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RETURN TO: GLENN R. PATTERSON, ESQ.  
SINGLETON, CRIST, PATTERSON &  
AUSTGEN  
SUITE 200, 9245 CALUMET AVENUE  
MUNSTER, INDIANA 46321

MARGARETTE RECORDER

**DECLARATION ESTABLISHING PARTY WALLS  
AND CREATING PROTECTIVE AND  
RESTRICTIVE COVENANTS AND EASEMENTS**

WITNESSETH THIS DECLARATION, made this day by *HAN S. KWAK and SOOK J. KWAK* (herein the "Declarant").

WHEREAS, Declarant is the owner of the real estate commonly known as 9632 Fifth Street, Highland, Indiana, which real estate is legally described as follows:

The South 40.93 feet of the North 110.00 feet of Lot 20, except the West 145.0 feet thereof, in Erie Subdivision #1 of the Industrial Center Land Company in the Town of Highland, as shown in Plat Book 26, page 36 in the Office of the Recorder, Lake County, Indiana.

(herein "Parcel A"); and **This Document is the property of the Lake County Recorder!** 27-181-20

WHEREAS, Declarant is the owner of the real estate commonly known as 9634 Fifth Street, Highland, Indiana, which real estate is legally described as follows:

The North 27.92 feet of the South 68.85 feet of the North 110.00 feet of Lot 20, except the West 145.0 feet thereof in Erie Subdivision #1 of the Industrial Center Land Company in the Town of Highland, as shown in Plat Book 26, page 36 in the Office of the Recorder, Lake County, Indiana.

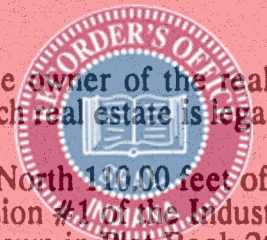
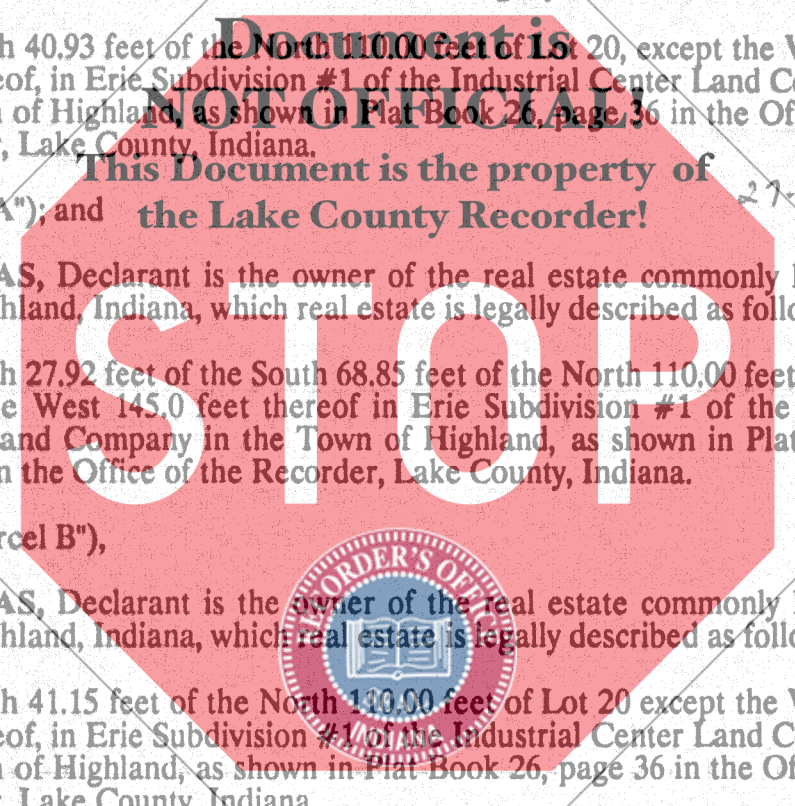
(hereinafter "Parcel B"),

WHEREAS, Declarant is the owner of the real estate commonly known as 9636 Fifth Street, Highland, Indiana, which real estate is legally described as follows:

The North 41.15 feet of the North 110.00 feet of Lot 20 except the West 145.0 feet thereof, in Erie Subdivision #1 of the Industrial Center Land Company in the Town of Highland, as shown in Plat Book 26, page 36 in the Office of the Recorder, Lake County, Indiana.

(hereinafter "Parcel C"), which Parcel A, Parcel B and Parcel C are hereinafter together referred to as the "Parcel(s)" or the "Real Estate"; and

WHEREAS, the Declarant desires to establish two party walls and create protective and restrictive covenants and easements (hereinafter the "Restrictions") on the Real Estate, for the purpose of maintaining a fair and adequate value of the Real Estate, and to insure that each Parcel will each continue as a desirable residential parcel.



**FILED**

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SAM ORLICH  
AUDITOR LAKE COUNTY

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**NOW, THEREFORE,** the undersigned hereby declare that the Real Estate shall be improved, held, used, occupied, leased, sold or conveyed subject to the Restrictions, which Restrictions shall run with the land and inure to and pass with the Real Estate, and will apply to and bind the heirs and successors in interest of the Declarant, and which Restrictions are hereby declared to be imposed as mutual equitable servitudes in favor of each Parcel, and which Restrictions are set forth in the following Articles:

**ARTICLE ONE**

**DURATION**

The Restrictions shall run with the land of the Real Estate and bind the Real Estate for a period of twenty (20) years from the date of recording hereof, after which time the Restrictions shall automatically continue for successive ten (10) year periods, unless, prior to the expiration of any such ten (10) year term, this Declaration is terminated, pursuant to Article Eleven hereof.

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**ARTICLE TWO**

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RESTRICTIONS AS TO USE  
the Lake County Recorder!**

The Real Estate is presently improved with a townhome building (herein the "Building") with three separate dwellings (herein the "Residential Unit(s)"), having common party walls. The Building shall be protected, preserved and maintained by the owners in accordance with these Restrictions, and the use of the Real Estate shall be solely and exclusively limited to that of single family residential use.

No nuisance shall be allowed upon any Parcel nor shall any use or practice be allowed which would annoy residents or interfere with the peaceful possession and proper use of the Parcels by its residents, or which will obstruct or interfere with the rights of other owners. This provision shall not be construed to prohibit or limit the enforcement of any provision of the Declaration which does not constitute a nuisance.

No immoral, improper, offensive or unlawful use shall be made of any Parcel nor any part thereof and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

An owner shall not permit or suffer anything to be done or kept on a Parcel which will increase the insurance rates on any adjacent Parcel

No owner shall display any sign (except for temporary but tasteful "for sale" or "for rent" signs), advertisement or notice of any type on a Parcel or on the exterior of a Residential Unit and no owner shall erect any exterior antennae, satellite dish, aerials or awnings upon any Residential Unit or Parcel. No clothesline or other similar device shall be allowed on any portion of any Parcel.

An owner may not keep, raise or breed any animals, livestock or poultry in or on a Parcel, provided, however, that two (2) common house pets only shall be allowed to be kept in or on a Parcel.

No motor homes, campers, trailers, boats of any kind, or trucks in excess of 3/4-ton capacity, shall be parked at any time on any Parcel, except inside closed garages in a manner that shall allow the garage door to be closed entirely.



No rubbish, trash or garbage, or other waste materials shall be kept or permitted on any Parcel except in sanitary containers located in appropriate areas concealed from public view.

Each Residential Unit shall be occupied by not more than four (4) persons.

### **ARTICLE THREE**

#### **PARTY WALLS AND EASEMENTS**

A portion of the improvements erected on the Real Estate constitute common walls and boundaries between the Parcels.

The Declarant desires to settle all questions relating to the ownership and use of said common walls and the Declarant does declare said walls to be party walls and the owner of each Parcel shall have the right to use it jointly. The Declarant does further declare as to said party walls as follows:

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**the Lake County Recorder!**
- A. No Parcel owner, without the prior written consent of the other Parcel owner having the party wall in common, shall extend the party wall or use the same in any manner that would impair the use of the same by said other Parcel owner.
  - B. In the event it becomes necessary or desirable to maintain, repair or replace the whole or any part of a party wall, the expense thereof shall be borne equally by the Parcel owners having the party wall in common, unless same shall be necessitated by the negligent or willful acts or omissions of one owner, in which event all of the expense thereof shall be borne by such owner.
  - C. Any maintenance, repair or replacement of a party wall shall be upon the same location, of the same dimensions, of the same or similar materials of equal quality as that used in the original party wall.

Each Parcel is hereby imposed with mutual reciprocal easements over and through each other Parcel for the benefit of the other Parcels for the following purposes:

- A. For any and all utility services facilities now or hereafter in the future existing, including, but not limited to, utility facilities for gas, electricity, water, sanitary sewer, storm sewer, telephone, communications and security to the extent that any of same are presently located on one Parcel and service another Parcel(s).
- B. For the structural support of that portion of the Building located on each Parcel.
- C. For the encroachment of more than one-half (1/2) of each party wall over and upon each Parcel, either presently or in the future for any reason, including, but not limited to, any such encroachment arising out of the reconstruction, repair or replacement of the party wall.
- D. For the use by one Parcel owner of the storm water drainage system located on another Parcel in the event of the failure for any reason of such Parcel owner's own storm water drainage system, without any claim for the cost of operation, maintenance or repair thereof by the owner of the other Parcel.

- E. For pedestrian and motor vehicle ingress and egress, from each Parcel and Residential Unit to Fifth Street, over and upon the paved driveways and sidewalks in these locations as originally constructed on the Real Estate by Declarant.
- F. For parking on those parts of the Real Estate originally improved by Declarant as parking spaces.

Declarant hereby reserves for itself and its designees (including, without limitation, the Town of Highland and any utility company) easements upon, across, over and under the Real Estate and each Residential Unit for ingress, egress, installation, replacing, repairing and maintaining cable television systems, master television antenna systems, and similar systems, and all utilities, including, but not limited to, water, sanitary sewers, storm water sewers and drainage facilities, meter boxes, telephones, gas and electricity. Without limiting the generality of the foregoing, there are hereby reserved for the Town of Highland, Indiana, easements across all Residential Units for ingress, egress, installation, reading, replacing, repairing and maintaining water meter boxes and storm water drainage facilities.

Notwithstanding anything to the contrary contained in this Article, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on any Parcel, except as may be approved by the Declarant. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Real Estate.

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#### ARTICLE FOUR

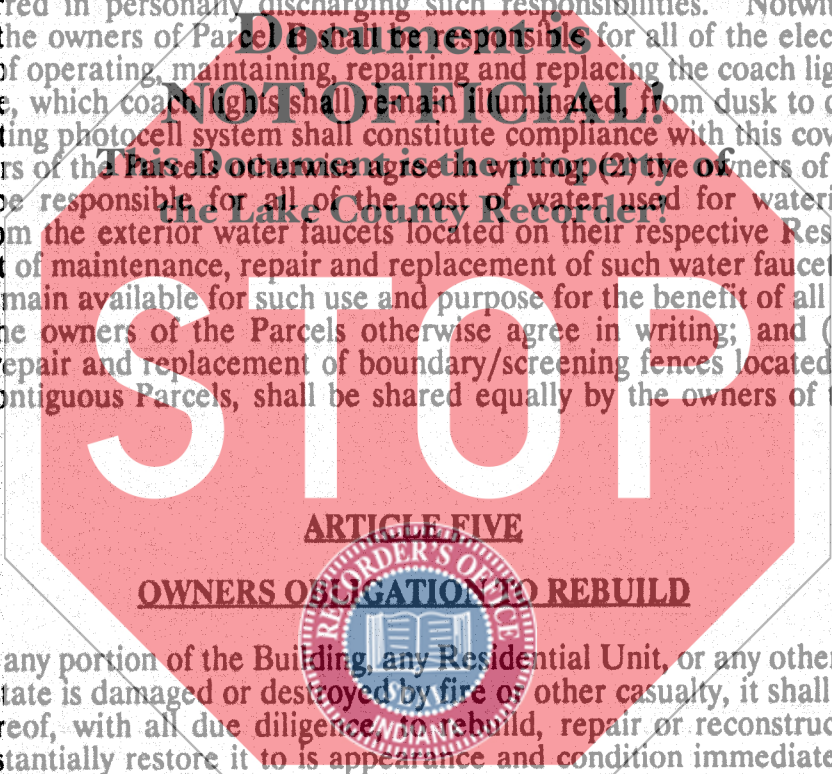
#### EXTERIOR BUILDING AND GROUNDS MAINTENANCE AND PRESERVATION

The owner of each Parcel shall, at his sole cost and expense, maintain, repair and replace his Residential Unit, keeping the same in a condition comparable to the condition at the time of its initial construction, except for the party wall(s) which shall be maintained, repaired and replaced in accordance with Article Three. Each owner shall, as to the exterior of the Residential Unit (including, but not limited to, windows, doors, siding and roofing), maintain and preserve the design, color scheme and concept of the original construction. Further, the owners shall, as to the exterior portions of the Building that require painting or staining, repaint or restain the same at least every five (5) years, unless otherwise agreed upon by all Parcel owners. The exterior color scheme shall be maintained in its original state unless all Parcel owners agree upon a different scheme. No additional buildings, structures or improvements (temporary or permanent) shall be erected or constructed on any Parcel, other than those erected and constructed by the Declarant, and no modifications, additions or alterations shall be made to the exterior of the Building or any Residential Unit, without the prior written approval of all Parcel owners. Any Parcel owner desiring to erect or construct an additional building, structure or improvement (temporary or permanent), or desiring to modify, add to or alter the exterior of a Residential Unit or the Building, shall submit plans and specifications showing the nature, kind, shape, color, size, materials and location of such additional building, structure or improvement, or such modification, addition or alteration to each of the other Parcel owners for their consideration. The other Parcel owners shall be obligated to give their written consent and approval, or disapproval, of such plans and specifications within one hundred eighty (180) days after submission. In the event that such other Parcel owners fail to approve or to disapprove such plans and specifications within one hundred eighty (180) days after submission, the plans shall be deemed to have been approved. No approval shall be required to repaint in accordance with the original color scheme, or to rebuild the Building or any Residential Unit in accordance with the original plans and specifications,



and nothing herein shall be construed to limit the right of any Parcel owner to remodel the interior of his Residential Unit, or to paint the interior of his Residential Unit any color desired.

Except as specifically provided below, each owner of each Parcel shall be responsible for one-third (1/3) of the cost of the maintenance, repair and replacement of all lawns, landscaping, sidewalks, curbs, driveways, and parking areas, located on the Real Estate, including, but not limited to, the cost of lawn and landscape care, and snow and ice removal. The owners of each Parcel shall take successive turns, on an annual tenure, undertaking the responsibility for such maintenance, repair and replacement, unless all Parcel owners agree otherwise in writing. Said responsibility may be discharged by the hiring of a contractor(s) to perform such maintenance, repair and replacement. Nothing herein shall require any Parcel owner to personally perform the work required for such maintenance, repair and replacement, unless such Parcel owner is satisfied that the other Parcel owners will pay compensation equal to two-thirds (2/3) of the reasonable value of such work, and will reimburse two-thirds (2/3) of such Parcel owners costs for supplies and materials incurred in personally discharging such responsibilities. Notwithstanding the foregoing, (1) the owners of Parcel B shall be responsible for all of the electric utility and all other costs of operating, maintaining, repairing and replacing the coach lights located on the Real Estate, which coach lights shall remain illuminated, from dusk to dawn (use of a properly operating photocell system shall constitute compliance with this covenant), unless all of the owners of the Parcels otherwise agree in writing; (2) the owners of Parcels A and C shall each be responsible for all of the cost of water used for watering lawns and landscaping from the exterior water faucets located on their respective Residential Units, and for the cost of maintenance, repair and replacement of such water faucets, which water faucets shall remain available for such use and purpose for the benefit of all of the Parcels, unless all of the owners of the Parcels otherwise agree in writing; and (3) the cost of maintenance, repair and replacement of boundary/screening fences located on a property line dividing contiguous Parcels, shall be shared equally by the owners of the contiguous Parcels.



If all or any portion of the Building, any Residential Unit, or any other improvement on the Real Estate is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence, to rebuild, repair or reconstruct in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within sixty (60) days after the damage occurred and such reconstruction shall be diligently pursued until completed. The proceeds of any casualty insurance payable to the Parcel owner or its mortgagee is hereby pledged to be held in trust for the sole purpose of meeting such Parcel owner's obligations under this Article, and shall be used solely for such purpose.

## **ARTICLE SIX**

### **INSURANCE**

Each Parcel owner shall maintain all risk insurance for the full replacement cost of his Residential Unit. Evidence of such insurance in the form of a Certificate of Insurance shall be furnished to the other Parcel owners upon written request.

## **ARTICLE SEVEN**

### **NO PARTITION**

There shall be no physical partition, division or subdivision of any Parcel or of any Residential Unit or any part thereof, nor shall any person acquiring any interest in any Parcel or Residential Unit or any part thereof seek any such partition, division or subdivision unless the Real Estate has been removed from the provisions of this Declaration.

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**ARTICLE EIGHT  
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ARBITRATION  
the Lake County Recorder!**

Except as provided in Article Nine, any dispute, controversy or disagreement arising out of or related to this Declaration or the Restrictions shall be resolved by the submission of same to arbitration under the rules and regulations of the American Arbitration Association. Any Parcel owner may notify the other Parcel owner(s) of his desire to arbitrate, and if within ten (10) days after written notice of such desire to arbitrate is served upon the other Parcel owner(s), they have not agreed upon an impartial arbitrator, either, both or all Parcel owners may ask the American Arbitration Association to submit a list of five (5) persons eligible to serve as arbitrators. If within ten (10) days from the receipt of such list, the Parcel owners have not agreed on a single arbitrator from such list, such arbitrator shall be appointed by the American Arbitration Association. The arbitrator's decision shall be final and binding upon all Parcel owners who have participated or who had the opportunity to participate, and there shall be no appeal of said decision except as may be allowed by Indiana law. The costs of such arbitration shall be shared equally by the participating Parcel owners unless the arbitrator shall specifically find that the conduct of the losing Parcel owner was arbitrary and unreasonable in which event the entire cost of the arbitration may be assessed against such Parcel owner.

## **ARTICLE NINE**

### **EQUITABLE RELIEF**

In the event of any violation or threatened violation by any person of this Declaration or of any of the Restrictions the result of which would be to cause irreparable damage, and which is of an emergency nature, such Parcel owner shall have, in addition to the right of arbitration provided in Article Eight, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of the alleged violation will be given twenty-four (24) hours prior to commencing action to the owner allegedly responsible for such violation or threatened violation.



**ARTICLE TEN**

**AMENDMENT**

The Declaration shall be amended only by the unanimous written consent and approval of all owners of each Parcel, in recordable form, which amendment shall be effective only upon its proper recording in the Office of the Lake County Recorder.

Notwithstanding any other provision of the Declaration, the Declarant alone may amend this Declaration without the consent of any Parcel owner or of any mortgagee, or any other person, (1) to correct scrivener's errors, minor defects or omissions, or (2) to comply with the requirements of Indiana law, or (3) to comply with the requirements of any governmental agency, public authority, or title insurance company, or (4) to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration, or any other government 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 each such entity. This paragraph shall constitute an irrevocable special power of attorney to Declarant on behalf of all Parcel owners, mortgagees, and any and all other persons having an interest of any kind in the Real Estate, for so long as Declarant owns any Parcel or until the expiration of five (5) years from the date on which this Declaration is recorded, whichever occurs first. The amendment shall be signed by the Declarant and it shall become effective upon the proper recording thereof in the Office of the Recorder of Lake County, Indiana.

**ARTICLE ELEVEN**

**TERMINATION**

This Declaration and the Restrictions contained herein may be terminated only with the unanimous written consent of all persons owning an interest in the fee simple title to the Real Estate and all mortgagees of record on the title to the Real Estate. No termination will be effective until a written instrument setting forth its terms has been executed, acknowledged and properly recorded in the Office of the Recorder of Lake County, Indiana.

**ARTICLE TWELVE**

**DECLARANT'S RIGHTS**

Notwithstanding any provision contained in this Declaration to the contrary, it shall be expressly permissible for Declarant to maintain and carry on such activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the construction or sale of the Residential Units, including, but not limited to, business offices, signs, model units and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such activities shall include specifically the right to use Residential Units owned by the Declarant as models and sales offices. This provision may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this provision shall terminate upon the earlier of five (5) years from the date this Declaration is recorded, or upon the Declarant's recording a written statement that all sales activity has ceased.

The Declarant specifically disclaims any warranty or representation in connection with the Real Estate or this Declaration except as specifically set forth herein or elsewhere in writing subsequent to the date hereof; and no person shall rely upon any warranty or representation not specifically set forth therein.

The Declarant shall have the right to amend this Declaration in accordance with Article Ten.

Any or all of the rights and obligations of the Declarant 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, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and properly recorded in the Office of the Recorder of Lake County, Indiana.

**ARTICLE THIRTEEN**

**NOTICES**

All notices, statements, demands, approval or other communication to be given under or pursuant to this Declaration shall be in writing, addressed to the Parcel owner(s) at the Residential Unit address, and shall be delivered in person or by certified mail, return receipt requested, postage prepaid, or by telegram or cable, charges prepaid.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the 31st day of August, 1995.

  
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Han S. Kwak

  
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Sook J. Kwak

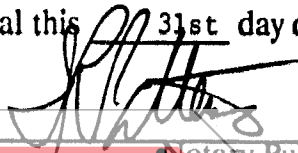




STATE OF INDIANA }  
COUNTY OF LAKE } SS:

The undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that HAN S. KWAK and SOOK J. KWAK, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument for the uses and purposes therein set forth.

Given under my hand and notarial seal this 31st day of August, 1995.



Notary Public

Printed Name: Glenn R. Patterson

My Commission Expires:

November 25, 1996

County of Residence:

Lake



This Instrument prepared by Glenn R. Patterson, Esq., Singleton, Crist, Patterson & Austgen, Suite 200, 9245 Calumet Avenue, Munster, Indiana 46321