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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF MALLARD COVE ESTATES SUBDIVISION  
Dyer, Indiana

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69151

**PREAMBLE**

The undersigned, MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE under Trust Agreement dated 7/15/93, and known as Trust Number 3759, hereinafter called Declarant, is the owner of the real estate shown and described hereon, does hereby certify that it has platted, and subdivided said real estate in accordance with the plat hereto attached.

This subdivision shall be known as MALLARD COVE ESTATES SUBDIVISION in the Town of Dyer, Lake County, Indiana.

**LEGAL DESCRIPTION**

The exact legal description of MALLARD COVE ESTATES SUBDIVISION located in the Town of Dyer, Lake County, Indiana, is contained on Exhibit "A-2" attached hereto and made a part hereof.

All streets proposed to be, but not heretofore dedicated, and shown on the attached subdivision plat, are hereby dedicated to the public. Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.

**GENERAL PURPOSES**

The real estate is subject hereto to insure its proper use and enjoyment, and its appropriate development and improvement; to protect each owner of a lot against the use of the other lots as may depreciate the value of the real estate; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to secure and maintain property setbacks from streets and adequate free spaces between structures. It is the intention and purpose hereof to assure that all dwellings shall be of a quality of design, workmanship, and material approved by the Architectural Review Committee, as hereinafter defined.

These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of 5 years from the date these covenants are recorded, after which time said covenants shall automatically be extended for successive periods of 5 years unless a instrument agreeing to change said covenants in whole or in part, signed by a majority of the then owners of the lots has been recorded.

The restrictions set forth herein shall run with the land and bind the parties successors and assigns and all parties claiming by, through or under the parties shall be taken to hold, agree and covenant with the

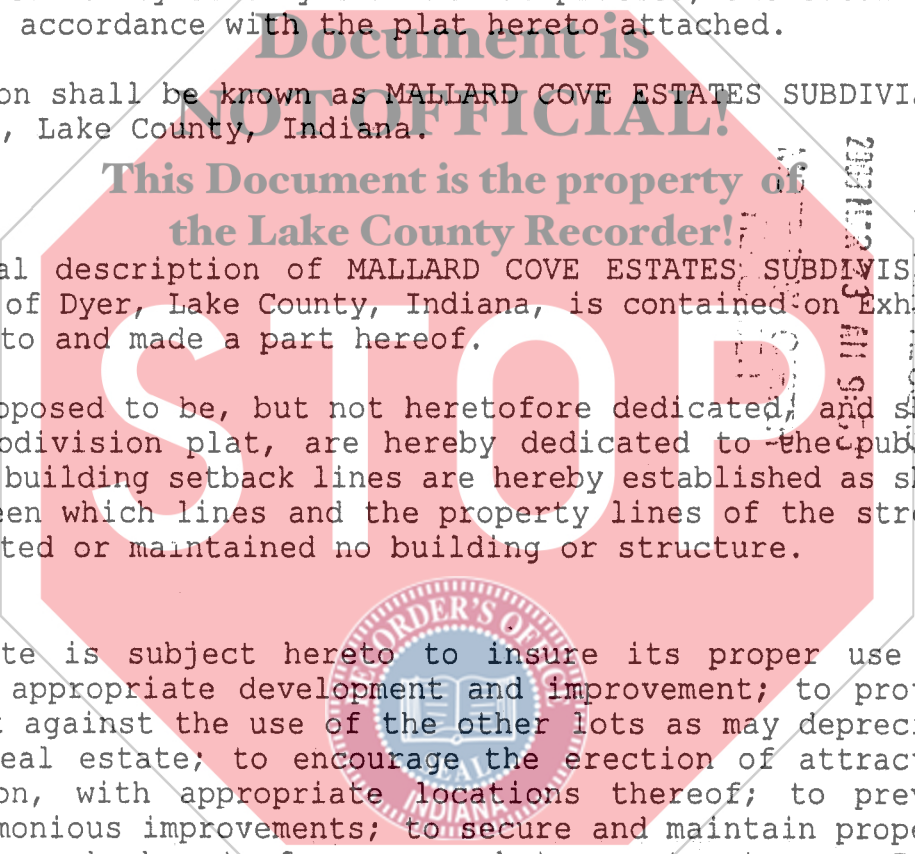
GTIC has made an accommodation recording of the instrument. We have made no representation of the instrument or the land affected.

5500

Chicago Life Insurance Company

Dale Anderson

Plat # 2000-19926



STATE OF INDIANA  
LAKE COUNTY  
RECORDERS OFFICE  
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parties, their successors and assigns and with each of them to conform to and observe the restrictions as to the use of the lots and the construction of improvements thereon, but no restrictions herein shall be personally binding on any corporation, person or persons except in respect to breaches committed during its, his or their seizing of the title of the land, and the owner or owners of any of the above land shall have the right to sue for and obtain an injunction, prohibitive, or mandatory to prevent the breach of or to enforce the observance of the restrictions, in addition to ordinary legal actions for damages, and failure of the parties or owner or owners of any other lot or lots shown on the plat to enforce any of the restrictions set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter.

Invalidation of any one of these covenants or restrictions by Judgment or court order, shall in no way effect any of the other provisions which shall remain in full force and effect.

**SINGLE FAMILY RESIDENCES**

The covenants, restrictions and conditions relating to single family residences shall be as follows:

**Dwelling Height**

No dwelling shall contain more than two stories, nor shall any such dwelling have a building height in excess of thirty (30) feet.

**Building Quality**

A. General. Every building shall be located and in accordance with the applicable governmental building and zoning codes and with such additional specifications and standards as may be required by the Architectural Review Committee after all construction plans and specifications (including, but not limited to those for grading and site work, excavation, and specifications showing the nature, kind, shape, heights, materials, color scheme, location, elevations and approximate cost of all buildings), along with a staked survey (showing the elevation of all corners of the lot), have been submitted to, and approved in advance in writing by, the Architectural Review Committee.

B. Minimum Areas. The interior area of each dwelling, exclusive of attached garages, carports, open terraces, porches, and breezeways, accessory building and improvements, shall be as follows:

I. UNIT ONE (Mallard Cove Estates Subdivision consisting of Lots 1 thru 51)

1. All one-story dwellings shall have a minimum first floor area of 1,800 square feet.

2. All 1 and 1/2 story dwellings, tri-level dwellings or quad-level dwellings with basements or crawlspace shall

have a minimum total floor area of 2,100 square feet, in finished condition, except by special variance granted by the Architectural Review Committee.

3. All two-story dwellings with basements shall have a minimum total floor area of 2,200 square feet above grade, except by special variance granted by the Architectural Review Committee.

4. No bi-level, mid-level or split-level dwellings shall be permitted.

2. UNIT TWO (Mallard Cove Estates Subdivision, consisting of Lots 52 thru 90)

1. All one-story dwellings with basements shall have a minimum first floor area of 2,000 square feet.

2. All 1 and 1/2 story dwellings, tri-level dwellings or quad-level dwellings with basements shall have a minimum total floor area of 2,300 square feet, in finished condition, except by special variance granted by the Architectural Review Committee.

3. All two-story dwellings with basements shall have a minimum total floor area of 2,400 square feet above grade, except by special variance granted by the Architectural Review Committee.

4. No bi-level, mid-level or split-level dwellings shall be permitted on any Lot in Phase Two. Quad-level dwellings may be permitted only by special variance granted by the Architectural Review Committee.

3. RESTRICTIONS AS TO BOTH UNIT ONE AND UNIT TWO:

1. All dwellings without a basement or on concrete slabs shall have a minimum first floor area of 1,800 square feet, except for tri-level dwellings in Unit One which may not have a full basement.

2. All accessory buildings shall have a minimum size of 10' by 10' and must be constructed of the same material and shall be architecturally coordinated to the dwelling on that lot.

3. The minimum set-back lines shall be in accordance with the recorded plat of subdivision of MALLARD COVE ESTATES SUBDIVISION, Unit 1 and Unit 2.

C. Dwelling Requirements.

1. All dwellings shall have an attached garage which will house a minimum of two (2) standard size automobiles and shall be used only by the owners, occupants, or their guests, and shall not be used for rental purposes.

2. It is preferred that ventilators be located in the gable ends or soffit area, and not in the roof itself. Where ventilators are located in the roof, they shall be located in the rear of the dwelling roof so as not to be visible from the street side of the dwelling.

3. Exterior face materials. The ground floor level walls facing the street on every single family dwelling shall be entirely of face brick construction. Both ground level walls facing the streets on a single family dwellings constructed or corner lots shall be entirely of face brick construction.

D. Property Owners Association

The Developer intends to create on this property a residential community which if carried to full and final completion will consist of residential dwelling units consisting of single family homes. As part of the development, various community facilities such as landscaping, open spaces, particularly as relates to the subdivision entrance are or may be provided for the benefit and enjoyment of persons residing in the dwelling units. The area of the property and the common area in the development will require uniform and continuing care and maintenance for the primary benefit and enjoyment of the persons residing in the development. The Developer intends to form a not-for-profit corporation for the purpose of providing for the orderly and proper administration and maintenance of the entrance sign and common area and for the preservation and enhancement of those portions of the development which are improved by the developer from time to time and to administer and enforce covenants, conditions and restrictions of this Declaration if required and to collect and to disburse assessments and charges hereinafter created. The Developer may, furthermore, from time to time, convey or cause to be conveyed portions of the MALLARD COVE ESTATES SUBDIVISION hereinafter defined as common area to the Mallard Cove Property Owner's Association and subject portions of this property to this Declaration and to the covenants, restrictions, conditions, easements and liens described in this Declaration for the benefit of all or part of the property and each Owner of a lot and a lot which shall attach to and constitute covenants running with the land.

## ARTICLE I

### DEFINITIONS

As used herein or elsewhere in these documents, unless otherwise provided, or unless the context requires otherwise, the following terms shall be defined as provided in this Article.

A. Assessments: that portion of the cost of construction, maintaining, repairing, and managing the common area as set forth in the Articles of Incorporation and the By-Laws of the Association.

B. Association: the MALLARD COVE ESTATES Property Owners Association, Inc., a not-for-profit corporation to be organized under the laws of the State of Indiana, and its successors. Copies of the proposed Articles of Incorporation and the By-Laws are attached hereto and made a part hereof as "Exhibit B" and "Exhibit C", respectively.

C. Common Area: shall mean all the property owned by the Association for the common use and enjoyment of the members of the Association and consisting of private rights of way, greenbelts, storm water drainage and retention system and other areas conveyed to the association pursuant to Article III.D hereof.

D. Declaration: this instrument, including any provision of which from time to time may be lawfully amended and/or supplemented by additional property as provided in Article III.E hereof.

E. Developer: the beneficiaries under Mercantile National Bank of Indiana, Trust Number 5759.

F. Expenses: the actual and estimated cost of:

1. Maintenance, management, operation, repair and replacement of the entrance sign(s), landscaping, open spaces, storm water drainage and retention systems, fencing parking area and other improvements to the common area, whether the same be initially installed by the Developer or by the Association. Further, the expenses shall include the cost of construction or improvement of those facilities determined by the Association to be for the benefit and betterment of those persons living within the Mallard Cove Estates Subdivision and to be used by such owners and owned, operated and managed by the Association.

2. Management and administration of the Association, including, but not limiting the same, to compensation paid by the Association to a managing agent, accountants, attorneys and other employees, if any.
3. All sums lawfully assessed against lot owned by the Association.
4. Expenses agreed upon as common expenses by the Association.
5. Any other items held by or in accordance with other provisions of this Declaration, or a required statute.

G. Lot: shall mean and refer to that portion of the property designated for single family residence.

H. Lot Owner: shall mean and refer to the record owner of a lot, whether one or more persons or entities who own fee simple title in any lot which is part of the property, including contract buyers, but excluding those having such interest merely as security for performance of an obligation.

I. Member: shall mean and refer to every person or entity who holds Membership in the Association.

J. Plat: is hereby designated and defined to mean, attached and incorporated herein by reference:

1. The Plat of Unit 1, MALLARD COVE ESTATES SUBDIVISION, Town of Dyer, Indiana, as the same may be platted, approved and recorded from time to time in the Office of the Recorder of Lake County, Indiana. (A copy of which is attached hereto as Exhibit "A-1".
2. Such other recorded plats of subdivision that may be approved and recorded.

K. Property: means that it includes the land, buildings, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto as set forth in Exhibit "A".

ARTICLE II  
MEMBERSHIP AND VOTING RIGHTS

A. Membership: Every person or entity who is the owner of a fee or equitable title of a lot in the property shall be a member of the Association. For the purpose of determining membership, such ownership will be deemed to have vested upon delivery to the Owner of a duly executed deed, or as to subsequent owners, upon delivery to the Association of a certified copy of a duly executed deed or other instrument establishing a change of record title to a lot. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. The membership shall be appurtenant to and may not be separated from ownership of any lot which is within the properties. Nothing herein contained shall be interpreted so as to exclude the Developer from membership while it or its successors in interest, if any, owns one or more lots, or any part of the properties.

B. Voting Rights: There shall be one (1) vote and one (1) voting member for each lot regardless of the number of persons who may have the ownership interest in a lot or the manner in which title is held by them. The vote of the owners of a lot owned by more than one (1) person shall be cast by the person named in a certificate signed by all of the owners of the lot and filed with the secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate. If the certificate is not on file, the vote of such owner shall not be considered in determining the requirement for a quorum nor for any other purpose.

C. Number and Term of Board of Directors. The initial Board of Directors shall consist of seven (7) directors who shall serve for one (1) year. Each year thereafter until the last lot is sold, the Developer shall have the right to select and designate a majority of the Directors.

D. Election of Board of Directors. Elections of directors shall be done in the following manner:

1. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-Laws and the Articles of Incorporation of the Association.
2. Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining directors.
3. Anything herein contained to the contrary notwithstanding, for so long as the Developer owns any lot or any of the property (including any area of future expansion), it shall be entitled to elect a

majority of the directors, which directors need not be owners of a lot within the properties.

ARTICLE III  
PROPERTY RIGHTS

A. Owners' Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area, which shall be appurtenant to and shall pass with title to every lot subject to the following provisions:

1. The right of the Association to charge reasonable admissions and other fees for the use of any facilities situated upon any common area.
2. The right of the Association to suspend the voting rights and the right to use of any recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the public rules and regulations of the Association.
3. The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, corporation, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by fifty percent (50%) of all of the owners then existing, has been recorded in the Public Records of Lake County, Indiana.
4. The right of the Association to pass reasonable rules and regulations.
5. The right of the Association to limit the number of guests of members for use of the common areas.
6. The right of the Association to levy assessments as provided in this Declaration.
7. The easements of record and any easements which may hereinafter be granted for utilities, such as drainage, water, gas, sewer, electricity, communication, cable television, and such other easements as may be necessary or desirable.
8. The right of the Developer to the use of the common areas and facilities without charge during the sales and construction period in the property as a part of the overall development program.



9. The right of the Association, in accordance with the Articles and By-laws, to borrow money for the purpose of improving the common area and construction facilities thereon and to secure such loans by mortgages on the common area. The rights of such mortgagee in said common area shall be senior to the rights of the owners hereunder.

B. Access Easement. Every member shall have an easement for ingress and egress to his lot over and across the common area and such other easements that are designed on the plat for access to such common area. Such easements shall be appurtenant to and shall pass with the title to every lot.

C. Delegation of Use. Any member may delegate, in accordance with the By-Laws and Rules and Regulations of the Association, his right of enjoyment to the common area to his family, his tenants, or contract purchasers who reside on the property.

D. Title to the Common Area. The Owner/Developer hereby covenant for themselves, their successors and assigns, that they will cause to be conveyed fee simple title to the common area to the Association, free and clear of all encumbrances and liens, except for the Covenants and Restrictions contained herein, public zoning ordinances, current real estate taxes, if any (which shall be prorated among the parties), and utility easements to be granted for sewer, drainage, water, gas, electricity, communications and such other easements as may be necessary or desirable. Conveyance of said title to such common area shall be by deed to the Association which shall be executed and delivered contemporaneously with the recording of each plat of subdivision.

E. The common area shall consist essentially of the landscaped and improved entrance to the subdivision.

ARTICLE IV  
COVENANT FOR MAINTENANCE AGREEMENT

A. Creation of the Lien and Personal Obligation of Assessments. Developer, for each lot owned within the property, hereby covenants, and for each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements; such assessments to be fixed, established, and collected from time to time, as hereinafter provided. Each assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge on the lot and shall be a continuing lien thereon. Each such assessment, together with such interest, costs and reasonable

attorneys' fees shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment was levied. The personal obligation shall not pass to successors in title unless expressly assumed.

B. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of the improvement and maintenance of the common area, which consists primarily of the entrance to the subdivision, and related to the use and enjoyment of the common area and of the lots. Such assessments may include, but are not limited to, the cost and charges to the Association of all taxes, insurance, repair, replacement, construction and maintenance of the common area, including any walks, roads, streets, street illumination, garage removal, snow removal, sprinkler system, landscaping, open spaces, greenbelts, storm water drainage and retention systems, security stations and personnel, fencing, parking areas,, activities and charges required by this Declaration or that the Board of Directors shall determine to be necessary or desirable to meet the primary purpose of the Association.

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C. Annual Assessment: The amount of the annual assessments shall be fixed by the Board of Directors of the Association each year and shall be based upon the projected budget prepared by the Board of Directors for that year. It is contemplated upon that the initial assessment for each Owner will be \$30.00 per year.

D. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment for the purpose of paying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the common area, including the necessary fixtures and personal property related thereto, PROVIDED THAT, any such assessment shall have the assent of two-thirds (2/3) of the votes of all members entitled to vote at a meeting called for this purpose.

E. The Allocation of Assessments. Both annual and special assessments shall be allocated by the Association against a lot by dividing the total aggregate amount of such annual or special assessments by the number of lots. Assessments shall be collected on a monthly, quarterly, or other basis as determined by the Board of Directors and shall be assessed equally among all lots.

F. Date of Commencement of Annual Assessments. Annual assessments may commence for all lots in MALLARD COVE ESTATES, on the first day of the month following the month in which the Developer conveys title to the lot within the MALLARD COVE ESTATES SUBDIVISION. The Board of Directors shall fix the amount of the

annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. In the event the Board of Directors fails to establish said assessment as provided, the amount of the last annual assessment shall remain in effect for the ensuing year, or until such time as the annual assessment is fixed by the Board of Directors. Written notice of any change in the amount of the annual assessment shall be sent to every owner subject to the assessment. All notices to owners shall be mailed to the address shown on the records of the Association. Monthly assessments shall be due on the first day of each month, or quarter or otherwise as determined by the Board of Directors. A new owner shall be liable for payment of the monthly assessment in the first day of the month following conveyance of title. The Association shall upon demand at any time furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified lot have been paid, and a reasonable charge may be made for the issuance of this certificate. Such certificate shall be conclusive evidence of payment of any assessment.

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G. Remedies for Non-Payment of Assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of one percent (1%) per month, and the Association may bring an action of law against the owner personally obligated to pay the assessment, or foreclose the lien against the property; either action shall include interest, costs and reasonable attorneys' fees which shall be added to the amount of the assessment and included in a judgment rendered. The Board of Directors shall perfect such lien by filing notice of the same within sixty (60) days from the date such assessment was due and may foreclose the lien under the laws of the State of Indiana governing mechanics' and materialmen's liens. In such foreclosure, the delinquent owner may be required to pay a reasonable rental for the lot and the Association in such foreclosure shall be entitled to the appointment of a receiver to collect such delinquent assessment. The Association may, in addition to such foreclosure action, file suit to recover a money judgment for unpaid common expenses and such action shall not constitute a waiver of the lien securing such unpaid assessment. If the Board of Directors determines to file foreclosure to collect such unpaid assessments, the Board of Directors acting on behalf of the Association shall have the power to bid on the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. No owner may waive or otherwise escape liability for the assessments by non-use of the common area or abandonment of his lot.

ARTICLE V  
SUBORDINATION OF THE LIEN TO MORTGAGES

The lien of the assessments provided for herein shall be subordinate to a lien of any lot shall not affect the assessment lien. The sale or transfer of any lot pursuant to a mortgage

foreclosure or any proceeding in lien thereof shall, however, extinguish the lien of such assessment as to payments which became due prior to such sale or transfer.

#### ARTICLE VI ARCHITECTURAL CONTROL

No building, wall, improvement or other structure shall be commenced, erected or maintained on the property and no exterior addition, change or alteration shall be made until the plans and specifications, plot lay-out, exterior elevations and landscaping which shall show the nature, kind, shape, height, materials and location of the improvement to be made shall have been submitted to and approved in writing as to the harmony of external design and location in relationship to the surrounding structures, topography, and lot lines by the Architectural Control Committee appointed by the Board of Directors of the Association. In addition, each owner intending to build shall submit a resume as to the experience and financial responsibility of the proposed contractor who is to perform the work. This provision shall not apply to any construction or improvement made by the Developer in connection with the development of the property.

Neither the Developer, the Association, nor the Architectural Control Committee, nor any member thereof, shall be liable for any damage, loss or prejudice suffered or claimed by any owner or contractor who submits such plan on account of (a) any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions; (b) any structural or other defects in any work done according to such plans and specifications; (c) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (d) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, and (e) the development of any property within Chateau Woods Additions. Any person submitting plans to the Architectural Control Committee shall hold the Developer, the Association, the Architectural Control Committee, or any member thereof, harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorneys' fees incurred.

When the Developer conveys the last lot in the MALLARD COVE ESTATES SUBDIVISION then, the purpose of the committee having been satisfied, the architectural Control Committee shall dissolve.

#### ARTICLE VII INSURANCE

The insurance which may be carried upon the common area and personal property shall be governed by the following provisions:

A. Authority to Purchase. All insurance policies upon the common area and personal property shall be purchased by the Association for the benefit of the members of the Association. If

the insurance companies issuing said policies agree, such policies shall provide that the insurer waives its rights of subrogation as to any claims against lot owners, the Association, the members thereof and their respective servants, agents and guests. Such policies and endorsements shall be deposited with the Association and held as part of the records of the Association.

B. Policies to be Secured by the Association. The policies to be secured by the Association are as follows:

1. Casualty. The buildings and other insurable improvements upon the common area and all personal property as may be owned by the Association shall be insured in an amount equal to the maximum insurable replacement value thereof (exclusive of excavation and foundations) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against:
  - (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement;
  - (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the building, including, but not limited to, vandalism, malicious mischief, windstorm and water damage;
2. Public liability, officers, directors and employees liability for errors and omissions, and property damage in such amounts and such forms as may be required by the Association.
3. Workmen's Compensation policy to meet the requirements of law.
4. All liability insurance shall contain cross liability endorsements to cover liabilities of the lot owners as a group to a lot owner.

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as common expenses.

D. Beneficiary of Policies. All insurance policies purchased by the Association shall be for the benefit of the Association and shall provide that all proceeds payable as a result of losses thereunder shall be paid to the Association. Proceeds received from insurance policies shall be used by the Association to repair or replace the property damaged. In the event the proceeds are insufficient, the Association may levy assessments to cover such deficiency.

E. Disposal of Proceeds. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance after payment of all costs of the reconstruction or repair for which the proceeds of the policies were received, such balance shall be retained by the Association and regarded as miscellaneous revenue to the Association.

F. Insurance Adjustments. Each member shall be deemed to have delegated to the Board of Directors his right to adjust with insurance companies all losses under policies purchased by the Association.

ARTICLE VIII  
CONVEYANCES

Each owner who sells his lot shall require that his purchaser provide to the Association a copy of the instrument of conveyance. In addition, each owner upon such sale shall endorse to his purchaser his Certificate of Membership in the Association and shall deliver to his purchaser copies of all documentation received by the seller at the time of the initial purchase. The Association shall thereafter issue a new certificate in the name of the purchaser.

ARTICLE IX  
USE RESTRICTIONS

A. Conveyance. Each lot shall be conveyed as a separately designed and legally described freehold estate subject to the terms, conditions and provisions hereof.

B. Use. Lots shall be occupied by a single family only and shall be used as a family dwelling.

C. Construction. All buildings or structures on the property shall be of new construction.

D. Front and Rear Set Back. The minimum front yard set back lines and rear lot lines, if any, shall be designated on the plat.

E. Side Lot Lines. The side lot lines shall meet Dyer town requirements.

F. Signs. No advertising signs (except one of not more than six (6) square feet "For Rent" or "For Sale" sign per lot or unit), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on property, nor shall the property be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any lot or any resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of the property; provided, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of

buildings, if any, of Developer, its agents and assigns during the construction and sale of the property.

G. Approval Prior to Construction. No residence or structure shall be commenced, erected, or maintained on any of the property until the plans and specifications have been submitted to and approved by the Architectural Control Committee as provided in Article VI.

H. Regulations. Regulations concerning use of the property may be promulgated by the Association as hereinabove set forth; provided, however, that copies of such regulations are furnished to each lot owner prior to the time that the same becomes effective. The proposed initial regulations, which shall be deemed effective until amended by the Association are attached hereto and made a part hereof as "Exhibit D."

ARTICLE X  
AMENDMENT

Amendments to the Declaration shall be proposed and adopted as follows:

A. Notice. Notice of the subject matter of the proposed amendment in reasonably detailed form shall be included in the Notice of any meeting at which a proposed amendment is considered.

B. Resolution. A resolution adopting a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association, and after being proposed and approved by either of such bodies, must be approved by the other. Directors and lot owners not present at the meeting considering such amendment may express their position in writing or by proxy. An amendment must be adopted by not less than seventy-five percent

(75%) of the total number of Directors and fifty-five percent (55%) of the total membership of the Association.

C. Recording. A copy of each amendment shall be certified by at least two (2) officers of the Association as having been duly adopted and shall be effective when recorded in the Office of the Recorder of Lake County, Indiana. Copies of the same shall be sent to each lot owner and his mortgagee in the manner elsewhere provided for the giving of notices but the same shall not constitute a condition precedent to the effectiveness of such amendment.

D. Exceptions. The provisions contained in this article shall not apply to or govern acts of the Developer taken pursuant to the provisions of Article III, D, and E.

ARTICLE XI  
TERMINATION

The Declaration shall be terminated, if at all, by the agreement of all the lot owners and their respective mortgagees, which agreement shall be evidenced by an instrument or instruments executed in the manner required for the conveyance of real property. The termination shall become effective when such agreement has been recorded in the Office of the Recorder of Lake County, Indiana.

ARTICLE XII  
GENERAL PROVISIONS

A. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no manner affect or invalidate any of the other provisions, which other provisions shall remain in full force and effect.

B. Enforcement. The Association, or any owner, shall have the right to enforce any provision of this Declaration by any proceeding of law or equity. Any owner found to be in violation by a court of competent jurisdiction of an provision of this Declaration shall also be liable for reasonable attorneys' fees incurred by the Association, or incurred by any owner, in prosecuting such action. The amount of such attorneys' fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting owner's lot, enforceable as other liens herein established. Failure by the Association or by any owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

C. No Dedication to Public Use. Nothing contained in this Declaration shall be construed or deemed to constitute a dedication, express or implied, of any part of the common area to or for any public use or purpose whatsoever.



D. Specific Prohibitions.

1. No gainful occupation or profession, or other non-residential use, shall be conducted.
2. No noxious or offensive activity shall be carried on, nor shall anything be done which is or may become, an annoyance or nuisance.
3. No livestock or poultry shall be kept or maintained.
4. No burning or refuse shall be permitted other than in proper facilities maintained in or as a part of a dwelling, except for the burning of leaves if permitted by applicable laws and ordinances.
5. No garages, carport, driveway, parkway, or parking area which may be in front, adjacent to, or part of any lot may be used as a habitual parking place for any vehicle weighing in excess of 4,000 lbs. The area located between the road pavement and the front building line of each lot shall not be used for the parking of such vehicles.
6. No undomesticated animal nor any other animal having unusually vicious propensities shall be kept or maintained and no dogs runs shall be constructed or permitted on any lot.
7. No plants, or seeds, or other things or conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained.
8. No downspout, sump pump or other storm or drainage discharges shall be connected or emptied into the sanitary sewers serving the real estate.
9. No building shall be located or maintained within the utility and drainage easements within the real estate. The removal of such as required by the Town of Dyer, Lake County, Indiana, or any public utility or governmental agency shall be at the sole cost and expense of the lot owner.
10. No structure of a temporary nature, and no trailers, basement, tent or accessory building shall be used at any time as a residence.
11. No lines or wires for communications or the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere on the real estate other than within dwellings or accessory buildings unless

the same shall be contained in conduits, or except where indicated on the plat of subdivision of the real estate and except for easements heretofore granted for electric transmission lines, if any. No satellite or communication dishes shall be permitted in the subdivision which exceed 24" in diameter.

12. Any and all fences to be constructed on any lot shall consist of materials and be constructed in a manner which shall comply with all of the requirements of the Town of Dyer, and further, shall be approved by the Architectural Review Committee.
13. If all or any portion of a residence 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 such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty.
14. The owners of lots in the subdivision shall be responsible for proper landscaping and maintenance of the lot. Builders and owners are encouraged to work on a landscaping plan during construction of the residence.
15. All lot owners must plant 2 trees in the parkway of a certain variety and size as required by the Town of Dyer. Every house shall have its street number placed in an address stone that shall be 8" x 16" in size.

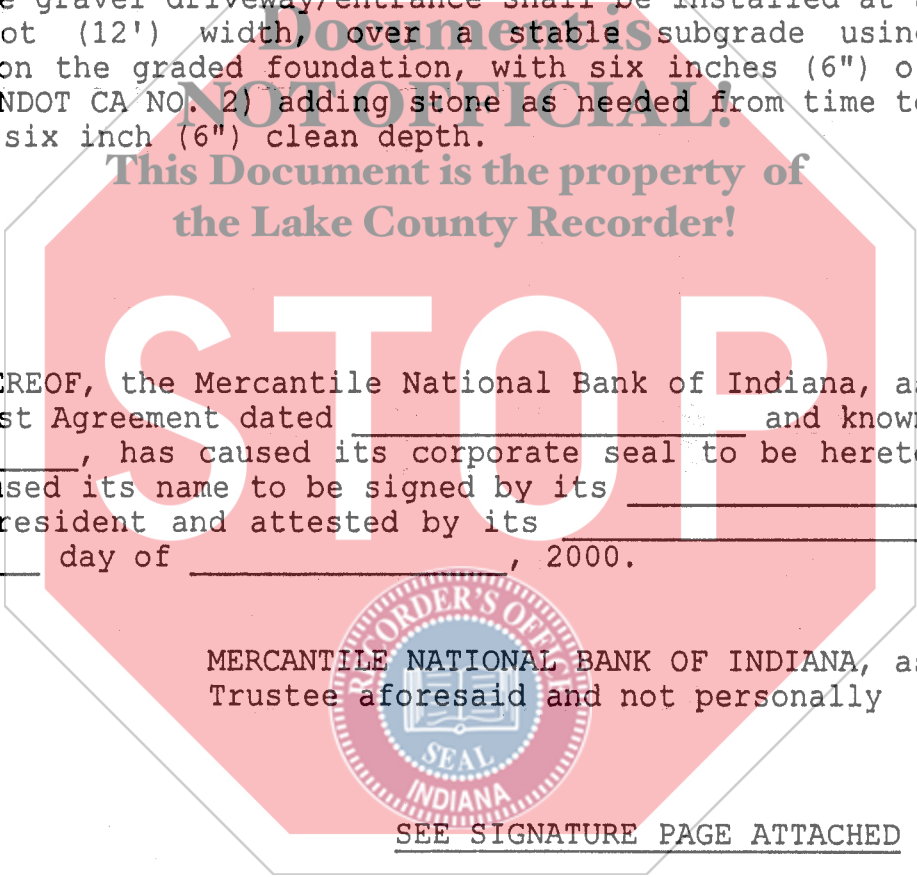
#### LAND USE

Each lot shall be used, if at all, as a site for a dwelling for private residential purposes only, for the sole use of the owners or occupants of the dwelling (hereinafter "dwelling(s)"). All other buildings (hereinafter "accessory building(s)") and other structures or improvements such as driveways, parking areas, sidewalks, fences, walls and landscaping (hereinafter "improvement(s)") shall be erected only in such manner and location as approved in writing in the sole discretion of the Architectural Review Committee. Dwellings, Accessory Buildings and Improvements are referred to collectively, hereafter as "building(s)".

Each Owner or Occupant shall comply with the terms and requirements, of the Subdivision Erosion Control Plan.

EROSION CONTROL REQUIREMENTS.

Owners shall be responsible for complying with all laws and regulations with respect to erosion control during construction on the Real Estate, and shall be obligated to comply with all requirements or recommendations of the Division of Soil Conservation of the Indiana Department of Resources, regarding the installation and maintenance of erosion/sediment control facilities and practices during the construction period on the Real Estate. Without in any way limiting the generality of the foregoing, the Buyer shall be obligated for the installation and maintenance of (a) perimeter erosion and sediment controls, (b) curb inlet protection, (c) drop inlet protection, (d) temporary downspout extenders, and (e) gravel driveways/entrances after the completion of the foundation, from the public street curb to the foundation. The gravel driveway/entrance shall be installed at a minimum twelve foot (12') width, over a stable subgrade using geotextile fabric on the graded foundation, with six inches (6") of coarse aggregate (INDOT CA NO. 2) adding stone as needed from time to time to maintain a six inch (6") clean depth.



IN WITNESS WHEREOF, the Mercantile National Bank of Indiana, as Trustee under a Trust Agreement dated \_\_\_\_\_ and known as Trust Number \_\_\_\_\_, has caused its corporate seal to be hereto affixed and has caused its name to be signed by its \_\_\_\_\_, President and attested by its \_\_\_\_\_ Secretary, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

MERCANTILE NATIONAL BANK OF INDIANA, as Trustee aforesaid and not personally

SEE SIGNATURE PAGE ATTACHED

THIS INSTRUMENT PREPARED BY:  
Attorney Dale A. Anderson  
18225 Burnham Avenue  
Lansing, Illinois 60438  
(708) 895-6663

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25x10

TRUSTEE CAPACITY

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representatives, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Trustee or for the purposes or with the intention of binding said Trustee personally, but this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be arrested or enforceable against Mercantile National Bank as Trustee on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be signed as of this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

MERCANTILE NATIONAL BANK, as Trustee  
aforesaid and not personally

By: \_\_\_\_\_



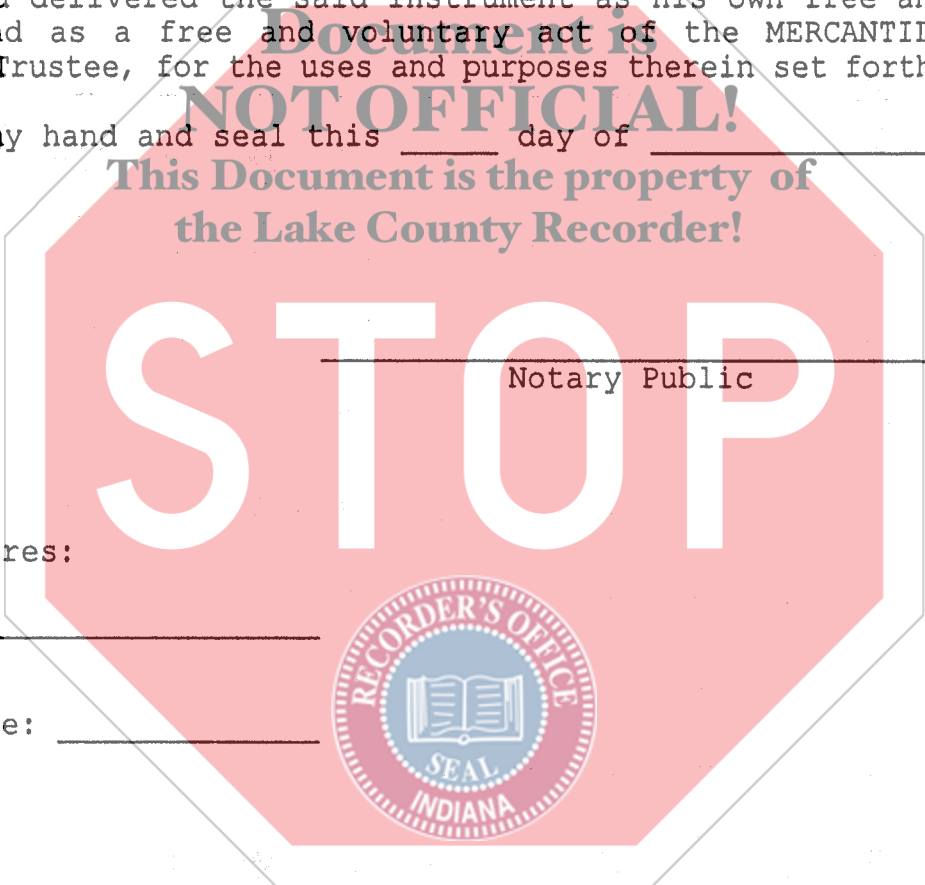
SEE SIGNATURE PAGE ATTACHED

STATE OF INDIANA )  
                          )     SS.  
COUNTY OF L A K E )

ACKNOWLEDGEMENT

I, \_\_\_\_\_, a Notary Public in and for said county and in the State aforesaid, do hereby certify that \_\_\_\_\_ of the MERCANTILE NATIONAL BANK, personally known to me to the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_ appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as a free and voluntary act of the MERCANTILE NATIONAL BANK, as Trustee, for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.



My Commission Expires: \_\_\_\_\_

County of Residence: \_\_\_\_\_

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF MALLARD COVE ESTATES SUBDIVISION, DYER, INDIANA**, is executed by the undersigned Trustee, not personally, but solely as Trustee under the terms of that certain agreement dated the 15th day of July, 1993, creating Trust #5759; and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding that each and all of the covenants, undertakings, representations, agreements, and liabilities, herein made are made and intend, not as personal covenants, undertakings, representations, agreements, and liabilities, of the Trustee, individually, or for the purpose of binding it personally, but this instrument is executed and delivered by the MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE, solely in the exercise of the powers conferred upon it as such Trustee under said agreement and no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforced against MERCANTILE NATIONAL BANK OF INDIANA, on account hereof, or on account of any covenant, undertaking, representation or agreement herein, either expressed or implied, all such personal liability, if any, being expressly waived and released by the parties hereto or holder hereof, and by all persons claiming by or through or under said parties or holder hereof.

Nothing contained herein shall be construed as creating any liability upon MERCANTILE NATIONAL BANK OF INDIANA, personally under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Indiana Responsible Property Transfer Law (the Act) as amended from time to time or any other Federal, State, or local law, rule or regulation. MERCANTILE NATIONAL BANK OF INDIANA, personally is not a "Transferor or Transferee" under the Act and makes no representations concerning any possible environmental defects. In making any warranty herein the Trustee is relying solely on information furnished to it by the beneficiaries and not of its own knowledge and specifically exculpates itself from any liabilities, responsibilities or damages as a result of including any warranty in this instrument.

Furthermore, the information contained in this instrument has been furnished the undersigned by the beneficiary/beneficiaries under aforesaid Trust and the statements made therein are made solely in reliance thereon and no responsibility is assumed by the undersigned in its individual capacity for the truth or accuracy of the facts herein stated.

IN WITNESS WHEREOF, said MERCANTILE NATIONAL BANK OF INDIANA, has caused its name to be signed to these presents by a Trust Officer and Trust Officer and its corporate seal hereunto affixed and attested by its Trust Officer the day and year first above written.

MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE  
AFORESAID AND NOT PERSONALLY,

BY: *David Forbes*  
David Forbes, Trust Officer

ATTEST:

*Kathryn Q. Dickason*  
Kathryn Q. Dickason, Trust Officer



STATE OF INDIANA )  
) SS:  
COUNTY OF LAKE )

I, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that David Forbes, Trust Officer and Kathryn Q. Dickason, Trust Officer, of Mercantile National Bank of Indiana, a National Banking Association, personally known to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Trust Officer respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said National Banking Association, as Trustee, for the uses and purposes therein set forth; and the Kathryn Q. Dickason did also then and there acknowledge that she, as custodian of the corporate seal of said National Banking Association, did affix the said corporate seal of said National Banking Association to said instrument as her own free and voluntary act, and as the free and voluntary act of said National Banking Association, as Trustee, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 2nd day March of 2000.

*Jannett L. Gibson*  
Notary Public

JANNETT L. GIBSON  
My Commission Expires: Apr. 29, 2000  
County of Residence: LAKE

**Document is  
NOT OFFICIAL!**  
**This Document is the property of  
the Lake County Recorder!**

*DESCRIPTION: Part of the Northeast Quarter of Section 24, Township 35 North, Range 10 West of the Second Principal Meridian more particularly described as follows: Commencing at the Southwest corner of said Northeast Quarter; thence N.00°18'18"W., along the West line of said Northeast Quarter, a distance of 779.95 feet to the point of beginning; thence continuing N.00°18'18"W., along said West line, a distance of 543.65 feet to the Southwest corner of the Northwest Quarter of said Northeast Quarter; thence N.89°57'38"E., along the South line of the Northwest Quarter of said Northeast Quarter, a distance of 1648.35 feet to the Northwest corner of BIBICH SCHOOL ADDITION in the Town of Dyer, Indiana, as recorded in Plat Book 65, Page 07 in the Office of the Recorder of Lake County, Indiana; thence S.00°22'43"E., along the West line of said BIBICH SCHOOL ADDITION, a distance of 779.31 feet to a point that lies 545.73 feet North of the Southwest corner of said BIBICH SCHOOL ADDITION; thence S.89°41'42"W. a distance of 1069.33 feet to a point on a line that is 580.00 feet East of and parallel to the West line of said Northeast Quarter; thence N.00°18'18"W., perpendicular to the last described line, a distance of 243.31 feet; thence S.89°41'42"W. a distance of 580.00 feet to the point of beginning, all in Dyer, Lake County, Indiana.*