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**SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS OF CLARK MEADOWS AT ANSON**

201300008124  
Filed for Record in  
BOONE COUNTY, INDIANA  
NICOLE K. (NIKKI) BALDWIN, RECORDER  
07-10-2013 At 01:56 pm.  
COVENANTS 81.00

This Supplemental Declaration, dated as of the 27<sup>th</sup> day of JUNE, 2013, by PULTE HOMES OF INDIANA, LLC, an Indiana limited liability company ("Declarant"),

**WITNESSES THAT:**

WHEREAS, the following facts are true:

A. Declarant is the owner of the fee simple title to the real estate located in Boone County, Indiana, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Original Parcel").

B. Declarant, with the consent of Duke Realty Limited Partnership ("Master Declarant"), intends, but is not obligated, to develop the Original Parcel, and possibly in the future some or all of the Additional Real Estate (as hereinafter defined) currently owned by Master Declarant and/or Duke Construction Limited Partnership, an Indiana limited partnership ("DCLP"), into a residential subdivision known as Clark Meadows at Anson and to subdivide the Original Parcel, and possibly in the future some or all of the Additional Real Estate, into Residential Lots upon each of which a Residence may be constructed.

C. This is a Supplemental Declaration as that term is defined in the Amended and Restated Master Declaration of Covenants and Restrictions of Anson recorded in the Office of the Recorder of Boone County, Indiana as Instrument Number 201100003474, as the same has been or will be amended from time to time (the "Master Declaration").

NOW, THEREFORE, Master Declarant hereby makes this Supplemental Declaration as follows:

**ARTICLE I**  
**DEFINITIONS**

Words, phrases and terms that are defined in the Master Declaration have the same meaning in this Supplemental Declaration except as herein otherwise provided. The following words, phrases and terms, as used in this Supplemental Declaration, unless the context clearly requires otherwise, mean the following:

Section 1.1 "Additional Real Estate" means other real estate depicted on the land plan for Clark Meadows attached hereto as Exhibit B and made a part hereof (the "Land Plan"), as such may be amended from time to time, that is subdivided into Residential Lots and made, by recording an Ancillary Declaration with respect thereto, subject to this Supplemental Declaration.

Section 1.2 "Amenity Area" means the Recreation Area depicted on the Land Plan as the site for development of a bath house (but not a community building), swimming pool, a one-half basketball court and other recreational and community facilities of type and size as determined by Declarant which shall be constructed on or before the date specified in an agreement between Master Declarant



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and Declarant and as provided in Article IX below, and, when such site is so developed, the land designated on a Plat as the Amenity Area together with all improvements thereto and structures and facilities thereon.

Section 1.3 "Ancillary Declaration" shall mean any supplement or amendment to this Supplemental Declaration that may be recorded by Declarant, with the consent of Master Declarant, and that extends the provisions of this Supplemental Declaration to any part of the Additional Real Estate and contains such complementary or supplementary provisions for such part of the Additional Real Estate as are required or permitted by this Supplemental Declaration.

Section 1.4 "Annual Amenity Operating Costs" means the annual costs of operating repairing, and maintaining the Amenity Area as determined on an annual basis by the Joint Committee, upon the recommendation of a professional property manager engaged by the Association, and may include, without limitation, a reserve sufficient to meet the cost of significant capital repairs, renewals and replacements.

Section 1.5 "Annual Amenity Assessment" means the pro rata share of the Annual Amenity Operating Costs to be paid by the Clark Neighborhoods Association based upon the total number of Lots in Clark Neighborhoods and the total number of Lots planned in Clark Meadows at Anson and which shall be included in the Association's annual budget. The initial Annual Amenity Assessment to Clark Neighborhoods shall be Forty and One Hundreds Percent (40.1%) of the Annual Amenity Operating Costs (171 Lots in Clark Neighborhoods divided by a total of 426 Lots platted or to be platted in Clark Neighborhoods (171) and Clark Meadows at Anson (255)). If the number of Lots platted or to be platted in Clark Meadows is increased, the Annual Amenity Assessment shall be adjusted accordingly.

Section 1.6 "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

Section 1.7 "Association" shall mean *Clark Meadows at Anson Owners Association, Inc.*, an Indiana nonprofit corporation.

Section 1.8 "Board" and "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.9 "Builder" shall mean a person or entity regularly engaged in the business of constructing single family residences for sale and responsible for the original construction of a residence on a Lot.

Section 1.10 "By-Laws" shall mean the Code of By-Laws of the Association, as amended from time to time.

Section 1.11 "Clark Meadows at Anson" means the name by which the Parcel shall be known.

Section 1.12 "Clark Neighborhoods" means and refers to the one hundred seventy-one (171) Lot residential subdivision which was established by the Clark Neighborhoods Declaration and depicted on the plats recorded as Instrument Nos. 2007-1109, 20114743 and 20124735 in the Office of the Recorder of Boone County, Indiana and, as such, the term "Clark Neighborhoods", as used throughout this Supplemental Declaration, shall mean only the one hundred seventy-one (171) Lots

depicted on said plats and no other real estate or Lots which have been or might later be added, annexed or made subject to the Clark Neighborhoods Declaration, per the terms of the Clark Neighborhoods Declaration.

Section 1.13 "Clark Neighborhoods Association" means The Neighborhoods at Anson Owners Association, Inc., d/b/a Clark Neighborhoods at Anson, which is a non-profit corporation and which is identified in the Clark Neighborhoods Declaration, and any successor thereto.

Section 1.14 "Clark Neighborhoods Declaration" means and refers to the Amended and Restated Declaration of Covenants, Conditions and Restrictions of The Neighborhoods at Anson recorded in the Office of the Recorder of Boone County, Indiana, on December 6, 2006 as Instrument No. 200600013093, as amended from time to time.

Section 1.15 "Committee" shall mean the *Development Standards and Architectural Control Committee* of the Association, as more fully described in Article V of this Supplemental Declaration.

Section 1.16 "Corporation" shall mean Anson Governing Association, Inc., an Indiana nonprofit corporation.

Section 1.17 "Joint Committee" means and refers to that certain committee of one (1) individual designated by the Board and one (1) individual designated by the board of directors of the Clark Neighborhoods Association, which committee's responsibility shall be (i) to develop, with the assistance and input of a professional property manager engaged by the Association, a mutually agreed upon budget for the Annual Amenity Operating Costs, which budget shall be included in the annual budget for the Clark Neighborhoods, which budget shall be funded by a portion of each Lot's annual Parcel Assessment and paid to the Meadows Association as the Clark Neighborhoods' Annual Amenity Assessment and, (ii) from time to time, recommend, upon the recommendation of a professional property manager engaged by the Association, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvements in the Amenity Area to each member's respective board of directors.

Section 1.18 "Limited General Community Area" shall mean any Limited General Community Area (as defined in the Master Declaration) located in the Parcel, including the Amenity Area after same is deeded to the Association as set forth in Article IX.

Section 1.19 "Lot" shall mean a Residential Lot located in the Parcel.

Section 1.20 "Owner" shall mean any Person, including Declarant and each Builder, who at any times owns the fee simple title to a Lot.

Section 1.21 "Parcel" means the Original Parcel and such other portions of the Additional Real Estate as have, as of any given time, been subjected to this Supplemental Declaration either by this Supplemental Declaration or an amendment hereto or by an Ancillary Declaration.

Section 1.22 "Parcel Applicable Date" means the earlier of (i) the date when all the Residential Lots in the Parcel have been improved by the construction thereon of Residences and such Residences are actually occupied by Owners other than the builder thereof, (ii) the date designated as the Parcel Applicable Date by Declarant in a written notice delivered to the Board of Directors, or (iii) December 31, 2025.

Section 1.23 "Residence" shall mean any structure intended exclusively for occupancy by a single family together with all appurtenances thereto, including private garages and recreational facilities usual and incidental to the use of a single family residential lot.

Section 1.24 "Violation Assessment" shall mean an Assessment described in Section 8.05 of this Supplemental Declaration.

## ARTICLE II DECLARATION / CHARACTER OF THE DEVELOPMENT

Section 2.01. Declaration. Declarant, with the consent of Master Declarant, hereby declares that, in addition to the covenants, restrictions, easements, charges and liens imposed by the Master Declaration, the Parcel shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth. The provisions of Paragraph 2 of the Master Declaration shall apply to the relation of this Supplemental Declaration and the Association to the Master Declaration and the Corporation. Notwithstanding anything herein to the contrary, each Person subject to this Supplemental Declaration, by acquiring any right, title or interest in and to, or otherwise occupying, any portion of the Parcel shall be deemed to agree that neither Master or Declarant or DCLP shall have no rights, duties or obligations under this Supplemental Declaration, except as an Owner, unless expressly otherwise provided herein.

In giving its consent hereunder, Master Declarant shall be deemed to have exercised its right under Paragraph 3 of the Master Declaration to bring the Parcel within the scheme of the Master Declaration add the Parcel to the Property.

Section 2.02. Other Restrictions. The Parcel shall be subject to the easements, restrictions, and limitations of record appearing on a Plat and amendments thereto, on recorded easements, and rights-of-way, and also to all governmental zoning authority and regulation affecting the Parcel, all of which are incorporated herein by reference.

Section 2.03. Additional Real Estate and Ancillary Declarations. Declarant shall have the right, and hereby reserves unto itself the right, at any time, and from time to time, at any time prior to the expiration of the Parcel Applicable Date, to add to the Parcel and subject to this Supplemental Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Parcel, and therefore and thereby becomes a part of the Parcel and subject in all respects to this Supplemental Declaration and the Master Declaration and all rights, obligations, and privileges herein and therein, when Declarant, with the consent of Master Declarant, places of record an Ancillary Declaration, which Ancillary Declaration may be as part of a Plat for any portion of the Additional Real Estate, or by an amendment or supplement to this Supplemental Declaration. Any Ancillary Declaration may contain such modifications, additional terms, conditions, restrictions, maintenance obligations and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate.

Upon recording of an Ancillary Declaration, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Parcel and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Parcel. No single exercise of Declarant's right and option to add and expand the Parcel as to any part or parts of the Additional Real Estate, shall preclude Declarant from thereafter from time to time further expanding and adding to the Parcel to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by

Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Parcel Applicable Date and is made with the consent of Master Declarant. Such expansion of the Parcel is entirely at the sole discretion of the Declarant and nothing contained in this Supplemental Declaration or otherwise shall require Declarant to expand the Parcel beyond the Original Parcel, or to any portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Supplemental Declaration.

### **ARTICLE III COVENANTS AND RESTRICTIONS**

Section 3.01. Land Use. Lots may be used only for single-family residential purposes and only one (1) Residence not to exceed the maximum height permitted by and measured pursuant to the Zoning Ordinance may be constructed on each Lot. Except as permitted with the approval of the Committee pursuant to this Article III, no structure shall be erected, placed or permitted to remain upon any Lot except a Residence. All portions of the Parcel located within a Plat which have not been designated as a Lot by numbering shall be used in a manner determined by Declarant. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in any portion of the Parcel than the number of Lots depicted on the Plat for such portion of the Parcel.

Section 3.02. Address Identification. The numbers representing the address of each Residence will be of a uniform appearance and will be displayed in a uniform location and manner, as determined by the Committee.

Section 3.03. Lighting. All Residences will have three (3) dusk to dawn lights, two (2) located on the sides of the garage doors, and one (1) on the front facade. Individual pole lights are prohibited. Street lights may be installed by Declarant in the utility easements on Lots and in the Limited General Community Areas. Street lights shall be operated and maintained by the Association. The Association reserves the right to remove street lights deemed no longer necessary by the Board of Directors.

Section 3.04. Temporary Structures. No temporary house, trailer, garage or other outbuilding may be placed or erected on any Lot, except by Declarant or a Builder. No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling.

Section 3.05. Driveways. All driveways in the Parcel shall be concrete in material.

Section 3.06. Water Systems. Each Owner shall connect to the water main maintained by a private or public water utility to provide water for domestic use on the Lot and shall pay all connection, availability, or other charges lawfully established with respect to connections thereto.

Section 3.07. Drainage. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of such downstream Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement for such flow of water is provided on the Plat. To the extent not maintained by the Drainage Board, "Drainage Easements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage along such swale. Lots within the Parcel may be included in a legal drain established by the Drainage Board. In such event, each Lot in the Parcel will be subject to assessment by the Drainage Board for the costs of maintenance of the portion

of the drainage system and the lake control structures included in such legal drain, which assessment will be a lien against the Lot. The elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade of surrounding Lots. Perimeter foundation drains and sump pump drains shall be connected whenever feasible into a subsurface drainage tile. Down spouts and drains shall be designed to disperse runoff for overland flow to street or swale collection systems. Each Owner shall maintain the subsurface drains and tiles located on his Lot and shall be liable for the cost of all repairs thereto or replacements thereof.

**Section 3.08. Signs.** No sign, plan tubes, boxes or any other externally visible means by which information is made available to the public, including posters, circulars, and billboards of any kind, shall be displayed to the public view on any Lot without the prior approval of the Committee, except for such thereof as Declarant or Master Declarant may in its absolute discretion display in connection with the development of Anson or the Parcel and the sale of Lots therein, such signs as may be located on the Community Area and such thereof as may, with the consent of Declarant, be displayed by a Builder to advertise the property during construction and sale of Residences and the maintenance of model homes. Without limiting the foregoing, with the prior written approval of the Committee:

(A) Each Lot may have posted, prior to initial occupancy of the Lot, one (1) sign not exceeding six (6) square feet setting forth the Owner's name and the name of the architect and builder of the Lot and, in the case of Lot owned by Declarant or a Builder, one (1) sign indicating that the Lot is available for sale; provided, any such signs shall be removed at the time of initial occupancy.

(B) After the initial occupancy of a Lot, one "for sale" sign not exceeding six (6) square feet may be posted on a Lot.

(C) One (1) "open house" sign not exceeding six (6) square feet indicating that the Owner of the Lot is hosting such an event may be posted on the Lot for a period not to exceed three continuous days, which period shall include the day of the "open house."

Prior to the posting of any such sign, the Owner of Lot must obtain the approval of the Committee. The Committee may charge a reasonable fee to review any such request for approval. Unless otherwise approved by the Committee, each sign must meet guidelines established by the Committee with respect to location, post, design, height, material, composition and colors of the sign. Any approved sign shall be subject to relocation or removal by the Association in accordance with the terms of the approval.

**Section 3.09. Fencing.** This subsection is applicable to all Lots except those Lots which are used for a sales office or model home by the Declarant or a Builder.

(A) **Approval by Committee.** No fence or wall may be erected or maintained on any Lot without the prior approval of the Committee as to location, materials, colors and such other design standards as the Committee shall determine.

(B) **Permitted Types of Fencing and Height.** All fences on Lots shall be ornamental metal (wrought iron), white polyvinyl (or equivalent) picket or natural cedar dog-eared shadow box, unless otherwise approved by the Committee. Picket fence is encouraged, but not required, for fencing facing a street. All fencing on a Lot shall be uniform in style, color and, except as herein provided, height, and substantially similar in material. No chain link fencing shall be permitted. Fences shall not exceed seventy-two (72) inches in height (measured from grade level), though fences not exceeding forty-eight

(48) inches in height are encouraged, particularly on the side facing a street. Lots containing swimming pools shall have the fencing required in Section 3.30 hereof.

(C) Location. In no event shall any fence, wall or hedge or any shrub planting higher than eighteen (18) inches be permitted between the front property line and a point ten (10) feet behind the line of the façade of the Residence constructed on the Lot that faces the street, as extended to the property lines, except where such planting is part of Residence landscaping approved by the Committee and the prime root thereof is within six (6) feet of the Residence. Trees shall not be deemed "shrubs" unless planted in such a manner as to constitute a "hedge." Corner Lots shall be deemed to have two (2) front property lines. All fencing erected on a Lot must be erected either (i) within three (3) inches of the property line of such Lot, or (ii) more than thirty-six (36) inches from the property line of such Lot. Owners of Lots adjoining Lots on which a fence is erected within three (3) inches of the property line shall have the right to connect to such fence with a fence approved by the Committee. Without limiting the foregoing:

(i) Any fence, wall, hedge, or shrub planting, or tree foliage shall comply with the prohibitions on visual obstruction in Section 3.43.

(ii) No fence shall be erected or maintained on or within any Drainage or Utility Easement or, except such as may be installed by Declarant and subsequently replaced by the Association in such manner as to preserve the uniformity of such fence, in any Landscape Easement.

(D) Further Restrictions. The Committee may establish further restrictions with respect to fences, including limitations on (or prohibition of) the installation of fences in the rear yard of a Lot abutting a Lake and design standards for fences.

(E) Good Repair. Each Owner shall keep the fences on such Owner's Lot fully intact, painted and otherwise in good repair, as determined by the Committee or design guidelines adopted by the Committee.

Section 3.10. Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Violation of any ordinance governing noise, building or lot maintenance, or any other public nuisance shall be deemed to be a nuisance creating rights in every affected Owner, the Declarant and/or the Association, as the case may be, to enforce the provisions hereof against the offending Owner. Barking dogs shall constitute a nuisance. In the event of successful enforcement by an Owner, the Declarant or an Owner of the provisions thereof, the offending Owner shall be liable to the prevailing party for attorneys' fees, court costs, and all other costs and expenses of litigation and collection in connection therewith.

Section 3.11. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers out of public view except not more than 24 hours prior to its removal thereof, when it may be placed at the curb of the Lot. All equipment for storage or disposal of such materials shall be kept clean and sanitary.

Section 3.12. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. The owners of such permitted pets shall confine them to their respective Lots such that they will not be a nuisance. Owners of dogs

shall so control or confine them so as to avoid barking which will annoy or disturb adjoining Owners. Unless permitted by the Board of Directors of the Association, no Owner shall maintain more than two (2) of the same type (dog, cat, bird) of pet nor more than four (4) total pets; provided, however, that fish which are located in indoor aquariums and which pose no risk to the public health shall not be considered pets for the purpose of this restriction. No dangerous or potentially dangerous pets, such as exotic animals (large wild cats, wolves, alligators, snakes which are poisonous or longer than two feet, poisonous spiders, etc.) shall be permitted to exist in a Residence or on a Lot without the unanimous consent of the Architectural Review Committee and the Board of Directors; provided, however, that the decision of the Board of Directors to permit such animal or animals may be overturned by a majority vote of the Members at any meeting.

Section 3.13. Outside Burning; Compost Piles. No trash, leaves, or other materials shall be burned upon a Lot. Composting is not permitted excepted for vegetative waste, only, kept in completed enclosed containers not visible from a public right-of-way or adjoining Lot, and not located within fifteen (15) feet of any adjoining Lot.

Section 3.14. Antennas and Receivers. Except as otherwise required by law, no satellite receiver, down-link or video or radio antenna and no satellite dish receiver combination greater than one meter (39.37 inches) in diameter shall be permitted on any Lot without the prior written consent of the Committee. The location of any permitted antenna or satellite dish shall be subject to the approval of the Committee, provided that, pursuant to applicable law, no action of the Committee with respect thereto shall (1) unreasonably delay or prevent installation, maintenance or use of any permitted antenna or satellite dish; (2) unreasonably increase the cost of installation, maintenance or use any permitted antenna or satellite dish; or (3) preclude reception of an acceptable quality signal. Except as otherwise required by law, the Committee shall not give its consent to the installation of any exterior television antenna if television reception is available from underground cable connections serving the Lot, nor shall it give its consent to the installation of any other exterior antenna unless all Owners of Lots within two hundred (200) feet of the Lot upon which the proposed antenna would be erected consent in writing to the installation thereof.

Section 3.15. Electric Bug Killers. Electric Bug Killers, "zappers", and other similar devices shall not be installed at a location or locations which result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously.

Section 3.16. Vacant Lots. It shall be the duty and obligation of the Owner of a vacant Lot to maintain the appearance of such Lot and regularly cut weeds, trim trees, maintain erosion control devices, mow grasses on and remove debris from such Lot. Declarant and the Association shall have the right, but not the duty, to enter upon each vacant Lot and to maintain the appearance thereof by cutting weeds, mowing grass, trimming trees, removing debris, installing erosion control devices, and performing any other act reasonable under the circumstances. The Owner shall be responsible for payment of all such expenses upon demand and the Declarant or the Association, as the case may be, shall have a lien on such Lot for the payment of such expenses, together with attorneys' fees and all other costs and expenses of litigation and collection which may be incurred in connection therewith.

Section 3.17. Association's Right to Perform Certain Maintenance. In the event that the Owner of any Lot shall fail to maintain his or her Lot and any improvements situated thereon in accordance with the provisions of this Supplemental Declaration, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot

and improvements situated thereon, if any, conform to the requirements of these restrictions. The cost incurred by the Association shall be assessed to the Owner. The Owner shall reimburse the Association within thirty (30) days of the date on which the Owner is invoiced by the Association. The Association shall have the right to collect any outstanding maintenance Assessments levied by the Association in the manner described in Article VIII. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance work performed hereunder.

Section 3.18. Awnings. Unless approved by the Committee or located on Lots on which there is maintained a sales office or model home by the Declarant or a Builder, no metal, wood, fabric, fiberglass or similar type material awnings, pergolas or patio covers will be permitted anywhere on the Parcel.

Section 3.19. Diligence in Construction. Unless a delay is caused by strikes, war, court injunction or acts of God, construction of a Residence on a Lot must commence within two (2) years after conveyance of the Lot to an Owner other than Declarant. Subject to inclement weather, every Residence shall be completed within twelve (12) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage or, if approval of the applicable casualty insurance is pending, then within three (3) months after such approval is forthcoming.

Section 3.20. HVAC Units. No heat pumps, air conditioning units or gas meters will be installed in the front of the Residence.

Section 3.21. Ponds. Except as otherwise provided, no individual using a Pond, if any, has the right to cross another Lot or trespass upon shoreline not within a Limited General Community Area, subject to the rights of the Declarant and the Association, and their employees, successors and assigns as set forth in the Master Declaration and this Supplemental Declaration. No one shall do or permit any action or activity which could result in pollution of any Pond, diversion of water, elevation of any Pond level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Pond management except as provided in the Master Declaration and this Supplemental Declaration. A Pond may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Parcel, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. A Pond(s) may or may not exist on the Parcel, and the reference throughout this Supplemental Declaration to Ponds is made in order to address Ponds, if any, which now exist or are later constructed upon the Parcel. The installation on the Parcel of any Pond shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Pond. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Limited General Community Area owned by the Association adjacent to a Pond.

Section 3.22. Mailboxes. All mailboxes and posts must be approved by the Committee and shall be standard as to size, location, post, design, height, material, composition and colors. The Builder upon the initial Lot closing to the homeowner shall install the initial mailbox for each Lot, which meets the above criteria. The Association shall be responsible for the maintenance, repair and replacement of any mailbox after initial installation. Except as provided in Section 8.05 and unless covered by the Owner's or the Association's insurance, the costs of maintenance, repair and replacement of mailboxes shall be included in the Parcel Assessment.

Section 3.23. Maintenance of Lots and Improvements. Each Owner shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

- (A) Mow the Lot and not permit the growth volunteer trees and bushes on the Lot, and shall keep the Lot clear from weeds, crabgrass and other noxious vegetation or unsightly growth at all times;
- (B) Remove all debris or rubbish from the Lot;
- (C) Prevent the existence of any other condition that tends to detract from or diminish the aesthetic appearance of the Parcel;
- (D) Cut down and remove dead trees from the Lot and replace any such trees that are Street Trees;
- (E) Within sixty (60) days following completion of a Residence, landscape the Lot in accordance with the provisions set forth in this Supplemental Declaration, weather permitting; and
- (F) Remove snow and ice from any sidewalk abutting the Lot.

For purposes of this Section 3.23 only, the Lot shall be deemed to include that portion of the public right-of-way between the Lot and the back curb of the street located in such right-of-way, and any such maintenance shall be subject to and in accordance with the requirements of any applicable governmental authority.

Section 3.24. Miscellaneous. No clotheslines may be erected on any Lot.

Section 3.25. Mini-Barns, Storage Sheds and Other Outbuildings Prohibited. No mini-barn, storage shed or other accessory building or structure, including but not limited to, sheds, storage sheds, animal quarters, and play houses, shall be permitted on any Lot other than structures approved by the Committee to screen or enclose in-ground pool equipment.

Section 3.26. Play Equipment. Any and all playground equipment on a Lot shall be of wood or a quality material that is designed for commercial use. In no event shall any playground equipment be allowed that uses metal or plastic as its primary building material. The location and installation of any playground equipment shall be done only with the express written approval of the Committee. All wood playground equipment should be either be stained, natural in color, or painted to match the colors of the siding of the home and periodically (not less than every three (3) years) be maintained with wood stain, wood preservatives or paint to prevent the decay and natural erosion of the wood materials. Notwithstanding the foregoing, temporary children's wading pools having a depth of eighteen (18) inches or less are permitted and shall not require approval of the Committee, but use shall be subject to any rules promulgated by the Committee.

Section 3.27. Plumbing. All plumbing vent stacks are to be located on the rear of the Residence.

Section 3.28. Sidewalks. Each Residence shall have a continuous 4-foot wide by a minimum of four (4) inches thick concrete sidewalk adjacent to all interior dedicated street frontages. Sidewalks shall be installed by the Builder and included in the purchase price of the Residence. If an approved

asphalt bike/walking path is approved on the Parcel in place of the sidewalk, no additional concrete sidewalk will be required.

Section 3.29. Subsurface Drains and Sump Pump Discharges. Subsurface drains have been provided in certain areas within drainage easements as additional storm and ground water drainage sources and are part of the public storm drainage system. Subsurface drain laterals have been provided on specific Lots, and the Builder on such Lots shall connect all sump pump discharge lines to such laterals. All maintenance and repair of all sump pump discharge lines and subsurface drain laterals shall be the responsibility of each Lot Owner in accordance with the following:

(A) The Owner's responsibility includes all sump pump lines and subsurface drain laterals between the connection at the sump pump within the home and the connection with the publicly maintained storm sewer or subsurface drain within the drainage easement.

(B) In cases where subsurface drain laterals are connected along a common property line before connecting to the storm sewer, maintenance and repair of the common lateral will be shared equally by the adjacent Owners unless an individual Owner caused the lateral to be damaged, changed or altered.

(C) Any Owner or Builder damaging, changing, or altering these subsurface drains and/or common subsurface drain laterals will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency, Declarant or the Association will cause said repairs to be accomplished and the invoice for such repairs will be sent to the responsible Owner(s) and/or Builder(s) for immediate payment. If immediate payment is not received, the Declarant and/or the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article VIII of this Supplemental Declaration.

Section 3.30. Swimming Pools and Hot Tubs. Only permanent, in-ground pools with professional construction, approved by the Committee, shall be permitted upon a Lot. All submittals to the Committee shall include landscape plans. All backyard pools should be oriented to minimize the potential effect on neighboring properties. All fencing shall (i) conform to county or municipal regulations; (ii) conform with all fencing requirements set forth in Section 3.09 hereof; provided, however, the fencing around a pool shall be no less than sixty (60) inches in height; and (iii) be of harmonious design and subject to Committee approvals. Hot Tubs must also be approved by the Committee.

Section 3.31. Tennis Courts, Racquetball Courts, Paddleball Courts, etc. Tennis courts, racquetball courts, paddle ball courts, basketball courts, squash courts, and other recreational facilities or sporting facilities will not be permitted without approval from the Committee, which may require such facilities to be screened. All submittals to the Committee shall include landscape plans. The location of a basketball goal on the Lot is subject to approval of the Committee if it is to be placed or maintained in front of the front building elevation of a Residence or would otherwise be visible from a public right-of-way adjoining the Lot. Basketball goals shall have translucent fiberglass or glass backboards and be attached to a black pole or similar type of post which is permanently placed into the ground. No basketball goal shall be placed or maintained within the right-of-way of any street. No basketball goal or backboard shall be permitted to hang from or be affixed to the Residence or garage. Temporary, portable and roll-away basketball goals (other than plastic baby or toddler basketball goals less than eight (8) feet high) are prohibited, and plastic baby or toddler basketball goals shall be stored in a location not visible from a public right-of-way adjoining the Lot when not in use. Independent

basketball courts may not be constructed on a Lot without written Committee approval. Lighted courts of any kind are prohibited.

Section 3.32. Vents. All metal and PVC roof or range vents will be of materials or painted in order to blend with roof color.

Section 3.33. Windows-Doors. All storm doors must be approved by the Committee. No unfinished aluminum doors or windows will be allowed.

Section 3.34. Street Signs. Decorative street signs that do not conform to applicable municipal standards may be installed by Declarant in the Declarant's sole and absolute discretion. Such decorative street signs shall be maintained by the Association, and shall be repaired or replaced by the Association if damaged in accordance with applicable rules and regulations of the controlling municipality. The Association assumes all liability in the installation, maintenance and repair of the decorative street signs.

Section 3.35. Fuel Tanks. All above or below ground storage tanks, with the exception of liquid propane and gas storage tanks used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and hereby are prohibited.

Section 3.36. Garbage and Other Refuse. No Lot Owner in the Development shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse, including compost on his or her Lot, except compost in enclosed containers as provided in Section 3.13.

Section 3.37. Home Occupations. No Lot or Lots shall be used by an Owner, other than a Builder or Declarant, for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable Zoning Ordinance, may be permitted: any use conducted entirely within the Residence and participated in solely by a member of the immediate family residing in said Residence, which use is clearly incidental and secondary to the use of the Residence for dwelling purposes and does not change the character thereof and in connection with which there is: a) no sign or display that will indicate from the exterior that the Residence is being utilized in whole or in part for any purpose other than that of a dwelling; b) no commodity sold upon the premises; c) no person is employed other than a member of the immediate family residing in the Residence; d) no manufacture or assembly operations are conducted and e) no on-street parking. Provided however, that in no event shall the following or similar activities be conducted or considered to be a permitted home occupation: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog trimming, or any other similar activities. The foregoing notwithstanding, the Declarant and Builders shall be permitted to operate sales trailers, model homes, and sales offices.

Section 3.38. Open Drainage Ditches and Swales. The following shall apply to open ditches and swales:

(A) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed, without the written permission of the appropriate jurisdictional agency and the Declarant. Owners must maintain these swales as grassways or other non-eroding surfaces. Any damage to swales or drainage structures must be repaired or replaced by the Lot Owner.

(B) Any Owner or Builder altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency, Declarant or the Association will cause said repairs to be accomplished and the invoice for such repairs will be sent to the responsible Owners for immediate payment. If immediate payment is not received by the Association, the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article VIII of this Supplemental Declaration.

Section 3.39. Roofing Materials. The roofing materials on all Residences within the Parcel shall be similar in color, and shall be of a quality, style and composition acceptable to and approved by the Committee.

Section 3.40. Solar Panels. No solar panels shall be permitted on any Residence without the prior written approval of the Committee.

Section 3.41. Utility Services. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the applicable Plat.

Section 3.42. Vehicle Parking. No trucks one (1) ton or larger in size, campers, trailer, motor homes, boats, snowmobiles, jet ski or similar vehicles shall be parked on any street in the Parcel. Any recreational vehicle or trailer, camper, snowmobile, jet ski, or boat shall not be permitted to remain on any driveway or Lot except within a closed garage and shall not be regularly parked upon unpaved areas. There shall be no outside storage of commercial trucks, trailers, boats, junk cars, or fuel tanks or vehicles wrapped in or bearing any form of signage (other than incidental non-commercial vehicle or bumper stickers).

Section 3.43. Visual Obstructions. No fence, wall, gate, hedge, tree or shrub planting which obstructs sight lines and elevations between three (3) and twelve (12) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and line connecting points twenty-five (25) feet from the intersection of said street lines or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement.

Section 3.44. Wells. Water wells shall not be drilled on any of the Lots except as required by Declarant to irrigate Limited General Community Areas.

Section 3.45. Occupancy or Residential Use of Partially Completed Residence Prohibited. No Residence constructed on any Lot shall be occupied or used for residential purposes or human habitation until a certificate of occupancy has been issued.

Section 3.46. Septic Systems. No septic tank, absorption field, or any other on-site sewage disposal system shall be installed or maintained on any Lot.

#### **ARTICLE IV** **ADDITIONAL PROVISIONS RESPECTING** **OF SANITARY SEWER UTILITY**

Section 4.01. Sanitary Sewer Utility Easements. Sanitary sewer utility easements allow for the construction, extension, operation, inspection, maintenance, reconstruction, and removal of sanitary

sewer facilities and give utility companies, whether public or private, as well as any governmental authorities, the right of ingress/egress.

Section 4.02. Trees and Landscaping. No trees shall be planted directly over building sewers (laterals). Any landscaping placed within easements or right-of-ways may be removed, damaged, or destroyed by the applicable utilities without an obligation of repair or replacement.

Section 4.03. Improvements. No mounding, lighting, fencing, signs, retaining walls, landscaping walls, entrance walls, irrigation lines, or other improvements shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure. Any of such improvements which are placed within easements or right-of-ways may be removed by the applicable utilities without the obligation of replacement.

Section 4.04. Maintenance of Certain Items. All Owners 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.

Section 4.05. Discharge. The discharge of clear water sources, including, but not limited to, foundation drains, sump pumps, and roof drains to the sanitary sewers is prohibited.

Section 4.06. Grading. Grade changes across sanitary sewer facilities must be approved in writing by the applicable utilities.

## **ARTICLE V**

### **ARCHITECTURAL CONTROLS**

Section 5.01. Approvals. Approvals, determination, permissions, or consents required herein shall be deemed given only if they are given in writing and signed, with respect to the Declarant or the Association, by an officer thereof, and with respect to the Committee, by one (1) member thereof.

Section 5.02. Development Standards and Architectural Control Committee. A Development Standards and Architectural Control Committee (the "Committee"), composed of at least three (3) members, shall exist and shall be appointed by the Declarant. Such members shall be subject to removal by the Declarant at any time, with or without cause. Any vacancies from time to time shall be filled by appointment of the Declarant. The Declarant may, at its sole option, at any time hereafter, relinquish for a period of time to the Association the power to appoint and remove one or more members of the Committee.

Section 5.03. Continuation of Committee. When the Declarant provides written notification to the Association of discontinuance of this Committee, then the Directors of the Association, or their designees, shall continue the actions of the Committee with like powers and duties.

Section 5.04. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. The Committee for its permanent files shall retain one copy of submitted material. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, the requesting applicant may re-apply with changes. If however, approval has not been received by applicant in writing within thirty (30) days, then said request shall be considered DENIED.

Section 5.05. Exercise of Discretion. Declarant intends that the members of the Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce this Supplemental Declaration in which an abuse of discretion by the Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

Section 5.06. Inspection. The Committee may inspect work being performed without the Owner's permission to assure compliance with these restrictions and applicable regulations.

Section 5.07. Liability of Committee and Declarant. Neither the Committee nor any agent thereof, nor the Declarant or Association shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Committee, Association, Declarant or DCLP be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Committee, Association, Declarant and/or DCLP make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, the compliance of proposed plans with laws and zoning ordinances, or the materials to be used. All parties should seek professional construction advise, engineering, and inspections on each Lot prior to proposing construction.

Section 5.08. Limited General Community Areas, Entrances, Street Signs, and Landscape Easements. None of the following shall be installed or constructed without prior written approval thereof by the Committee: (i) any and all landscaping, fences, structures, lighting, walking trails, sidewalks, or other improvements located in any Limited General Community Area, landscape maintenance access easement, and/or sign landscape easement, (ii) any entrance monument or signage identifying the Development or any section thereof and/or (iii) street signage.

Section 5.09. Lot Improvements. No dwelling, building structure, fence, deck, driveway, swimming pool, rear yard tennis or basketball courts, or improvement of any type or kind (including significant landscaping or stacking of wood) shall be constructed or placed on any Lot without the prior approval of the Committee. Such approval shall be obtained only after the Owner of the Lot requesting authorization from the Committee has made written application to the Committee at least thirty (30) days prior to the proposed construction. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing (i) the location of the improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated and (ii) all easements, set backs, and rights-of-way and (iii) any landscape plans required by the Committee. Such plans and specifications shall further set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other materials, photographs, or information, which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1/4" = 1' and all plot plans shall be drawn by a professional to a scale of 1" = 30', or to such other scale as the Committee shall deem appropriate. It is also recommended that a certified survey be prepared to insure that a resident is not encroaching on an adjacent homeowner or in a Limited General Community Area. If Owner has encroached on an adjacent Owner's property or in a Limited General Community Area, the encroaching Owner will, at his or her own expense, move any fence or other improvement(s) so as to

eliminate the encroachment. Notwithstanding anything to the contrary in the foregoing, upon receipt of any written application which is in form and content acceptable to the Committee in the Committee's sole and absolute discretion, the Committee may pre-approve a Builder's plans and specifications for the original construction of a Residence and, in the event of such pre-approval, the Builder shall then be authorized to construct the pre-approved Residence on different Lots without further approvals from the Committee.

No fence or screen of any kind will be permitted if its installation will obstruct necessary site lines for vehicular traffic. Undue obstruction of view of other amenities from adjoining properties shall be considered by the Committee when reviewing applications for approval.

Declarant desires to maintain a diversity of building elevations and colors. Without limiting the rights and powers of Declarant and the Committee under this Article 5, no Residence within any group of three (3) contiguous Residences on the same side of the street shall have the same front elevation and color scheme as any other Residence within such group or of the Residence immediately across the street from the center of such group of three (3) Residences.

Section 5.10. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement with or without cause. Common grounds for denial include, but are not limited to, a lack or absence of the following:

(A) The plans, specifications, drawings or other material submitted must themselves be adequate and complete, show the proposed improvement, and not be in violation of this Supplemental Declaration; and

(B) The design or color scheme of a proposed improvement must be in harmony with the general surroundings of the Lot or with adjacent buildings or structures.

Section 5.11. Power to Grant Variances. The Committee may allow reasonable variances or adjustments of this Supplemental Declaration where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of this Supplemental Declaration, no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots in the Development, and any such variance granted shall not be considered as precedent setting.

Section 5.12. Statement of Purposes and Powers. Subject to this Supplemental Declaration and the restrictions contained herein, the Committee shall regulate the external design, appearance, use, location and maintenance of lands and improvements thereon in such a manner as to preserve and enhance values and maintain a harmonious relationship among structures and the natural vegetation and topography, and in keeping with the intent of the Declarant.

## **ARTICLE VI CONTIGUOUS LOTS**

Section 6.01. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for one (1) Residence, such Owner must apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such Residence shall be treated as a single Lot for the purpose of applying this Supplemental Declaration to said Lots, so long as the Lots remain improved with one

(1) Residence. In addition, the Owner must obtain all requisite and necessary permits and approvals from the municipality having zoning jurisdiction over the Parcel.

**ARTICLE VII**  
**THE CLARK MEADOWS AT ANSON**  
**HOMEOWNERS ASSOCIATION, INC.**

Section 7.01. Association Powers. The Association is the applicable Supplemental Association for the Parcel under the Master Declaration and, subject to the Master Declaration, shall have such rights, powers, duties and obligations as are set forth in the Master Declaration, this Supplemental Declaration and in the Articles, including, without limitation, all rights, powers, duties and obligations described therein with respect to any Limited General Community Area designated on the Plat of the Parcel and, together with the Clark Neighborhoods Association via the budgets and recommendations provided by the Joint Committee, the Amenity Area, together with all rights, powers, duties and obligations that belong to it by law.

Section 7.02. Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and Bylaws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

Section 7.03. Classes of Members. The Association shall have a single class of Members.

Section 7.04. Voting and Other Rights of Members. The voting and other rights of Members shall be as specified in the Articles and By-Laws.

Section 7.05. Membership. Each Owner shall automatically be a Member of the Association and shall enjoy the privileges and be bound by the obligations contained in the Articles and By-Laws. If a Person would realize upon his security and become an Owner, he shall then be subject to all the requirements and limitations imposed by this Supplemental Declaration on other Owners, including those provisions with respect to the payment of Assessments.

Section 7.06. Roster of Members. Pursuant to Ind. Code §32-25.5-3-1:

(A) The Association shall maintain (1) a current roster of all members of the Association; and (2) the mailing address and legal description for each member of the Association.

(B) The Association shall also maintain any electronic mail addresses or facsimile (fax) numbers of those members who have consented to receive notice by electronic mail or facsimile (fax). Electronic mail addresses and facsimile (fax) numbers provided by a member to receive notice by electronic mail or facsimile (fax) shall be removed from the Association's records when the member revokes consent to receive notice by electronic mail or facsimile (fax). However, the Association is not liable for an erroneous disclosure of an electronic mail address or a facsimile (fax) number for receiving notices.

(C) The mailing addresses and legal descriptions maintained by the Association under Section 7.06(A):

(i) shall be made available to a member of the Association upon request;

- (ii) may be used by a member of the Association only for a purpose related to the operation of the Association;
- (iii) may not be used by a member of the Association for personal reasons.

Except as expressly provided in this Section 7.06(C), the Association may not sell, exchange, or otherwise transfer information maintained by the Association under this Section 7.06 to any person.

Section 7.07. Professional Management. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less. The Association shall at all times be managed by a professional management company.

Section 7.08. Maintenance Standards. The Association shall maintain the Limited General Community Area and the Limited Common Facilities in good condition, order and repair substantially comparable to its condition when originally constructed, installed or planted and compatible in appearance and utility with a first-class residential neighborhood. Grass, trees, shrubs and other plantings located on the Limited General Community Area for which the Association has maintenance responsibility shall be kept properly irrigated and neatly cut, cultivated or trimmed as reasonably required and otherwise maintained at all times in good and slightly condition appropriate to a first-class residential subdivision.

Section 7.09. Insurance, Taxes and Utilities. The Association shall maintain public liability and casualty insurance in prudent amounts insuring against risk of loss to the Association on account of injury to person or property and damage to property owned by the Association and shall pay all taxes assessed against such property and all utility charges incurred with respect to Limited General Community Area for which the Association has maintenance responsibility.

Section 7.10. Limitations on Action by the Association.

(A) Unless at least two-thirds (2/3) of the Mortgagees (based on one vote for each first mortgage owned) or two-thirds (2/3) of the Members have given their prior written approval, a Permitted Title Holder, the Board of Directors and the Owners may not: (i) except as authorized by Paragraph 18(a) of the Master Declaration (but subject to the limitations of Paragraph 14 of the Master Declaration), by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Limited General Community Area (but the granting of easements for public utilities or other public purposes consistent with the intended use of the Limited General Community Area shall not be deemed a transfer for the purposes of this clause); (ii) fail to maintain fire and extended coverage insurance on insurable Limited General Community Area and Limited Common Facilities on a current replacement cost basis in the amount of one hundred percent (100%) of the insurable value (based on current replacement cost); (iii) use hazard insurance proceeds for losses to any Limited General Community Area or Limited Common Facilities for other than the repair, replacement or reconstruction of the Limited General Community Area or Limited Common Facilities; or (iv) by act or omission change, waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Units, or the maintenance and upkeep of the Limited General Community Area and Limited Common Facilities.

(B) The Board and Association shall not take any action in contravention of the provisions of Ind. Code §§32-25.5-3-4 and Ind. Code § 32-25.5-3-5, as the same may be in effect from time to time.

Section 7.11. Mergers. Upon a merger or consolidation of another corporation with the Association, its properties, rights and obligations may, as provided in its articles of incorporation, by operation of law be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of another corporation may by operation of law be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Supplemental Declaration within the Parcel together with the covenants and restrictions established upon any other properties as one scheme. No merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Supplemental Declaration within the Parcel except as hereinafter provided.

## **ARTICLE VIII** **ASSESSMENTS**

Section 8.01. Creation of Personal Obligation of Assessments. Each Owner of any Lot, except the Declarant, Master Declarant, DCLP and any Builder, by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following: (a) Parcel Assessments; (b) Violation Assessments; and (c) Special Assessments.

### Section 8.02. Annual Budget.

(A) The Board of Directors shall propose an annual budget for the subsequent fiscal year which shall reflect estimated revenues and expenses of the budget year, including expenses imposed on the Association that must be met under the Master Declaration and this Supplemental Declaration, and the estimated surplus or deficit as of the end of the current budget year.

(B) The Association shall provide each Owner with: (1) a copy of the proposed annual budget; or (2) written notice that a copy of the proposed annual budget is available upon request at no charge to the Owner. At the same time, the Association shall provide each Owner with a written notice of the amount of any increase or decrease in the Annual Assessment paid by the Owners that would occur if the proposed annual budget is approved. After all of the foregoing take place, the Association shall hold a meeting pursuant to Section 8.02(C).

(C) Subject to Section 8.02(D), the Association budget must be approved at a meeting of the members by a majority of the members of the Association in attendance at a meeting called and conducted in accordance with the requirements of this Supplemental Declaration, the Articles of Incorporation and the By-Laws. For purposes of this meeting, a member is considered to be in attendance at the meeting if the member attends: (1) in person; (2) by proxy; or (3) by any other means allowed under Indiana law or under this Supplemental Declaration, the Articles of Incorporation or the By-Laws.

(D) If the number of members in attendance at the meeting held under Section 8.02(C) above does not constitute a quorum as defined in the By-Laws of the Association, the Board may adopt an annual budget for the Association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved Association annual budget.

Section 8.03. Parcel Assessments.

(A) Parcel Assessment. The Parcel Assessment provided for herein shall be per calendar year and shall commence for each Lot on the date of closing of the sale of a Lot to an Owner other than Declarant, Master Declarant, DCLP or a Builder. The Parcel Assessment, commencing during the calendar year in which the first Lot is conveyed to an Owner other than the Declarant, Master Declarant, DCLP or a Builder, shall be Seven Hundred Dollars (\$700.00) per year. The Parcel Assessment for the calendar year shall be pro-rated to year-end. The Board of Directors shall fix any increase in the amount of the Parcel Assessment at least thirty (30) days in advance of the effective date of such increase. The initial due date for annual Parcel Assessments shall be January 1<sup>st</sup> of each calendar year, and such Parcel Assessment shall be subject to collection and late charges beginning on January 31<sup>st</sup> of each calendar year.

(B) Purpose of Assessment. The Parcel Assessment levied by the Association shall be used to promote the health, safety, and welfare of the Owners of Lots and Occupants of Residences in the Parcel and for the improvement, maintenance, repair, replacement and operation of the Limited General Community Area and Limited Common Facilities and mailboxes in the Parcel and to pay (i) any costs of maintaining the General Community Area and General Common Facilities that may, pursuant to the Declaration, be allocated by the Corporation to the Association and (ii) the Association's pro rata share of the Annual Amenity Operating Costs.

(C) Basis for Assessment

(1) Lots Generally. Each Lot owned by a person other than Declarant, Master Declarant, DCLP or a Builder shall be assessed at a uniform rate without regard to whether a Residence has been constructed upon the Lot.

(2) Lots Owned by Declarant, DCLP or Builder. Declarant, Master Declarant, DCLP and any Builder shall not pay the Parcel Assessment and Special Assessment so long as any Residence constructed upon a Lot by Declarant, Master Declarant, DCLP or a Builder has not been either conveyed to an Owner intending to occupy or rent said Residence as a residence or leased to an individual or an entity for use as a Residence.

(D) Method for Assessment. By a vote of a majority of the Board of Directors, the Board of Directors shall, on the basis specified in subparagraph (B), fix the Parcel Assessment for each assessment year at an amount sufficient to meet the obligations imposed by the Master Declaration and this Supplemental Declaration upon the Association. The Board during any calendar year shall be entitled to increase the Parcel Assessment for that year if it should determine that the estimate or current Parcel Assessment is insufficient for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners. The Board of Directors shall establish the date(s) the Parcel Assessment shall become due, and the manner in which it shall be paid.

(E) Allocation of Assessment. Unless otherwise expressly provided herein, costs and expenses used to determine the Parcel Assessment shall be allocated to all Owners. If this Supplemental Declaration provides that certain of the costs of maintaining, operating, restoring or replacing the Limited General Community Area and Limited Common Facilities are to be allocated among Owners of Lots on the basis of the location of the lands and improvements constituting the Limited General Community Area and Limited Common Facilities, then the costs and expenses that are to be borne by the Owners of certain Lots shall be allocated to the Owners of such Lots.

**Section 8.04. Initial Assessment.** In addition to the Assessments under this Supplemental Declaration, upon (i) the closing of the initial conveyance of each Lot by Declarant, Master Declarant or DCLP to an Owner other than a Builder, or (ii) the sale of each Lot by a Builder (either by deed or by installment sale, conditional sale or land-contract sale), the purchaser of such Lot shall pay to the Corporation the Initial Assessment as provided in the Master Declaration.

**Section 8.05. Violation Assessment.** In addition to all other Assessments as are authorized herein, the Board of Directors may levy a Violation Assessment to an Owner, (i) to enforce against such Owner this Supplemental Declaration, (ii) for damages if any portion of the Community Area or any mailbox that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of such Owner or Owner's guest or invitee or (iii) for any other activity that is the responsibility of an Owner hereunder but which such Owner has not undertaken as required hereunder. The Violation Assessment may include the Association's legal expenses and costs of collection. In the event of such damage, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair and replacement is in the sole discretion of the Board.

**Section 8.06. Special Assessment.** The Board of Directors may, subject to any limitations pursuant to Ind. Code §§ 32-25.5-3-4 and 32-25.5-3-5, levy in any year a Special Assessment for the purposes defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain and/or for emergency expenses or operating deficits which the Association may from time to time incur, provided that after the Parcel Applicable Date any such Special Assessment shall have the assent of a majority or the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Written notices for such meetings shall be sent and voting quorums required as set forth in the By-Laws of the Association. Notwithstanding the foregoing or anything contained in this Supplemental Declaration to the contrary, but subject to any limitations pursuant to Ind. Code §§ 32-25.5-3-4 and 32-25.5-3-5, the Board of Directors may levy in any year a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvements in the Amenity Area; provided that any such Special Assessment shall have the assent of a aggregated majority or the votes of (i) the Members of the Association who are voting in person or by proxy at a meeting duly called for this purpose and, (ii) as defined in the Clark Neighborhoods Declaration, the Members of the Clark Neighborhoods Association who are voting in person or by proxy at a meeting duly called for this purpose. For an example of the foregoing voting structure, in the event that the Joint Committee recommended a special assessment be sought for the replacement of the pool liner or other capital item, both the Association and Clark Neighborhoods Association would present such special assessment recommendation and motion to their respective voting members. In the event that forty-five (45) out of one hundred (100) of the voting members of the Clark Neighborhoods Association (in person or by proxy) voted to pass the special assessment and sixty (60) out of one hundred (100) of the voting Members of the Association (in person or by proxy) voted to pass the special assessment, the matter would pass as the aggregated vote of one hundred five (105) out of the two hundred (200) votes would exceed the simple majority required. This passage of the motion would be despite the fact that the Clark Neighborhoods Association's members would have, if not for the foregoing exception related to special assessments for the Amenity Area, otherwise rejected the motion by not achieving the simple majority for a standard special assessment for other matters.

**Section 8.07. Notice and Due Date.** Written notice of Assessments and such other Assessment notices as the Board of Directors shall deem appropriate shall be delivered to every Owner subject

thereto. The due dates for all Assessments levied by the Association shall be established by the Board of Directors.

Section 8.08. Collection. All Assessments, together with interest thereon, attorneys' fees, and other costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, including reasonable attorney fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due.

Section 8.09. Effect of Nonpayment of Assessments; Lien Creation and Enforcement; Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date thereof, and any subsequent Assessment due and unpaid, shall bear interest from the due date thereof to the date actually received by the Association at the rate of twelve percent (12%) per annum, or such other rate as may hereafter be adopted by resolution of the Board of Directors, simple interest on a 365/365 basis year. If authorized by a resolution of the Board of Directors then in effect, the Association shall, with respect to a past-due Assessment, send to each Person who was the Owner of the Lot at the time when the applicable Assessment became due (an "Affected Owner"): (a) a reminder statement when the applicable Assessment is at least fifteen (15) days past due; (b) a letter demanding immediate payment of both the applicable Assessment and the interest accrued under the first sentence of this subparagraph (i) when the applicable Assessment becomes thirty (30) days past due; and (c) a second letter when the applicable Assessment and the interest accrued under the first sentence of this subparagraph (i) are not received within forty-five (45) days after the due date of such Assessment, stating that unless such Assessment and the accrued interest thereon are paid in full within fifteen (15) days from the date of the letter, the Affected Owner's account may be referred to the Association's attorney for collection, and further stating that upon this referral to the Association's attorney, the Affected Owner shall be liable to the Association for the Association's attorneys' fees and other costs, fees, and expenses incurred by the Association in enforcing such Affected Owner's obligations to the Association; provided, however, in the event that during the period that the foregoing reminder statement or demand letters are otherwise to be sent, a subsequent Assessment becomes due and payable, (x) such subsequent Assessment shall be included in any subsequent demand for payment and in the calculation of the interest due; and (y) no new or separate request or demand for payment of any such subsequent Assessment shall or need be sent. The foregoing resolution may also expressly direct the Association to refer the Affected Owner's account to the Association's attorney for collection if the series of communications described in (a)-(c) (above) prove to be unsuccessful, in whole or in part, and state a general or specific time period for doing so. If any date specified herein is, or any period specified herein expires on, a Saturday, Sunday or federal holiday, then such date or the expiration date of such period, as the case may be, shall be extended to the next succeeding business day.

Whether or not the resolution described in the immediately preceding paragraph of this subparagraph (i) is adopted by the Board of Directors and whether or not the Association complies with that resolution, in whole or in part, any Affected Owner with a past-due Assessment shall be personally obligated to the Association for the payment of (a) the applicable Assessment; (b) the interest described in, and accrued under, the first sentence of this subparagraph (i); (c) all attorneys' fees (including paralegal fees) incurred by the Association in enforcing such Affected Owner's personal obligations hereunder or enforcing the charge on the land described hereinbelow, whether incurred before litigation is commenced, during litigation, or on appeal; (d) such other and further collection costs and expenses incurred by the Association in enforcing such Affected Owner's personal obligations hereunder or enforcing the charge on the land described hereinbelow (exclusive of court costs); and (e) court costs incurred by the Association (including on appeal) if and when awarded by the court.

All Assessments together with the interest, fees, charges, costs and expenses described in the immediately preceding paragraph of this Section 8.09 (under the terms and conditions specified therein) shall also be a charge on the land, from the date assessed, due, accrued, incurred, or awarded, as applicable, and shall be a continuing lien upon the Lot against which the applicable Assessment is made until paid in full. Notwithstanding anything contained in this Section 8.09 possibly to the contrary, the Board of Directors, by vote of a majority of the Directors, or appropriate officers of the Association acting pursuant to authority granted by a vote of a majority of the Directors, which authority may be general or specific, shall be empowered, for good cause shown and in appropriate circumstance, to waive or forego interest and other fees, costs, and expenses otherwise due the Association hereunder or becoming a lien upon a Lot; provided, however, the fact that interest or other fees, costs, and expenses otherwise due the Association or becoming a lien upon a Lot may be or have been waived or foregone in a similar or analogous instance or case may not be used as a defense to an action for the collection thereof or lien enforcement in connection therewith and such defense shall be deemed waived by each and all Owners.

If the Association has provided for collection of any Assessment in installments, upon default in the payment of any one or more installments, the Association may accelerate payment and declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of any Community Area, including the Limited General Community Area, or any Common Facilities or abandonment of his Lot.

Without limiting the foregoing, and notwithstanding anything herein to the contrary, the Association may, pursuant to and in compliance with Ind. Code §§ 32-28-14-1 *et seq.*, record notice of a lien for any unpaid Assessments and, to the extent permitted by law, the interest, fees, charges, costs and expenses described in this Section 8.09, it being intended that such interest, fees, charges, costs and expenses shall be considered part of the "common expenses," as that term is defined in Ind. Code § 32-28-14-1 of Clark Meadows at Anson. The grantee of any Owner whose Lot is subject to a recorded notice of lien for such amounts shall be liable for such unpaid Assessments and other amounts to the extent provided by Ind. Code § 32-28-14-7.

Section 8.10. Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board of Directors shall have the right to suspend the voting rights, if any, and the services to be provided by the Association, together with the right to use the Limited General Community Areas of any member:

(A) for any period during which any of the Assessments remains unpaid for more than six (6) months;

(B) any fines/fees assessed under this Supplemental Declaration owed by such member remains unpaid;

(C) during the period of any continuing violation of this Supplemental Declaration other than with respect to the payment of Assessment; and

(D) during the period of any violation of the Articles of Incorporation, By-Laws, or regulations of the Association.

Section 8.11. Certificates. The Association shall, upon reasonable request by an Owner, at any time, furnish a letter in writing signed by an officer of the Association, indicating the accounting status of Assessments on a Lot showing the balance due the Association, if any.

Section 8.12. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the lien of Assessments levied under this Article VIII. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of such Assessments which became due or are attributable to the period of time prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

## ARTICLE IX AMENITY AREA

Section 9.01. Amenity Area. On or before the date specified in an agreement between Declarant and Master Declarant, Declarant intends to construct in the area designated on the Land Plan as the Amenity Area (provided the same has not been taken by eminent domain or deed-in-lieu thereof, and such is not prohibited by any governmental restriction with respect thereto) a bath house (but not a community building), swimming pool, tennis courts, basketball courts and other recreational and community facilities of type and size determined by Declarant, in its sole and unfettered judgment. Not later than the Parcel Applicable Date, Declarant shall convey the same to the Association free and clear of all financial encumbrances and other liens securing indebtedness of Declarant but subject to the right of Declarant to use the Amenity Area as provided in Article XIV. The Association shall be responsible for maintenance of the Amenity Area, with the Annual Amenity Operating Costs being paid from the sum of the Association's pro rata share of the Annual Amenity Operating Costs and the Annual Amenity Assessment against the Clark Neighborhoods Association. The Board of Directors may adopt such rules and regulations with respect to the use of the Amenity Area as it deems appropriate and may charge reasonable fees for the use thereof, but no rule, regulation or charge shall be inconsistent with the provisions of the Master Declaration or any Supplemental Declaration. Only Owners, as defined in Section 1.20 of this Supplement Declaration, along with their guests and invitees, and the Owners (as defined in the Master Declaration) of Residential Lots in Clark Neighborhoods, along with their guests and invitees, on the terms and conditions set forth in Section 9.02 below, shall be allowed to use the Amenity Area.

Section 9.02. Use of Amenity Area by Residents of Clark Neighborhoods. On the terms and conditions set forth below in this Section 9.02, the Owners of Residential Lots in Clark Neighborhoods, along with their guests and invitees, shall be allowed to use the Amenity Area.

- (1) The use and enjoyment of the Amenity Area by the Owners of Residential Lots in Clark Neighborhoods and their guests and invitees shall be conditioned upon the payment, by the Clark Neighborhoods Association to the Association, of the Annual Amenity Assessment.
- (2) The Annual Amenity Assessment shall be timely paid by the Clark Neighborhoods Association to the Association on or before the 30<sup>th</sup> day of April of each calendar year and, absent receipt of such payment, in full, the Association may, in the sole discretion of the Board, (i) suspend the right of any and all residents of Clark Neighborhoods, along with their guests and invitees, to use the Amenity Area and/or (ii) make the Amenity Area available only to those residents of Clark Neighborhoods, along with their guests and invitees, who make payments to the Association in amounts and times as determined by the Board in its sole discretion.

- (3) The use of the Amenity Area by the Owners of Residential Lots in Clark Neighborhoods, and their guests and invitees, shall be per the terms of uniform rules and regulations promulgated by the Association, in its sole discretion, which rules shall uniformly apply to both Clark Meadows and Clark Neighborhoods, may limit the number of guests and invitees and may, from time to time, be amended by the Board in its sole discretion.

#### **ARTICLE X** **REMEDIES**

**Section 10.01. Delay or Failure to Enforce.** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of covenants, conditions, and restrictions in this Supplemental Declaration shall be held to be a waiver by that party or an estoppel of that party of any right available to such party upon the occurrence, reoccurrence or continuation of such violation or violations of this Supplemental Declaration.

**Section 10.02. In General.** The Association or any party to whose benefit this Supplemental Declaration inures, including the Declarant and/or any Owner, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, or to compel compliance with these Restrictions and Covenants, and shall be entitled to recover costs of collection and reasonable attorney's fees; however, the Declarant, Master Declarant, DCLP and the Association shall not be liable for damages of any kind to any person for failing either to abide by, enforce, or carry out any terms, conditions, or restrictions contained in this Supplemental Declaration. Except with respect to Exempt Claims (as hereafter defined), enforcement of these Restrictions and Covenants is subject to the Grievance Resolution Procedures set forth in Article XVI of this Supplemental Declaration.

#### **ARTICLE XI** **EFFECT ON BECOMING AN OWNER**

**Section 11.01. In General.** The Owner(s) of any Lot subject to this Supplemental Declaration, by acceptance of a deed conveying title thereto, or by virtue of the execution of a contract for the purchase thereof, whether from Declarant, Master Declarant, DCLP, a Builder, or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every covenant, condition, and restrictions contained in this Supplemental Declaration and in the Master Declaration. By acceptance of such deed or execution of such contract each Owner acknowledges the rights and powers of the Declarant, Committee, and Association contained in this Supplemental Declaration, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owner(s) covenant and agree and consent to and with the Declarant, Committee and the Association and to and with the other Owners and subsequent Owners of each of the Lots affected by this Supplemental Declaration to keep, observe, comply with and perform such covenants, conditions, and restrictions contained in this Supplemental Declaration.

**Section 11.02. Transmission Facilities.** Radio and/or other communications transmission facilities (the "Transmission Facilities") are located near the Property. The Transmission Facilities produce radio and/or other communications transmissions that may interfere with and degrade the performance of electronic devices, including, without limitation, television and radio equipment. Each Owner, Occupant and Mortgagee by virtue of accepting an interest in or otherwise occupying a Residence shall be deemed to consent to the Transmission Facilities, shall not object to or remonstrate against the Transmission Facilities or operations related thereto conducted in conformity with

applicable law, and shall be deemed to release Declarant, Master Declarant, DCLP, the owners and operators of the Transmission Facilities and their respective successors and assigns from any and all claims, liabilities or obligations with respect to the Transmission Facilities and operations therefrom.

#### **ARTICLE XII** **TITLES**

The titles preceding the various Sections and paragraphs of this Supplemental Declaration are for convenience of reference only and none of them shall be used as an aid to the construction of any provisions of this Supplemental Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

#### **ARTICLE XIII** **SEVERABILITY**

Invalidation of any one of the covenants, restrictions or provisions contained in this Supplemental Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

#### **ARTICLE XIV** **DECLARANT'S RIGHTS**

Section 14.01. Transfer. Any and all of the rights and obligations of the Declarant set forth in this Supplemental Declaration may be transferred, in whole or in part, to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Supplemental Declaration. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded with the Recorder of Boone County, Indiana.

Section 14.02. Development of the Parcel. Nothing in this Supplemental Declaration shall be construed in a manner that limits or restricts the Declarant and/or any Builders in their development of the Parcel and construction of residences thereon. Therefore, notwithstanding anything herein to the contrary, the Declarant and/or any Builders authorized by Declarant may maintain and carry upon portions of the Limited General Community Area, and other portions of the Parcel and Lots owned by the Declarant, Master Declarant or DCLP, such facilities and activities as, in the sole opinion of the Declarant may be reasonably required, convenient, or incidental to the construction or sale of Residences including, but not limited to, business offices, signs, model units, sales offices, and sales trailers.

Section 14.03. No Liability for Shortfalls. Notwithstanding anything in this Supplemental Declaration to the contrary, Declarant, Master Declarant and DCLP shall not be responsible for any shortfall or deficiency of funds of the Association necessary to discharge its obligations under this Supplemental Declaration or its By-Laws. Each Owner, by acquiring title to a Lot, acknowledges that the Declarant may, but is no way obligated to, voluntarily fund all or any portion of a shortfall or deficit of the Association. Should Declarant voluntarily fund all or any portion of a shortfall or deficit, such funding shall not obligate Declarant to fund any future shortfalls or deficits.

## ARTICLE XV MORTGAGES

Section 15.01. Notice to Association. Any Owner who places a first mortgage lien upon a Lot or Residence, or the Mortgagee may notify the Secretary of the Board of Directors of such mortgage and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Supplemental Declaration, the Articles or the By-Laws (collectively, the "Organizational Documents") shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Organizational Documents shall be required and no Mortgagee shall be entitled to vote by virtue of the Organizational Documents or a proxy granted to such Mortgagee in connection with the mortgage.

Section 15.02. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under subparagraph (a) above notice of any of the following:

- (i) Any condemnation or casualty loss that affects a material portion of the Limited General Community Area;
- (ii) Any delinquency in the payment of any Assessment owed to the Association by the Owner of any Lot or Residence on which said Mortgagee holds a mortgage or any default by an Owner under the Organizational Documents, if said delinquency or default continues for more than sixty (60) days;
- (iii) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (iv) Any proposed action that requires the consent of a specified percentage of Mortgagees hereunder; and,
- (v) Any proposed amendment of the Organizational Documents effecting a change in (A) the interests in the Limited General Community Area appertaining to any Lot or the liability for Maintenance Costs appertaining thereto, (B) the vote appertaining to a Lot or (C) the purposes for which any Lot or the Limited General Community Area are restricted.

Section 15.03. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Assessments owed to the Association against the Lot and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments for periods prior to such statement in excess of the amount set forth in such statement.

Section 15.04. Financial Statements. Upon the request of any Mortgagee, the Association shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association.

**Section 15.05. Payments by Mortgagees.** Any Mortgagee may (i) pay taxes or other charges that are in default and that may or have become a lien upon the Limited General Community Area or any part thereof and (ii) pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Limited Community Area in case of a lapse of a policy. A Mortgagee making such payments shall be entitled to immediate reimbursement from the Association.

**ARTICLE XVI**  
**GRIEVANCE RESOLUTION PROCEDURES**

**Section 16.01. General; Definitions.** The Association, the Declarant, the Owners, the Board of Directors, and all persons subject to this Declaration (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving Clark Meadows at Anson and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that the grievance resolution procedures set forth in this Article XVI apply to all Claims as hereafter defined. As used in this Article XVI only, the following words, when capitalized, have the following specified meanings:

(A) "Claim" means any claim, grievance, or dispute between Parties involving the Development, except Exempt Claims (as defined below). "Claims" include, without limitation:

(i) Claims arising out of or relating to the interpretation, application, or enforcement of the Covenants.

(ii) Claims relating the rights and/or duties of Association, the Declarant, or the Board of Directors under this Supplemental Declaration.

(iii) Claims relating to the maintenance of the Development.

(B) "Claimant" means any Party having a Claim against any other Party.

(C) "Exempt Claims" means the following claims or actions, which are exempt from this Article XVI (unless the Party having the Exempt Claim elects not to treat it as exempt from this Article XVI):

(i) The Association's claim for Assessments and any action by the Association to collect Assessments.

(ii) An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief to maintain the status quo and preserve the Party's ability to enforce the provisions of this Supplemental Declaration.

(iii) Enforcement of the easements, architectural control, maintenance, and use restrictions of this Supplemental Declaration.

(iv) A suit to which an applicable statute of limitations would expire within the notice period of this Article XVI, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article XVI.

(v) A dispute that is subject to alternate dispute resolution – such as mediation or arbitration – by the terms of applicable law or another instrument, such as a contract or warranty agreement, in which case the dispute is exempt from this Article XVI, unless the Parties agree to have the dispute governed by this Article XVI.

(D) “Respondent” means the Party against whom the Claimant has a Claim.

Section 16.02. Mandatory Procedures. Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article XVI.

Section 16.03. Notice. Claimant must notify Respondent in writing of the Claim (the “Claim Notice”), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (2) the basis of the Claim (i.e., the provision of this Supplemental Declaration or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Claim Notice is given pursuant to this Article XVI.

Section 16.04. Negotiation. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 30 days after Respondent’s receipt of the Claim Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent’s representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent’s representatives and agents with full access to the property to take and complete corrective action.

Section 16.05. Mediation. If the parties negotiate but do not resolve the Claim through negotiation within 60 days from the date of the Claim Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30 day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

Section 16.06. Termination of Mediation. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit.

Section 16.07. Allocation of Costs. Except as otherwise provided in this Article XVI, each Party bears all of its own costs incurred prior to and during the proceedings described in the Claim Notice, Negotiation, and Mediation Sections above, including its attorney’s fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

Section 16.08. Enforcement of Resolution. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit to enforce the agreement. In that event, the Party taking action to enforce the agreement is entitled to recover from the noncomplying

Party all costs incurred in enforcing the agreement, including without limitation, attorney's fees and court costs.

Section 16.09. General Provisions. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

Section 16.10. Settlement Authority. The Board on behalf of the Association and without consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related hereto, such as settlement agreements and waiver or release of claims.

#### **ARTICLE XVII NON-LIABILITY OF DECLARANT**

Declarant shall not have any liability to an Owner or to any other Person with respect to any Pond or any drainage on, over or under a Lot. Such drainage shall be the responsibility of the Owner of the Lot upon which a Residence is constructed and of the builder of such Residence and an Owner, by an acceptance of a deed to a Lot, shall be deemed to agree to indemnify and hold Declarant free and harmless from and against any and all liability arising from, related to, or in connection with drainage on, over and under the Lot described in such deed. Declarant shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Declarant, and no duty of, or warranty by, Declarant shall be implied by or inferred from any term or provision of this Supplemental Declaration. Any Owner or other person or entity asserting a claim against Declarant with respect to any matter to which Declarant has disclaimed liability or which by the terms of this Supplemental Declaration Declarant has no liability shall be personally liable to Declarant for all costs and expenses incurred by Declarant in defending against such claims, including attorneys' fees, paralegal fees and all court costs, including on appeal.

#### **ARTICLE XVIII AMENDMENT TO THIS DECLARATION**

Section 18.01. Generally. This Supplemental Declaration may be amended at any time by an instrument signed by (i) the appropriate officers of the Association acting pursuant to authority granted by (A) not less than two-thirds (2/3) of the votes of the Members cast at a meeting duly called for the purpose of amending this Supplemental Declaration and (B) a majority of the Directors of the Corporation and (ii) to the extent required by Paragraph 24 of the Master Declaration, Declarant.

Section 18.02. By Declarant. This Supplemental Declaration may be amended at any time prior to the Parcel Applicable Date by Declarant in the same manner provided in Paragraph 26 of the Master Declaration.

Section 18.03. Limitations on Amendments. The right to amend this Supplemental Declaration is subject to the same limitations as are specified in subparagraphs (c) and (d) of Paragraph 26 of the Master Declaration.

Section 18.04. Additional Limitations on Amendments. Notwithstanding anything contained herein to the contrary or otherwise set forth in the Master Declaration, but without limited Sections 9.02(1) and 9.02(3) hereof, neither the Declarant nor the Association may amend Section 9.02 of this Supplemental Declaration to reduce or eliminate the use and enjoyment of the Amenity Area by residents of Clark Neighborhoods and their guests and invitees or to reduce or otherwise affect the



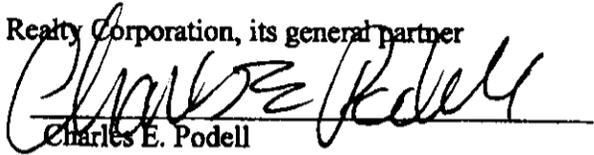
**CONSENT TO SUPPLEMENTAL DECLARATION OF COVENANTS AND  
RESTRICTIONS OF  
CLARK MEADOWS AT ANSON**

Duke Realty Limited Partnership, an Indiana limited partnership, ("Master Declarant"), pursuant to Paragraphs 3 and 33 of the Master Declaration, does hereby consent on behalf of itself, its successors and assigns, to the foregoing Supplemental Declaration of Covenants and Restrictions, and in doing so has exercised its right under Paragraph 3 of the Master Declaration to bring the Parcel within the scheme of the Master Declaration add the Parcel to the Property.

DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership

By: Duke Realty Corporation, its general partner

By:

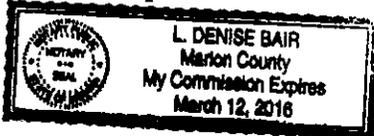
  
Charles E. Podell  
Senior Vice President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public in and for said County and State, personally appeared Charles E. Podell by me known and by me known to be Senior Vice President of Duke Realty Corporation, an Indiana corporation, the general partner of Duke Realty Limited Partnership, an Indiana limited partnership, who acknowledged the execution of the foregoing Consent to Supplemental Declaration of Covenants and Restrictions of Clark Meadows at Anson on behalf of said partnership.

Witness my hand and Notarial Seal this 27 day of June, 2013.

My Commission Expires: L. Denise Bair  
(Signature)  
Notary Public Residing in Marion County, Indiana  
L. Denise Bair  
(Printed Name)



I affirm, under the penalties of perjury that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

David R. Warshauer

This instrument prepared by David R. Warshauer, Attorney-at-Law  
Barnes & Thornburg, 11 South Meridian Street, Indianapolis, Indiana 46204.

**EXHIBIT A**

## Legal Description of the Real Estate

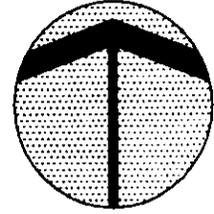
A part of the Northwest and Southwest Quarters of Section 31, Township 18 North, Range 2 East, in Eagle Township, Boone County, Indiana being more particularly described as follows:

BEGINNING at the Southeast corner of said Northwest Quarter Section; thence North 00 degrees 24 minutes 14 seconds East (the basis of bearing is the Indiana West Zone NAD 83 State Plane Coordinate System) a distance of 131.20 feet; thence South 88 degrees 15 minutes 27 seconds West a distance of 1087.52 feet; thence South 01 degrees 44 minutes 33 seconds East a distance of 194.92 feet; thence North 88 degrees 15 minutes 27 seconds East a distance of 10.29 feet; thence South 01 degrees 44 minutes 33 seconds East a distance of 130.00 feet; thence South 09 degrees 43 minutes 25 seconds East a distance of 665.13 feet; thence South 85 degrees 37 minutes 21 seconds East a distance of 419.17 feet; thence South 00 degrees 21 minutes 44 seconds West a distance of 71.54 feet; thence South 89 degrees 37 minutes 32 seconds East a distance of 528.97 feet to the East line of said Southwest Quarter; thence North 00 degrees 24 minutes 48 seconds East along the East line thereof a distance of 988.92 feet to the POINT OF BEGINNING. Containing 25.000 acres, more or less.

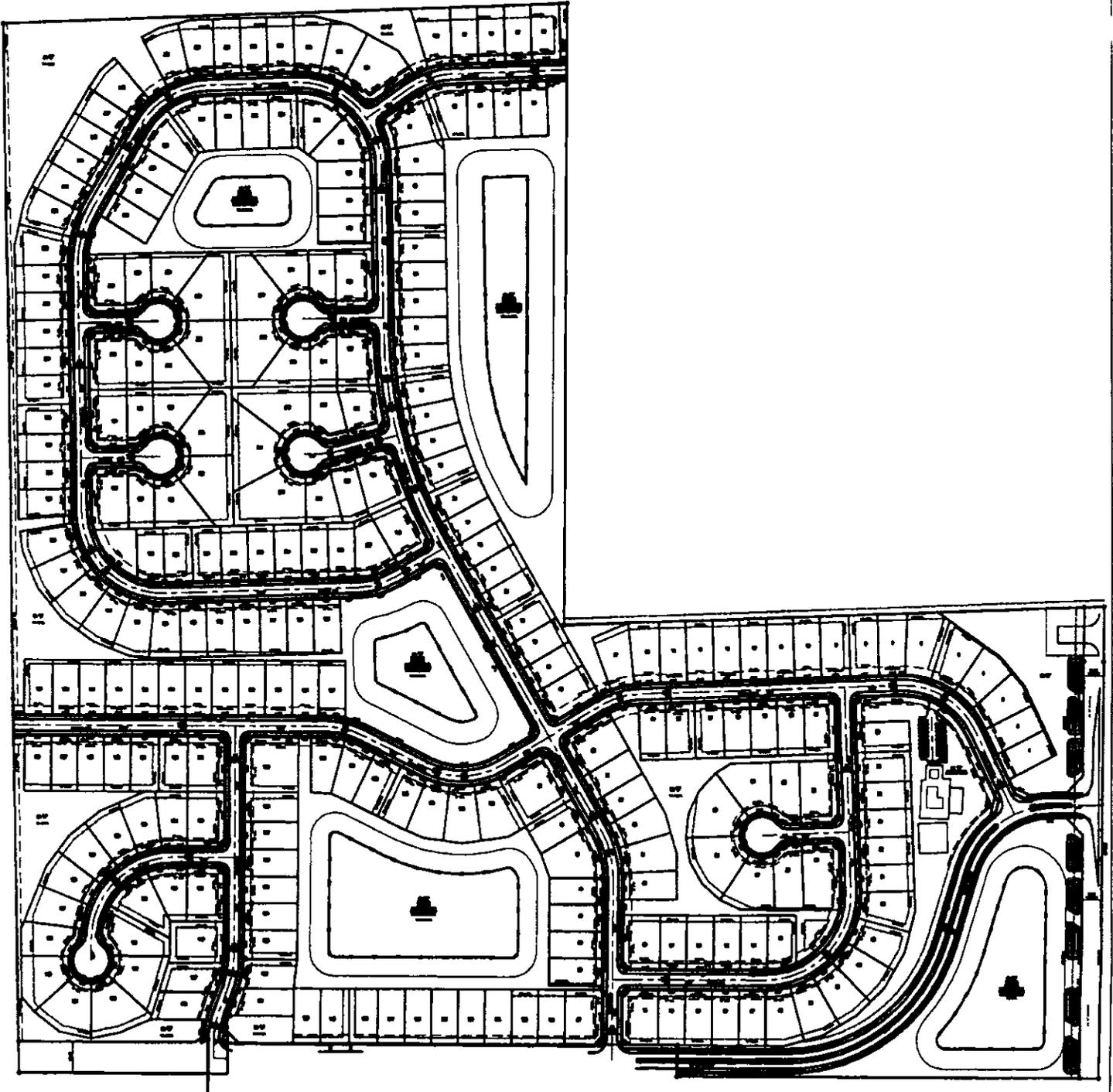
A portion of: 021-02730-00/ 06-08-31-000-004.000-021 and  
Tax Parcels 021-02720-00/ 06-08-31-000-003.000-021 and  
021-02720-06/ 06-08-31-000-003.003-021

# EXHIBIT "B"

Instrument 201300008124 PG 35 OF 35



Assumed North



## LAND PLAN