

EXHIBIT "A"

ADDITIONAL PROPERTY

PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 36 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 148 IN HIDDEN LAKE, UNIT NO. 3, AN ADDITION TO THE CITY OF HOBART, AS SHOWN IN PLAT BOOK 87 PAGE 54 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE SOUTH 88°50'53" EAST, ALONG THE SOUTH LINE OF SAID LOT 140 IN SAID HIDDEN LAKE, UNIT NO. 3, A DISTANCE OF 789.60 FEET, TO THE SOUTHEAST CORNER OF LOT 141 IN SAID HIDDEN LAKE, UNIT NO. 3; THENCE NORTH 01°09'07" EAST, ALONG THE EAST LINE OF SAID LOT 141, A DISTANCE OF 25.00 FEET, TO THE SOUTHWEST CORNER OF LOT 140 IN SAID HIDDEN LAKE, UNIT NO. 3; THEN SOUTH 88°50'53" EAST, ALONG THE SOUTH LINE OF SAID LOT 140, A DISTANCE OF 149.90 FEET TO THE SOUTHEAST CORNER OF SAID LOT 140; THENCE SOUTH 01°09'07" WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF QUAIL DRIVE (60 FEET WIDE), A DISTANCE OF 12.97 FEET; THENCE SOUTH 88°50'53" EAST, ALONG THE SOUTH LINE, AND WESTERLY EXTENSION THEREOF, OF LOT 119 IN SAID HIDDEN LAKE, UNIT NO. 3, A DISTANCE OF 227.13 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 119; THENCE SOUTH 01°09'07" WEST, ALONG THE WEST LINE OF LOT 118, IN SAID HIDDEN LAKE, UNIT 3, A DISTANCE OF 170.00 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 118; THENCE NORTH 88°50'53" WEST, A DISTANCE OF 211.01 FEET; THENCE SOUTHERLY, ALONG A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 185.00 FEET; THENCE SOUTHERLY, ALONG A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 185.00 FEET, AN ARC DISTANCE OF 208.34 FEET (THE CHORD OF WHICH BEARS SOUTH 73°41'17" WEST, A DISTANCE OF 76.32 FEET, TO A POINT OF CURVE; THENCE WESTERLY, ALONG SAID CURVE, CONCAVE TO THE SOUTH 73°41'17" WEST, A CHORD DISTANCE OF 34.60 FEET); THENCE NORTH 74°03'53" WEST, A DISTANCE OF 76.32 FEET, TO A POINT OF CURVE; THENCE WESTERLY, ALONG SAID CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 384.89 FEET, AN ARC DISTANCE OF 34.61 FEET (THE CHORD OF WHICH BEARS NORTH 76°38'27" WEST, A CHORD DISTANCE OF 34.60 FEET); THENCE SOUTH 01°09'07" WEST, A DISTANCE OF 144.57 FEET; THENCE NORTH 88°50'53" WEST, A DISTANCE OF 660.00 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF EDGEWATER DRIVE (60 FEET WIDE); THENCE NORTH, 01°09'07" EAST, ALONG SAID EAST RIGHT-OF-WAY, A DISTANCE OF 310.00 FEET, TO A POINT OF CURVE; THENCE NORTHERLY, ALONG SAID CURVE, CONCAVE TO THE EAST, HAVING A RADIUS OF 972.49 FEET, AN ARC DISTANCE OF 25.00 FEET, (THE CHORD OF WHICH BEARS NORTH 01°53'19" EAST, A CHORD DISTANCE OF 25.00 FEET) TO THE POINT OF BEGINNING, CONTAINING 7.390 ACRES, MORE OR LESS, ALL IN THE CITY OF HOBART, LAKE COUNTY, INDIANA.

AFTER RECORDING, RETURN TO:

Hidden Lake Development, L.L.C.
100 South Wacker Drive
Suite 850
Chicago, Illinois 60606

FILED ENTERED FOR TAXATION SUB
ACCEPTANCE FOR

JUL 20 2000

FILED BENJAMIN
COUNTY CLERK



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LIST OF EXHIBITS

- Exhibit "A" - Legal Description and Property
- Exhibit "B" - Legal Description of Additional Property
- Exhibit "C" - By-Laws of Hidden Lake Phase II Neighborhood Association, Inc.

AFTER RECORDING, RETURN TO:

Hidden Lake Development, L.L.C.
100 South Wacker Drive
Suite 850
Chicago, Illinois 60606

**Document is
NOT OFFICIAL!**

**This Document is the property of
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
the Lake County Recorder!
HIDDEN LAKE PHASE II NEIGHBORHOOD ASSOCIATION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this ____ day of July, 2000, by **HIDDEN LAKE DEVELOPMENT, L.L.C.** (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant has prepared a general plan for the development of the Property (as defined herein) as part of the residential community known as Hidden Lake;

WHEREAS, the Property is a part of the larger residential community known as Hidden Lake and is subject to the Declaration of Covenants, Conditions and Restrictions for Hidden Lake Community Association, as amended from time to time;

WHEREAS, Declarant intends, by this Declaration, to set forth certain mutually beneficial covenants, conditions and restrictions for the benefit of unit owners on the Property within the larger residential community; and

WHEREAS, Declarant desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the real property as are hereby or hereafter subjected to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the real property described in Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions. Said easements, restrictions, covenants and conditions are for the purpose of protecting the value and desirability of the real property subject to this Declaration. The foregoing easements, restrictions, covenants and conditions which shall run with the real

property subjected to this Declaration and which shall be binding on all parties having any successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Additional Property" shall mean and refer to the real estate legally described on Exhibit "B", which is attached thereto and made a part hereof.

Section 2. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration of by contract or agreement become the responsibility of the Association. The office of any property manager employed by or contracting with the Association to provide professional property management if located on the Property, of any public rights-of-way within or adjacent to the Property, may be part of the Area of Common Responsibility. The Area of Common Responsibility may include the area within Owner's lot lines and other improvements comprising the Units, and streets providing ingress and egress to, across and through the Property which were constructed on rights of way provided by agreement or licenses granted by third parties.

Section 3. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Hidden Lake Phase II Neighborhood Association, Inc., as filed with the Secretary of State of Indiana.

Section 4. "Association" shall mean and refer to Hidden Lake Phase II Neighborhood Association, Inc., an Indiana not-for-profit corporation, its successors or assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Indiana corporate law. The use of the term "association" or "associations" in lower case shall refer to any condominium association, Neighborhood Association or other owners association having jurisdiction over any part of the Property.

Section 5. "Base Assessment" shall mean and refer to assessments levied against all Units in the Property to fund Common Expenses.

Section 6. "By-Laws" shall mean and refer to the By-Laws of Hidden Lake Phase II Neighborhood Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference, as they may be amended from time to time.

Section 7. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article II of the By-Laws.

Section 8. "Common Area" shall mean all real and personal property which the Association owns or otherwise holds for the common use and enjoyment of all Owners and permitted users or invitees and may include, without limitation, the entry monuments, lots used for private street right-of-way and the streets and sidewalks constructed therein, street

lights, storm sewers, storm water management facilities, lakes, ponds, parks, open space and green belt.

Section 9. **"Common Expenses"** shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation of the Association.

Section 10. **"Community-Wide Standard"** shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard shall be more specifically determined by the Board of Directors.

Section 11. **"Declarant" or "Developer"** shall mean and refer to collectively or individually Hidden Lake Development, L.L.C. , an Illinois limited liability company and its affiliates, subsidiaries, successors or assigns.

Section 12. **"Declaration"** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for the Hidden Lake Phase II Neighborhood Association, as amended from time to time.

Section 13. **"Declaration of Covenants, Conditions and Restrictions for Hidden Lake Community Association No. 2"** shall mean and refer to the declaration recorded on December 13, 1999 in the office of the Recorder of Lake County, Indiana, as Document No.99103928.

Section 14. **"Hidden Lake Community Association No. 2"** shall mean and refer to the Community Association formed pursuant to the Declaration of Covenants, Conditions and Restrictions for Hidden Lake Community Association No. 2.

Section 15. **"Members"** shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 16. **"Mortgage"** shall mean and refer to a mortgage, a deed of trust, a deed to secure debt or any other form of security deed.

Section 17. **"Mortgagee"** shall mean and refer to a beneficiary or holder of a Mortgage.

Section 18. **"Mortgagor"** shall mean and refer to any Person who gives a Mortgage.

Section 19. **"Owner"** shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale or memorandum thereof, and the contract specifically so provides, then the contract purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then, upon filing a copy of the lease with the Board of Directors, the

lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all membership privileges in the Association.

Section 20. "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

Section 21. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with all additional real property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 22. "Special Assessment" shall mean and refer to assessments levied in accordance with Article X, Section 3 of this Declaration.

Section 23. "Successor Developer" shall mean and refer to a purchaser of a portion of the Property and/or Additional Property who intends to construct improvements therein and sell completed Units to a third party.

Section 24. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration recorded in the Recorder's Office of Lake County, Indiana, which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Section 25. "Unit" shall mean a portion of the Property, whether developed or undeveloped, intended for development, use and occupancy as residential dwellings, as well as vacant land intended for residential development, all as may be developed, used and defined as herein provided. The term "Unit" shall include all portions of a platted lot and all structures thereon. Each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for such parcel on the site plan prepared by Developer until such time as a certificate of occupancy is issued on all or a portion thereof by the local governmental entity having jurisdiction, after which the portion designated in the certificate of occupancy shall constitute a Separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

Section 26. "Utilities Agreement" shall mean and refer to that certain agreement pursuant to which the City provides sanitary sewer and Northwest Indiana Water Company provides water service to the Property and the Additional Property .

Section 27. "City" shall mean and refer to the City of Hobart, Indiana.

ARTICLE II

Property Rights

Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to: (1) any restrictions or limitations contained in this Declaration as it may be amended from time to time; (2) to any restrictions or limitations contained in any deed conveying such property to the Association; and (3) to the rules and regulations with respect thereto established by the Association. The foregoing nonexclusive easement includes a right to use the streets and sidewalks within the Property which are Common Areas for ingress to and egress from all Units and for the circulation of vehicles and pedestrians over, across and through the Property. The right to use the streets and sidewalks within the Property which are part of the Common Area for ingress and egress extends to and includes families, invitees and employees of the Owners and occupants of the Property and also includes those engaged by the Association to provide services to the Owners and occupants of the Property. Any Owner may delegate his or her rights to use and enjoy the Common Areas other than the streets and sidewalks to the members of his or her family, tenants and social invitees as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee upon the filing of a copy of the lease with the Board of Directors. In addition, an Owner who sells his and her Unit under a recorded contract of sale or memorandum thereof shall be deemed to have delegated all such rights of the Unit to the Unit's contract purchaser upon the filing of a copy of the contract of sale or memorandum thereof with the Board of Directors.

ARTICLE III

Membership and Voting Rights

Section 1. **Membership.** Every Owner, as defined in Article I, shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The membership rights of a Unit owned by a corporation, partnership or land trust shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

Section 2. **Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) **Class "A".** Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) vote for each Unit in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote for each Unit.

In any situation where a Member is entitled to exercise the vote for his Unit and more than one (1) Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Developer. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article II, Section 1, of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

- (i) two (2) years after expiration of the Class "B" Control Period pursuant to the By-Laws; or
- (ii) when, in its discretion, the Developer so determines.

ARTICLE IV

Operation and Maintenance

Section 1. Association's Responsibility. The Association shall operate, maintain and keep in good repair the Area of Common Responsibility, with the foregoing to be funded as hereinafter provided. Operation and maintenance shall include, but not be limited to snow removal from the private driveways within the Unit lot lines. Additional Property may be included within the Area of Common Responsibility by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility and to fulfill the Association's responsibilities shall be a Common Expense to be allocated among all Units as part of the Base Assessment.

The Association may maintain property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. **Owner's Responsibility.** Except as stated herein or as otherwise assumed by the Association for Hidden Lake Community Association No. 2, each Owner shall maintain his or her Unit, and all structures, parking areas, landscaped easements within the Owner's property line and other improvements comprising the Unit, in a manner consistent with the Community-Wide Standard and all applicable covenants. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Unit and the Owner thereof in accordance with Article X, Section 4 of this Declaration; provided, however, that, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Section 3. **Maintenance of Duplex Dwellings.** With respect to the duplex units within the Association, each Owner shall be responsible for the maintenance, repair and replacement of their portion of the duplex owned by said Unit Owner. Each of the Unit Owners of an individual duplex unit shall agree upon the required maintenance, repair and replacement of said duplex structure. In the event the Unit Owners of a duplex structure cannot or are unable to agree upon the required maintenance, repair or replacement of the duplex structure, the Association shall determine the necessary maintenance, repair and replacement of said duplex structure, which determination shall be final and binding upon the Unit Owners of said duplex.

ARTICLE V

Insurance and Casualty Losses

Section 1. **Insurance.** The Board, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Area that are not subject to insurance coverage by Hidden Lake Community Association. If blanket all-risk coverage is not reasonably available, then, at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain comprehensive liability insurance, including liability for injuries to and death of persons, and property damage, and other liability insurance as it may deem desirable, insuring the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million and 00/100 Dollar (\$1,000,000.00) single person limit as respects bodily injury and property damage, a Three Million and 00/100 Dollar (\$3,000,000.00) limit per occurrence, if reasonably available, and a Five Hundred Thousand and 00/100 Dollar (\$500,000.00) minimum property damage limit.

Premiums for all insurance shall be Common Expenses of the Association and shall be included in the Base Assessment, as defined in Article I and as more particularly described in Article X, Section 1. The policy may contain a reasonable deductible and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in Indiana which holds a Best's rating of A or better and assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available or, if not available, the most nearly equivalent rating.
- (b) All policies shall be for the benefit of the Association and its Members.
- (c) Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Association's Board of Directors; provided, however, that no Mortgage having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants or their Mortgagees.
- (e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement subject to periodic review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Lake County, Indiana area.
- (f) The Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be canceled, invalidated, suspended or subject to non-renewal on account of any one or more individual Owners;

(iv) a statement that no policy may be canceled, invalidated, suspended or subject to non-renewal on account of the conduct of any director, officer or employee of the Association, or its duly authorized manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees and other Persons handling or responsible for the Association's 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 three (3) months' assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Section 2. **Individual Insurance.** By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit(s), and structures constructed thereon. Each Owner further covenants and agrees that, in the event of a partial loss or damage resulting in total destruction of structures comprising his Unit, the Owner shall either proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration or the Owner may decide not to rebuild or to reconstruct, and proceed promptly to clear the Unit of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and, thereafter, the Owner shall continue to maintain the Unit in a neat and attractive condition consistent with the Community-Wide Standard.

By Supplemental Declaration, the Association may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units and the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing, adjustment and negotiation of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area of the Association shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total vote of the Association, if Common Area, or the Unit Owners representing at least seventy-five percent (75%) of the total vote of the Association whose common Property is damaged shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area or common property of a Association shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area of the Association shall not be repaired or reconstructed and no alternative improvements are authorized, then, and in that event, the affected portion of the Property shall be restored to its natural state and maintained by the Association, or the Hidden Lake Community Association No. 2, as applicable, in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of

the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5. **Repair and Reconstruction.** If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a special assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

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the Lake County Recorder!**

ARTICLE VI

No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no physical partition of the Common Area, or any part thereof, nor shall any Person acquiring any interest in the Property, or any part thereof, seek any judicial partition unless the Property has been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII

Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the vote of at least two-thirds (2/3) of the Members of the Association present, in person or by proxy, at a meeting called for that purpose and the Developer owns any portion of the Property or Additional Property by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association, as trustee, for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking, the Declarant owns any portion of the Property or Additional Property and Members representing at least seventy-five percent (75%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such

improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

ARTICLE VIII

Annexation of Additional Property

Section 1. **Additional Property.** Notwithstanding anything contained in this Declaration to the contrary, the Declarant and Developer hereby reserve the right and option, at any time and from time to time, within ten (10) years from the date of the recording of this Declaration in the office of the Recorder of Lake County, Indiana, to add-on and annex to the Property, all or any portion of the property legally described on Exhibit "B" attached hereto and incorporated herein by reference ("Future Development Parcel"), as Units or Common Area, as determined by Declarant or Developer as the case may be, by recording an amendment or amendments to this Declaration executed by the Declarant (every such instrument being hereinafter referred to as "Amendment to Declaration") which shall set forth the legal description of the additional parcel or parcels ("Additional Parcel") within the Additional Property to be annexed to the Property. Upon the recording of every such Amendment to Declaration, the Additional Parcel shall be governed in all respects by the provisions of this Declaration and shall thereupon become part of the Property. The Unit Owners shall have no rights whatsoever in or to any portion of the Additional Property, unless and until an Amendment to Declaration is recorded annexing such portion to the Property as aforesaid. No portion of the Additional Property shall be required to be added to the Property. Portions of the Additional Property may be added to the Property at different times within such ten (10) year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (i) on the order in which portions of the Additional Property may be added to the Property, (ii) fixing the boundaries of these portions, or (iii) on the location of improvements which may be made on the Additional Property. Structures, improvements, buildings and units to be constructed on portions of the Additional Property which are added to the Property need not, except to the extent required by applicable laws and ordinances, be compatible with the configuration of the Property in relation to density, use, construction and architectural style.

Section 2. **Amendments to Declaration Adding Additional Property.** Every Amendment to this Declaration which adds Additional Property shall include the legal description of the portion or portions of such Additional Property which shall be added to the legal description of the Property;

Section 3. **Existing Mortgages.** Upon recording of every Amendment to Declaration, the lien of every mortgage encumbering an existing Unit shall automatically be deemed to be adjusted and amended to encumber such Unit as set forth in such Amendment to Declaration.

Section 4. **Binding Effect.** Every Unit Owner and every mortgagee, grantee, heir, administrator, executor, legal representative, successor and assign of such Unit Owner, by such person's or entity's acceptance of any deed or mortgage or other interest in or with respect to any Unit Ownership, shall be deemed to have expressly agreed and consented to (i) each and all of the provisions of this Article; (ii) the recording of every Amendment to Declaration which may amend and adjust such person's or entity's interest in the Property, and (iii) all of the provisions of every Amendment to Declaration which may hereafter be recorded in accordance with the provisions of this Article. A power coupled with an interest is hereby granted to the Developer and/or Declarant as attorney-in-fact to amend and adjust the Declaration as provided herein. The acceptance of any persons or entities of any deed, mortgage or other instrument with respect to any Unit Ownership, in addition to the foregoing, shall be deemed to constitute a consent and agreement to and acceptance and confirmation by such person or entity of such power to such attorney-in-fact.

Section 5. **Amendments.** This Article shall not be amended without the prior consent of Developer or Declarant, so long as the Developer or Declarant own any portion of the Property or the Additional Property.

ARTICLE IX

Rights and Obligations of the Association

Section 1. **Common Area.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area, and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive and sanitary condition, order and repair pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. **Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interests within the Property conveyed to it by the Declarant.

Section 3. **Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Areas. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.

Section 4. **Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and 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 5. **Governmental Interests.** The Declarant reserves the right to designate sites within the Property for fire, police, water, sewer and other utility facilities necessary for the development of the Property and based upon Developer's development plans for the Property. The Association shall have the unilateral right to dedicate and convey all private streets within the Property to public use without the consent of the Members.

ARTICLE X

Assessments

Section 1. **Creation of Assessments.** There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 7 of this Article. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 3 below.

Base Assessments shall be levied equally on all Units. Special Assessments shall be levied as provided in Section 3 below. Each Owner, except for Declarant and Developer or a Successor Developer, by acceptance of a deed or recorded contract of sale to any portion of the Property, is deemed to covenant and agree to pay these assessments.

All delinquent assessments, together with interest at a rate not to exceed the highest rate allowed by Indiana law as computed from the date the delinquency first occurs, costs, and reasonable attorneys' fees, shall be a lien on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and if title to such Unit is held in trust, then each beneficiary thereof shall also be jointly and severally liable therefor. Upon transfer of title to a Unit, the grantee, by acceptance of the deed to such Unit, is deemed to assume such personal obligation for past due assessments, including interest, costs and reasonable attorneys' fees, and shall be jointly and severally liable with the grantor for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Each Owner, except for Declarant and/or Developer or a Successor Developer; by acceptance of a deed to his or her Unit, acknowledges that all Base Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, that the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessment or other charges levied on his Unit, the

Board may revoke the privilege of paying in installments and require all annual assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort rising from the making or repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Declarant has an option unilaterally to subject the Additional Property to this Declaration, in lieu of paying regular assessments on its unsold Units, the Declarant shall be obligated for the difference between the amount of assessments levied on all Units subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these at Declarant's sole option.

The Association is 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 Declarant or other entities for the payment of some portion of the Common Expenses.

Section 2. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare and adopt a budget covering the estimated Common Expenses of the Association during the coming year. . The budget shall include an annual capital contribution to a reserve fund for the replacement of capital items based on the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost.

The Base Assessment to be levied for the coming year against each Unit subject to assessment shall be computed by dividing the budgeted Common Expenses by the total number of Units submitted to this Declaration. The Board shall cause a copy of the proposed Common Expense budget and notice of the proposed amount of Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the adoption thereof by the Board. The proposed Common Expenses budget shall be prepared based on increased and additional costs; provided, that the increase in the Base Assessment for any year shall not exceed the increase in the consumer price index during the twelve (12) month period beginning with the month of September and ending with the month of August of the then ending fiscal year, plus five percent (5%).

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided therein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. **Special Assessments.** In addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments from time to time; provided, that such assessment shall have the affirmative vote of at least fifty-one percent (51%) of the Class "A" Members of the Association present, in person or by proxy, at a meeting called for such purpose and the affirmative vote or written consent of the Class "B" member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. **Lien for Assessments.** Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (ii) 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 may be enforced by suit, judgment and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be assessed or levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and reasonable attorneys' fees or an action pursuant to the Forcible Entry and Detainer Act shall be maintainable without foreclosing or waiving the lien securing the same.

Section 5. **Date of Commencement of Assessments.** Except as otherwise provided herein, the assessments provided for herein shall commence as to each Unit on the day that the Unit is subjected to the terms of this Declaration. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base Assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Unit.

Section 6. **Subordination of the Lien to First Mortgages.** The lien of assessments, including interest, late charges (subject to the limitations of Indiana law), and costs (including reasonable attorneys' fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any

assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 7. **Capitalization of Association.** Upon the sale of a Unit to a party other than Declarant, Developer, or a Successor Developer, a contribution shall be made to the working capital of the Association in an amount equal to three (3) months of the Base Assessment for that year, plus \$125.00. Such contribution shall not be considered advance payment of assessments and shall be in addition to, not in lieu of, assessments then or thereafter coming due.

Section 8. **Exempt Property.** Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks, if any.

ARTICLE XI

Architectural Standards

The Board of Directors of the Hidden Lake Condominium Association shall establish a Review Committee ("RC") that shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto. The architectural standards provided in the Declaration of Covenants, Conditions and Restrictions for Hidden Lake Community Association No. 2 are applicable to the Property.

ARTICLE XII

Use Restrictions

The Use Restrictions established in the Declaration of Covenants, Conditions and Restrictions for Hidden Lake Community Association No. 2 are applicable to the Property.

ARTICLE XIII

General Provisions

Section 1. **Term.** The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the City, the Association or the Owner of any Unit 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 the City and a majority of the then 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 (subject to Article XIV hereof), in which case this Declaration shall be modified or terminated as specified therein.

Section 2. **Amendment.** Prior to the conveyance of the first Unit to a Person other than Declarant, Developer and Successor Developer, Declarant may unilaterally amend this Declaration. After such conveyance, a power coupled with an interest is hereby retained by Declarant and granted to Developer (acting by and through its duly authorized officers), its successors, assigns or designees as attorney-in-fact, to unilaterally amend this Declaration at any time and from time to time if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units; (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; (v) to correct clerical errors or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (vi) necessary to comply with Indiana law; provided, however, that any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

Except as otherwise provided herein, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent, or any combination thereof, of the Members representing seventy-five percent (75%) of the Unit Owners and, until the Class "B" membership lapses, the consent of the Developer. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Recorder's Office of Lake County, Indiana.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Notwithstanding any other provisions of this Declaration, no amendment shall be effective unless approved by the City.

Section 3. **Indemnification.** The Association shall indemnify every officer, director and committee member to the full extent permitted or allowed by Indiana law against any and all expenses, including counsel 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 Board of Directors) 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 Association (except to the extent that such officers or directors may also be Members of the Association), and the Association 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 Association 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.

Section 4. **Easements for Maintenance.** There is hereby reserved unto Declarant, for so long as Declarant is an Owner; Developer; the Association, and the designees of each, including their respective agents, employees and contractors, non-exclusive blanket easements upon, across, over and under all of the Common Areas and the Units for ingress and egress for the operation and maintenance of the Area of Common Responsibility and for the purpose of installing, replacing, repairing and maintaining the streets within the Common Areas, storm water management facilities, including storm sewers, street lights, street signs and private water and sanitary sewer facilities.

A non-exclusive municipal service easement is hereby reserved over all Common Areas and Units for the benefit of the governmental authorities providing governmental services to the Property, including, but not limited to, fire and police protection services.

Should any entity furnishing utility services covered by a blanket easement reserved on a plat of subdivision request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to any governmental entity for utility or other purposes and to dedicate and

convey the Common Areas containing streets and sidewalks to a governmental agency subject to such approval requirements as may be contained in Article XIV, Section 3 of this Declaration.

Section 5. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 6. **Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 7. **Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Members. This Section shall not apply, however, to: (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments as provided in Article X hereof, including Forcible Entry and Detainer actions; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures necessary to institute proceedings as provided above.

Section 8. **Cumulative Effect; Conflict.** The covenants, restrictions and provisions of this Declaration shall be cumulative with those of the Hidden Lake Community Association and the Association may, but shall not be required to, enforce the latter; provided, however, that, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies or practices adopted or carried out pursuant thereto, the Association shall be subject and subordinate to those of the Hidden Lake Community Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

Section 9. **Use of the Words "Hidden Lake" or "Hidden Lake Phase II Neighborhood Association".** No Person shall use the words "Hidden Lake" or "Hidden Lake Phase II Neighborhood Association", or any derivative thereof, in any printed or promotional material without the prior written consent of the Developer. However, Owners may use the terms "Hidden Lake" or "Hidden Lake Phase II Neighborhood Association" in printed or promotional matter where such term is used solely to specify that particular property is located within Hidden Lake.

Section 10. **Enforcement.** Subject to the requirements of Article III, Section 22 of the By-Laws, the Association, acting through the Board of Directors, and any aggrieved Unit Owner, shall have the right to enforce the terms of this Declaration, the By-Laws, the rules and regulations of the Association or any decision of the Association made pursuant to the foregoing, subject to the requirements of Article III, Section 22 of the By-Laws.

Section 11. **No Third Party Beneficiaries.** The provisions of this Declaration are solely for the benefit of Declarant, Developer, the Unit Owners, their mortgagees and the occupants of the Property and for no other person.

Section 12. **Duplex Models.** Developer intends to build a portion of one (1) or more duplex Units as a model.

ARTICLE XIV

Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Units in the Property. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein, except those provisions establishing the rights of the City as contained in Article XIII, Section 2.

Section 1. **Notices of Action.** An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Unit number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or changes owed by an Owner of a Unit subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Unit of any obligation under this Declaration or By-Laws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. **Amendments to Documents**

- (a) The consent of Members representing at least seventy-five percent (75%) of the Class "A" votes and the consent of the Developer, and the approval of the eligible holders of first Mortgages on seventy-five percent (75%) of the Units subject to a Mortgage held by an eligible holder, shall be required to terminate the Association for reasons other than substantial condemnation. Any

election to terminate the Association after a substantial taking in condemnation shall require the approval of the Members and Developer, as specified above, and the eligible holders of first Mortgages on seventy-five percent (75%) of the Units subject to Mortgages held by such eligible holders.

(b) Any restoration or repair of the Property after a condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the eligible holders of first Mortgages on Units to which at least seventy-five percent (75%) of the Units subject to Mortgages held by such eligible holders are allocated.

(c) The consent of Members representing at least seventy-five percent (75%) of the Class "A" votes and the consent of the Developer, and the approval of eligible holders of first Mortgages on seventy-five percent (75%) of the Units subject to a Mortgage held by an eligible holder, shall be required materially to amend any provisions of the Declaration, By-Laws or Articles of Incorporation of the Association or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens or subordination of such liens;
- (iii) reserves for maintenance, repair and replacement of the Common Area;
- (iv) insurance or fidelity bonds; (v) rights to use the Common Area;
- (v) responsibility for maintenance and repair of the Property;
- (vi) expansion or contraction of the Property or the addition, annexation or withdrawal of Property to or from the Association (other than by Declarant as provided in Articles II and VIII of this Declaration);
- (vii) boundaries of any Unit;
- (viii) leasing of Units;
- (ix) imposition of an right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;

(x) establishment of self-management by the Association; or

(xi) any provisions included in the Declaration, By-Laws or Articles of Incorporation which are for the express benefit of holders, guarantors or insurers of first Mortgages on Units.

Section 3. **Special FHLMC Provision.** So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly. The granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area, and the dedication and conveyance or the streets comprising Common Areas to a governmental authority that shall thereafter be responsible for all costs to operate, maintain, repair and replace the dedicated approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 4. **Applicability of Article XIV.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws or Indiana law for any of the acts set out in this Article.

Section 5. **Failure of Mortgagee to Respond.** Any Mortgagee who receives notice of and a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request; provided, that such request is delivered to the Mortgagee by certified or registered mail, with a return receipt requested.

ARTICLE XV

Declarant's Rights

Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Property pursuant to Article VIII hereof, without prior notice and without the consent of any Person, for the purpose of removing any portion of the Property then owned by Declarant from the provisions of this Declaration to the extent originally included in error.

Any or all of the special right and obligations of the Declarant and Developer may be transferred to other Persons; provided, that the transfer shall not reduce an obligation nor

enlarge a right beyond that contained herein; and provided further, that no such transfer shall be effective unless it is in a written instrument signed by the entity making the transfer and duly recorded in the Recorder's Office of Lake County, Indiana.

Notwithstanding any provisions contained in the Declaration to the contrary, during the period when construction and initial sale of Units is being conducted, it shall be expressly permissible for Developer to maintain and carry on, upon portions of the Common Area such facilities and activities as, in the sole opinion of Developer, may be reasonably required, convenient or incidental to the construction or sale of such Units, including, but not limited to, business offices signs, model units and sales offices, and the Declarant and Developer shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Units owned by the Declarant or Developer as models and sales offices.

So long as Declarant and Developer continue to have rights under this paragraph, no Person shall record any declaration of covenants, or declaration of condominium or similar instrument affecting any portion of the Property without Developer's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument approved by recorded consent signed by the Developer.

This Article may not be amended without the express written consent of the Declarant and Developer; provided, however, that the rights contained in this Article shall terminate upon the earlier of: (i) twenty (20) years from the date this Declaration is recorded; or (ii) upon recording by Declarant and Developer of a written statement that all sales activity has ceased.

ARTICLE XVI

PARTY WALLS (DUPLEX UNITS)

Section 1. Party Walls and Use. All dividing walls which straddle the boundary line between Units or which serve two or more Units, shall at all times be considered party walls, and each of the Owners of Units upon or between which any such party wall shall stand shall have the right to use said party wall below and above the surface of the ground and along the whole length or any part of the length thereof for the support of said Units and for the support of any building constructed to replace the same, and shall have the right to maintain in or on said wall any pipes, ducts or conduits originally located therein or thereon subject to the restrictions hereinafter contained.

Section 2. No Extension of Party Walls. No Owner shall have the right to extend said party wall in any manner, either in length, height or thickness.

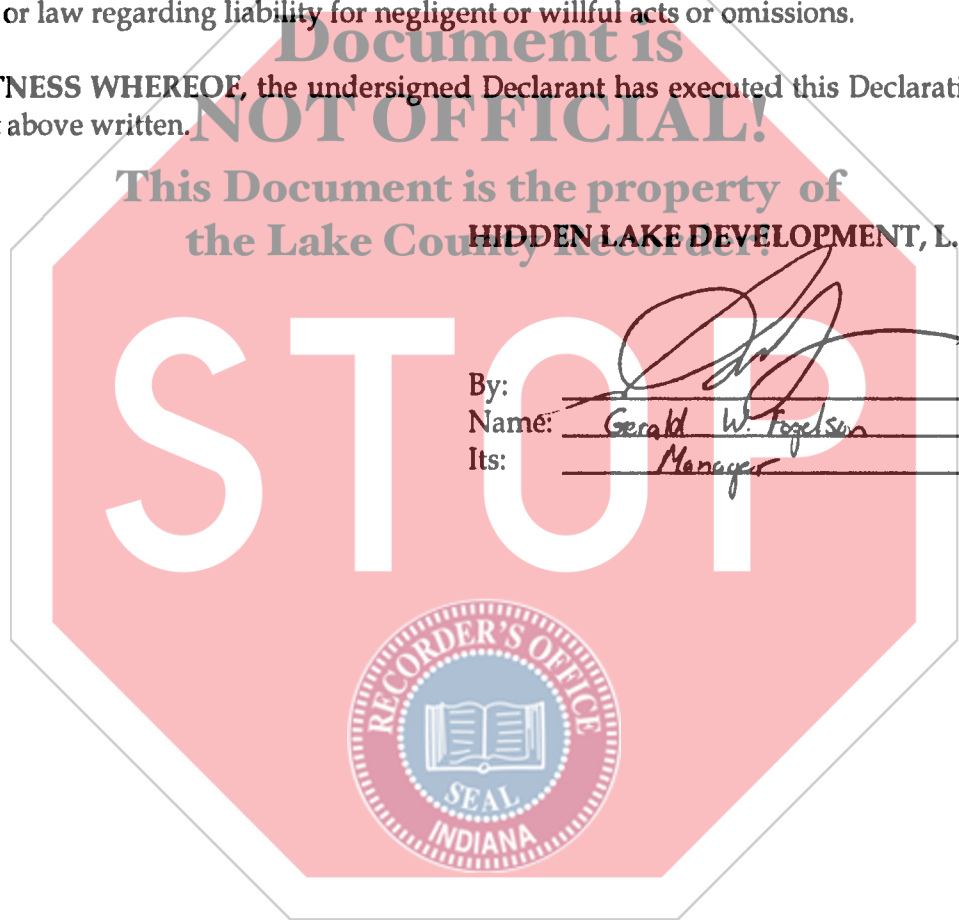
Section 3. Damage or Destruction; Repair or Rebuilding. In the event of damage to or destruction by fire or other casualty of any party wall, including the foundation thereof, which is not covered by casualty insurance policy as required by this Declaration, the Owners of all Units upon or between which such party wall may rest or which are served or benefitted by such party wall: (i) shall have the obligation to repair or rebuild such party wall; and (ii)

shall pay in equal shares the cost of such repair or rebuilding. All such repair or rebuilding shall be done within a reasonable time, in a workmanlike manner with materials comparable to those used in the original wall and shall conform in all respects to the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. Whenever any such wall or any portion thereof shall be rebuilt, it shall be erected in the same location and on the same line and be of the same size as the original wall.

Section 4. Contribution. Notwithstanding the provisions of Section 4 hereof, the Owner of any Unit shall retain the right to receive a larger contribution from another Owner under any rule or law regarding liability for negligent or willful acts or omissions.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date first above written.

This Document is the property of
HIDDEN LAKE DEVELOPMENT, L.L.C.

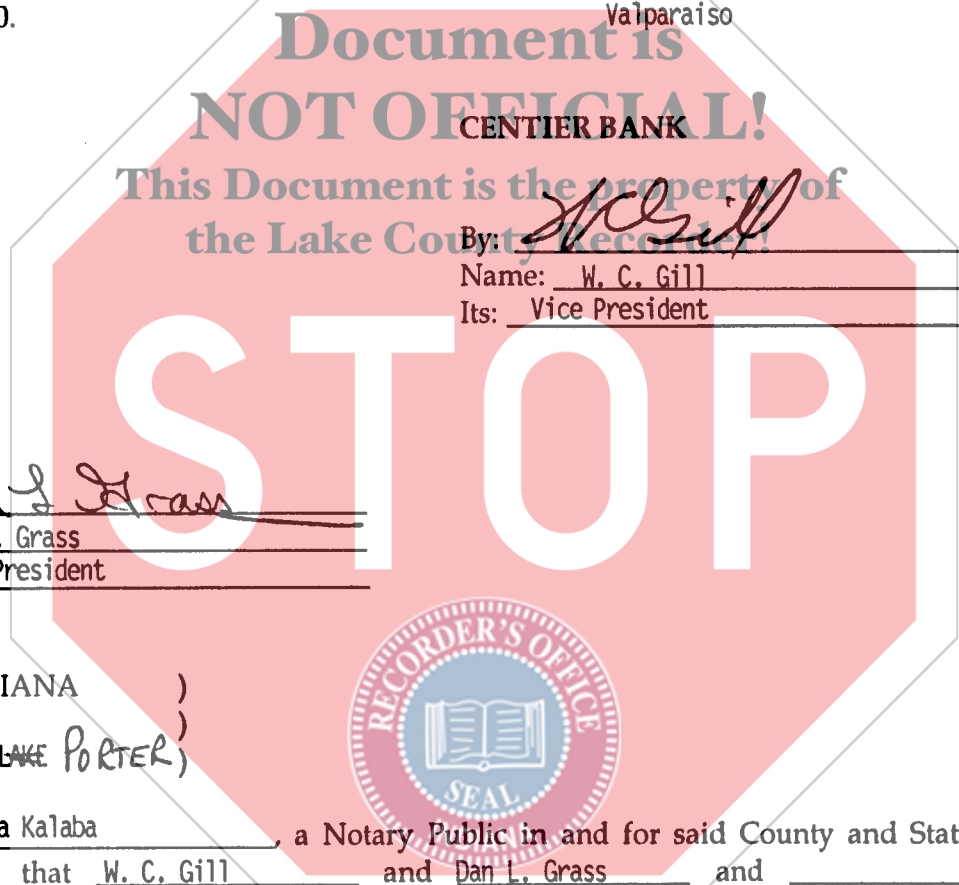


By: [Signature]
Name: Gerald W. Fogelson
Its: Manager

CONSENT OF MORTGAGEE

CENTIER BANK, holder of a note secured by a mortgage on the property dated April 10, 1998, hereby consents to the execution and recording of the above and foregoing Declaration, and hereby submits the mortgage recorded on April 29, 1998, as Document Number 98030355 to the provisions of the above and foregoing Declaration.

IN WITNESS WHEREOF, the said CENTIER BANK has caused this instrument to be signed by its duly authorized officers on its behalf; all done at ~~Valparaiso~~ Valparaiso Indiana, on this 13th day of July, 2000.



CENTIER BANK

By: W.C. Gill
Name: W. C. Gill
Its: Vice President

ATTEST:

By: Dan L. Grass
Name: Dan L. Grass
Its: Vice President

STATE OF INDIANA)
COUNTY OF LAKE PORTER)

I, Jelena Kalaba, a Notary Public in and for said County and State, do hereby certify that W. C. Gill and Dan L. Grass and _____ respectively, of CENTIER BANK (BANK), personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such W. C. Gill and Dan L. Grass, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the foregoing instrument as their free and voluntary act, and as the free and voluntary act of the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 13th day of July, 2000.

Jelena Kalaba
Notary Public Jelena Kalaba

EXHIBIT "A"

Property

PART OF THE WEST HALF OF SECTION 29, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE SECOND PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 29; THENCE NORTH 00°01'21" WEST, ALONG THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 332.00 FEET; THENCE NORTH 89°59'26" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF HIDDEN LAKE DRIVE, A DISTANCE OF 154.78 FEET, TO A POINT OF CURVE; THENCE EASTERLY, ALONG SAID CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 306.40 FEET, AN ARC DISTANCE OF 106.21 FEET (THE CHORD OF WHICH BEARS NORTH 80°00'35" EAST, A CHORD DISTANCE OF 106.21 FEET); THENCE NORTH 70°01'46" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 213.73 FEET, TO A POINT OF CURVE; THENCE EASTERLY, ALONG SAID CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 423.51 FEET, AN ARC DISTANCE OF 156.13 FEET (THE CHORD OF WHICH BEARS NORTH 80°35'27" EAST, A CHORD DISTANCE OF 14.50 FEET, TO THE NORTHWEST CORNER OF LOT 206, IN HIDDEN LAKE, UNIT NO. 2, TO THE CITY OF HOBART, AS SHOWN IN PLAT BOOK 84, PAGE 50, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA; THENCE SOUTH 00°00'00" EAST, ALONG THE WEST LINE OF LOTS 206 AND 207 IN SAID HIDDEN LAKE, UNIT NO. 2, A DISTANCE OF 235.55 FEET; THENCE SOUTH 22°15'45" EAST, ALONG THE WEST LINE OF SAID LOT 207, A DISTANCE OF 18.48 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 207; THENCE SOUTH 48°07'07" WEST, A DISTANCE OF 201.60 FEET; THENCE SOUTH 22°15'45" EAST, ALONG THE WEST LINE OF SAID LOT 207, A DISTANCE OF 18.48 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 207; THENCE SOUTH 48°07'07" WEST, A DISTANCE OF 201.60 FEET; THENCE SOUTH 35°06'44" WEST, A DISTANCE OF 162.68 FEET; THENCE SOUTH 62°33'22" WEST, A DISTANCE OF 50.70 FEET; THENCE NORTH 90°00'00" WEST, A DISTANCE 346.13 FEET, TO A POINT ON THE WEST LINE OF SECTION 29; THENCE NORTH, 00°00'00" WEST, ALONG SAID WEST LINE, A DISTANCE OF 95.14 FEET, TO THE POINT OF BEGINNING, CONTAINING 5.919 ACRES, MORE OR LESS, ALL IN THE CITY OF HOBART, LAKE COUNTY, INDIANA.

EXHIBIT "B"

Additional Property

(None)



EXHIBIT "C"

BY-LAWS OF THE
HIDDEN LAKE
PHASE II NEIGHBORHOOD ASSOCIATION

ARTICLE I
NAME AND LOCATION

The name of the not-for-profit corporation is the Hidden Lake Phase II Neighborhood Association ("Association"). The principal office of the Association shall be located at Hobart, Indiana, but meetings of members and directors may be held at such places within the State of Indiana, County of Lake as may be designated by the Board of Directors ("Board").

ARTICLE II
BOARD OF MANAGERS

Section 1. Administration of Property Prior to Election of Initial Board of Managers. Until the election of the initial Board of Managers, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board of Managers by law and in the Declaration and By-Laws shall be held and performed by the Declarant as a "Class B Member" as defined in the Declaration. The election of the initial Board of Managers shall be held thirty (30) days after the end of the Class B Control Period. The Class B Control Period shall end upon the occurrence of one of the following events:

- (a) Twenty (20) years from the date of the Declaration;
- (b) The sale and conveyance of legal title to all of the Units to Owners other than Declarant or an assignee of Declarant; or
- (c) Declarant elects voluntarily to turn over to the members the authority to appoint a Board.

Within sixty (60) days following the election of a majority of the Board of Managers other than the Declarant, the Declarant shall deliver to the Board of Managers:

- (1) All original documents pertaining to the Property (as defined in the Declaration) and its administration such as the Declaration, By-Laws, Articles of Incorporation, minutes and any rules or regulations governing the Property.
- (2) A detailed accounting by the Declarant, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Association;
- (3) Association funds, which shall have been at all times segregated from any other monies of the Declarant;
- (4) A schedule of all personal property, equipment and fixtures belonging to the Association, including documents transferring the Property;
- (5) Any contracts, leases, or other agreements made prior to the election of a majority of the Board of Managers other than the Declarant by or on behalf of Owners; and
- (6) Convey the Common Areas to the Association.

Section 2. Board of Managers (Board of Directors).

(a) The Board of Directors, also known as the Board of Managers, shall consist of three (3) persons who shall be appointed or elected in the manner herein provided, or such greater number as may be determined by Board resolution.

(b) At the initial meeting, the Voting Members shall elect three (3) Board Members. In all elections for members of the Board, each Voting Member shall be entitled to cumulate his votes in the manner provided by law and the candidates receiving the highest-number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. The two (2) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the person receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members of the Board shall determine which members shall have the two (2) year terms and which members shall have the one (1) year term. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each, provided, however, Board members may succeed themselves. Members of the Board shall receive no compensation for their services, unless expressly authorized by the Board with the approval of Voting Members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the Voting Members present at the next annual meeting or at a special meeting of the Voting Members called for such purpose. Except as otherwise provided in the Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present (at its meetings at which a quorum exists). A majority of

the total number of the members of the Board shall constitute a quorum. Meetings of the Board may be called, held and conducted in accordance with such resolutions as the Board may from time to time adopt.

Section 3. Officers. The Board shall elect from among its members a President who shall preside over both its meetings and those of the Voting Members, and who shall be the chief executive officer of the Board and the Association and who shall execute amendments to the Declaration and By-Laws; a Secretary who shall keep the minutes of all meetings of the Board and of the Voting Members, who shall mail and receive all notices, and who shall, in general, perform all the duties incident to the office of Secretary; a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect. Provided, however, no officer shall be elected for a term of more than two (2) years. However, any officer may succeed himself in any office.

Section 4. Removal. Any Board member may be removed from office by affirmative vote of the Voting Members having at least two-thirds (2/3) of the total votes, at any special meeting called for that purpose. A successor to fill the unexpired term of a Board member removed may be elected by the Voting Members at the same meeting or any subsequent annual meeting or special meeting called for that purpose, such meeting to be held within thirty (30) days after the special meeting which removed the Board-member.

Section 5. Meetings. The Board shall meet at least four (4) times annually, on the first Monday of February, May, August and November and at such other times as the Board deems necessary. Meetings of the Board shall be open to any Owner, notice of any such meeting shall be received at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice.

Section 6. General Powers of the Board. In addition to the duties and powers inherently charged to and possessed by the Association as an Indiana not-for-profit corporation and the duties and powers enumerated herein and in its Articles of Incorporation and Declaration, or elsewhere provided for, and without limiting the generality of the same, the Association shall have the following duties and powers:

- (a) preparation, adoption and distribution of the annual budget for the Property;
- (b) levying of assessments;
- (c) collection of assessments from members;
- (d) owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by it;
- (e) keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;
- (f) to pay any amount necessary to discharge any mechanic's lien or other encumbrance against the Property or any part thereof which may in the opinion of the Board

constitute a lien against the Property or against the Common Area, rather than merely against the interests therein of particular Owners. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred (including attorney's fees, if any) by the Board by reason of said lien or liens shall be specially assessed to said Owner or Owners;

(g) the Board shall have the power to seek relief from or in connection with the assessment or levy of any general real estate taxes, special assessments and any other special taxes or charges of the State of Indiana or any political subdivision thereof, or any other lawful assessing body, which are authorized by law to be assessed and levied on the Common Area and to charge all expenses incurred in connection therewith to the Association.

(h) all agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board;

(i) the Board may adopt such reasonable rules and regulations, not inconsistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Owners and Occupants and the Property shall at all times be maintained subject to such rules and regulations;

(j) the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board;

(k) nothing hereinabove contained shall be construed to give the Board, Association, or Owners authority to conduct an active business for profit on behalf of all the Owners or any one of them;

ARTICLE III

COMMITTEES

Section 1. The Board, by resolution adopted by a majority of the Board, may designate one (1) or more committees, each of which shall consist of one (1) or more members of the Board; said committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and the delegation thereof of authority shall not operate to relieve the Board, or any individual member of the Board, of any responsibility imposed upon it or him by law.

Section 2. Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by a majority of

the members of the Board present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be Owners, and the President of the Association, shall appoint the members thereof. Any member thereof may be removed whenever in the judgment of the Board the best interests of the Association shall be served by such removal.

Section 3. Each member of a committee shall continue as such until the next annual meeting of the Board or until his successor is appointed and shall have qualified or until the Board shall relieve him from his role as a committee member, unless the committee shall be sooner terminated, or unless such member shall cease to qualify as a member thereof.

Section 4. One (1) member of each committee shall be appointed chairman.

Section 5. Vacancies in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointment.

Section 6. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7. Each committee may adopt rules for its own governance not inconsistent with these By-Laws or with rules adopted by the Board.

ARTICLE IV

MEMBERSHIP MEETINGS

A. Meetings of the Owners shall be held at the principal office of the Association or at such other place in the Village of Hobart, Indiana as may be designated in any notice of a Meeting, any Owners in writing may waive notice of a meeting or consent to any action of the Association without a Meeting.

B. Special Meetings of the Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all, or some of the Owners, or for any other reasonable purpose. Said Meetings shall be called by written notice, authorized by a majority of the Board or by the Owners having one-fourth (1/4) of the total votes, and delivered not less than five (5) days prior to the date fixed for said Meeting. The Notices shall specify the date, time and place of the Meeting and the matters to be considered.

C. At any Meeting of the Owners, an Owner entitled to vote may either vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy.

ARTICLE V

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Owner and their mortgagees. The Articles and the Declaration and By-Laws of the Association shall be available for inspection by any Owner at the principal office of the Association, where copies may be purchased at reasonable cost. The Association shall also provide, upon written request by any holder, insurer or guarantor of any first mortgage that is secured by a Unit within the Property, a copy of an audited financial statement for the preceding fiscal year.

ARTICLE VI

AMENDMENTS

These By-Laws may be amended or modified from time to time by the Developer during the Class B Control Period, and thereafter by action or approval of the Owners entitled to cast three-quarters (3/4) of the total votes computed as provided in Section 3.1. Such Amendments shall be recorded in the Office of the Recorder of Deeds of Lake County, Indiana.

ARTICLE VII

INTERPRETATION

In the case of any conflict between the Articles of Incorporation of the Association and these By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

GLP/DECLARAT/HIDDEN-MANOR-CLN
EXECUTION: 7/11/00 GLP