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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

FOR

PLEASANT VIEW

a subdivision located in
Hamilton County, Indiana

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PLEASANT VIEW

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as "Declaration") is made this 15th day of July, 1997, by Pleasantview Development Company, LLC, an Indiana limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Hamilton County, Indiana, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference, and Declarant desires to subject such property to the provisions of this Declaration and to have constructed on the property a residential community to be known as "Pleasant View" (hereinafter the "Community") and to provide a flexible and reasonable method for the administration and maintenance of such property; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the residential community described herein additional property and has retained and reserved the right to withdraw and remove any portion of the Property from the control and provisions of this Declaration; and

WHEREAS, in contemplation of the sale and conveyance of the residential lots situated within the platted areas of the Community, Declarant desires to subject and impose upon all the platted areas within the Community mutual and beneficial restrictions, covenants, conditions and charges under a general plan or scheme of improvement for the benefit of the lots and lands within the Community and the future owners thereof; and

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property as may by subsequent amendment hereto be subjected to this Declaration are held and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the easements, restrictions, covenants, charges, liens, and conditions hereinafter set forth, all of which are for the purpose of protecting the value and desirability of the property in the Community and which shall touch and concern and run with the title to the property subjected to this Declaration, and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

Section 1.1. "Additional Property" shall mean and refer to the real property subjected to this Declaration by a Supplemental Declaration or plat reference, and all improvements thereon, as set forth by Declarant from time to time by amendment hereto or plat recorded in the records of the Recorder of Hamilton County, Indiana. Additional Property shall be limited to those areas described in Section 2.2 and Exhibit "B" attached hereto.

Section 1.2. "Annexation" shall mean and refer to the act of recording in the public records of Hamilton County, Indiana a Supplemental Declaration or plat which makes all or a portion of any Additional Property subject to the terms of this Declaration, as more particularly described in Article II hereof.

Section 1.3. "Architectural Standards Committee" shall mean and refer to the committee which shall be appointed by the Association's Board of Directors to approve exterior and structural improvements, additions, and changes within the Community as provided in Article IX hereof.

Section 1.4. "Area of Common Responsibility" shall mean and refer to the Common Areas, together with those areas and properties, if any, which by the terms of this Declaration, or by contract or by agreement become the responsibility of the Association.

Section 1.5. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Pleasant View Homeowners Association, Inc., as filed with the Secretary of State of the State of Indiana.

Section 1.6. "Association" shall mean and refer to Pleasant View Homeowners Association, Inc., an Indiana not-for-profit corporation, which Declarant has caused or will cause to be incorporated, its successors or assigns.

Section 1.7. "Base Assessment" shall mean and refer to assessments levied by the Association against each Lot in the Community to fund Common Expenses in the manner herein provided.

Section 1.8. "Board of Directors" or "Board" shall mean and refer to the board of directors of the Association.

Section 1.9. "By-Laws" shall mean and refer to the By-Laws of Pleasant View Homeowners Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference, and including any amendments thereto.

Section 1.10. "Class B Control Period" shall mean and refer to the period of time during which the Class B Member is entitled to appoint the members of the Board of Directors as provided in Section 4.2(b) hereof.

Section 1.11. "Common Areas" shall mean the Open Common Areas and Restricted Common Areas as defined herein.

Section 1.12. "Common Expenses" shall mean the actual and estimated expenses incurred for Common Areas by the Association for the general benefit of the Community, 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. Common Expenses shall also include any other expenses denominated as such by these Declarations and shall include the costs of maintaining any intangible or tangible property (such as sewer lines, lighting and landscaping) which may not be located in a Common Area but the maintenance of which is in the best interest of the Community as determined by the Board of Directors in its sole and absolute discretion.

Section 1.13. "Common Properties" shall mean those areas defined as Common Areas and set aside for conveyance to the Association as shown on any Plat, together with any other tangible or intangible personal property transferred to the Association by Declarant (or hereafter acquired by the Association) including, but not limited to, recreational facilities for the use of the Members. All Common Properties owned by the Association shall remain private, and neither Declarant's execution or recording of a Plat nor the doing of any other act by Declarant is, or is intended to be, a dedication to the public of such Common Properties.

Ownership of any Common Properties shall be conveyed in fee simple title, free of financial encumbrances, to the Association as soon as practicable after their completion. Such conveyance shall be subject to easements and restrictions of record, and such other conditions as Declarant may at the time of such conveyance deem appropriate. Such conveyance shall be deemed to have been accepted by the Association upon the recording of a deed conveying such areas to the Association.

Section 1.14. "Community" shall mean the property subject to these Declarations and therefore comprising the Pleasant View Residential Community from time to time.

Section 1.15. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board and the New Construction Committee or the Architectural Standards Committee.

Section 1.16. "Declarant" shall mean and refer to Pleasantview Development Company, LLC, an Indiana limited liability company, and any successors or assigns who take title to any portion of the property described on Exhibit "A" or any Additional Property for the purpose of development and sale.

Section 1.17. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Pleasant View and all amendments thereof filed for record in the public records of Hamilton County, Indiana.

Section 1.18. "Dwelling" shall mean and refer to any improved property designed or intended for use as a residential detached dwelling on a Lot located within the Community.

Section 1.19. "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

Section 1.20. "Landscape Easement" shall mean and refer to those areas identified as such on any recorded Plat of the Property. Landscape Easements shall be more specifically defined as "Common Landscape Easements" or "Limited Landscape Easements" as described in Section 3.8 below. Landscape Easements shall also include any other type of landscape easements areas created by Declarant on the recorded Plat for any portion of the Property, including, but not limited to, areas for common signage. Landscape Easements may also include areas for common signage if so designated on a Plat.

Section 1.21. "Lot" shall mean and refer to each plot of land included in the Property identified as a lot on any recorded plat of the Property upon which it is intended that a Dwelling shall be constructed.

Section 1.22. "Member" shall mean and refer to a Person holding membership in the Association, as provided in Article IV below.

Section 1.23. "Mortgage" shall mean and refer to any mortgage or other security instrument by which a Lot or any structure thereon is encumbered.

Section 1.24. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 1.25. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 1.26. "Open Common Areas" shall mean areas identified as such on any recorded Plat of the Property. Open Common Areas are owned by the Association (and not by Owners) and are usable and accessible by all Owners.

Section 1.27. "Owner" shall mean and refer to the record owner, whether one or more Persons, with fee simple title to any Lot which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant so long as Declarant shall own any Lot. If a Lot is sold under a contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. If a Lot 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 the lessee (rather than the fee owner) will be considered the Owner.

Section 1.28. "Person" means a natural person, a corporation, a partnership, a trustee, a limited liability company or any other legal entity.

Section 1.29. "Plat" shall mean any Plat executed by Declarant (or any other owner of such property) recorded in the public records of Hamilton County, Indiana, pursuant to which

additional parcels of property are subjected to this Declaration as a part of the Pleasant View Community.

Section 1.30. "Property" shall mean and refer to those tracts or parcels of real estate described on Exhibit "A", together with all improvements thereon, and upon submission to the provisions of this Declaration, the tracts or parcels of real estate described as Additional Property, together with all improvements thereon.

Section 1.31. "Restricted Common Areas" shall mean any areas identified on any recorded Plat of the Property. Restricted Common Areas are owned by the Association (and not by Owners) and are not generally accessible to Owners. Such areas shall be accessible only by officers, employees or agents of the Association or by any Owner whose Lot is adjacent to such Restricted Common Area and is permitted access to such area by express references in the Plat or with the approval of the Board.

Section 1.32. "Special Assessment" shall mean and refer to assessments levied in accordance with Article VIII of this Declaration.

Section 1.33. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration or a Plat executed by or consented to by Declarant and recorded in the public records of Hamilton County, Indiana, which subjects Additional Property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. A Supplemental Declaration may also remove or withdraw Property from the control and provisions of this Declaration.

ARTICLE II

DEVELOPMENT

Section 2.1. Development of Property. Except as otherwise set forth in Section 10.25, all Lots within the Community shall be and are hereby restricted exclusively to single-family residential use and shall be subject to the standards and restrictions set forth in these Declarations. Declarant shall have the right, but not the obligation, for so long as Declarant owns any Lot or holds the unexpired option to submit Additional Property (as defined in Section 2.2) to the provisions of this Declaration to maintain and make improvements, repairs, and changes to all Common Areas and to all Lots owned by Declarant, including, without limitation, (i) installation and maintenance of any improvements in and to the Common Areas, (ii) changes in the location of the boundaries of any Lots owned by Declarant or of the Common Areas, (iii) installation and maintenance of any water, sewer, and other utility systems and facilities, (iv) installation of security and/or refuse facilities, and (v) additions or changes in the boundaries of any Common Areas or Landscape Easement Areas.

Section 2.2. Development of Additional Property. Declarant hereby reserves the right and option, to be exercised in its sole discretion and without further approval by any party, to submit at any time and from time to time until it no longer owns any portion of the real estate described on Exhibit "B" (attached hereto) or until December 31, 2008, whichever is earlier, any portion or all of the real property described on Exhibit "B" to the provisions of this

Declaration. This option may be exercised by Declarant in accordance with the following rights, conditions, and limitations:

(a) Declarant reserves the right to terminate this option at any time by executing and filing an instrument evidencing such termination in the public records of Hamilton County, Indiana.

(b) Portions of Additional Property may be added to the Community at different times, and there are no limitations fixing the boundaries of the portions or regulating the order, sequence, or location in which any of such portions may be added to the Community. No single exercise of Declarant's option to submit a portion of Additional Property to the Declaration shall preclude any further exercises of this option thereafter and from time to time as to other portions or the balance of any Additional Property.

(c) The option may be exercised by Declarant by the execution of a Supplemental Declaration or Plat describing such Additional Property which shall be filed in the public records of Hamilton County, Indiana, together with a legal description of the Additional Property or such portion or portions thereof as are being added to the Community by such amendment. The provisions of this Declaration shall then be construed as embracing the real property described in Exhibit "A" and the Additional Property so submitted to the terms hereof, together with all improvements located thereon.

Section 2.3. Withdrawal of Property. Declarant hereby reserves the right and option, to be exercised in its sole discretion and without further approval by any party, until it no longer owns any portion of the Property or until December 31, 2008, whichever is later, to withdraw and remove any portion of the Property owned by Declarant from the control and provisions of this Declaration. Such removal by Declarant shall be carried out generally by the execution and filing of a Supplemental Declaration or other document which shall be filed in the public records of Hamilton County, Indiana, together with a legal description of the Property being withdrawn.

Section 2.4. Subdivision Plat. Declarant reserves the right, in its sole discretion, to record from time to time a Plat of the subdivided parcels of the Property setting forth such information as Declarant may deem necessary with regard to the Community, including, without limitation, the locations and dimensions of the Lots, Common Areas, Additional Property, roads, utility systems, drainage systems, landscape easements, utility easements, drainage easements, access easements, set-back line restrictions and various other restrictions and limitations.

Section 2.5. Annexation by Members. After the termination of the Class B Control Period, and subject to the consent of the owner thereof (if not the Association), the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of sixty percent (60%) of the Members at a meeting duly called for such purpose and the approval of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 2.2 of this Article.

Annexation by the Association shall be accomplished by filing of record in the public records of Hamilton County, Indiana, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary

of the Association (and by Declarant if Declarant's consent is required herein), and by the owner of the property being annexed and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provision of the By-Laws dealing with regular or special meetings, as the case maybe, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2.5 and to ascertain the presence of a quorum at such meeting.

Section 2.6. Consent of Declarant. Any provision of this Declaration to the contrary notwithstanding, the provisions set forth in this Article II may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without the prior written consent of Declarant for so long as Declarant owns any portion of the Property or the option to submit Additional Property to the Community.

ARTICLE III

PROPERTY RIGHTS

Section 3.1. General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his Lot subject to the provisions of this Declaration, including without limitation, the provisions of this Article III. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, a non-exclusive right and easement of enjoyment in and to the Open Common Areas as established hereunder and membership in the Association. Each Owner shall automatically become a member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his Lot, and upon such transfer, such former owner shall simultaneously transfer and endorse to his successor-in-title any certificates or other evidences of his membership in the Association. Lots shall not be subdivided by Owners, and the boundaries between Lots shall not be relocated unless the relocation thereof is made with the approval of the Board and of Declarant so long as Declarant owns any Lot or holds the unexpired option to submit Additional Property or any portion thereof to the Community. Notwithstanding the foregoing, nothing herein shall prohibit the combination of two or more Lots into a larger parcel in order to create a Dwelling site larger than one Lot.

Section 3.2. Owner's Easement of Enjoyment. Every Owner, his family, tenants, and guests shall have a non-exclusive right and easement of use and enjoyment in and to the Open Common Areas, such easement to be appurtenant to and to pass with title to each Lot, subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board in accordance with the By-Laws and subject to the following provisions:

(a) The right of the Association to mortgage all or any portion of the Common Areas for the purpose of securing a loan of money to be used to manage, repair, maintain, improve, operate, or expand the Common Areas.

(b) The easements reserved elsewhere in this Declaration or in any Plat of all or any part of the Property, and the right of the Association to grant and accept easements as provided in this Article III. The location of any improvements, trees or landscaping within an easement area is done at the Owner's risk and is subject to possible removal by the Association or the grantee of such easement.

(c) The right of the Association to dedicate or transfer fee simple title to all or any portion of the Common Areas to the Town of Fishers or Hamilton County, Indiana, or to any other public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by a majority of those Members present at a duly held meeting of the Association and by Declarant for so long as Declarant owns any Lot or holds the unexpired option to submit Additional Property to the Community.

(d) The rights of the Association and Declarant reserved elsewhere in this Declaration or as provided in any Plat of all or any part of the Property.

(e) The rights of the holder of any mortgage which is prior in right or superior to the rights, interests, options, licenses, easements, and privileges herein reserved or established.

Section 3.3. Access. All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such Lot and acknowledge and agree that such access, ingress, and egress shall be limited to roads, sidewalks, walkways, and trails located within the Community from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privileges, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Community.

Section 3.4. Easements for Declarant. During the period that Declarant owns any Lot or holds the unexpired option to submit Additional Property to the Community, Declarant shall have an easement for access to Common Areas for the purpose of constructing structures and other improvements in and to the Lots and the Additional Property and for installing, maintaining, repairing, and replacing such other improvements to the Property (including any portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described by Article II hereof, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing. In addition to the other rights and easements set forth herein and regardless of whether Declarant at that time retains ownership of a Lot or has the right to submit Additional Property to the Community, Declarant shall have an alienable, transferable, and perpetual right and easement to have access, ingress and egress to the Common Areas and improvements thereon for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of owners in the Community.

Section 3.5. Utility Easements.

(a) There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual right and easement, as well as the power to grant and accept easements to and from the Town of Fishers and Hamilton County, Indiana, or any other public authority or agency, public service district, public or private utility or other person, upon, over, under, and across (i) all of the Common Areas; and (ii) those portions of all Lots as are reasonably necessary for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers, drainage systems, and retention ponds and facilities for the Community or any portion thereof, and electrical, gas, telephone, water, and sewer lines, provided that such easement shall not unreasonably affect the use, developability, marketability, or value of any such Lot. To the extent possible, all utility lines and facilities serving the Community and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Community so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems; provided, however, that such utility company or other supplier or servicer shall take reasonable actions to repair any damage caused by such utility company or other supplier or servicer during the exercise of any rights conveyed under any easement granted hereunder.

(b) Declarant hereby grants to the Town of Fishers and Hamilton County, Indiana, or such other governmental authority or agency as shall from time to time have jurisdiction over the Community with respect to law enforcement and fire protection, the perpetual, non-exclusive right and easement upon, over, and across all of the Common Areas for purposes of performing such duties and activities related to law enforcement and fire protection in the Community as shall be required or appropriate from time to time by such governmental authorities under applicable law.

(c) There shall be created sanitary sewer easements in those areas designated on the Plat which easements shall run in favor of Declarant, the Town of Fishers, and any other governmental or private entity needing such access for the purpose of installation and maintenance, the pipes, lines, manholes, pumps and other equipment necessary for the sanitary sewer system.

Section 3.6. Drainage Easements. There is hereby reserved an easement for the Declarant, the Association, or their assigns for access to and installation, repair, or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Property; provided, however, that the Owner of any Lot subject to a drainage easement shall be required to maintain the portion of said drainage easement on his Lot in the condition originally provided by Declarant and free from obstructions so that the surface water drainage will be unimpeded. No changes shall be made to said area by the Owner without the written consent of the Association; provided, however, that Declarant, in its sole discretion, may make any changes. No permanent structures shall be erected or maintained upon said drainage easements.

Section 3.7. Landscape Easements. Landscape Easements, as designated on a Plat of all or any part of the Property, are hereby created and reserved for the use of Declarant and the Association for access to and installation, maintenance, repair, and replacement of walls, earth mounds, trees, foliage, landscaping, and other improvements. Except as installed by Declarant or the Association, no improvements or permanent structures, including without limitation, fences, shall be erected or maintained in or upon said Landscape Easements without the written consent of the Board.

Landscape Easements shall consist of either Common Landscape Easements or Limited Landscape Easements. The landscaping located within any Common Landscape Easement area shall be maintained by the Association and the Association shall have an easement of ingress and egress on and over such designated areas for the purpose of this maintenance obligation. The landscaping and other improvements planted or installed by the Declarant and/or the Association within the Common Landscape Easement areas may not be removed by an Owner, nor may the Owner add any landscaping or improvements in such areas without the approval of the Board. The Association shall be responsible for maintaining the Common Landscape areas and the cost of such maintenance shall be a Common Expense.

Any area designated by Plat as a Limited Landscape Easement shall be maintained by the Owner of the Lot wherein such Limited Landscape Easement is located. The maintenance obligation of the Owner shall include the obligation to repair and replace any fences, trees, shrubs or other landscaping materials within such easement area. If the Owner fails to undertake his maintenance responsibilities as set forth herein, the Association may undertake such maintenance and charge the cost thereof to the Owner as set forth in Section 5.1. Except for the maintenance of a Limited Landscape Easement area as set forth above, an Owner may not alter the landscaping features located within a Limited Landscape Easement area without the prior written approval of the Board.

Section 3.8. Sales and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved and created for the use of Declarant, and its successors and assigns, and persons constructing any Dwelling or improvement, an easement for access to the Property for the maintenance of signs, sales offices, construction offices, business offices, and model Dwellings, together with such other facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the completion, improvement and/or sale of Lots, Common Areas, or the Additional Property for so long as Declarant owns any Lot or holds the unexpired option to add Additional Property to the Community.

Section 3.9. Maintenance Easement. There is hereby reserved and created for the use of Declarant, the Association and their respective agents, employees, successors, and assigns, a maintenance easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain a Community-Wide Standard of health, fire safety, and appearance within the Community, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions.

Section 3.10. Sanitary Sewer Provisions. The following rules and restrictions shall apply with respect to the maintenance of the sanitary sewer system in the Community:

(a) No pavement or concrete, including driveways and sidewalks, shall be constructed on or within one foot horizontal distance of any sanitary sewer manhole or clean-out casting.

(b) All Owners of Dwellings not serviced by gravity sanitary sewer service are responsible for all maintenance, repair and replacement of all grinder/ejector pumps, force mains and gravity laterals from the residence to its connection to the sanitary sewer main.

(c) The discharge of clean water sources (e.g. foundation drains, sump pumps, roof drains) to the sanitary sewers is prohibited.

(d) Any grade changes of a material nature across sanitary sewer facilities must be approved in writing by Hamilton Southeastern Utilities, Inc.

(e) The drip line of all trees must be located a minimum of ten (10) feet from the center of sanitary sewers and manholes and no trees shall be planted directly over sewer laterals. No landscaping, mounding, lighting, fencing, signage, walls, or irrigation lines shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure.

(f) The Owner of each Dwelling will be responsible for the operation, maintenance and replacement of the lateral serving the Dwelling from the Dwelling to its connection into the gravity main.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Owner, as defined in Article I, shall be deemed to be a Member and have a membership in the Association.

Except as provided herein with respect to the Class B Member, no Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation, partnership or limited liability company shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, subject to the provision of this Declaration and the By-Laws.

Section 4.2. Voting. The Association shall have two (2) classes of membership, Class A and Class B, as follows:

(a) **Class A.** Class A membership shall be all Owners with the exception of the Class B Member.

Class A Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 4.1 hereof. There shall be only one (1) vote per Lot.

In any situation where a Member is entitled personally to exercise the vote for his Lot and more than one (1) person holds the interest in such Lot required for membership, the vote for such Lot 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 Lot'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 Declarant and any successor or assignee designated as Declarant. The rights of the Class B Member, including the right to approve actions taken under this Declaration and the By-Laws, are specified in the Declaration and the By-Laws. Each Class B Member shall be entitled to three votes for each Lot it owns or, in the case of unplatted land, three votes per the maximum number of Lots allowed for such a parcel of land by the applicable zoning ordinance, on all matters requiring a vote of the Members of the Association. The Class B Member shall be entitled to appoint the members of the Board during the Class B Control Period as hereinafter defined. The Class B Control Period shall begin as of the date of this Declaration and extend to the earlier of: (i) the date on which seventy-five percent (75%) of the Lots have been sold or conveyed to Persons other than Declarant or builders holding title solely for purposes of development or sale. (In making such calculation, the numerator shall be the total Lots sold and the denominator shall be the total Lots anticipated for eventual sale and ownership in the Community as determined by Declarant in its sole discretion); (ii) December 31, 2008; or (iii) the date on which Declarant determines that the Class B Control Period shall end and notice of such termination is filed by means of an instrument recorded with the Recorder of Hamilton County, Indiana. The Class B Membership shall terminate and become converted to Class A Membership upon the termination of the Class B Control Period whereupon Declarant shall be entitled to one vote for each Lot owned with the number of Lots calculated in the same manner as for the Class B memberships as set forth above.

ARTICLE V

MAINTENANCE

Section 5.1. Association's Responsibility. The Association shall maintain and keep in good repair the Areas of Common Responsibility, such maintenance to be funded as hereinafter provided. The maintenance shall include but need not be limited to, maintenance, repair, and replacement of all landscaping and other flora, structures, and improvements, including all private streets, situated upon the Common Areas, landscaping easements along the primary roads through the Community, medians and rights of way of public streets within the Community, entry features for the Pleasant View community, and such portions of any other real property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance with any other person or entity, by the Association.

In furtherance of the maintenance of the streets within the Community, the Association may provide for a specific type and design of street signs, posts, and traffic control signs for the purpose of maintaining a unique and uniform appearance within the Community. To the extent such signs and posts are utilized by the Association, it shall be the responsibility of the Association to maintain, keep in good repair and replace such decorative signs (although such responsibility shall not relieve any governmental authority from the obligation to install

temporary standard signs in the event a decorative sign is lost or destroyed). The cost to acquire such decorative signs and posts shall be a Common Expense.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of Common Areas shall be a Common Expense to be allocated among all Lots as part of the Base Assessment.

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

In the event that Declarant or Board determines that: (i) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which is his or its responsibility hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner as the case may be, and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of an emergency situation, such Owner, as the case may be, shall have ten (10) days within which to complete such maintenance, cleaning, repair or replacement in a good and workmanlike manner, or in the event that such maintenance, cleaning; repair or replacement is not capable of completion within said ten (10) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provision hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner and said cost (together with the cost of attorneys fees, if any, in enforcement of the Owner's obligations and collection of the charge to the Owner) shall become a lien against the individual Owner's Lot (with respect to any matter relating to an individual Owner's responsibility) and such cost shall become a part of the costs of the Association (until such time as reimbursement is received from the individual Lot Owner). In the event that Declarant undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses, including reasonable attorneys' fees.

Section 5.2. Owner's Responsibility. Unless specifically identified herein, each Owner shall maintain and repair the interior and exterior of his or her Lot and Dwelling and all structures, parking areas, lawns, landscaping, grounds and other improvements comprising the Lot and Dwelling in a manner consistent with the Community-Wide Standards and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

No Owner shall (i) decorate, change, or otherwise alter the appearance of any portion of the exterior of a Dwelling or the landscaping, grounds, or other improvements within a Lot unless such decoration, change, or alteration is first approved, in writing, by the Architectural Standards Committee as provided in Article IX hereof, or (ii) do any work which, in the reasonable opinion of the Architectural Standards Committee, would jeopardize the soundness and safety of the Community, reduce the value thereof, or impair any easement thereto.

ARTICLE VI

INSURANCE AND CASUALTY LOSSES

Section 6.1. Insurance. The Association, Board, or its duly authorized agent, shall procure and maintain casualty insurance for the Common Properties, liability insurance and such other insurance as it deems necessary or advisable. The Association shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(a) A waiver of subrogation by the insurer as to any claims against the Association, the Association's Board and the Declarant;

(b) A statement that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification or non-renewal; and

(c) All liability insurance shall not exclude coverage for claims made by Owners or Members and shall also name the Declarant as an additional insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses of the Association. All insurance coverage obtained by the Board shall be written in the name of the Association.

In addition to 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; and flood insurance, if required. The amount of fidelity coverage shall be determined in the directors' best business judgement.

Section 6.2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon. The Board may require all Owners to furnish copies or certificates thereof to the Association. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Lot, the Owner shall 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 IX of this Declaration and all applicable zoning, building and other governmental regulations. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed,

the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Lot 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 Lot in a neat, safe, and attractive condition consistent with the Community-Wide Standard.

Section 6.3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of Common Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance or obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Common Property to substantially the same condition in which it 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 a Common Property shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total Member vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason 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 funds or information shall be made available; provided, however, 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 a Common Property shall be repaired or reconstructed. If there is no reconstruction then any insurance proceeds will revert to the Association.

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

Section 6.4. 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 for payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account.

Section 6.5. Repair and Reconstruction. If the damage or destruction to a Common Property 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 shall, without the necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for Special Assessments in accordance with Article VIII. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 7.1. Common Properties. The Association, subject to the rights of the Declarant and to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Properties and other improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep them in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard. Except to the extent otherwise required by the provisions of the Indiana Code relating to nonprofit corporations, this Declaration, the By-Laws, or the Articles of Incorporation, the power herein or otherwise granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further action on the part of Owners.

Section 7.2. Duties and Powers. The duties and powers of the Association shall be those set forth in the provisions of the Indiana Code relating to nonprofit corporations, this Declaration, the By-Laws, and the Articles of Incorporation, together with those rights and privileges reasonably implied to effect the purposes of the Association. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such power of the Association shall include, but shall not be limited to, the power to purchase one or more Lots and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public and private utilities, or others, as a Common Expense or by billing directly to Lots to furnish trash collections, water, sewer, and/or security service for the Common Areas and/or the Lots. The Association shall have the right to own (as a Common Property) any drainage system, piping, sewer equipment or materials, or any other utility equipment which Declarant or the Association deems to be in the best interests of the Community. The Association shall not, without the affirmative vote or written consent of Members representing sixty-seven percent (67%) of the total Member vote in the Association, mortgage or hypothecate all or any portion of the Common Areas.

Section 7.3. Agreements. Subject to the prior approval of Declarant for so long as Declarant owns any Lot or holds the unexpired option to submit Additional Property to the Community, all agreements and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community; and in performing its responsibilities hereunder, the Association, through its Board, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and in no limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Community, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the

employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board shall determine, and may be bonded in such a manner as the Board may require with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board may hire or contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Community or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

The Association, through its Board, shall have the right to designate one trash removal service for the Community and the cost of such service shall be allocated to and paid for by Owners of Dwellings within the Community.

Section 7.4. Personal Property and Real Property for Common Use. The Association, acting through its Board, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The share of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot also transfers the membership in the Association which is an appurtenance to such Lot.

Section 7.5. Rules and Regulations. The Association, as provided in Articles IX and X hereof, through its Board, 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 suspension of the right to vote and the right to use any recreational facilities or Common Areas. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances and to permit Hamilton County or any municipality having jurisdiction over the Property to enforce ordinances on the Property for the benefit of the Association and its Members.

Section 7.6. 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 given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 7.7. Governmental Interests. The Association shall permit the Declarant reasonable authority to designate sites within the Property for fire, emergency, police, water, and sewer facilities, parks, and other public facilities.

ARTICLE VIII

ASSESSMENTS

Section 8.1. Purpose of Assessments. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Community, and maintaining the Community and improvements therein, all as may be more specifically authorized from time to time by the Board.

Section 8.2. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board to be commenced at the time and in the manner set forth in Section 8.7 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 8.4 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments.

All 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, late charges, costs, and reasonable attorney's fees to collect same, shall be a charge on the land and shall be a continuing lien upon the Lot against which shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the lien for unpaid assessments shall not apply to the holder of any first priority institutional Mortgage or to the holder of any Mortgage securing a loan made by Declarant, its affiliates, successors, or assigns, who takes title to a Lot through foreclosure, or to any purchaser of such Lot at such foreclosure sale. In the event of co-ownership of any Lot all of such co-owners shall be jointly and severally liable for the entire amount of such assessments.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Twenty-Five Dollars (\$25.00) for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. All assessments shall be pro rated from the date of closing for each Owner. Each Owner by acceptance of a deed to his or her Lot, acknowledges that all Base Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, however, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may revoke the privilege of paying in installments and require all annual assessments to be paid in full immediately. No Mortgagee shall be required to collect any assessments.

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, non-use of recreational facilities, or abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. Assessments include the cost of maintenance and repair of all recreational facilities in the Community and no Member shall have right to reduce his assessment by non-use or refusal to join the recreational facilities.

Declarant and its successors and assigns are exempt from liability for all assessments, and Declarant shall have the right, by written contract, to exempt any party purchasing a Lot not for its own occupation of a house on such Lot from the liability to pay assessments herein.

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.

Notwithstanding anything to the contrary contained herein, until the termination of the Class B Control Period the annual budget, all Base Assessments and all Special Assessments shall be established by the Board without meetings or of concurrence of the Owners. Declarant, however, in its sole discretion, may waive the forgoing requirement at any time and submit the annual budget, and the approval of any Base Assessments and Special Assessments to the Owners for a vote without terminating the Class B Control Period.

Section 8.3. Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year of the Association, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution maintaining a reserve fund in accordance with a budget separately prepared.

The Base Assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves.

The total Base Assessments shall be divided among the Lots equally, so that each Lot shall be subject to equal annual Base Assessments. Upon the submission of Additional Property to the Community, assessments shall continue to be equal and shall be assessed as well against the Lots being added to the Community. In such event, the Association's budget shall be accordingly revised by the Board, without the necessity of approval by the Owners, to include Common Expenses and assessments related to such additional Lots. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any funds received from owners of commercial property, within or adjacent to the Community pursuant to which the Association is maintaining any property outside the Community and receiving reimbursement. In addition, the Board shall take into account the number of Lots subject to assessment under Section 8.7 hereof on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

