percentage Interest in the Common Areas as set forth in each such amendment or supplement to this Declaration shall be deemed to be made by agreement of all Owners.

(9) Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Paragraph 22 to comply with the Act as it may be amended from time to time.

23. Granting of Easements. The Board of Directors of the Association is granted the authority to grant easements to utility companies (excluding transportation companies) for the benefit of Woodmont upon such terms and conditions and for such consideration as they deem appropriate.

24. Reservation of Rights to the Use of the Common Areas. If, at any time, and from time to time, any portion of the Real Estate has not been subjected and submitted to this Declaration or to the Act by an amendment or supplement to this Declaration and the owner or owners of such portion or portions of the Real Estate not so subjected to the Declaration or to the Act develop single or multifamily dwelling units on such portions, then the owner or owners of such portions of the Real Estate shall have the benefit of the Common Areas or portions thereof, including the roads and associated facilities, for the use of the persons and families living in such dwelling units upon the same terms and conditions as the use of such Common Areas by the Owners of the Condominium Units, their families and guests. The owner or owners of such portions of the Real Estate shall then pay for the use of such facilities based on the cost of operation and maintenance of such facilities for the year of such usage and based on the number of living units so entitled to utilize such facilities in proportion to all of the living units on the Real Estate. The owner or owners of such living units shall make payments for the usage provided herein to the Association at the same time as the Owners of the Condominium Units pay their assessments to the Association.

25. Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the

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

- (b) Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of the 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 Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and main-

890051887

tenance of a (1) reserve fund for capital expenditures and replacement and repair of the Common Properties, and (2) a working capital fund. The reserve fund shall be used for the stated purposes and not for usual and ordinary repair expenses of the Common Properties. Such reserve fund shall be maintained by the Association 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 working capital fund shall be maintained in an amount equal to at least one-sixth (1/6) of the annual regular assessment for each Unit. Amounts paid into this fund shall not be considered as advance payment of regular assessments. Until the Applicable Date has occurred, Declarant may not use any part of the fund to defray its expenses, its construction costs or to make up budget deficits. At the time an Owner acquires a Unit from Declarant, such Owner shall pay its share of the working capital fund. Upon the Applicable Date (or earlier at Declarant's option) Declarant shall pay its share of the working capital fund for all Units owned by it. When Declarant sells a Unit for which it has already paid the share of working capital fund, Declarant may use the funds collected at closing, from the Purchaser, to reimburse itself for such payment. 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 the Association, there is no annual budget approved by the

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890051887

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 ten percent (110%) of such approved budget, as a temporary budget.

(c) 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 Unit which shall be the same amount for each Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Unit (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 Unit 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 funds as hereinabove provided. The Regular Assessment against each Unit shall be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the quarterly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of

890051887

Directors; provided, however, Owners may elect to pay quarterly assessments semi-annually or annually, in advance. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in monthly installments rather than quarterly installments. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

- (1) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether quarterly or monthly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (2) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether quarterly, or monthly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the adjustments set forth under (1) or (2) above

890051887

shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Unit as of the first day of each fiscal year of the Association, 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 who 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 Unit or any interest therein, shall not relieve or release such Owner or his successor as owner of such Unit from payment of the Regular Assessment for such Unit as finally determined, and such Owner and his successor as owner of such Unit shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to subsection (b) of Paragraph 25 hereof 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.

890051887

Quarterly or monthly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the Bylaws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Unit, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board 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.

(e) Failure of Owner to Pay Assessments.

(1) No owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Properties and items deemed Common Properties for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Properties or

890051887

by abandonment of the Unit belonging to him or otherwise. Each Owner shall be personally liable for the payment of all Regular and Special Assessments imposed during his period of ownership. Where the Owner constitutes more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments when due, the lien for such Assessment on the Owner's Unit may be filed and foreclosed by the Board for and on behalf of the Association or by the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any Regular Assessments or Special Assessments when due, the Board may in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the

890051887

lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, or the Association, shall be entitled to recover from the Owner of the respective Unit, the costs and expenses of such action (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments were due, until paid, at a rate equal to the "prime interest rate" plus three percent (3%) then being charged by Merchants National Bank & Trust Company of Indianapolis (or if said Bank is no longer in existence, then such prime rate charged by another national bank in Marion County, Indiana selected by the Board); said interest in any event not to be less than eight percent (8%) per annum. The provisions of this subsection (3) are in addition to any other provisions or remedies contained in this Declaration.

- (2) The Association's lien shall not be affected by the sale or transfer of any Unit, and any new owner shall be liable for all assessments, interest, and other costs and expenses attributable to any Unit purchased by or transferred to such new Owner. However, any Owner, upon demand, shall be entitled to receive from the Association a statement as to any then unpaid Assessments, interest, or other costs or expenses owed to the Association and attributable to any Unit of such Owner, and any purchaser or transferee of such Property shall have the right to rely on such statement.

(3) Notwithstanding anything contained in this subsection or elsewhere in this Declaration, the Articles or the Bylaws, any sale or transfer of a Unit to a bona fide institutional Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu of foreclosure, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or for the lien therefor. Such unpaid share of any required 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 Unit from which it arose). To the fullest extent permitted by the Act, the lien of a first mortgage held by a mortgagee of the type described in Subsection (e) of Paragraph 19 shall be superior to the lien securing any regular assessment or special assessment.

(f) Initial Budgets and Assessments. Notwithstanding anything to the contrary contained herein, in the

890051887

Articles, in the Bylaws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Paragraph 12 shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date, the Regular Assessments are and shall be established as follows:

- (1) From the date of the first conveyance of a Unit by Declarant to any other person until the earlier of the Applicable Date or December 31, 1990, the Regular Assessment shall be Two Thousand Four Hundred Dollars (\$2,400.00) per year upon each Unit owned by someone other than Declarant, prorated on a daily basis for any period of time less than a full year; provided, however, that if a Unit is so conveyed by Declarant to another Person without a completed Unit thereon, then the Regular Assessment shall be One Thousand Two Hundred Dollars (\$1,200.00) per year, prorated on a daily basis, until the earlier of (i) the date a Unit is completed or (ii) one (1) year from the date of conveyance of such Unit to said person, at which time the Regular Assessment shall be raised to the full amount first mentioned in this subparagraph (1).
- (2) After December 31, 1990 (if the Applicable Date has not then occurred) and for each year thereafter

890051887

until the Applicable Date, the Regular Assessment upon each Unit owned by someone other than Declarant may be increased by the Board by an amount not greater than an amount equal to the same percentage of the Regular Assessment provided under subparagraph (1) above as the percentage increase, if any, in the Consumer Price Index between the Index figure for the month of April, 1989 and the Index figure for the last month of the year preceding the year for which such increase is to be effective. Such increases may be made by the Board annually on, or effective on, January 1 of each year until the Applicable Date. As used herein, "Consumer Price Index" means the "Consumer Price Index for All Urban Consumers, U.S. City Average of all items (CPI-U, reference base of 1967-100)" published by the Bureau of Labor Statistics of the U.S. Department of Labor. If the publication of the Consumer Price Index of the U.S. Bureau of Labor Statistics is discontinued, then comparable statistics on the purchasing power of the consumer dollar published by a responsible financial periodical selected by the Association shall be substituted for said Consumer Price Index and used for making such computations.

Notwithstanding the foregoing or anything else contained herein, during the period of time beginning on the date this Declaration is recorded and terminating on the first day of the twenty-fourth calendar month following the month in which the closing of the sale of the first unit in Woodmont occurs, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to

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any unoccupied Unit offered for the first time for sale and which is owned by Declarant.

26. Mortgages.

(a) Notice to Association. Any Owner who places a first mortgage lien upon his Unit, or the Mortgagee, shall notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the Bylaws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish (1) such Mortgagee (at the same time, if any, that it furnishes its borrower) default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days after said performance is due; and (2) such mortgagee with written notice of:

- any condemnation or casualty loss that affects either a material portion of the Property or the Unit securing its mortgage;
- Any 60-day delinquency in the payment of assess-

890051887

ments owed by the Owner of any Unit on which it holds the mortgage;

- a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the the Association; and
- any proposed action that under this Declaration requires the consent of a specified percentage of mortgage holders.

(b) Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Unit, which statement shall be binding upon the Association.

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

28. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the Bylaws.

29. Pronouns. Any reference to the masculine, feminine or neuter genders herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular


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shall include and refer to the plural, and vice versa, as appropriate.

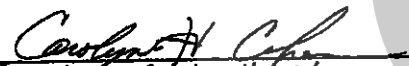
30. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File , as of June 2, 1989, as Instrument Number 890051886.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

WOODMONT, INC.


by AARON Y. COHEN, President

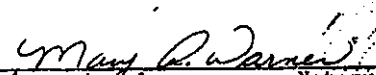
ATTEST:


Secretary Carolyn H. Cohen

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Carolyn H. Cohen, the President and Secretary, respectively, of Woodmont, Inc., an Indiana corporation, who acknowledged execution of the foregoing Declaration of Horizontal Property Ownership for and on behalf of said Corporation.

Witness my hand and Notarial Seal this 2nd day of June, 1989.


Mary A. Warner, Notary Public
County of Residence Hamilton

My Commission Expires:
1-11-92

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This instrument prepared by WADE R. NICHOLS, Attorney at Law,
MITCHELL HURST JACOBS & DICK, 152 East Washington Street,
Indianapolis, Indiana 46204.



CHICAGO TITLE

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Part of Section 35, Township 17 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana being described as follows:

Beginning at the intersection of the northerly 50 foot right of way line of Arden Drive as described in Deed Record 911, Page 203 with the easterly 60 foot right of way line of U.S. 31; thence on an assumed bearing of North 77 degrees 06 minutes 00 seconds East along the northerly right of way line of Arden Drive a distance of 220.40 feet to the point of curvature of a curve, the radius point of which bears North 12 degrees 54 minutes 00 seconds West a distance of 495.56 feet; thence easterly and northeasterly along said curve and along said right of way line an arc distance of 346.14 feet to the point of tangency of said curve, said point lying South 52 degrees 55 minutes 11 seconds East from said radius point; thence North 37 degrees 04 minutes 49 seconds East along said right of way line a distance of 518.03 feet to the westerly right of way line of Pennsylvania Street; thence North 50 degrees 07 minutes 00 seconds West along said westerly right of way line a distance of 465.00 feet; thence South 37 degrees 04 minutes 49 seconds West parallel with Arden Drive a distance of 537.76 feet; thence South 04 degrees 48 minutes 29 seconds East a distance of 91.86 feet; thence South 55 degrees 11 minutes 31 seconds West a distance of 100.72 feet; thence South 30 degrees 49 minutes 47 seconds West a distance of 197.23 feet to the aforesaid easterly 60 foot right of way line of U.S. 31; thence South 12 degrees 54 minutes 00 seconds East along said right of way line a distance of 202.62 feet to the point of beginning. Containing 9.131 acres, more or less.

CHICAGO TITLE

EXHIBIT A-1

890051887

Part of Section 35, Township 17 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana, being described as follows:

Commencing at the intersection of the northerly 50 foot right of way line of Arden Drive as described in Deed Record 911, Page 203 with the easterly 60 foot right of way line of U.S. 31; thence on an assumed bearing of North 77 degrees 06 minutes 00 seconds East along the northerly right of way of Arden Drive a distance of 220.40 feet to the point of curvature of a curve, the radius point of which bears North 12 degrees 54 minutes 00 seconds West a distance of 495.56 feet; thence easterly along said curve and along said right of way line an arc distance of 8.37 feet to the Beginning Point (said Beginning Point bears South 13 degrees 52 minutes 03 seconds East from said radius point); thence continuing easterly and northeasterly along the arc of said curve and along said right of way line a distance of 264.59 feet to a point which bears South 44 degrees 27 minutes 33 seconds East from said radius point; thence North 44 degrees 27 minutes 33 seconds West a distance of 97.42 feet; thence North 37 degrees 04 minutes 46 seconds East a distance of 24.00 feet; thence North 52 degrees 55 minutes 14 seconds West a distance of 13.00 feet; thence North 58 degrees 06 minutes 48 seconds West a distance of 49.70 feet; thence North 52 degrees 55 minutes 06 seconds West a distance of 72.25 feet; thence South 45 degrees 14 minutes 08 seconds West a distance of 72.17 feet; thence South 34 degrees 15 minutes 18 seconds West a distance of 37.12 feet to a curve having a radius of 97.00 feet, the radius point of which bears South 66 degrees 46 minutes 39 seconds East; thence Southerly along the arc of said curve a distance of 40.57 feet to a point which bears South 89 degrees 15 minutes 34 seconds West from said radius point; thence South 03 degrees 41 minutes 48 seconds East a distance of 31.68 feet; thence South 01 degrees 22 minutes 12 seconds West a distance of 65.69 feet; thence South 11 degrees 22 minutes 03 seconds East a distance of 76.96 feet to the Beginning Point, containing 1.008 acres, more or less.

CHICAGO TITLE

EXHIBIT A-2

890051887

CODE OF BYLAWS OF
WOODMONT HOMEOWNERS ASSOCIATION
OF INDIANAPOLIS, INC.

Article I

Name and Location

The name of the Corporation is Woodmont Homeowners Association of Indianapolis, Inc. (hereinafter referred to as the "Association"). The principal office of the Association shall be located at P. O. Box 40444, Indianapolis, Indiana, until and unless changed in accordance with law by the Board of Directors, but meetings of members and directors may be held at such places either within or without the State of Indiana as may be designated by the Board of Directors.

Article II

Definitions

Section 1. "Declarant" shall mean Woodmont, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant under the Declaration, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

Section 2. "Declaration" shall mean and refer to the Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime, recorded in the Office of the Recorder of Marion County, Indiana, and as the same may be amended or supplemented from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth at length herein.

Section 3. "Association" shall mean and refer to this association, which is also referred to as the "Association" in said Declaration.

Section 4. All of the definitions and terms as defined and used in the Declaration shall have the same meanings in these Bylaws and reference is specifically made to Paragraph 1 of the Declaration containing definitions of terms.

EXHIBIT B 890051887

Article III

Membership and Voting Rights

Section 1. Membership, Transfer, Voting Rights. Reference is hereby made to Paragraph 12 of the Declaration which sets forth terms, provisions and conditions governing and relating to membership in the Association, transfer of membership and voting rights of classes of members, all of which terms, provisions and conditions are incorporated herein by reference.

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

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

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

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

- A. Annual Meetings. The first annual meeting of the members of the Association shall be held within one (1) year from the date of incorporation of the Association, the exact date to be decided by the Board of Directors. At such first annual meeting of the members, the members may designate a regular day or date for successive annual meetings. If the members fail to designate such a regular day or date, the Board of Directors may continue to designate the

890051887

day or date of the next annual meeting until such a designation is made by the members. If any designated day or date falls upon a legal holiday, it shall be understood that the actual date of the meeting shall be the next business day succeeding such designated day or date.

- B. Special Meetings. A special meeting of the members shall be held within thirty (30) days after the Applicable Date, at which time an election shall be had of a full slate of directors who shall collectively replace, for their unexpired terms, the Board in office immediately prior to such election. It shall be the duty of the President to call a special meeting of the members when requested in writing by a majority of the members of the Board of Directors or upon a petition signed by members of the Association who are entitled to vote twenty-five percent (25%) of all of the votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four fifths (4/5) of the votes present in person or by proxy at such meeting.
- C. Notice of Meetings. It shall be the duty of the Secretary to serve a notice of each annual or special meeting, stating the purposes thereof as well as the time and place where it is to be held, upon each member of record, not less than ten (10) nor more than thirty (30) days prior to such meeting. The mailing of a notice to each member at the address shown for such member on the Association's records shall be deemed notice served.
- D. Order of Business. The order of business at all meetings of the members shall, to the extent applicable, be as follows:
- (1) Roll call.
 - (2) Proof of notice of meeting or waiver of notice.
 - (3) Reading of minutes of preceding meeting.
 - (4) Reports of officers.
 - (5) Reports of committees.
 - (6) Election of Directors.
 - (7) Unfinished business.
 - (8) New business.

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Article IV

Nomination and Election of Directors

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made only from among members of the Association or persons deemed to be members thereof in accordance with the Declaration and Articles of Incorporation.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Article V

Board of Directors ®

Section 1. Number and Qualification. Subject to amendment of this Section, the affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. Directors must be or be deemed to be members of the Association.

Section 2. First Board of Directors. The first Board of Directors named in the Articles of Incorporation shall maintain, manage and administer the affairs, the real estate and other property of the Association, until the first annual meeting of the members and until their successors have been duly elected and qualified, unless said directors sooner resign, be removed or otherwise disqualified to serve.

Section 3. Powers. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the

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performance of their duties, which powers include, but are not limited to, the power:

- A. To adopt and publish rules and regulations governing the use of the facilities, if any, of the Association, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.
- B. To suspend the voting rights and right to use of any Association facilities of a member, but not rights of access and easements necessary for the use of his Unit, during any period in which such member shall be in default for a period of thirty (30) days in the payment of any assessment levied by the Association, or the payment of any other amount or the performance of any other term of the Declaration or these Bylaws. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations.
- C. To exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, or the Articles, or by statute.
- D. To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- E. To employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, subject to the limitations set forth in the Declaration.
- F. To do and take all such action as is or may be necessary, desirable, or appropriate to perform the duties, obligations and responsibilities of the Board as required by the Declaration, other provisions of these Bylaws, or the Articles, or by statute.

Section 4. Duties. The Board of Directors shall have the following duties:

- A. To cause to be kept a complete record of all its acts and corporate affairs and the Association shall maintain current copies of the Declaration, By-Laws and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by Unit Owners or by holders, insurers, and guarantors of first mortgages

that are secured by Units. These documents will be available during normal business hours or under other reasonable circumstances.

- B. To supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- C. To establish the annual assessment period and fix the amount of the annual assessment against each member for each Unit owned, all in accordance with the terms of the Declaration and these Bylaws.
- D. To fix the amount of any special assessment against each member for each Unit owned, all in accordance with the terms of the Declaration and these Bylaws.
- E. To send written notice to all members of any meeting of the members called for the purpose of voting upon changes in annual assessments or voting upon a proposed special assessment, as and to the extent required by the Declaration.
- F. To send written notice of each assessment to every Owner in accordance with the Declaration.
- G. To foreclose the Association's lien for assessments against any Unit for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner or other person personally obligated to pay the same.
- H. To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- I. To procure and maintain liability and fire and other hazard insurance on property owned by the Association which shall include fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement only); and to use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable common property including insured improvements and to procure and maintain other insurance as required or authorized by the Declaration.

- J. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and at least as required by the Declaration.
- K. To cause all of the Common Area to be maintained.
- L. To perform or cause to be performed, all duties and obligations imposed upon the Association and the Board of Directors under the Declaration.

Section 5. Term of Office. At the first annual meeting after the Applicable Date, and at each annual meeting thereafter, the members shall elect directors for a term of one (1) year to fill the vacancies created by expiring terms. There shall be no limit on the number of times a director may serve.

Section 6. Vacancies. Any vacancy in the Board of Directors shall be filled by vote of the majority of remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director for the unexpired term of his predecessor, or until his successor is elected.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association as such director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties, and any director may be paid and compensated for services to the Association in a capacity other than as a director.

Section 8. Removal of Directors. At any regular or special meeting of the Association duly called, any Director may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created.

Section 9. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of its election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board shall be present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally, by mail, tele-

phone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two thirds (2/3) of the Directors.

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

Section 13. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which quorum is present shall be the acts of the Board of Directors except as otherwise provided in or required by the Declaration, Articles, these Bylaws or by statute. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval or consent of all the Directors. Any action so approved or consented to shall have the same effect as though taken at a meeting of the Directors.

CHICAGO TITLE

Article VI

Officers and their Duties

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

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

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

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

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

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

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

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

- A. President. The President shall preside at all meetings of the Board of Directors; he shall see that orders and resolutions of the Board are carried out; he shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes. He shall have the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Association. The President shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.
- B. Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or as are delegated to him by the President.
- C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate

seal of the Association (if any is adopted) and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

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

Article VII

Committees

The Board of Directors shall appoint a Nominating Committee, as provided in these Bylaws. At any time when the Board of Directors has not appointed a Nominating Committee, the Board of Directors shall itself act as, and be and constitute, such Committee not so appointed. In addition, the Board of Directors or the president may appoint other committees as deemed appropriate in carrying out the purposes of the Association.

Article VIII

Books of Account; Fiscal Year

Section 1. Books of Account. The Association shall keep detailed books of account showing all expenditures and receipts of administration which shall specify the maintenance and repair expenses of the Common Area and any other expenses incurred by or on behalf of the Association and the members. Such accounts, books, records, financial statements and other papers of the Association shall be open for inspection by the members and other persons having an interest in any Unit, including any Owner, any lender and any holder, insurer or guarantor of a first mortgage on any Unit, during reasonable business hours or under other reasonable circumstances and shall be audited annually by qualified auditors. The cost of such audits shall be a Common Expense. Any holder, insurer or guarantor of a first mortgage on a Unit shall be entitled upon written request to receive an audited financial statement for

the immediately preceding fiscal year free of charge to the requesting party and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, the Bylaws of the Association and other rules concerning the Real Estate, shall be available for inspection by any Owner and lender, and by holders, insurers or guarantors of any first mortgage, at the principal office of the Association during normal business hours or under other reasonable circumstances, where copies of the same and of audits may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Association shall commence January 1 and end the following December 31 each year; provided, however, that the fiscal year for purposes of assessments may be different than the general fiscal year of the Association.

ARTICLE IX

Assessments

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Unit against which the assessment is made. Any assessments which are not paid when due shall be delinquent. No owner may waive or otherwise escape liability for the assessments provided for in the Declaration or herein by nonuse of the Common Area or abandonment of his Unit.

Article X

Amendments

Section 1. The power to amend, alter, add to and repeal these Bylaws is vested in the members of the Association; provided, however, that no amendment or other change shall be made in these Bylaws which conflicts with the terms and provisions of the Declaration unless the same is adopted by and approved by the members of the Association and others entitled by the terms of the Declaration to vote on amendments to the Declaration as provided in, and in accordance with the requirements of, the Declaration; provided further, there shall be no amendment of or other change to these Bylaws prior to the Applicable Date without the consent and approval of Declarant.

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

ARTICLE XI

Limitations on Association

Except as provided by the Act in case of condemnation or substantial destruction to the Units and/or Common Properties, unless at least two-thirds (2/3) of the holders of first mortgages on Units (based on one (1) vote for each mortgage owned on a Unit), or Owners (other than Declarant) of Units have given their prior written approval, the Association may not:

- (1) by act or omission seek to abandon or terminate the Horizontal Property Regime created by the Declaration;
- (2) change the pro rata interest or obligations of any condominium unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each condominium unit in the common elements (provided this shall not be a limitation on the provision of the Declaration regarding expansion of Woodmont);
- (3) partition or subdivide any Unit;
- (4) seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Properties by act or omission. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Properties is not a transfer within the meaning of this clause.
- (5) Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for other than the repair, replacement, or reconstruction of the Property.

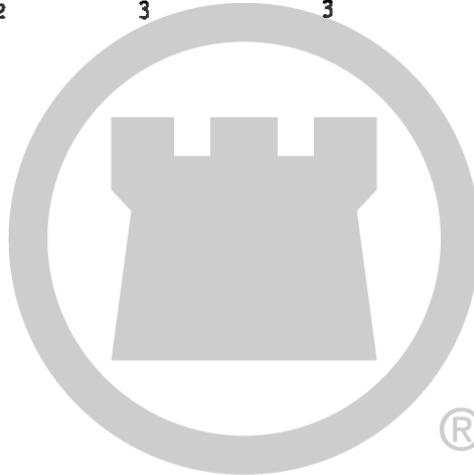
CHICAGO TITLE

**DESCRIPTION OF BUILDINGS AND
CONDOMINIUM UNITS**

The Building on the Tract as of the date of this Declaration is identified and referred to in the Plans as Structure No. 9. Such Building is a two (2) story structure constructed of brick and frame.

Structure No. 9 contains a total of four (4) separate Condominium Units, which consist of the following:

UNIT	FLOOR SQ.FT.	GAR SQ.FT.	BEDROOMS	BATHROOMS
A	2698	482	2	3
B	3039	482	3	3
C	2698	482	2	3
D	3039	482	3	3



CHICAGO TITLE

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EXHIBIT "C"

DESCRIPTION OF PERCENTAGE
INTERESTS OF CONDOMINIUM UNITS

The Percentage Interests of the Owners of the respective Condominium Units in the Common Areas and Limited Areas are now as follows:

<u>Condominium Unit</u>	<u>Percentage Interest</u>
9A	25%
9B	25%
9C	25%
9D	25%

Such Percentage Interests are subject to adjustment and alteration, upon expansion of Woodmont, as provided in this Declaration.



CHICAGO TITLE

EXHIBIT "D"

890051887

CONSENT OF MORTGAGEE

The undersigned, FIRST NATIONAL BANK, Martinsville, Indiana, a national banking association, being the holder of existing mortgages and other security on the Tract, as defined in the above and foregoing Declaration, as follows:

- (1) Mortgage dated August 20, 1987, recorded August 21, 1987, as Instrument No. 87-97010, in the Office of the Recorder of Marion County, Indiana; and
- (2) Security interest as evidenced by financing statement filed with the Recorder of Marion County, Indiana on August 21, 1987, as Statement No. 11093

hereby consents to the recording of the above and foregoing Declaration and the submission of the Tract to the provisions of the Horizontal Property Law of the State of Indiana and further agrees that its mortgages and other security with respect to the Tract shall be subject to the provisions of the Act and the above and foregoing Declaration and Exhibits attached thereto and the documents incorporated therein; provided, however, except and to the extent that the mortgages and other security are modified by this Consent, such mortgages and other security shall remain in full force and effect, unaltered, and enforceable in accordance with there terms.

EXECUTED this 1 day of JUNE, 1989.

FIRST NATIONAL BANK
Martinsville, Indiana



BY: Edward S. Hasten V.P.
Edward S. Hasten

STATE OF INDIANA)
) SS:
COUNTY OF)

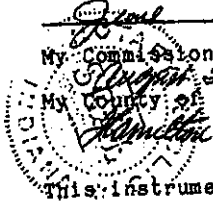
CHICAGO TITLE

Before me, a Notary Public in and for said County and State, personally appeared Edward S. Hasten, the President of First National Bank, Martinsville, Indiana, a national banking association, who acknowledged the execution of the above and foregoing Consent for and on behalf of said association.

WITNESS my hand and Notarial Seal this 1st day of _____, 1989.

My Commission Expires: 5/1/90
My County of Residence: Marion

Merritt K. Chavely
Notary Public



This instrument was prepared by Wade R. Nichols, Attorney at Law, MITCHELL HURST JACOBS & DICK, 152 E. Washington Street, Indianapolis, Indiana 46204.

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FIRST AMENDMENT AND SUPPLEMENT TO DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP FOR WOODMONT HORIZONTAL PROPERTY REGIME

CROSS REFERENCE

CROSS REFERENCE

This First Amendment and Supplement to Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime ("First Amendment and Supplement"), made this 14th day of February, 1990, by WOODMONT, INC., an Indiana corporation (the "Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant, on the 1st day of June, 1989, executed a Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime, which was recorded in the office of the Recorder of Marion County, Indiana, on the 2nd day of June 1989, as Instrument No. 89-51887 (hereinafter referred to as the "Declaration") establishing and creating Woodmont Horizontal Property Regime (hereinafter and in the Declaration referred to as "Woodmont").

B. Declarant is the sole owner of the fee simple title to that certain parcel of real estate located in Marion County, Indiana, which is more particularly described in Exhibit A attached hereto and hereby made a part hereof by this reference (hereinafter referred to as "Phase 2").

C. Phase 2 constitutes a portion of the Real Estate (as defined in the Declaration) and constitutes the second phase in the general plan of development of the Real Estate as described in paragraph 22 of the Declaration into which Declarant has reserved the right to expand Woodmont as provided in said paragraph 22 of the Declaration and the Act (as defined in Declaration).

D. All conditions relating to the expansion of Woodmont to include Phase 2 and to the inclusion of Phase 2 in Woodmont have been met and satisfied and Declarant, by this First Amendment and Supplement, desires to and hereby does expand Woodmont to include Phase 2 and to incorporate Phase 2 in Woodmont.

NOW, THEREFORE, in accordance with the Act and its rights reserved in the Declaration, makes this First Amendment and Supplement as follows:

- 1. Definitions. The definitions used in the Declaration shall be applicable to Phase 2 and this First Amendment and Supplement; provided, however, Phase 2 shall for all purposes now be included in the definition of "Tract" in the Declaration, and the definition of "Plans" in the Declaration where appropriate shall now include the Phase 2 Plans as defined in this First Amendment and Supplement.

APPROVED 2-15-90 WASHINGTON TOWNSHIP ASSESSOR Real Estate Dept. BY: [Signature]

CHICAGO TITLE MARION COUNTY ACCEPTANCE FOR TRANSFER FEB 15 90 004228

RECEIVED FOR RECORD 90 FEB 15 PM 2:58

CHICAGO TITLE

"Phase 2 Plans" as used herein means the floor and building plans of the Buildings and Condominium Units on Phase 2, prepared by Schneider Engineering Corp., certified by John V. Schneider, a licensed professional engineer under date of February 5, 1990, and a site plan of Phase 2 and Building thereon prepared by Schneider Engineering Corp., certified by Edward D. Giacoletti, a registered land surveyor and engineer, under date of February 2, 1990, all of which are incorporated herein by reference.

2. Declaration. Declarant hereby expressly declares that Phase 2 and all appurtenant easements, Condominium Units, Buildings, garages, improvements and property of every kind and nature whatsoever, real, personal and mixed, located thereon shall be annexed to and become part of Woodmont, and Woodmont is hereby expanded to include Phase 2, all as if the same had originally been included in the Declaration, and the same shall hereafter be held, transferred, sold, conveyed, used and occupied subject to all of the covenants, conditions, restrictions, terms and provisions of the Declaration, this First Amendment and Supplement, the Act, and the By-Laws, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time, the Declaration being incorporated herein and made a part hereof by reference.

3. Description of Buildings. There is one (1) Building containing four (4) Condominium Units on Phase 2 as shown on the Phase 2 Plans. The Building is identified and referred to in the Phase 2 Plans and in this First Amendment and Supplement as Building or Structure No. 5. A description of the Building located on Phase 2 and the Condominium Units contained therein is set forth in Exhibit E attached hereto and hereby made a part hereof by this reference. As of the date of this First Amendment and Supplement, Woodmont now consists of two (2) Buildings containing eight (8) Condominium Units.

4. Percentage Interest and Legal Description. Pursuant to the Declaration and the Act, Declarant hereby reallocates the

Percentage Interests included in the Condominium Units in accordance with the following provisions. The Percentage Interest in the Common Areas and Limited Areas on the Tract (as now defined) of each Owner of a Condominium Unit, including both the Condominium Units heretofore included in Woodmont and the Condominium Units added to Woodmont by this First Amendment and Supplement, shall be that Percentage Interest included in each Condominium Unit as set forth in Exhibit C attached hereto and hereby made a part hereof by this reference. Each Condominium Unit on Phase 2 is identified on the Phase 2 Plans by reference to a structure number, which number corresponds to the Building in which such Condominium Unit is located and a capital letter which letter corresponds to the unit in such Building. The legal description for each such Condominium Unit shall consist of the identifying number for such Building and such letter for such Condominium Unit as shown on the Phase 2 Plans, and shall be stated as "Condominium Unit (with identifying number and letter) in Woodmont Horizontal Property Regime"

5. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement by the Owner thereof and all those claiming by, through or under him that the provisions of this First Amendment and Supplement, the Declaration, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner or occupant and those claiming by, through or under him, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, lease thereof or other instrument or document relating thereto.

6. Floor Plans. The Phase 2 Plans setting forth the layout, location identification numbers and letters and dimensions of the Condominium Units identified in this First Amendment

and Supplement are incorporated into the Declaration, added to the Plans filed with the Declaration, and have been filed in the office of the Recorder of Marion County, Indiana, as of February 15, 1990, as Instrument No. 90-15322.

IN WITNESS WHEREOF, the undersigned has caused this First Amendment and Supplement to Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime to be executed the day and year first above written.

WOODMONT, INC.
by [Signature]
Aaron Y. Cohen, President

Attest:

[Signature]
Carolyn H. Cohen, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and Carolyn H. Cohen, the President and Secretary respectively of Woodmont, Inc., an Indiana corporation, who acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 14 day of February, 1990.

My Commission Expires:
1-11-92

[Signature]
Notary Public
Mary A. W...
Printed
County of Residence: Hamilton

CONSENT OF MORTGAGEE

The undersigned, First National Bank, Martinsville, Indiana, a national banking association, being the holder of existing mortgages and other security on Phase 2, as defined in the above and foregoing First Amendment and Supplement, as follows:

- (1) Mortgage dated August 20, 1987, recorded August 21, 1987, as Instrument No. 87-97010, in the Office of the Recorder of Marion County, Indiana; and
- (2) Security interest as evidenced by financing statement filed with the Recorder of Marion County, Indiana on August 21, 1987, as Statement No. 11093

hereby consents to the recording of the above and foregoing First Amendment and Supplement and the submission of Phase 2 to the provisions of the Horizontal Property Law of the State of Indiana and the Declaration; the undersigned further agrees that its mortgages and other security with respect to Phase 2 shall be subject to the provisions of the Act, the Declaration and the above and foregoing First Amendment and Supplement and Exhibits attached thereto and the documents incorporated therein; provided, however, except and to the extent that the mortgages and other security are modified by this Consent, such mortgages and other security shall remain in full force and effect, unaltered, and enforceable in accordance with their terms.

EXECUTED this 14th day of February, 1990.

FIRST NATIONAL BANK, Martinsville,
Indiana

by Roger A. Rollings V.P.
Roger A. Rollings ®

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Roger A. Rollings, by me known, and by me known to be the Vice President of First National Bank, Martinsville, Indiana, a national banking association, who acknowledged the execution of the above and foregoing Consent for and on behalf of said association.

WITNESS my hand and Notarial Seal this 14th day of February, 1990.



My Commission Expires:

MARtha K HAVELly
NOTARY PUBLIC STATE OF INDIANA
MARION COUNTY
MY COMMISSION EXP. AUG. 5, 1990

Martha K. Havelly
Notary Public

Printed _____

County of Residence: _____

900015323

This Instrument was Prepared by Wade R. Nichols, Attorney-at-Law

LAND DESCRIPTION
PHASE 2

Part of Section 35, Township, 17 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana, being described as follows:

Commencing at the intersection of the northerly 50 foot right of way line of Arden Drive as described in Deed Record 911, Page 203 with the easterly 60 foot right of way line of U.S. 31; thence on an assumed bearing of North 77 degrees 06 minutes 00 seconds East along the northerly right of way line of Arden Drive a distance of 220.40 feet to a curve having a radius of 495.36 feet, the radius point of which bears North 12 degrees 54 minutes 00 seconds West; thence easterly along said curve and along said right of way line an arc distance of 272.96 feet to a point which bears South 44 degrees 27 minutes 33 seconds East from said radius point; thence North 44 degrees 27 minutes 33 seconds West a distance of 97.42 feet; thence North 37 degrees 04 minutes 46 seconds East a distance of 24.00 feet; thence North 52 degrees 55 minutes 14 seconds West a distance of 13.00 feet; thence North 58 degrees 06 minutes 48 seconds West a distance of 49.70 feet; thence North 52 degrees 55 minutes 06 seconds West a distance of 47.05 feet to the Beginning Point; thence continue North 52 degrees 55 minutes 06 seconds West a distance of 25.20 feet; thence North 39 degrees 34 minutes 06 seconds East a distance of 27.57 feet; thence North 37 degrees 04 minutes 49 seconds East a distance of 121.45 feet to a curve having a radius of 108.00 feet, the radius point of which bears North 52 degrees 55 minutes 11 seconds West; thence Northerly along the arc of said curve a distance of 91.42 feet to a point which bears North 78 degrees 34 minutes 49 seconds East from said radius point; thence North 11 degrees 25 minutes 11 seconds West a distance of 34.41 feet; thence North 18 degrees 27 minutes 54 seconds West a distance of 56.62 feet; thence North 29 degrees 45 minutes 37 seconds West a distance of 22.00 feet; thence North 60 degrees 14 minutes 26 seconds East a distance of 15.00 feet; thence North 29 degrees 45 minutes 37 seconds West a distance of 115.20 feet; thence North 37 degrees 04 minutes 49 seconds East a distance of 227.37 feet to the Westerly right of way line of Pennsylvania Street; thence South 39 degrees 47 minutes 00 seconds East along said Westerly right of way line a distance of 232.74 feet; thence South 30 degrees 17 minutes 00 seconds West a distance of 170.52 feet; thence South 59 degrees 42 minutes 45 seconds East a distance of 12.00 feet; thence South 30 degrees 17 minutes 00 seconds West a distance of 13.07 feet; thence South 24 degrees 50 minutes 01 seconds West a distance of 70.85 feet; thence South 19 degrees 11 minutes 12 seconds West a distance of 60.90 feet; thence North 70 degrees 48 minutes 48 seconds West a distance of 68.56 feet to a curve having a radius of 10.00 feet, the radius point of which bears South 19 degrees 11 minutes 12 seconds West; thence Southwesterly along the arc of said curve a distance of 18.64 feet to the Point of Reverse curvature of a curve having a radius of 132.00 feet, the radius point of which bears North 87 degrees 38 minutes 10 seconds West; thence Southerly along the arc of said curve a distance of 79.98 feet to a point which bears South 52 degrees 55 minutes 11 seconds East from said radius point; thence South 37 degrees 04 minutes 49 seconds West a distance of 149.00 feet to the Beginning Point, containing 1.867 acres, more or less.

EXHIBIT A

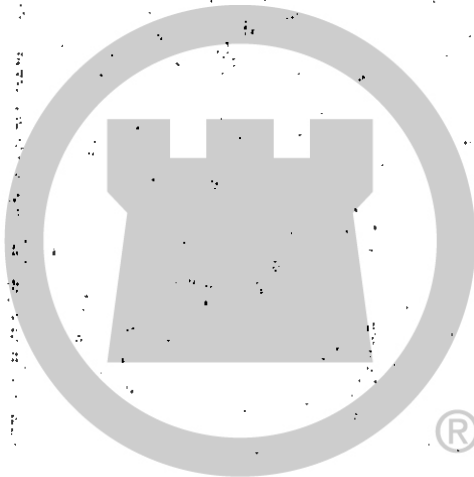
900015323

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

The Building on Phase 2 as of the date of this First Amendment and Supplement is identified and referred to in the Plans as Structure No. 5. Such Building is a two (2) story structure constructed of brick and frame.

Structure No. 5 contains a total of four (4) separate Condominium Units, which consist of the following:

<u>UNIT</u>	<u>FLOOR SQ. FT.</u>	<u>GARAGE SQ. FT.</u>	<u>BEDROOMS</u>	<u>BATHROOMS</u>
A	3039	482	3	3
B	3039	482	3	3
C	3039	745	3	3
D	3039	745	3	3



CHICAGO TITLE

EXHIBIT B

900015323

DESCRIPTION OF PERCENTAGE INTERESTS OF CONDOMINIUM UNITS

The Percentage Interests of the Owners of the respective Condominium Units in the Common Areas and Limited Areas are now as follows:

<u>Condominium Unit</u>	<u>Percentage Interest</u>
9A	12.5%
9B	12.5%
9C	12.5%
9D	12.5%
5A	12.5%
5B	12.5%
5C	12.5%
5D	12.5%

Such Percentage Interests are subject to adjustment and alteration, upon expansion of Woodmont, as provided in this Declaration.

CHICAGO TITLE

EXHIBIT C

900015323

APPROVED 6-11-93
WASHINGTON TOWNSHIP ASSESSOR
BY: John R. Baker Real Estate

11

SECOND AMENDMENT AND SUPPLEMENT TO DECLARATION
OF HORIZONTAL PROPERTY OWNERSHIP FOR
WOODMONT HORIZONTAL PROPERTY REGIME

This Second Amendment and Supplement to Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime ("Second Amendment and Supplement"), made this 11th day of June, 1993, by WOODMONT, INC., an Indiana corporation ("Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

- A. Declarant, on the 1st day of June, 1989, executed a Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime, which was recorded in the Office of the Recorder of Marion County, Indiana, on the 2nd day of June, 1989, as Instrument No. 89-51887 (hereinafter "Declaration") establishing and creating Woodmont Horizontal Property Regime (hereinafter and in the Declaration "Woodmont").
- B. Declarant on the 14th day of February, 1990, executed a First Amendment and Supplement to Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime, which was recorded in the Office of the Recorder of Marion County, Indiana, on the 15th day of February, 1990, as Instrument No. 900015323 (hereinafter "First Amendment and Supplement"), and which amended Declaration in certain respects.
- C. Declarant is the sole owner of the fee simple title to that certain parcel of real estate located in Marion County, Indiana, which is more particularly described in Exhibit A attached hereto and hereby made a part hereof by this reference (hereinafter "Phase 3").
- D. Phase 3 constitutes a portion of the Real Estate (as defined in the Declaration) and constitutes the third phase of the general plan of development of the Real Estate as described in paragraph 22 of the Declaration into which Declarant has reserved the right to expand Woodmont as provided in said paragraph 22 of the Declaration and the Act (as defined in the Declaration).

E. All conditions relating to the expansion of Woodmont to include Phase 3 and to the inclusion of Phase 3 in Woodmont have been met and satisfied and Declarant, by this Second Amendment and Supplement, desires to and hereby does expand Woodmont to include Phase 3 and to incorporate Phase 3 in Woodmont.

NOW, THEREFORE, in accordance with the Act and its rights reserved in the Declaration, Declarant makes this Second Amendment and Supplement as follows:

1. Definitions. The definitions used in the Declaration shall be applicable to Phase 3 and this Second Amendment and Supplement; provided, however, Phase 3 shall for all purposes now be included in the definition of "Tract" in the Declaration, and the definition of "Plans" in the Declaration where appropriate shall now include the Phase 3 Plans as defined in this Second Amendment and Supplement.

"Phase 3 Plans" as used herein means the floor and building plans of the Buildings and Condominium Units on Phase 3, prepared by Schneider Engineering Corp., certified by John V. Schneider, a licensed professional engineer under date of May 17, 1993, and a site plan of Phase 3 and Building thereon prepared by Schneider Engineering Corp., certified by Edward D. Giacoletti, a registered land surveyor and engineer, under date of May 17, 1993, all of which are incorporated herein by reference.

2. Declaration. Declarant hereby expressly declares that Phase 3 and all appurtenant easements, Condominium Units, Buildings, garages, improvements and property of every kind and nature whatsoever, real, personal and mixed, located

thereon shall be annexed to and become part of Woodmont, and Woodmont is hereby expanded to include Phase 3, all as if the same had originally been included in the Declaration, and the same shall hereafter be held, transferred, sold, conveyed, used and occupied subject to all of the covenants, conditions, restrictions, terms and provisions of the Declaration, First Amendment and Supplement, this Second Amendment and Supplement, the Act, and the By-Laws, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time, the Declaration and First Amendment and Supplement being incorporated herein and made a part hereof by reference.

3. Description of Buildings. There is one (1) Building containing four (4) Condominium Units on Phase 3 as shown on the Phase 3 Plans. The Building is identified and referred to in the Phase 3 Plans and in this Second Amendment and Supplement as Building or Structure No. 6. A description of the Building located on Phase 3 and the Condominium Units contained therein is set forth in Exhibit B attached hereto and hereby made a part hereof by this reference. As of the date of this Second Amendment and Supplement, Woodmont now consists of three (3) Buildings containing twelve (12) Condominium Units. By the designation of the L.A. Balconies as Limited Areas on Phase 3 Plans, Declarant is not obligating itself to construct such Limited Areas.

4. Percentage Interest and Legal Description. Pursuant to the Declaration and the Act, Declarant hereby reallocates the Percentage Interests included in the Condominium Units in accordance with the following provisions. The Percentage Interest in the Common Areas and Limited Areas on the Tract (as now defined) of each Owner of a Condominium Unit, including both the Condominium Units heretofore included in Woodmont and the Condominium Units added to Woodmont by this Second Amendment and Supplement, shall be that Percentage Interest included in each Condominium Unit as set forth in Exhibit C attached hereto and hereby made a part hereof by this reference. Each Condominium Unit on Phase 3 is identified on the Phase 3 Plans by reference to a structure number, which number corresponds to the Building in which such Condominium Unit is located and a capital letter which letter corresponds to the unit in such Building. The legal description for each such Condominium Unit shall consist of the identifying number for such Building and such letter for such Condominium Unit as shown on the Phase 3 Plans, and shall be stated as "Condominium Unit (with identifying number and letter) in Woodmont Horizontal Property Regime."

5. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement by the Owner thereof and all those claiming by, through or under him that the provisions of this Second Amendment and Supplement, the First

060593

Amendment and Supplement, the Declaration, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner or occupant and those claiming by, through or under him, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, lease thereof or other instrument or document relating thereto.

6. Floor Plans. The Phase 3 Plans setting forth the layout, location, identification numbers and letters and dimensions of the Condominium Units identified in this Second Amendment and Supplement are incorporated into the Declaration and First Amendment and Supplement thereto, added to the Plans filed with the Declaration and First Amendment and Supplement thereto, and have been filed in the Office of the Recorder of Marion County, Indiana, as of June 11, 1993, as Instrument No. 93- 68728.

IN WITNESS WHEREOF, the undersigned has caused this Second Amendment and Supplement to Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime to be executed the day and year first above written.

WOODMONT, INC.
by 
Aaron Y. Cohen, President

Attest:

Aaron Y. Cohen
Aaron Y. Cohen Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen and ~~_____~~, the President and Secretary respectively of Woodmont, Inc., who acknowledged execution of the above and foregoing instrument for and on behalf of said corporation.

Witness my hand and Notarial Seal this 11 day of June, 1993.

My Commission Expires: 1-11-96
Mary A. Warner
Notary Public

Mary A. Warner
Printed

County of Residence: Hamilton



CHICAGO TITLE

CONSENT OF MORTGAGEE

The undersigned, First National Bank, Kokomo, Indiana (p/k/a First National Bank, Martinsville, Indiana), a national banking association, being the holder of existing mortgages and other security on Phase 3, as defined in the above and foregoing Second Amendment and Supplement, as follows:

- (1) Mortgage dated August 20, 1987, recorded August 21, 1987, as Instrument No. 87-97010, in the Office of the Recorder of Marion County, Indiana, and Modification to Loan Agreement effective as of August 20, 1987, and Second Modification Agreement dated as of October 15, 1990, recorded December 31, 1990, as Instrument No. 900134420, in the Office of the Recorder of Marion County, Indiana, and Third Modification Agreement dated as of January 31, 1991, recorded May 8, 1991, as Instrument No. 910043414, in the Office of the Recorder of Marion County, Indiana, and Fourth Modification Agreement dated as of August 1, 1991, and Fifth Modification Agreement dated as of March 31, 1993, recorded _____, 1993, as Instrument No. 93-_____, in the Office of the Recorder of Marion County, Indiana; and
- (2) Security interest as evidenced by financing statement filed with the Office of the Recorder of Marion County, Indiana on August 21, 1987, as No. 11093, continued by continuation financing statement filed with the Office of the Recorder of Marion County, Indiana on June 25, 1992, as No. 006994;

hereby consents to the recording of the above and foregoing Second Amendment and Supplement and the submission of Phase 3 to the provisions of the Horizontal Property Law of the State of Indiana and the Declaration; the undersigned further agrees that its mortgages and other security with respect to Phase 3 shall be subject to the provisions of the Act, the Declaration, the First Amendment and Supplement and the above and foregoing Second Amendment and Supplement and Exhibits attached thereto and the documents incorporated therein; provided, however, except and to the extent that the mortgages and other security are modified by this Consent, such mortgages and other security shall remain in full force and effect, unaltered, and enforceable in accordance with their terms.

EXECUTED this 11th day of June, 1993.

FIRST NATIONAL BANK,
KOKOMO, INDIANA (p/k/a
First National Bank,
Martinsville, Indiana)

by G. William Reynolds
G. William Reynolds
Vice President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared G. William Reynolds, by me known, and by me known to be the Vice President of First National Bank, Kokomo, Indiana (p/k/a First National Bank, Martinsville, Indiana), a national banking association, who acknowledged execution of the above and foregoing Consent for and on behalf of said association.

Witness my hand and Notarial Seal this 11th day of June, 1993.

My Commission Expires:

10-01-96

Susan V.A.E. Williams
Notary Public

Susan V.A.E. Williams
Printed

County of Residence: Marion

This Instrument Prepared by Michael T. McNelis, Attorney at Law.

Land Description
Phase 3

Part of Section 35, Township 17 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana, being more particularly described as follows:

Commencing at the intersection of the Northerly 50 foot right-of-way line of Arden Drive as described in Deed Record 911, Page 203 in the office of the recorder of Marion County, Indiana with the easterly 60 foot right-of-way line of U.S. 31; thence on an assumed bearing of North 77 degrees 06 minutes 00 seconds East along the northerly right-of-way line of Arden Drive a distance of 220.40 feet to a curve having a radius of 495.56 feet, the radius point of which bears North 12 degrees 54 minutes 00 seconds West; thence Northeasterly along the arc of said curve and northerly right-of-way line a distance of 346.14 feet to a point which bears South 52 degrees 55 minutes 11 seconds East from said radius point; thence North 37 degrees 04 minutes 49 seconds East along said northerly right-of-way line a distance of 274.46 feet to the BEGINNING POINT; thence North 70 degrees 48 minutes 48 seconds West a distance of 172.96 feet; thence North 19 degrees 11 minutes 12 seconds East a distance of 60.90 feet; thence North 24 degrees 50 minutes 01 seconds East a distance of 70.85 feet; thence North 30 degrees 17 minutes 00 seconds East a distance of 13.07 feet; thence North 59 degrees 42 minutes 48 seconds West a distance of 12.00 feet; thence North 30 degrees 17 minutes 00 seconds East a distance of 170.52 feet to the Westerly right-of-way line for Pennsylvania Street; thence South 50 degrees 07 minutes 00 seconds East along said Westerly right-of-way line a distance of 232.26 feet to the Northerly right-of-way line of said Arden Drive; thence South 37 degrees 04 minutes 49 seconds West along said northerly right-of-way line a distance of 243.57 feet to the BEGINNING POINT, containing 1.319 acres, more or less.

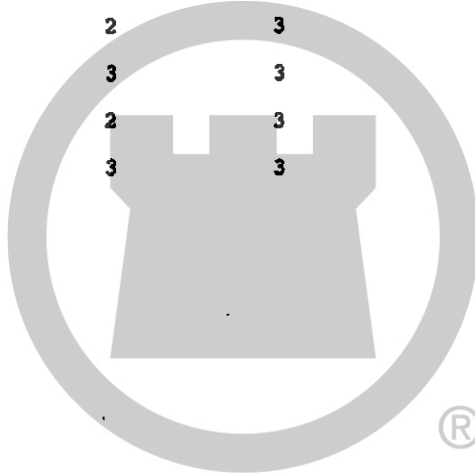
Exhibit A

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

The Building on Phase 3 as of the date of this Second Amendment and Supplement is identified and referred to in the Plans as Structure No. 6. Such Building is a two (2) story structure constructed of brick and frame.

Structure No. 6 contains a total of four (4) separate Condominium Units, which consist of the following:

<u>UNIT</u>	<u>FLOOR SQ. FT.</u>	<u>GARAGE SQ. FT.</u>	<u>BEDROOMS</u>	<u>BATHROOMS</u>
A	2681	482	2	3
B	3039	482	3	3
C	2681	482	2	3
D	3039	483	3	3



CHICAGO TITLE

Exhibit B

DESCRIPTION OF PERCENTAGE INTERESTS OF CONDOMINIUM UNITS

The Percentage Interests of the Owners of the respective Condominium Units in the Common Areas and Limited Areas are now as follows:

<u>Condominium Unit</u>	<u>Percentage Interest</u>
9A	8.33%
9B	8.33%
9C	8.33%
9D	8.33%
6A	8.33%
6B	8.33%
6C	8.33%
6D	8.33%
5A	8.33%
5B	8.33%
5C	8.33%
5D	8.33%



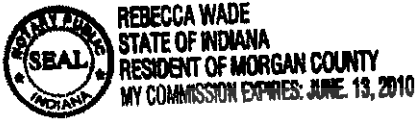
CHICAGO TITLE

Exhibit C

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen, the President of Woodmont, Inc., an Indiana corporation, who acknowledged execution of the foregoing Assignment for and on behalf of said corporation.

Witness my hand and Notarial Seal this 3rd day of November, 2004.



Rebecca Wade
Rebecca Wade, Notary Public

Commission Expires: _____
County of Residence: _____

This instrument was prepared by Richard J. Dick, Attorney at Law, P.O. Box 44911, Indianapolis, Indiana 46244-0911.

CHICAGO TITLE

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Aaron Y. Cohen, the President of Woodmont, Inc., an Indiana corporation, who acknowledged execution of the foregoing Assignment for and on behalf of said corporation.

Witness my hand and Notarial Seal this 3rd day of November, 2004.



REBECCA WADE
STATE OF INDIANA
RESIDENT OF MORGAN COUNTY
MY COMMISSION EXPIRES: JUNE 13, 2010

Rebecca Wade
Rebecca Wade, Notary Public

Commission Expires: _____
County of Residence: _____

This instrument was prepared by Richard J. Dick, Attorney at Law, P.O. Box 44911, Indianapolis, Indiana 46244-0911.

CHICAGO TITLE

3
KB

BILLIE J. BREAU
MARION COUNTY RECORDER
007724 AUG 19 2009
DULY ENTERED FOR RECORD
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

Cross-Reference: Instrument No. 1989-51887

AMENDMENT TO THE DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP FOR WOODMONT HORIZONTAL PROPERTY REGIME

This Amendment to the Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime was executed as of the date set forth below.

WITNESSETH:

WHEREAS, the Woodmont Horizontal Property Regime located in Marion County was established by a certain Declaration of Horizontal Property Ownership for Woodmont Horizontal Property Regime ("Declaration"), which was recorded on June 2, 1989, as **Instrument No. 1989-51887**, in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, the Board of Directors of the Woodmont Homeowners Association of Indianapolis, Inc. ("Association") recommended that the original provisions in the Declaration be amended as set forth below; and

WHEREAS, pursuant to the Declaration, any amendment to the Declaration shall be approved by seventy-five percent (75%) of all Owners and the following amendment was approved by eighty percent (80%) of all Owners; and

WHEREAS, the written approvals and votes of eighty percent (80%) of all Owners are a part of the permanent records of the Association; and

WHEREAS, all terms used in this Amendment shall have the same meanings as given to such terms in the Declaration.

NOW, THEREFORE, the Declaration which is applicable to all Owners and residents within Woodmont Horizontal Property Regime is hereby amended as follows:

1. Amendment.

The first paragraph of Section 15 (a) of the Declaration is amended so as to read in its entirety as follows:

(a) **Casualty Insurance.** The Co-Owners, through the Association, shall purchase a master casualty insurance policy affording fire and extended coverage insurance and all risk insurance insuring the Property in an amount consonant with the full replacement value of the improvements, including all floor, ceiling and wall coverings. The Board 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 protection required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner upon the following terms and conditions:

Section 15 (e) of the Declaration is amended so as to read in its entirety as follows:

(e) **Insurance by Owners.** Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property, the contents of his Condominium Unit (excluding all floor, ceiling and wall coverings and fixtures, and betterments and improvements since those items are covered by the Association's Master policy) and his personal property stored elsewhere on the Property, and for his personal liability. Each Owner may obtain casualty insurance at his own expense upon his Condominium Unit, but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

2. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any one Unit shall constitute a ratification of this Amendment, together with the Declaration, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

3. Certification. The undersigned persons hereby represent and certify that the requirements for and conditions precedent to the Amendment of the Declaration have been fulfilled and satisfied.

