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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ABACO ESTATES

This Declaration of Covenants, Conditions, Restrictions, and Easements for Abaco Estates (hereinafter referred to as the "Declaration") is made this 13 day of March, 2014, by **CHRISTOPER W. HOFFEE and LAURA S. HOFFEE**, husband and wife, **ANTHONY D. ALDERSON**, and **ABACO ESTATES, LLC**, an Indiana limited liability company (collectively "Declarants").

WITNESSETH:

WHEREAS, Declarants are the respective owners of certain parcels of real property located in Morgan County, Indiana, which are more particularly described in Exhibit A, attached hereto and incorporated herein by reference, and each of the Declarants desires to subject such property to the provisions of this Declaration and to develop such property for residential use in a development (hereinafter referred to as the "Development"); and

WHEREAS, Declarants desire to provide for the reasonable use of the property in the Development and create a method for maintenance and upkeep of properties used in common by all owners in the Development, and for the sharing of costs and expenses for such maintenance and upkeep.

NOW, THEREFORE, Declarants hereby declare that all of the property which is described in Exhibit A, attached hereto and made a part of this Declaration, together with any property as may be added hereto by subsequent amendment pursuant to the terms hereof, is hereby subjected to this Declaration and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the easements, restrictions, covenants, charges, liens, and conditions hereinafter set forth, all of which are for the purpose of protecting the value and desirability of the property and which shall touch and concern and run with the title to the property subjected to this Declaration, and which shall be binding on all parties (including any mortgagees or lien-holders) having any right, title, or interest in the described properties or any portion thereof, and their respective occupants, invitees, heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

Article I

Definitions

The following words, when used in this Declaration, unless the context shall prohibit or otherwise require, shall have all the following meanings. All definitions shall be applicable to the singular and plural forms of such terms:

"Access Drive" shall mean and refer to that access road depicted on Exhibit B attached hereto and made a part of this Declaration, which provides the means of access to and from the Owners' Lots.

"Assessment Percentage" for each Lot shall refer to a fraction, the numerator of which shall be ONE, and the denominator of which shall be the number of Lots in the Development, as determined in good faith by the Declarants, which determination shall be binding and which shall take into account any additional acreage added to the Development by Declarants pursuant to Section 12.3. At the time of this Declaration the Assessment Percentage for any Lot is one-seventh (1/7)

"Common Area" shall mean the Access Drive and any and all other areas located within the Common Area Easement (**"Common Easement"**) depicted and described on Exhibit B.

"Common Assessment" shall mean and refer to assessments levied by the Declarants against each Lot in the Development to fund Common Expenses in the manner herein provided.

"Common Expenses" shall mean the actual and reasonable expenses incurred by the Declarants, as provided herein, for the general benefit of the Development, to repair, maintain, clean, insure, light, and replace (if necessary due to wear and tear) the Common Area or Access Drive, including without limitation:

- (a) the cost of snow removal for the Access Drive;

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(b) the cost of utilities, including maintenance and operation of lighting or otherwise serving the Access Drive;

(c) the cost of landscaping and maintenance of the Common Area or any landscape easement areas, including the cost of any necessary replacements of the elements in such areas;

(d) any commercial general liability insurance or other insurance reasonably necessary for the protection of the Declarants or other Owners, with respect to the Common Area or Access Drive, as determined by the Declarants; and

(e) any entry gate(s) or other security system serving the Development, and utilities therefore;

(f) fees and costs incurred in enforcement of the covenants and restrictions under this Declaration, including without limitation reasonable attorneys' fees; and

(g) the costs and expenses of forming an association entity for purposes of a "Transfer" (as hereafter defined) including without limitation governing documents and reasonable attorneys' fees.

"Declarants" shall mean one or more of: Christopher W. Hoffee, Laura S. Hoffee, Anthony D. Alderson, and/or Abaco Estates, LLC, an Indiana limited liability company (**"Original Owners"**), so long as such person retains an ownership interest in a Lot (or is the primary beneficiary of a trust or entity which retains such interest, in which case, such beneficiary shall be deemed a Declarant and/or Owner hereunder as context permits). With the unanimous consent of all of the Original Owners then owning a Lot, the rights and obligations of the Declarants may be transferred to an entity formed for the sole purpose of operating as an owners' association and upon recordation of a written declaration of such transfer such entity shall be the Declarant hereunder, and each of the Owners in the Development shall automatically be members of such entity. If the Original Owner(s) do not transfer the right and obligations of the Declarants to an association entity, then upon the termination of the last ownership interest of an Original Owner (including a trust or entity), the obligations and rights of the "Declarants" hereunder shall transfer to the remaining Owners, collectively.

"Development" shall mean and refer to those tracts or parcels of real estate described on Exhibit A, together with all improvements thereon and all additions to such real estate which are hereby subjected to this Declaration.

"Lot" shall mean and refer to each plot of land included in the Development identified on any recorded plat of the Development or in any other recorded instrument upon which it is intended that single family residential building, an attendant improvements, shall be constructed.

"Owner" shall mean and refer to the record owner, whether one or more persons, with fee simple title to any Lot which is part of the Development, but excluding in all cases any party

holding an interest merely as security for the performance of an obligation. The term "Owner" shall include Declarants so long as any Declarants shall own any real estate in the Development.

"Transfer" shall mean the transfer and assignment of the rights and obligations of the Declarants from the Original Owner(s) to either an association entity or to the remaining Owners, as provided under "Declarants", hereinabove.

Article II

Nature of Development and Usage

Section 2.1. Development of Property. All property within the Development shall be and is hereby restricted exclusively to residential use and shall be subject to the existing zoning restrictions with regard to the Development and to the standards and restrictions set forth in this Declaration. Declarants shall have the right, but not the obligation, for so long as any one or more of the Declarants owns any property within the Development to maintain and make improvements, repairs, and changes to property within the Development, including, without limitation, (i) installation and maintenance of any improvements in and to the Common Area or Access Drive.

Section 2.2. Declarants' Right to Create Additional Restrictions. Prior to any Transfer, the Declarant(s) have the right to amend the Declaration unilaterally without the approval of any other Owner (except another Declarant) to create additional restrictions and prohibitions with respect to reasonable uses within the Development and may assign the right of control and approval of any exemption from such restrictions to any Owner of a Lot located within the Development; provided, however, no use restriction created hereunder shall prohibit or interfere with any then existing residential use of any Lot within the Development without the consent of the Owner of that Lot.

Article III

Property Rights

Section 3.1. General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of its Lot subject to the provisions of this Declaration. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, the right of enjoyment in and to the easements described herein for the benefit of the Development, all Lots, all Owners and their licensees, guests and invitees as established hereunder. Each Owner of a Lot shall automatically become an "Owner" and shall remain an Owner until such time as its ownership ceases for any reason.

Section 3.2. Access to Lots.

(a) The Declarants hereby acknowledge that certain perpetual and non-exclusive easement for each Owner's use of the Access Drive, pursuant to and as described in that certain Declaration and Grant of Easements dated April 23, 2012 and recorded in the office of the Morgan County Recorder on April 24, 2012 as Instrument No. 2012-03882.

Section 3.3. Utility and Public Service Easements.

(a) The Declarants hereby acknowledge that certain perpetual and non-exclusive easement for reciprocal, perpetual and non-exclusive easement to access, use, operate, inspect, maintain, repair, replace, and/or remove utility facilities servings ("Utility Facilities") in, under, on, through, over, and across the Common Areas pursuant to and as described in that certain Declaration and Grant of Easements dated April 23, 2012 and recorded in the office of the Morgan County Recorder on April 24, 2012 as Instrument No. 2012-03882.

Section 3.4. Drainage Maintenance. From time to time, at the reasonable discretion of the Declarants, Lots may be subjected to one or more easements for the purposes of providing drainage benefitting the Development, but only to the extent necessary to facilitate such drainage. The Owner of any Lot which may be subjected to such a drainage easement shall cooperate and execute and deliver any and all documents, instruments and agreements requested by the Declarants to establish such easement.

Notwithstanding the dedication of some or all of any storm water drainage system or Utilities Facilities to a governmental authority, it is expressly acknowledged by each Owner that some or all of the costs of maintaining, repairing or replacing a storm water drainage system or Utilities Facilities as dedicated to the public may become an on-going expense of the Owners chargeable to the Owners as a Common Expense.

Section 3.5. Maintenance Easement. There is hereby reserved and created for the use of Declarants, the Owners and their respective agents, employees, successors, and assigns, a maintenance easement, at Declarants' election, to enter upon any Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain a community-wide standard of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarants to perform any such actions.

Section 3.6. Additional Easements. Each Owner shall have the right to create and reserve additional easements on its Lot for ingress and egress, parking, or other matters, provided any such easements are not inconsistent with the provisions of this Declaration or any zoning ordinances of the Governmental Authority.

Section 3.7. Work Standards. Notwithstanding anything contained in this Declaration to the contrary, the exercise of any rights to install, construct, maintain, repair, remove, replace

or perform any other work, shall be performed in accordance with the following:

(a) all such work shall be performed in a manner that causes the least amount of interference with the Development as is reasonably possible, including but not limited to assuring that access and utilities are maintained at all times, and all such work will be scheduled Monday through Saturday.

(b) all such work shall be diligently pursued to completion, and any affected Common Area shall be restored promptly after completion to the condition as existed immediately prior to such work, at the expense of the Owner performing the work.

(c) the Owner performing the work, as applicable, will indemnify defend and hold the affected Owner(s) harmless from and against any and all liability, costs and damages relating to such work, including, without limitation, injury and mechanics' liens.

(d) the party performing any work which will affect the Common Areas shall provide the Declarants at least ten (10) days prior written notice and work with the Declarants to coordinate the work in an effort to minimize any disruption; however, in the event of emergency, the party performing the work will provide such notice as is reasonable under the circumstances.

Article IV

Ownership and Voting Rights

Section 4.1. Application of Article IV. This Article IV shall become effective upon the transfer of the obligations and rights of the Declarants from the Original Owners to either an association or the Owners, collectively, as provided in the definition of "Declarants" hereinabove.

Section 4.2. Ownership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. The membership rights of a Lot owned by a corporation, partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner, in a written instrument provided to the Declarants

Section 4.3. Voting. Each Owner (regardless of class designation) shall be entitled to one (1) vote for each Lot such Owner owns. In any situation where an Owner is entitled to exercise the vote for its Lot and more than one (1) Person holds the interest in such Lot, the vote for such Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Owners in writing prior to any meeting. In the absence of such advice, the vote for such Lot shall be suspended if more than one (1) Person seeks to exercise it.

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Article V

Maintenance

Section 5.1. Maintenance Responsibilities. The Declarants shall be required to provide the following services and maintain and keep in good repair the following:

(a) Snow removal, repairs, replacement or maintenance of the Access Drive, as approved by the Declarants, but in the event that following a Transfer the Declarants have not agreed on necessary snow removal, maintenance, repairs or replacement of the Access Drive, then one or more of the Owners may undertake and cause such necessary work to be performed and shall be entitled to reimbursement for the costs and expenses of such work from the other Owners to the extent of their respective Assessment Percentage, as an Assessment;

(b) The Utilities Facilities and related easement areas created by or for Declarants or the Owners for the benefit of the Development; provided however, that these responsibilities shall extend only to such repair and maintenance as are necessary for the continued operation of residential activities within the Development;

(b) Any storm water drainage system, drainage easement areas (to the extent affecting the storm water run-off), created by or for Declarants or the Owners for the benefit of the Development;

(c) The Landscape Easement Areas, including any exterior landscape lighting within such areas and the cost of operating and/or leasing such lighting;

(d) Lighting of all Parking Areas in the Development; and

(e) Any sign easement areas, including the cost of replacing, repairing and maintaining common signage for the Development but not with respect to any signage for the individual Lots.

Following the Transfer of the responsibilities of the Declarants by the Original Owners, the mandatory responsibilities of the Declarants referenced in this Section 5.1 shall not be changed without (i) the unanimous consent of all Owners voting with respect to the elimination of such service; and (ii) the making of adequate provision for the replacement of such service or maintenance on behalf of the Owners and Declarants.

Section 5.2. Optional Responsibilities of the Owners. In addition to the mandatory maintenance and services described in Section 5.1 above, the Declarants may also be required to provide such additional maintenance or service items for the benefit of the Development as the Owners may approve including, but not limited to security services for the Development in general but not for the interior of any buildings or Lots. Following any Transfer, such additional service or maintenance item shall require the approval of seventy-five percent (75%) of the votes

of the Owners. In the event that additional maintenance or services are provided which serve the Development, the costs thereof will be deemed to be Common Expenses, subject to Section 4.2.

Upon the request of an Owner and the approval by a majority of the Owners' votes, the Declarants shall provide any such maintenance or service on an individual basis to one or more Owners or Lots, provided the cost for such maintenance or service is paid by the Owner benefited by such service, and liability for the payment of such cost is not incurred by the Owners.

Section 5.3. Responsibilities of the Owners. Each Owner shall maintain and repair the interior and exterior of its Lot and buildings located thereon and all structures, drives, parking areas, interior sidewalks, lawns, landscaping, grounds, lighting, water service lines, and other improvements comprising the Lot and buildings located thereon. Each Owner shall also be responsible for snow removal from the drive located upon its Lot. Notwithstanding the foregoing, designated portions of the Owners' responsibility may be assigned to the Declarants in accordance with Section 5.2 above, or any individual Owner may contract, separately, with the Declarants, for the Declarants to perform any of such Owner's responsibilities under this Section 5.3.

No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a building or the landscaping, grounds, or other improvements within a Lot unless such decoration, change, or alteration is first approved, in writing, by the Declarants as provided in Article IX hereof, or (ii) do any work which in the reasonable opinion of the Declarants, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement thereto, without in every such case obtaining the written approval of the Declarants.

Except for the landscaping within Common Areas, which shall be maintained by the Declarants (other than planting, maintaining and mowing grass, which shall be performed by the Owner, each Owner shall be responsible for the landscaping of its Lot. During any period in which the Lot remains unimproved, the Owner must plant grass seed and maintain the Lot in a neatly trimmed and clean condition. Upon completion of construction of a building, the Owner must sod or hydroseed all exposed land with an acceptable strain of grass and must maintain its Lot and buildings located thereon in a clean, neat and well-maintained condition which shall include, but not be limited to, fertilization of plants, shrubs and trees and the replacement of any grass, plants, shrubs or trees which have failed.

In the event that Declarants determine that: (i) any Owner has failed or refused to discharge properly its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which is its responsibility hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Owners hereunder is caused through the willful or negligent act of an Owner, its guests, or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, Declarants, except in the event of an emergency situation, may give such Owner written notice of Declarants' or the Owners's intent to provide such necessary maintenance, cleaning, repair, or

replacement, at the sole cost and expense of such Owner and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary (herein referred to as a "Maintenance Notice"). Except in the event of an emergency situation [which shall require no notice], such Owner shall have ten (10) business days following the receipt of any such Maintenance Notice (the "Maintenance Period") within which to complete the same, in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within the Maintenance Period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event that any such Owner fails to perform and complete the maintenance, cleaning, repair or replacement contemplated in any such Maintenance Notice within the time period provided herein, the Declarants may, but shall not be required, to assess an additional fee and charge against such Owner, in an amount of Two Hundred Fifty Dollars (\$250.00) per day (the "Non-Compliance Fee") for each day following the expiration of the Maintenance Period that such maintenance, cleaning, repair or replacement has not been completed hereunder to account for the administrative time and effort which the Declarants may expend in addressing such Owner's failure to comply with the requirements of this Declaration. The right to receive the Non-Compliance Fee does not diminish the Declarants' right to any remedies available under Section 8.3(b), Section 11.2 or any other remedies provided at law, in equity or otherwise under this Declaration.

In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Declarants may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner and such cost shall be paid by the Owners (until such time as reimbursement is received from the individual Lot Owner). In the event that Declarants or the Owners undertakes such maintenance, cleaning, repair or replacement, the Owner of the applicable Lot shall promptly reimburse Declarants and/or the Owners for all Declarants' costs and expenses incurred in undertaking and/or performing such activity, including reasonable attorneys' fees. Any such amounts will constitute a lien in favor of the Declarants and/or the Owners, as applicable, in the same manner that a lien may exist for the payment of assessments under Sections 8.1 and 8.4 below. There is hereby reserved and created for the use of Declarants, the Owners and their respective agents, employees, successors, and assigns, a maintenance easement to enter upon any Lot for the purpose of accomplishing the performance of any maintenance or repair work referenced in this paragraph, provided that such easement shall not impose any duty or obligation upon Declarants or the Owners to perform any such actions.

Article VI

Insurance and Casualty Losses

Section 6.1. Insurance. The Declarants shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements in the Common Area. If a blanket all-risk coverage policy is not reasonably available, then at a minimum, an insurance policy providing fire and extended coverage may be obtained. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or

destruction from any insured hazard.

The Declarants shall also obtain a public liability policy covering the Declarants for all damage or injury caused by the negligence of the Declarants or any of its agents. The public liability policy shall have at a minimum a Five Hundred Thousand Dollar (\$500,000.00) single person limit for bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit.

In addition to other insurance required by this Section, the Declarants may obtain worker's compensation insurance, directors and officers' liability coverage covering the Declarants, members of the Declarants and any officers, if reasonably available, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Common Expense funds, if reasonably available. The amount of fidelity coverage shall be determined in the directors' best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Common Assessments on all Lots, plus reserves on hand.

Section 6.2. Individual Insurance and Damage to Improvements. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Declarants that each Owner shall carry customary homeowner's insurance, including liability insurance and blanket all-risk casualty insurance with a minimum property damage limit equal to the full replacement cost of any and all property and improvements on such Owner's Lot. The Declarants may require all Owners to furnish copies or certificates thereof to the Owners. Each Owner further covenants and agrees that in the event of loss or damage to any building by fire, wind, flood, or otherwise, the Owner shall either (i) proceed promptly to repair or to reconstruct the damaged building in a manner consistent with the original construction or such other plans and specifications as are approved by the Declarants in accordance with Article IX of this Declaration and all applicable zoning, building and other government regulations, or (ii) raze and remove any such improvements from the Lot and rough grade, cut and fill as nearly as possible to the topographic condition Lot as existed prior to the date of such casualty.

Article VII

Rights and Obligations of the Owners

Section 7.1. Duties and Powers. The Declarants may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 7.2. Agreements. All agreements and determinations lawfully authorized by the Declarants shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development; and in performing its responsibilities hereunder, the

Declarants shall have the authority to delegate to qualified persons of its choice such duties as may be determined by the Declarants. In furtherance of the foregoing and not in limitation thereof, the Declarants may obtain and pay for the services of any person or entity (including Declarants or any affiliate) to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Declarants shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Owners or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Declarants, exercise all of the powers and shall be responsible for the performance of all the duties of the Owners, excepting any of those powers or duties specifically and exclusively reserved to any directors, officers, or the Declarants by this Declaration. Such manager may be an individual, corporation, or other legal entity, as the Declarants shall determine. In addition, the Declarants may hire or contract for such legal and accounting services as are reasonably necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration or the rules and regulations of the Declarants.

Section 7.3. Rules and Regulations. The Declarants, as provided in Article XI hereof, through its Declarants, may make and enforce reasonable rules and regulations governing the use of the Development, which rules and regulations shall be consistent with the rights and duties established by this Declaration and equitably applied. The Declarants shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.

Article VIII

Assessments

Section 8.1. Creation of Assessments. There are hereby created assessments for Common Expenses as may from time to time specifically be authorized by this Declaration or the Declarants to be commenced at the time and in the manner set forth in Section 8.5 of this Article. There shall be two (2) types of assessments: (a) Common Assessments; and (b) Special Assessments (as hereafter defined). Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Development, is deemed to covenant and agree to pay these assessments.

Each Owner's assessment shall be in proportion to such Owner's Assessment Percentage.

All assessments, together with interest at 5% per annum as computed by Declarants from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which it is assessed, and shall also be the personal obligation of the Owner of such Lot at the time the assessment arose, and its grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the lien for unpaid assessments shall be subordinate to the rights of any financial institution which is the holder of any first priority

institutional mortgage or to the holder of any mortgage securing a loan made by Declarants, its affiliates, successors, or assigns, who takes title to a Lot through foreclosure, or to any purchaser of such Lot at such foreclosure sale. In the event of co-ownership of any Lot all of such co-owners shall be jointly and severally liable for the entire amount of such assessments. All assessments are payable without relief from valuation and appraisal laws.

Assessments shall be paid in such manner and on such dates as may be fixed by the Declarants. All assessments shall be pro-rated from the date of closing for each Owner. Each Owner by acceptance of a deed to its Lot, acknowledges that all Common Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year.

No Owner may waive or otherwise exempt such Owner from liability for the assessment provided for herein, including by way of illustration and not limitation by non-use of services or abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. Declarants shall maintain, at its own expense, Lots that have not, as yet, been sold by Declarants.

The Declarants are specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Owner(s) for the payment of some portion of the Common Expenses.

Section 8.2. Computation of Common Assessment. Declarants will, at least thirty (30) days before the beginning of each fiscal year (as determined by Declarants) prepare a budget covering the estimated Common Expenses of the Owners during the coming year.

The Common Assessments to be levied against the Lots for the coming year shall be set at a level which is reasonably expected to produce total Common Assessment to the Owners equal to the total budgeted Common Expenses.

The total annual Common Assessments shall be divided among the Lots based upon the Assessment Percentages, as determined by the Declarants.

The Declarants shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the beginning of the fiscal year. If any budget at any time proves inadequate for any reason, then the Declarants may assess a Special Assessment as provided in Section 8.3 hereof. The Declarants may also advance funds necessary to pay any necessary Common Expense, and seek reimbursement from the Owners by way of Special Assessment or Common Assessment, as the case may be.

Section 8.3. Special Assessments.

(a) **Entire Ownership.** The Declarants shall levy ("Special Assessments") against each Lot in proportion to the Assessment Percentage in the event there exists a

deficiency in the fund for Common Assessments to pay for the Common Expenses and the expenses which are the obligation of the Owners.

(b) **Less Than All Owners.** The Owners may levy a Special Assessment against any Owner individually and against such Owner's Lot to reimburse the Owners for costs incurred in bringing such Owner and his Lot into compliance with the provisions of the Declaration or the Declarants' rules, which Special Assessment may be levied upon the vote of the Declarants after notice to the Owner and an opportunity for a hearing before the Declarants in accordance with procedures as the Declarants shall establish.

Section 8.4. Lien for Assessments. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments of priority and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Owners Declarants shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8.5. No Abatement of Assessments. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Declarants to take some action or to perform some function required to be taken or performed by the Declarants under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Declarants, or from any action taken by the Declarants to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

Article IX

Architectural Standards

Section 9.1. Purpose. In order to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots and all improvements located thereon shall be subject to the restrictions set forth in Article II, Article IX and Article X herein, and, as with all other covenants, easements, restrictions and conditions contained in this Declaration such restrictions shall run with and bind the land and shall inure to the benefit of and be enforceable by the Owners, the Declarants, the Owners and their respective heirs, successors and assigns.

Nothing shall be erected or constructed on any Lot, which terms shall include staking, clearing, excavation, grading, and other site work without meeting the requirements of this Article and without the approval of the Declarants, not to be unreasonably withheld, conditioned or delayed. Should the Declarants withhold, condition or delay its approval of any proposed development of a Lot because the proposed development of such Lot is not in compliance with any requirements and/or criteria which are specifically enumerated within this Declaration, then the Declarants' action shall be deemed reasonable. By way of example only, no erection or construction of signage, trash dumpster or removal areas, parking facilities, parking lot lighting, and no exterior alteration or modification of existing improvements or landscaping, plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Declarants has been obtained pursuant to Section 9.2 below, except that replacement of damaged materials or plants with similar or better materials shall be permitted without Declarants approval. The Declarants may establish reasonable fees to be charged by the Declarants on behalf of the Owners for reviewing of applications hereunder and may require such fees to be paid in full prior to review of any application.

The Declarants shall have the authority and standing, on behalf of the Owners, to enforce in courts of competent jurisdiction decisions of the Declarants of this Article IX. This Article may not be amended without the Declarants' unanimous written consent so long as the any Original Owner(s) own any land subject to this Declaration.

Section 9.2. Declarants.

The Declarants shall have exclusive jurisdiction over all construction, modifications, additions, or alterations made on or to existing Lots or structures containing Lots and the open space, if any, appurtenant thereto. The Declarants shall promulgate detailed standards or procedures governing its areas of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, sizes, materials, and location of such modifications, additions, or alterations shall be submitted to the Declarants for approval as to quality of workmanship and design and as to harmony of external design with existing structures and location in relation to surrounding topography and finish grade elevation. The Declarants may develop specific design guidelines, which address, among other things, the design and appearance of any improvements to be constructed or maintained on any Lot. Any specific design guidelines may be modified at the Declarants' sole discretion, provided specific design guidelines are consistent with the provisions of the Declaration and do not seek to retroactively change the specific use or improvement of a Lot which was previously approved by the Declarants.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his building, or to paint the interior of his building any color desired; provided, modifications or alterations to any interior portions of a building which are visible from the building of a neighboring Lot shall be subject to approval hereunder. In the event that the Declarants fails to approve or to disapprove such plans or to request additional information

within sixty (60) days after submission of completed plans, proposals, specifications or drawings and any additional information having been requested by the Declarants, the plans shall be deemed approved but only to the extent such plans do not violate express provisions of the Declaration.

Section 9.3. No Waiver of Future Approvals. The approval of the Declarants of any proposals or plans and specification or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of Declarants, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any subsequent work, proposals, plans and specifications, drawings or other matters.

Section 9.4. Variance. The Declarants may authorize variances from compliance with any of its guidelines and procedures, but only in accordance with duly adopted rules and regulations established by the Declarants. Any variance will be permitted only upon a determination by the Declarants that the proposed variance will not be detrimental to other Lots in the Development and will not be inconsistent with the purposes for which the covenants, conditions and restrictions set forth in this Declaration were established. Such variance will only be deemed effective if it is in writing. The granting of any such variance will not operate to waive any of the terms and provisions of this Declaration, except as to the particular Lot and particular provision covered by the variance. Notwithstanding the Declarants' approval of a variance request, the Owner is still obligated to comply with all governmental laws and regulations affecting the use or improvement of any Lot, as well as the other provisions of this Declaration.

Section 9.5. Review Fee. Upon submission of the plans and specifications, the Declarants, at Declarants' sole discretion, may charge a review fee; however, such review fees are not to exceed the following fee schedule:

- (a) If the submitted plan is prepared by an architect duly licensed in the State of Indiana, the Declarants' review fee is \$250.00;
- (b) in all other cases, the Declarants' review fee is \$500.00.

From time to time, the Declarants may reasonably modify the Declarants' review fees to reflect the Declarants' increased costs.

Section 9.6. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration or the guidelines and procedures promulgated by the Declarants may be excluded by the Declarants from the Development without liability to any person, subject to the notice and hearing procedures promulgated by the Declarants.

Section 9.7. Construction of Improvements Buildings may not be temporarily or permanently occupied until the exteriors thereof have been completed and a certificate of occupancy for such building has been issued, or if the Governmental Authority does not issue

such a certificate of occupancy, then such other evidence of completion and compliance as the Declarants may reasonably prescribe to confirm the completion of the building and related improvements in accordance with the approved plans and specifications. No accessory building or outbuilding shall be permitted on any Lot at any time, except as may be permitted by rules and regulations promulgated by the Declarants.

Section 9.8. Responsibilities During Construction. Owners shall take necessary action during construction activities to assure the following occurs:

(a) Construction of a building on a Lot must be diligently performed, and completed within a reasonable time from the date construction is commenced based upon the size and complexity of the building.

(b) Stone shall be installed over the path of the driveway such that it shall be level with curb at the lot line to avoid curb breakup.

(c) No track vehicles or heavy equipment vehicles shall be operated or unloaded on the Access Drive.

(d) During the construction period, the Lot shall be maintained in a clean and orderly manner at all times. All loose shingles, lumber, bricks, block, drywall, insulation, or other building material which can blow onto adjacent property shall not be left lying around. Construction trash shall be contained in a trash fence and shall be removed from the Lot or contained in a dump site provided by a trash disposal service which will empty the container as needed.

(e) The Lot Owner shall be responsible for removal of dirt, mud or debris or other foreign material of any kind which may be deposited upon the road or easements from construction on the Lot. If such deposits occur, then the Lot Owner shall make provisions to remove such deposits within five (5) days or the Declarants or Declarants may remove such deposits and charge the Lot Owner.

(f) Owner shall provide on its Lot at least one outside toilet for use by construction workers unless this requirement is waived by the Declarants during the approval of such work.

(g) All utility services including, but not limited to, water, power, sanitary sewers, telephone or cable, to the Lot shall be shown on the plot plan and said services shall not undermine the curbs or alter the storm water drainage system.

(h) In the event that Owner, its contractors, or any agents thereof cause damage to the Access Road or other Common Areas, Owner shall cause the repair and restoration of such Access Road or other Common Areas to the condition which existed prior to Owner's commencement of the work.

- (i) Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot on which such construction has been completed.

Section 9.9. Architectural Approval. To preserve the architectural and aesthetical appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by an Owner, other than Declarants, with respect to the construction or affecting the exterior appearance of any building or with respect to any other portion of the Development, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, decks, awnings, walls, fences, flag poles, antennas, satellite dishes, exterior lights, loading and delivery areas, trash dumpsters and trash removal areas, signs, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Declarants as to the compliance of such plans and specification with such standards as set forth in this Declaration and as may be published by the Declarants from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Declarants, and the other copy shall be returned to the Owner marked "approved", "approved as noted", or "disapproved". No plans will be approved which do not provide for underground installation of electrical, telephone, and other utility lines serving the building.

In addition to the approval of the construction of all improvements on a Lot as set forth above, the location of any curb cut to the Access Drive must be approved by the Declarants.

Section 9.10. Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by an Owner, unless and until the plans therefore have been submitted to and approved in writing by the Declarants. The provisions of this Declaration regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling.

Section 9.11. Approval Not a Guarantee. No approval of plans and specifications and no publication of standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Neither Declarants, the Owners, nor the Declarants shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article IX, nor loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations or any other requirement of any Governmental Authority or under any other recorded instrument, nor any defects in construction undertaken pursuant to such plans and specifications.

Section 9.12. Building Restrictions. The exterior walls of all buildings must be constructed of a material approved by the Declarants. Specifically, the color, materials and texture of the exterior walls of the building constructed on any Lot must be approved in writing by the Declarants. Buildings constructed in the Development will be constructed of bricks, cast in place concrete, pre-cast concrete, stone, concrete blocks, glass or other materials approved by the Declarants. Use of metal on the exterior of a building may be permitted but only if used in an architecturally sensitive manner as determined by the Declarants. All buildings, improvements and other structures shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions and the zoning requirements as set forth in Section 2.2.

Notwithstanding anything to the contrary in this Declaration, no approval of the Declarants otherwise required under this Article IX shall be required for the original construction of or modifications to any improvements made by or on behalf of the Original Owners. Each of the Original Owners' improvements are hereby deemed to have been approved by the Declarants.

Section 9.13. Set Backs. No exterior portion of any building, structure or other improvement (excepting sidewalks and driveways) located on or with respect to any Lot shall encroach on any set-back lines specified in this Declaration or in any recorded instrument concerning the Development. The Owners must also comply with all set-back lines offered in any recorded plat of the Development and as required by zoning ordinances.

Article X

Use Restrictions

The Owners, acting through the Declarants, shall have authority following any Transfer, to make and to enforce standards and restrictions governing the use of the Development, in addition to those contained herein, upon approval by at least 75% of the Owners' votes. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, added to, canceled or modified in a regular or special meeting of the Owners by the vote of at least seventy-five percent (75%) of the Owners' votes (unless a different voting requirement is specified elsewhere in the Declaration).

In addition to restrictions set forth elsewhere in this Declaration, each Lot shall be subject to the following restrictions on its use:

Section 10.1. Occupancy. The residence on any Lot shall be used primarily for the occupancy of its Owner. No leasing or temporary tenancy or occupancy shall be permitted.

Section 10.2. Parking. It shall be the responsibility of each Owner to construct the parking facilities located upon each Owner's Lot (the "Parking Areas"). All Parking Areas must be paved with hard, all weather surfacing approved by Declarants, and the specifications for each Parking Area shall be subject to the prior written approval of the Declarants.

Section 10.3. Outdoor Storage. No outdoor storage will be permitted on any Lot without the prior written approval of the Declarants. The Declarants may approve outdoor storage so long as (i) it is located behind the residence on the Lot, and (ii) it has an exterior and finish which matches the residence on all sides. Similarly, any structure or equipment on the roof of any building must be screened from view from all public roads. All screening will be of a material similar in appearance to the exterior of the building or any other materials approved by the Declarants. In making its determination, the Declarants shall take into account various factors including, but not limited to, the nature of the use carried on the particular Lot, the area of location of the storage on the Lot, and the proximity and visual impact of the storage on other properties.

Section 10.4. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on its Lot. The pursuit of certain activities that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Development. Nothing which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Development or which result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation shall be undertaken or permitted on any Lot. Without limiting the generality of the foregoing provisions, no horns, whistles, bells or other sound devices, and no holiday, decorative or flashing lights (except security and fire alarm devices used exclusively for such purposes) shall be located, used, or placed within the Development. Nothing in this Section 10.5 shall be interpreted to prohibit either an outdoor public address system or speakers which may broadcast music for Owner's patrons; provided, however, that any such public address system or speaker system shall not under normal conditions be audible beyond the boundaries of such Owner's Lot.

Section 10.5. Hazardous Materials. Each Owner will not use or store on its Lot any hazardous or toxic materials of any kind.

Section 10.6. Trash. All trash dumpsters and containers or trash pick-up areas shall be located or screened so as to be concealed from view of neighboring Lots and shall be subject to the prior written approval of the Declarants. The Declarant shall have the right, from time to time, to designate a single exclusive residential trash / recycling hauler to serve the Development and, upon such election, each Owner shall contract directly with such hauler for trash and recycling removal. Declarant may also work with such hauler to require uniform trash receptacles throughout the Development.

Section 10.7. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Declarants or the Declarants. Declarants, however, hereby expressly reserve the right to plat any Lot or Lots owned by Declarants. Any such division or boundary line change shall not be in violation of the applicable subdivision and zoning regulations, and shall be subject to Section 2.1 and Section 2.2 above.

Section 10.8. Drainage, Water Wells and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarants or the Owners may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Any and all septic tanks and fields must be approved by Declarants in connection with approval of construction plans.

Section 10.9. Antennas, Satellite Dishes and Flag Poles. All exterior antennas, aerials or satellite dishes, and locations thereof on any Lot, shall be subject to the prior written approval of the Declarants. All flag poles or other types of exterior poles shall be prohibited on any Lot, absent the written approval of the Declarants.

Section 10.10. Play Equipment. All swing sets, trampolines and other playground equipment shall be prohibited on any Lot, absent the written approval of the Declarants.

Section 10.11. Animals. No livestock, poultry or other farm animals shall be permitted to be kept on any Lot. Common house pets may be kept so long as they are kept indoors, or in a pen or fenced enclosure which, in either case, has been approved by the Declarants.

Section 10.11. Fences and Walls. No fences, walls or barriers of any kind shall be located or permitted on a Lot without the prior written approval of the Declarants. Any fences, walls or barriers must be painted or stained and otherwise maintained in a very good quality and condition at all times.

Section 10.12. Laws and Ordinances Every Owner and its guests and invitees, shall comply with all laws, statutes, ordinances and rules of the Governmental Authorities applicable to the Development and any violation thereof may be considered a violation of this Declaration; provided, however, the Declarants shall have the right but not the obligation to take action to enforce such laws, statutes, ordinances and rules. No failure on the part of the Declarants to take any such action shall, in any way, limit or waive the rights of the Declarants to subsequently do so.

Section 10.13. Occupants Bound. All provisions of the Declaration, and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Owner. Every Owner shall cause all occupants of its Lot to comply with the Declaration, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Owners and other Owners caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, and rules and regulations adopted pursuant thereto.

Section 10.14. Signs. No sign shall be erected upon any Lot without the prior written consent of the Declarants, at their sole discretion. No sign will be erected on any Lot, which could in any manner interfere with vehicular or pedestrian safety.

Section 10.15. Utility Connections. All utility services located on or adjacent to a Lot, including by way of illustration and not limitation, any gas, water, sewer, telephone, cable TV or electric lines must be located underground.

Section 10.16. Storm Water Detention. Each Owner must construct on its Lot an adequate storm water drainage system to assure complete drainage within and immediately adjacent to the Lot. Upon completion of any storm water drainage system, (i) each Owner will be deemed to have granted to the Owners an easement for the purposes specified in Section 3.4 and Section 5.1(a) and (ii) each Owner will maintain the storm water drainage system on its Lot.

Section 10.17. Noise Levels. Noise levels audible from the exterior of any building on any Lot, from music or other entertainment in the Development, shall not exceed 65 db(A) at a distance of one hundred feet (100') from any building constructed on the Lot upon which such music or other entertainment is being performed or otherwise originating.

Section 10.18 Other Development Restrictions. In addition to all of the foregoing restrictions, no Lot in the Development shall be used for the following purposes: (a) flashing, neon or pylon signs; (b) non-residential uses; (c) trailer park; (d) outdoor storage of a recreational vehicle, boat or commercial fleet vehicles; (e) above-ground swimming pool; or (f) the visible or apparent operation of a business.

In addition, no use within the Development shall be established or conducted which creates a nuisance or is offensive, objectionable or hazardous by reason of creation of odors, noise, sound vibrations, dust, dirt, smoke or other pollutants, noxious, toxic or corrosive fumes or gases, radiation, explosion or fire hazard, or by reason of the generation, disposal or storage of hazardous or dangerous wastes or materials.

Section 10.19. Buffer Areas. Every Lot in the Development will have landscaped buffer areas along its boundary lines as follows:

- (a) twenty (20) feet adjacent to any right of way;
- (b) ten (10) feet along lot lines adjacent to other Lots; and

All of the above buffer areas located within any Lot will be landscaped and maintained by the Owner of such Lot.

Article XI

Rulemaking

Section 11.1. Rules and Regulations. Subject to the provisions hereof, the Declarants may establish reasonable rules and regulations concerning the use of Lots buildings, Common Areas, and the Access Drive. Copies of such rules and regulations and amendments thereto shall be furnished by the Declarants to all Owners prior to the effective date of such rules and

regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, canceled, or modified by the Declarants or, following Transfer, in a regular or special meeting of the Owners by the vote of the Owners, in person or by proxy, holding a majority of the Owners' votes, provided that in the event of such vote, such action must also be approved by Declarants, for so long as Declarants owns any property in the Development. Nothing in this Section 11.1 shall be interpreted so as to allow the Declarants to establish rules and regulations that change or limit any use of the Lots, except as necessary for common safety.

Section 11.2. Authority and Enforcement.

(a) Upon the violation of this Declaration or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Declarants shall have the power, after meeting the written notice requirements of Section 5.3 (except for the failure to pay the assessment, which shall require no notice), and failure by said Owner or occupant to cure the violation:

(i) to cause the Owners to correct the violation at its own cost and expense, which said cost and expense shall constitute a continuing lien upon the Lot of the Owner or occupant who is guilty of such violation;

(ii) to the extent not otherwise addressed, any costs incurred in the enforcement of these covenants will constitute a lien in the same manner that other unpaid assessment costs constitute a lien; and

(iii) to suspend an Owner's right to vote in matters coming before the Owners.

The Declarants shall have the power to impose any one or more of these sanctions. An Owner or occupant shall be subject to the foregoing sanctions in the event of such a violation by it or its guests or invitees. Any such suspension of rights may be for the duration of the infraction and or any additional period thereafter, not to exceed thirty (30) days per violation.

(b) Notwithstanding subsection (a) above, a violation or threatened violation of any of the covenants and restrictions contained in this Declaration and the provisions contained in the Articles or any rules and regulations adopted hereunder, shall be grounds for an action at law or equity instituted by Declarants or any Owner against any person violating or threatening to violate any such covenant, restriction, rule, or regulation. Available relief in any such action shall include the recovery of damages; injunctive relief, either to restrain the violation or threatened violation or to compel compliance with the covenants, restrictions, rules or regulations; declaratory relief; the enforcement of any lien created by these covenants, restrictions, rules, or regulations; and the recovery of costs and attorneys' fees incurred by any party successfully enforcing

such covenants, restrictions, rules, or regulations. Failure by the Declarants, the Owners, or any Owner to enforce any covenant, restriction, rule, or regulation shall in no event be deemed a waiver of the right to do so thereafter; provided, however, that no action shall be brought against either the Declarants or the Owners for failing to enforce or carry out any such covenants, restrictions, rules, or regulations.

Article XII

General Provisions

Section 12.1. Control by Declarants. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarants shall have the authority to create an entity to serve as an association of the Owners in accordance with these provisions. Upon a Transfer by way of conveying title without formation of such an entity, as provided under "Declarants" hereinabove, such right shall pass to the Owners, collectively,. At the time of a Transfer of either kind, Declarants shall deliver to the new Declarants all books, accounts, and records, if any, which Declarants have kept on behalf of the Owners and any agreements or contracts executed by or on behalf of the Owners during such period and which Declarants has in its possession.

Section 12.2. Term. The covenants, easements and restrictions of this Declaration shall run with and bind the Development, and shall inure to the benefit of and shall be enforceable by the Declarants or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by more than eighty percent (80%) of the Lots' Owners has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. The number of ten (10) year renewal periods shall be unlimited.

Section 12.3. Amendment. This Declaration may be amended upon and subject to the following terms and conditions:

(a) Prior to any Transfer, the Declarants reserve the right to unilaterally amend this Declaration and revise the standards, covenants and restrictions contained in this Declaration. Any such amendment by the Declarants shall be effective when executed by the Declarants and recorded in the Office of the Recorder of Morgan County, Indiana. Notwithstanding the foregoing, until the such a Transfer, neither the Declarants, the Owners nor Declarants shall have the right to amend this Declaration without the approval of at least sixty-six percent (66%) of the Owners' votes, if the effect of such amendment: (i) materially reduces the rights of any or all Owner(s) and/or Lot(s); (ii) materially increases obligations or burdens of any or all Owner(s) and/or Lot(s); (iii) materially affects the use, access, parking, utilities or visibility of any or all Lot(s) (with

such effects hereinafter referred to as "Adverse Effects"). It shall not be an Adverse Effect for the Declarants to impose any additional restrictions ("Additional Restrictions") upon the use of any portion of the Development, if: (i) the Declarants are the Owner of the entire portion of the Development which will be burdened by the Additional Restrictions, or (ii) the Owners of all Lots which will be burdened by the Additional Restrictions consent, in writing, to their Lots being so burdened.

(b) At any time after the Transfer, this Declaration may be amended by the affirmative vote seventy five percent (75%) of the Owners' votes. Any such amendment shall become effective when duly executed and recorded in the Office of the Recorder of Morgan County, Indiana.

(c) As long as any Original Owner owns any Lot within the Development, the Declarants shall also be entitled to unilaterally amend this Declaration to include additional land as a part of the Development subject to the covenants, restrictions and standards contained herein. Provided, however, that the land so added to the Development will not receive the benefits of such inclusion without also being subject to the burdens of such inclusion (except that a separate Common Assessment may be assessed against such land, e.g., if it does not share the Access Drive). No Lot of a size greater than nine (9) acres shall be subject to the provisions of Article IX or Article X hereunder so long as any Original Owner is then the Owner of such Lot.

Section 12.4. Indemnification. The Owners shall indemnify the Declarants, every officer, director, and committee member thereof, if any, against any and all expenses, including attorney fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Declarants) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Declarants and the Owners shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member or former officer, director, or committee member may be entitled. The Owners shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Whenever the approval of the Declarants are required or permitted under this Declaration, neither the Declarants, nor the Declarants nor any individual member of the Declarants shall be liable for damages (in connection with any such request for approval) to any Owner, or other holder of an interest affected by this Declaration, by reason of mistaken judgment, negligence, or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval or disapproval or failure to grant any requested approval. The

intent of this provision is to discharge and/or exculpate the Declarants, the Declarants and the individual members of the Declarants from any personal liability for damages on account of any dispute concerning any request for approval under this Declaration. The limitations contained in this Section are intended to prevent any party from making claims against the Declarants, the Declarants or the constituent members of the Declarants for damages, but are not intended to limit any other remedies which might otherwise be available to any prospective claimant under the Declaration. In this regard, if any party believing themselves to be aggrieved by any action or inaction taken by the Declarants, the Declarants or any individual member of the Declarants in connection with any requests for any approval under this Declaration (herein referred to as a "Claimant") who, as a result, pursues a claim for damages against the Declarants, the Declarants or any one or more of the individual members of the Declarants, then such Claimant shall be obligated to pay and reimburse the Declarants, the Declarants and/or those individual members of the Declarants which have been made a party to the claim, their reasonable attorney's fees and costs incurred in connection with that claim, and the enforcement of the provisions of this Section, regardless of whether or not the Claimant prevails and/or is awarded all or substantially all of any relief sought in connection with any such claim, if such claim by the Claimant includes a claim for damages. Neither the Declarants, Declarants nor any individual member of the Declarants shall have any obligation for the payment of any attorney's fees or other costs to any such Claimant, regardless of whether or not such Claimant prevails on all or any part of any such claim.

Section 12.5. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarants or the Declarants will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes that are less restrictive. The effective date of this Declaration shall be the date of its filing in the public records of Morgan County, Indiana. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted for convenience of reference only and shall be of no effect in limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Indiana.

Section 12.6. Right of Entry. The Declarants shall have the right, but not the obligation, to enter onto the exterior areas of any Lot for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration and the Declarants' rules, which right may be exercised by the Declarants', officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner or occupant directly affected thereby. This right of entry shall include the right of the Owners to enter a Lot but not the building to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within the time specified in Section 5.3 after request by the Declarants.



Section 12.7. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the association of Owners unless approved by a vote of seventy-five percent (75%) of the Lots' Owners, and no such proceedings shall be commenced prior to any Transfer unless necessary to protect the interest of the Development as a whole. However, this Section shall not apply to (a) actions brought by the Declarants to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Declarants, the Owners or members of the Declarants or the Declarants in proceedings instituted against it. This Section shall not be amended unless such amendment is made after the Transfer and is approved by the Owners, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 12.8. Use of the Name "Abaco". No Person shall use the word "Abaco" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarants. However, Owners may use the term "Abaco" in printed or promotional matter where such term is used solely to specify that particular property is located within the Development, and the association of the Owners after a Transfer shall be entitled to use the word "Abaco" in its respective name.

Section 12.9. Declarants' Right of Assignment. Any or all of the special rights and obligations of the Declarants may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein. No such Transfer to an association shall be effective unless it is in a written instrument signed by the Declarants and duly recorded in the public records of Morgan County, Indiana.

Section 12.10. Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to its Lot, such Owner shall give the Declarants prior written notice (at least seven (7) days prior to closing) of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Declarants may reasonably require. Until such written notice is received by the Declarants, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Lot hereunder, including payment of assessments, notwithstanding the transfer of title to the Lot.

Section 12.11. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provision hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 12.12. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of the Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 12.13. Rights of Third Parties. This Declaration shall be recorded for the benefit of Declarants and the Owners, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided for herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and subject to the rights of Declarants, the Owner shall have the right to extend, modify, amend, or otherwise change the provision of this Declaration without the consent, permission, or approval of any adjoining Owner or third party.

Section 12.14. Notices. Notices required hereunder shall be in writing and shall be hand delivered or sent by United States Mail, postage prepaid. All notices to Owners shall be sent or delivered to such addresses as have been designated in writing to the Owners, or if no address has been so designated, at the addresses of such Owners' respective Lots or buildings. All notices to the Owners shall be delivered or sent in care of Declarants at the following address:

Abaco Estates, LLC
9282 E. Windward Dr.
Bargersville, IN 46106

or to such other address as the Owners may from time to time notify the Owners. All notices to Declarants shall be delivered or sent to Declarants at the above address or such other address as Declarants may from time to time notify the Owners.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarants has executed this Declaration this 13 day of MARCH, 2014.

ABACO ESTATES, LLC

By: [Signature]
Anthony D. Alderson, Member

[Signature]
Christopher W. Hoffee

[Signature]
Anthony D. Alderson, individually

[Signature]
Laura S. Hoffee

STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a Notary Public in and for the State of Indiana, on this 13 day of March 2014, personally appeared Anthony D. Alderson, by me known to be a member of Abaco Estates, LLC, and acknowledged the execution of the foregoing instrument.

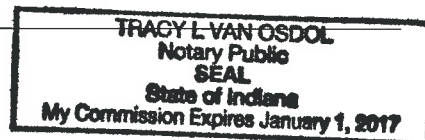
Given under my hand and official seal this 13 day of March, 2014.

[Signature]
Notary Public

County of Residence: Marion

Printed

My Commission Expires: 01/01/2017



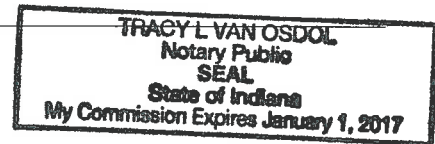
STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a Notary Public in and for the State of Indiana, on this 13 day of March 2014, personally appeared Christopher W. Hoffee, by me known individually, and acknowledged the execution of the foregoing instrument.

Given under my hand and official seal this 13 day of March, 2014.

Tracy L V-Osdol
Notary Public

Printed



County of Residence: Marion

My Commission Expires: 01/01/2014

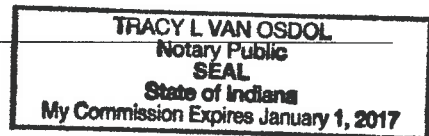
STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a Notary Public in and for the State of Indiana, on this 13 day of March 2014, personally appeared Laura S. Hoffee, by me known individually, and acknowledged the execution of the foregoing instrument.

Given under my hand and official seal this 13 day of March, 2014.

Tracy L V-Osdol
Notary Public

Printed



County of Residence: Marion

My Commission Expires: 01/01/2017

STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a Notary Public in and for the State of Indiana, on this 13 day of March 2014, personally appeared Anthony D. Alderson, by me known individually, and acknowledged the execution of the foregoing instrument.

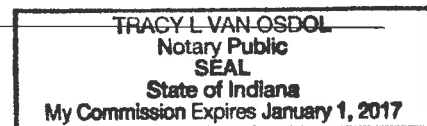
Given under my hand and official seal this 13 day of March, 2014.

Tracy L V-Osdol
Notary Public

Printed

County of Residence: Marion

My Commission Expires: 01/01/2017



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. David J. Lekse, Esq.

This instrument prepared by and after recording return to: David J. Lekse, Esq., Alerding Castor Hewitt LLP, 47 S. Pennsylvania Street, Suite 700, Indianapolis, Indiana 46204, (317) 829-1910

EXHIBIT A

Development

A part of the Northeast Quarter and part of the East Half of the Southeast Quarter of Section 25, Township 13 North, Range 2 East of the Second Principal Meridian, in Morgan County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the East Half of the Southeast Quarter of the said Section 25; thence South 00 degrees 00 minutes 00 seconds West (assumed bearing) on and along the East line thereof 233.64 feet; thence South 88 degrees 58 minutes 19 seconds West 235.95 feet; thence South 00 degrees 19 minutes 54 seconds East 184.78 feet; thence South 88 degrees 58 minutes 19 seconds West 1097.96 feet to the West line of the said Half Quarter Section; thence North 00 degrees 07 minutes 27 seconds East on and along the said West line 417.12 to the Southeast corner of the West Half of the Northeast Quarter of the said Section 25; thence South 88 degrees 54 minutes 52 seconds West on and along the South line thereof 1331.96 feet to the Southwest corner of the said Half Quarter Section; thence North 00 degrees 12 minutes 27 seconds East on and along the West line thereof 654.58 feet; thence North 88 degrees 54 minutes 52 seconds East 1330.60 feet to the East line of the said Half Quarter Section; thence South 00 degrees 05 minutes 18 seconds West on and along the said East line 347.23 feet; thence North 88 degrees 54 minutes 50 seconds East parallel to the South line of the East Half of the said Northeast Quarter Section 1223.83 feet; thence South 85 degrees 59 minutes 43 seconds East 107.90 feet to the East line thereof; thence South 00 degrees 00 minutes 00 seconds West on and along the said East line 297.74 feet to the Point of Beginning containing 41.16 acres, more or less.

ALSO,

A part of the East Half of the Northeast Quarter of Section 25, Township 13 North, Range 2 East of the Second Principal Meridian, in Morgan County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the said Half Quarter Section; thence North 00 degrees 00 minutes 00 seconds East on and along the East line thereof 297.74 feet; thence North 85 degrees 59 minutes 43 seconds West 107.90 feet to the Point of Beginning of this described tract; thence South 88 degrees 54 minutes 50 seconds West 1223.83 feet to the West line of the said Half Quarter Section; thence North 00 degrees 05 minutes 18 seconds East on and along the said West line 5.41 feet to an existing fence corner; thence North 88 degrees 51 minutes 42 seconds East following the existing fence line 1151.23 feet; thence South 85 degrees 59 minutes 43 seconds East following the said fence 72.78 feet to the Point of Beginning, containing 0.162 acres more or less.

Containing in all, less exception, 41.322 acres, more or less.

EXCEPT the following described real estate, to-wit:

A part of the East Half of the Southeast Quarter of Section 25, Township 13 North, Range 2 East of the Second Principal Meridian, Morgan County, Indiana, being more particularly described as follows:

COMMENCING at the Northeast corner of the Half Quarter Section; thence South 00 degrees 00 minutes 00 seconds West on and along the East line thereof 49.02 feet to the POINT OF BEGINNING of the herein described parcel; thence South 88 degrees 58 minutes 19 seconds West 327.43 feet; thence South 00 degrees 00 minutes 00 seconds West 369.42 feet; thence North 88 degrees 58 minutes 19 seconds East 92.55 feet; thence North 00 degrees 19 minutes 54 seconds West 184.78 feet; thence North 88 degrees 58 minutes 19 seconds East 235.95 feet to the East line of said Half Quarter Section; thence North 00 degrees 00 minutes 00 seconds East along said East line 184.62 feet to the Point of Beginning, containing 1.778 acres, more or less.

Exhibit "B-1"

Variable Access & Utility Easement

DESCRIPTION

Part of the Northeast Quarter and Part of the East Half of the Southeast Quarter of Section 25, Township 13 North, Range 2 East, located in Morgan County, Indiana, described as follows:

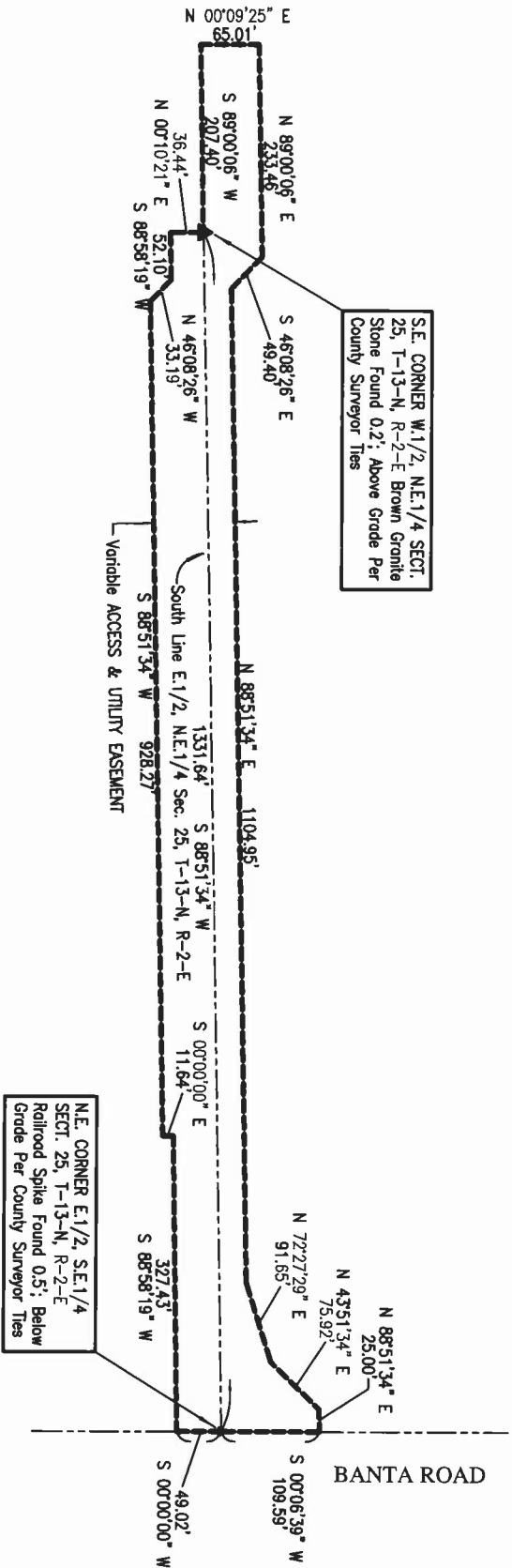
Beginning at a railroad spike identifying the Northeast Corner of said Half Quarter Section; thence South 00 degrees 00 minutes 00 seconds West along the East line of said Half Quarter Section 49.02 feet identifying the northeast corner of the land of Gliva recorded as Instrument Number 200417142 in the Office of the Morgan County Recorder; the next two courses follow the north and west lines of said Gliva; 1) thence South 88 degrees 58 minutes 19 seconds West 327.43 feet; 2) thence South 00 degrees 00 minutes 00 seconds West parallel with aforesaid East line 11.64 feet; thence South 88 degrees 51 minutes 34 seconds West 928.27 feet; thence North 46 degrees 08 minutes 26 seconds West 33.19 feet; thence South 88 degrees 58 minutes 19 seconds West 52.10 to the West line of said Half Quarter Section; thence North 00 degrees 10 minutes 21 seconds East along last said West line 36.44 feet to a Stone identifying the Southeast Corner of the West Half of the Northeast Quarter of said Section; thence South 89 degrees 00 minutes 06 seconds West along the South line of Quarter Quarter Section 207.40 feet; thence North 00 degrees 09 minutes 25 seconds East 65.01 feet; thence North 89 degrees 00 minutes 06 seconds East parallel to said South line 233.46 feet; thence South 46 degrees 08 minutes 26 seconds East 49.40 feet; thence North 88 degrees 51 minutes 34 seconds East 1104.95 feet; thence North 72 degrees 27 minutes 29 seconds East 91.65 feet; thence North 43 degrees 51 minutes 34 seconds East 75.92 feet; thence North 88 degrees 51 minutes 34 seconds East 25.00 feet to the East line of said Northeast Quarter Section; thence South 00 degrees 06 minutes 39 seconds West along said East line 109.59 feet to the Point of Beginning, containing 3.11 Acres, more or less.

See Exhibit "B"

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Exhibit "B-2"

Variable Access & Utility Easement



NORTH

Scale: 1"=200'

36'