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*Gay L. Mowery*

THIS INSTRUMENT PREPARED BY:  
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DEARBORN & EWING, ATTORNEYS  
SUITE 1200, ONE COMMERCE PLACE  
NASHVILLE, TENNESSEE 37239

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CROSS REFERENCE

CROSS REFERENCE

DECLARATION ESTABLISHING  
COUNTRYBROOK NORTH CONDOMINIUM

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THIS Declaration, made as of the 31st day of May, 1985, by  
SEC Realty Corp., a Tennessee corporation, qualified to do business  
in Indiana, hereinafter referred to as "Declarant", for itself, its  
successors, grantees, and assigns,

W I T N E S S E T H:

1. SUBMISSION TO CONDOMINIUM OWNERSHIP.

(a) The purpose of this Declaration is to submit the  
land hereinafter described in Exhibit A, and the improvements con-  
structed thereon, to the condominium form of ownership and use, in the  
manner provided under the provisions of the Indiana Code Section  
32-1-6-1, et seq., as amended, known as "The Horizontal Property Law",  
which may hereinafter be referred to as the "Condominium Act".

(b) The name by which this condominium is to be identi-  
fied is "Countrybrook North Condominium", hereinafter called the  
"Condominium".

(c) The address of the Condominium is 7348 Countrybrook  
Drive, Indianapolis, Indiana 46260.

(d) The land, which is hereby submitted to the condo-  
minium form of ownership, is fully described in Exhibit A hereto,  
which, by reference, is made a part hereof as fully as if copied here-  
in. The improvements located on such land include, but are not  
limited to, twenty-two (22) two-story apartment buildings containing  
one hundred fifty-six (156) residential condominium units, office,  
one-story clubhouse, swimming pool, tennis courts, laundries, side-  
walks, paved parking areas, driveways, carports, and landscaping im-  
provements. This land as more particularly described in Exhibit A  
shall hereinafter be referred to as the "Land".

RECEIVED FOR RECORD  
SEAL CLAUDE W. HARRIS  
OFFICER - INDIAN CO.  
JUN 5 3 58 PM '85

(e) The description and identification of the Units are shown on the Plans of Countrybrook North Condominium, hereinafter referred to as the "Plans", recorded as of May 31, 1985, as Instrument No. 85-44910, in the Recorder's Office for Marion County, Indiana, and which Plans are incorporated by reference herein.

2. DEFINITIONS.

The terms used herein and in the By-Laws, which are attached hereto as Exhibit B, shall have the meanings stated in the Condominium Act, and as follows:

(a) Apartment Building means one of the twenty-two (22) buildings containing the Units.

(b) Assessment means a share of the funds required for the payment of expenses and charges which from time to time may be assessed against each Unit Owner with respect to each Unit.

(c) Association means Countrybrook North Condominium Association, Inc., an Indiana corporation, not for profit, being the entity responsible for the operation of the Condominium and its successors. A copy of the By-Laws of the Association is attached hereto, and made a part hereof as Exhibit B.

(d) Common Elements means all of the real property, improvements, and facilities of the Condominium, other than the Units, as the same are hereinafter defined.

(e) Common Expenses means the following:

- (1) Expenses of administration of the Condominium;
- (2) Expenses of maintenance, operation, repair, or replacement of the Common Elements and Limited Common Elements;
- (3) Expense of Utility Services;
- (4) Expenses declared Common Expenses by provisions of this Declaration or by the By-Laws; and
- (5) Any valid charge against the Condominium as a whole.

(f) Declarant means SEC Realty Corp., its successors and assigns, provided such successors and assigns are designated in writing by Declarant as a successor or assign of the rights of Declarant set forth herein.

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(g) Limited Common Elements means a portion of the Common Elements allocated by this Declaration for the exclusive use of one or more but fewer than all the Units.

(h) Unit shall mean the fee simple estate within an Apartment Building, as such area is identified, located and described on the Plans and as hereinafter set forth.

(1) The boundaries of each Unit shall be as follows:

(i) The upper boundary shall be its highest ceiling,

(ii) The lower boundary shall be the upper unfinished surface of its floor (i.e. that surface directly beneath the carpeting, hardwood floors or other floor covering),

(iii) The vertical boundaries (measuring the horizontal area of a Unit) shall be the perimeter walls.

(2) Notwithstanding the definition of the boundaries of a Unit contained in subparagraph (1) above, in order to more precisely define the boundaries of a Unit, the following shall govern in determining whether an item is part of the Unit, a Limited Common Element, or a portion of the Common Elements:

(i) all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, carpet, windows, exterior doors, finished flooring and any other materials constituting any part of the finished surfaces of the upper, lower and vertical boundaries, are part of the Unit, and all other portions of the walls, floors, or ceilings constituting part of such boundaries are a part of the Common Elements.

(ii) If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

(iii) Subject to the provisions of the immediately preceding subparagraph (ii), all spaces, interior partitions,

and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(iv) All air conditioning and heating equipment, patios, wooden privacy fencing enclosing the patios, screens, storm doors, patio screen doors, storage buildings, and all other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

(i) Unit Owner means the person or persons holding title in fee simple to a Unit.

(j) Utility Services shall include, but not be limited to, water, sewer, garbage collection, gas required to operate the laundry room and certain exterior lights, electricity required to operate lights and other elements deemed to be Common Elements by this Declaration, and other utility services provided the Condominium as a whole.

### 3. OWNERSHIP OF COMMON ELEMENTS AND COMMON EXPENSE LIABILITY.

TY.

(a) Each Unit Owner shall own a share in the Common Elements, and shall be liable for payment of the percentage of Common Expenses equal to the percentage of the undivided interest in the Common Elements appertaining to each Unit as set forth in Exhibit A-1 attached hereto and by reference incorporated herein; provided, however, that the Common Expenses incurred with respect to a Limited Common Element shall be paid by the owners of the Unit or Units to which such Limited Common Element was assigned at the time the expense was incurred as provided in Paragraph 7 of this Declaration. The calculation of each Unit Owners percentage of the undivided interest in the Common Elements shall be based on the value of each Unit in relation to the value of all Units in the condominium.

(b) Any conveyance of an individual Unit shall be deemed to also convey the undivided interest of the Unit Owner in the Common Elements and Limited Common Elements appertaining to such Unit even if such conveyance does not specifically refer to such undivided interest.

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4. MAINTENANCE AND ALTERATION OF UNITS.

(a) The maintenance and repair of the Unit shall be the responsibility and expense of the Unit Owner, except as follows:

(1) The Association at its own expense shall repair those portions of a Unit which sustain water damage, the primary cause of which is not the negligence of the occupants or Unit Owner of such Unit, nor the result of water leakage from the water heater or other appliance or fixture located in such Unit.

(2) The Association at its own expense shall clean the exterior surfaces of the windows at such intervals as determined appropriate by the Association.

(3) The Association at its own expense shall paint or otherwise maintain the exterior surface of the exterior doors at such intervals as determined appropriate by the Association.

(b) The Unit Owner shall not make any changes, decorations or alterations of his Unit that would affect the exterior appearance of any portion of the Apartment Building. Unit Owners shall not decorate the glass windows serving their Units or otherwise change the appearance of the windows as viewed from the exterior of the Unit, except for drapes or curtains which must comply with the rules and regulations adopted by the Association.

(c) The Unit Owner shall promptly report in writing to the Association any defect or need for repairs, the responsibility for which is that of the Association.

(d) In replacing those portions of a Unit which affect the exterior appearance of any portion of the Apartment Building, the Unit Owner shall use components of the same color, grade and style as those originally in place, unless permission is otherwise obtained from the Association.

(e) Except as reserved herein to the Declarant, neither a Unit Owner nor the Association shall make any alteration in the portions of a Unit or the Condominium which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, without first obtaining approval in writing of the owners of all Units in which such work is to be done, and the written approval

of the Board of Directors of the Association. A copy of plans for all of such work prepared by an architect, licensed to practice in this state, shall be filed with the Association prior to the start of the work, unless such requirement is waived in writing by the Directors of the Association. The time of performance of such work must be approved, in advance, by the Directors of the Association, or their agent.

(f) If the Board determines that any alteration or structural change proposed by a Unit Owner would jeopardize the soundness or safety of the Condominium, reduce the value thereof or impair any easement or hereditament then such Unit Owner must obtain the unanimous consent of all other Unit Owners prior to making any such alteration or structural change.

(g) If a Unit Owner fails to maintain and repair his Unit as required herein, the Association may perform such maintenance or repair and assess the Unit Owner for all expenses incurred, together with up to a twenty percent (20%) service charge for the Association's services.

5. MAINTENANCE AND ALTERATION OF COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

(a) The maintenance, operation and repair of the Common Elements shall be the responsibility and the expense of the Association.

(b) The maintenance, operation and repair of the Limited Common Elements shall be the responsibility of the Association. The expense of such maintenance, operation and repair shall be a Common Expense initially paid for by the Association but assessed back against the Unit Owners as provided for in Paragraph 7 of this Declaration, except as follows:

(1) Unit Owners shall have the responsibility and bear the expense of maintaining and repairing all air conditioning and heating equipment serving their Units, whether such equipment is located inside or outside their Unit's boundaries.

(2) Unit Owners shall have the responsibility and bear the expense of maintenance, repair and replacement of all window screens, patio screen doors, and storm doors serving their Units.

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(3) Unit Owners shall maintain their patios in an orderly and clean condition. All structural repair or replacement of patios shall be the responsibility and expense of the Association. Repair and maintenance of the wooden privacy fences enclosing the patios shall be the responsibility and expense of the Association.

(4) Unit Owners shall have the responsibility and bear the expense of maintenance and repair of that portion of the fireplace lying within the boundaries of their Unit. The Association shall be responsible for cleaning the flue, which cost shall be assessed back against the Unit Owner.

(5) Repair and maintenance of the storage buildings located at the rear of each Unit shall be the responsibility and expense of the Association.

(c) Unit Owners shall not make any changes, decorations or alterations of patios or any other Limited Common Element allocated to their Unit which would affect the exterior appearance of any portion of the Apartment Building.

(d) If a Unit Owner fails to maintain and repair any Limited Common Element allocated to his Unit as required herein, the Association may perform such maintenance or repair and assess the Unit Owner for all expenses incurred, together with up to a twenty percent (20%) service charge for the Association's services.

(e) Except as reserved herein by Declarant, there shall be no material alteration or substantial further improvement of the Common Elements without prior approval in writing by the owners of not less than two thirds (2/3) of the votes of the Association, except as provided by the By-Laws, and any such alteration or improvement, if undertaken, shall not interfere with the rights of any mortgagee or Unit Owner. The shares of any cost of such alteration or improvement shall be assessed to the Unit Owners in accordance with their interest in the Common Elements. There shall be no change in the shares and rights of a Unit Owner in the Common Elements which are altered or further improved.

(f) If the Board determines that any alteration or structural change proposed by the Association which would jeopardize

the soundness or safety of the Condominium, reduce the value thereof or impair any easement or hereditament the Association must obtain the unanimous consent of all Unit Owners prior to making any such alteration or structural change.

6. CHART OF IDENTIFICATION OF CONDOMINIUM COMPONENTS AND ALLOCATION OF MAINTENANCE RESPONSIBILITY AND EXPENSE.

The Chart of Identification of Condominium Components and Allocation of Maintenance Responsibility and Expense attached hereto as Exhibit A-2 provides for the following:

(a) identification of the components of Units, Limited Common Elements and Common Elements;

(b) allocation of maintenance responsibility for such components; and

(c) designation of the party responsible for the expense of maintenance of such components. The chart is merely illustrative and is not intended as an exclusive identification of condominium components or allocation of maintenance responsibility and expense. It does not affect other identifications or maintenance and expense allocations made by this Declaration or the By-laws.

7. ASSESSMENTS.

(a) Assessments against Unit Owners for Common Expenses shall be made pursuant to the By-Laws and shall be allocated as set forth in Paragraph 3 of this Declaration. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element, however, shall be assessed in equal shares against the Units to which that Limited Common Element was assigned at the time the expense was incurred, except as otherwise provided in Paragraph 5 of this Declaration.

(b) Assessments, and installments thereon, paid on or before fifteen days after the date when due shall not bear interest, but all sums not paid on or before fifteen days after the date when due shall bear interest at the rate of fifteen percent per annum or at such other rate of interest determined by the Association not to exceed the maximum rate allowed under applicable laws and shall be

subject to a \$15.00 late charge or such other late charge amount as may be adopted by the Association. All payments upon account shall be first applied to late charges, then interest and then to the assessment payment first due.

(c) The Association shall have a lien for unpaid assessments as provided by the Condominium Act and this Declaration. Such lien shall also secure reasonable attorney's fees and all costs of collection incurred by the Association incident to the collection of such assessment or enforcement of such lien.

(d) In any foreclosure of a lien for assessments, the Unit Owner of the Unit subject to the lien shall be required to pay a reasonable rental for the Unit after foreclosure proceedings are commenced, and the Association shall be entitled to the appointment of a receiver to collect such rental.

(e) The Unit Owner and his grantees shall be jointly and severally liable for all unpaid assessments due and payable at the time of a conveyance, but without prejudice to the rights of the grantees to recover from the grantor the amounts paid by the grantee for delinquent assessments. Such liability may not be avoided by a waiver of the use of any Common Element or by the abandonment of the Unit. Any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set out in the statement. The Association shall have the right to sue for and collect any such unpaid assessments, to foreclose upon the lien securing the assessments or to institute any other competent proceeding. In any event, the Association shall be entitled to recover all delinquent payments, together with late charges, interest, and all costs of collection, including reasonable attorneys' fees.

(f) A purchaser of a Unit at a foreclosure sale upon a first mortgage shall be liable only for assessments coming due after such sale and for the portion of due assessments prorated for the period after the date of such sale.

8. EASEMENTS.

Easements are hereby granted as follows:

(a) The following easements are granted to the Association for the following purposes:

(1) Easements through or over the Units and any Limited Common Element allocated to any Unit for conduits, ducts, plumbing, wiring and other facilities for the furnishing or repair of utility service to Units, Limited Common Elements or Common Elements;

(2) Easements through or over the Units and any Limited Common Element allocated to any Unit for the purpose of maintaining or repairing any portion of the Common Elements, Limited Common Elements or any Unit. All incidental damage caused to a Unit by such maintenance or repair work shall be promptly repaired at the expense of the Association;

(3) Easements of support in every portion of a Unit which contributes to the support of the Apartment Building, including easements for access to and repair of such elements of support;

(4) Easements for encroachments of any portion of the Common Elements upon the boundary of any Unit whether caused by the settlement of the Apartment Building or by minor inaccuracies in the Plans of the Condominium, or rebuilding of any part of the Apartment Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

(b) As an appurtenance to each Unit, easements are granted to the Unit Owners for encroachments by any portion of the boundaries of each Unit upon the Common Elements, whether caused by the settlement of the Apartment Building or by minor inaccuracies in the Plans of the Condominium, or rebuilding of any part of the Apartment Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

(c) Easements are reserved to Declarant, its agents and invitees to the extent necessary, as determined by Declarant, to: (1)

enable Declarant to carry on any sale or leasing activity, as more specifically provided for in Paragraph 16 of this Declaration, and (ii) for the purpose of making repairs or improvements to the Common Elements and all things reasonably necessary and proper in connection therewith as provided in Paragraph 16.

9. RIGHTS OF MORTGAGE HOLDERS IN RELATION TO ASSESSMENTS.

(a) The liens as herein set out for the enforcement of assessments shall in all respects be subordinate to first mortgage liens on the individual units.

(b) The holder of a first mortgage, upon request, shall be notified by the Association in writing of any default by the mortgagor of a Unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within sixty (60) days.

(c) A first mortgagee who obtains title to a Unit by reason of foreclosure of a mortgage covering a Unit, or by a deed in lieu of foreclosure, shall take the Unit free of any claims for unpaid assessments or charges against the Unit which accrue prior to the time such mortgagee comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Units including the mortgaged Unit). The preceding sentence shall not be construed to prevent the Association from filing liens for such assessments and enforcing them against the prior Unit Owner as provided by law.

10. ASSOCIATION.

The operation of the Condominium shall be by Countrybrook North Condominium Association, Inc., herein called the Association, a corporation, not for profit, under the laws of Indiana, which shall be organized and shall fulfill its functions pursuant to the following provisions:

(a) The members of the Association shall be the Unit Owners.

(b) The By-Laws of the Association are attached as Exhibit "B" and are incorporated herein by reference.

(c) The Association shall be incorporated under Articles of Incorporation which shall be recorded with the Secretary of State's Office.

(d) The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to a Unit.

(e) Whenever the decision of a Unit Owner is required under any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Unit Owner if in an Association meeting, unless the joinder of the record Owner of the Unit is specifically required by this Declaration.

#### 11. INSURANCE.

(a) The Association shall maintain the following insurance coverage:

(1) Multi-peril, all risk type, fire and extended coverage insurance covering the entire Condominium, all improvements upon the Land, all Apartment Buildings, all additions and extensions attached thereto, all appliances, fixtures, machinery and equipment constituting a part of the Apartment Buildings, including, but not limited to air conditioning and heating equipment, all refrigerators, dishwashers, disposals, stoves, smoke detectors, sinks, countertops and cabinets, whether located within or outside the boundaries of individual Units and whether such appliances, fixtures, machinery and equipment are owned in common or owned by an individual Unit Owner (excluding all improvements and additions to Units made by Unit Owners after the creation of the Condominium and personal property contents of the Units) and all personal property included in the Common Elements and Limited Common Elements. The multi-peril, all risk type policy purchased by the Association shall provide insurance on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage stipulated in the policy. The face amount of such policy or policies shall not be less than one

hundred percent (100%) of the insurable value (based upon replacement cost) of the property required to be covered by this paragraph. Such policy shall contain an agreed value endorsement. Such insurance coverages may exclude foundation and excavation costs, but shall afford protection against loss or damage as is commonly covered by a multi-peril all risk type policy with fire and extended coverage endorsement, and such other risks as are customarily covered with respect to buildings similar to the Apartment Buildings. The multi-peril, all risk type insurance policy shall be purchased by the Association for the use and benefit of individual Unit Owners and their mortgagees. The Association shall issue certificates of insurance to each Unit Owner showing and describing the insurance coverage for the interest of each such Unit Owner, and shall develop procedures for the issuance, upon request, of a certified copy of the policy together with standard mortgagee endorsement clauses to the mortgagees of Unit Owners. The Association shall supply supplemental certificates or other appropriate notice evidencing any subsequent change in or termination of such insurance coverage. Such policy shall waive rights of subrogation as between Unit Owners. To the extent that such Unit Owners are covered by such multi-peril, all risk type insurance policies purchased by the Association, or themselves, they shall not be liable for damage caused by their acts, or negligent acts which cause damage to the Common Elements, Limited Common Elements, or any Unit.

(2) Public liability insurance shall be secured in such amounts, and with such coverage, as shall be determined by the Board of Directors of the Association but such policy or policies shall be in an amount not less than One Million Dollars (\$1,000,000) per occurrence, including, but not limited to, hired automobile and non-owned automobile, with cross-liability endorsement to cover liabilities of the Unit Owners as a group to individual Unit Owners;

(3) Flood insurance in an appropriate amount at least equal to the lesser of (1) the maximum coverage available now or hereafter under the National Flood Insurance Program for all buildings and other insurable property within any portion of the Condominium

located within a designated flood hazard area; or (ii) 100% of current "replacement cost" of all such buildings and other insurable property.

(4) Workman's compensation as required by law;

(5) Directors and officers liability insurance in an amount determined by the Board of Directors, but not less than \$250,000 per occurrence; and

(6) Such other insurance as the Association shall determine from time to time to be desirable and in the best interest of Unit Owners;

(b) The Association shall give Declarant thirty (30) days notice prior to making any change in the carrier, type of coverage, or policy limits of any insurance policy maintained by the Association. Any change which has the effect of decreasing the type or amount of insurance required under the terms of this Declaration, or which lowers the rating required of an insurance carrier, shall require prior approval in writing of seventy-five percent (75%) of the votes of the Association and fifty-one percent (51%) of the first mortgagees (based upon one vote for each Unit upon which a mortgage is owned).

(c) All policies of insurance shall show the named insured, in form and substance, similar to the following:

"Countrybrook North Condominium Association, Inc., for use and benefit of the individual Unit Owners." Such policy shall contain, or have issued in connection therewith, a loss payable clause which shall provide that any proceeds due shall be paid to the Insurance Trustee, as hereinafter defined, subject to the provisions of this Declaration for the use and benefit of the mortgagees of individual Units, if any, and Unit Owners as their interests may appear. If the title insurance policies furnished Unit Owners by Declarant upon the sale of individual Units insure such Unit Owners against existing liens affecting the Condominium, the Association's hazard insurance policy shall name the holders of such liens as mortgagees in a standard mortgages loss payable clause as their interests may appear, until such existing liens are released of record.

(d) All hazard insurance policies shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of B-VI or better.

(e) Premiums upon insurance policies purchased by the Association shall be paid by the Association and the costs thereof included in the Common Expenses.

(f) The Association is hereby irrevocably appointed agent for each Unit Owner to purchase insurance as described and set forth in (a), (1), (2), (3), (4) (5) and (6) above and to adjust all claims arising under insurance policies purchased by the Association with the consent of mortgagees holding liens on the affected property and with the consent of such mortgagees to execute and deliver releases upon the payment of claims. However all insurance drafts, notices, policies, invoices, and other necessary documents shall be delivered, after settlement, directly to the affected mortgagee or its servicer.

12. RESPONSIBILITIES OF INSURANCE TRUSTEE.

(a) All insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to any bank in Indiana which is selected by the Association as a Trustee, which bank is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid, and to hold them in trust for the benefit of the mortgagees of individual Units, if any, and Unit Owners as their interests may appear. An undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their ownership interest in the Common Elements as set forth in Paragraph 3. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the named mortgagees and the Unit Owner as their interests may appear.

(c) Expenses and fees of the Insurance Trustee shall be paid by the Association and costs thereof included in the Common Expenses.

(d) Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

(1) If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be expended as provided in Paragraph 14. Any proceeds remaining after payment of repair or reconstruction expenses shall be distributed to the beneficial owners, with remittances to Unit Owners and mortgagees of individual units being payable jointly to them. This is a covenant for the benefit of any mortgagee of an individual Unit and may be enforced by such mortgagee.

(2) If it is determined, as provided in Paragraph 13, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the mortgagees of individual Units, if any, and Unit Owners as their interests may appear. This is a covenant for the benefit of any mortgagee and may be enforced by such mortgagee.

(3) In making distributions to Unit Owners and mortgagees, the Insurance Trustee shall rely upon a certificate executed (i) by the Association as to the names of the Unit Owners, and (ii) by each of the mortgagees as to their respective shares of the distribution.

13. WHEN DAMAGED PROPERTY IS TO BE RECONSTRUCTED OR REPAIRED.

(a) In case of fire or any other casualty or disaster, other than complete destruction of the Apartment Buildings, the improvements shall be reconstructed.

(b) In the event of complete destruction of all of the Apartment Buildings, the buildings shall not be reconstructed, unless by a vote of two-thirds (2/3) of all of the Unit Owners, a decision is made to rebuild the buildings. A determination of complete destruction of the Apartment Buildings shall be determined by a vote of two-thirds (2/3) of all Unit Owners at a special meeting of the Association called for that purpose.

(c) Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original buildings or if not, then according to plans and specifications approved by the Board of Directors of the Association, and by the Owners of Units with three-fourths (3/4) of the Common Elements appurtenant thereto, including the Owners of all damaged Units, which approval shall not be unreasonably withheld.

14. RESPONSIBILITIES AND PROCEDURES AS TO PAYMENT FOR REPAIRS.

(a) If damage occurs to those parts of a Unit or Limited Common Element that the Unit Owner has the responsibility of maintaining and repairing, then the Unit Owner shall be responsible for the prompt reconstruction and repair of such damage after the casualty. In all other instances, the Association shall have the responsibility of reconstruction and repair. In the event the Unit Owner fails to make such repairs or reconstruction promptly, the Association reserves the right to make such repairs and to assess the Unit Owner for all expenses, together with a service fee of up to twenty percent (20%) of such expenses for the Association's services.

(b) Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair the damaged property to a condition as good as that existing immediately before the casualty.

(c) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, the amount of the deficiency shall become a Common Expense and shall be assessed against all Unit Owners in accordance with Paragraph 3.

(d) If the amount of the estimated costs of reconstruction and repair for which the Association is responsible is more than Thirty Thousand Dollars (\$30,000.00) in excess of the amount of insurance proceeds available for such reconstruction or repair, the assessments paid to meet such costs shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(e) The proceeds from assessments and insurance received by the Insurance Trustee shall be disbursed as follows:

(1) The portion of insurance proceeds for damage which is the responsibility of the Unit Owner to repair or reconstruct shall be paid by the Insurance Trustee to the Unit Owner for such repair or reconstruction, or if there is a mortgagee endorsement, then to the Owner and the mortgagee jointly.

(2) The portion of insurance proceeds for damage which is the responsibility of the Association to repair or reconstruct shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board of Directors of the Association.

15. USE RESTRICTIONS.

The use of the Condominium shall be in accordance with the following provisions:

(a) Each of the Units shall be occupied only by a family, individuals, or guests as a residence, and for no other purpose. No Units may be rented on a daily or weekly basis.

(b) No Unit may be divided or subdivided into a smaller Unit, nor any portion thereof sold or otherwise transferred.

(c) Two or more adjoining Units may be used as a single Unit subject to the use restrictions of this Paragraph 15. The Common Elements located between and separating two or more adjacent Units used together may be altered or removed to afford ingress and egress to and from such Units to enhance the use of such Units as a single Unit. The Unit Owner's right to use this portion of the Common Elements shall be pursuant to a license agreement with the Association subject to the following conditions:

(1) The expense of making such alterations shall be paid in full by the Unit Owner or Owners making such alterations;

(2) In the event such Units shall cease to be used as a single Unit, the Unit Owner or Owners shall pay the full expense of restoring such Common Elements to their condition prior to such alterations; and

(3) The Unit Owner must comply with the requirements of Paragraph 4, subparagraph (e) of this Declaration for the construction or removal of the Common Elements separating such Units.

(d) The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

(e) No use or practice shall be permitted on the Condominium which is the source of annoyance to residents, or which interferes with the peaceful possession and proper use of the Condominium by its residents. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit, or of the Common Elements, which will increase the rate of insurance upon the Condominium. No immoral, improper, offensive, or unlawful use shall be made of the Condominium or any part thereof. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium shall be the responsibility of the person or entity responsible for the maintenance and repair of the property concerned.

(f) Reasonable rules and regulations concerning the use of the Condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

16. DECLARANT'S UNITS AND PRIVILEGES.

(a) Declarant is irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease, or rent Units to any person approved by it. Declarant shall have the right to transact, on the Condominium property, any business deemed necessary by Declarant to consummate the sale, lease, or resale of Units, including, but not limited to, the right to post signs, to reserve parking spaces for prospective purchasers, to maintain Unit 7348 as a model unit, to

maintain sales, management, and credit application offices in portions of the clubhouse or model unit, to use the Common Elements and to show Units. Declarant shall have the right to designate additional Units as model units from time to time. Declarant shall have the duty to pay all assessments for common expenses on Units used as model units. Signs and all items pertaining to sales shall not be considered Common Elements and shall remain the property of Declarant.

(b) As long as any Unit belonging to Declarant remains unsold, neither the Unit Owners, nor the Association, nor the use of the Condominium property, shall interfere with the sale of Units, and, so long as there are unsold Units, the Declarant shall own such Units under the same terms and conditions as other Unit Owners, save for the right to sell, rent or lease as contained in this paragraph, including the privilege to vote and the duty to pay assessments on the Units so held.

(c) Notwithstanding anything contained herein to the contrary, Declarant shall have the right to make further alterations or repairs to the Common Elements, at Declarant's expense, without the consent of the Association. Such right of Declarant shall expire upon the later of one (1) year from the date this Declaration is filed of record with the Office of the Recorder for Marion County, Indiana, or the date upon which Declarant ceases to own any Units. Nothing contained in this Paragraph shall in any way obligate the Declarant to make any alterations or repairs to the Common Elements.

17. PROFESSIONAL MANAGEMENT.

The Association shall enter into a contract for the management of the Condominium with Harvey Freeman and Sons, Inc. of Indiana. The management contract shall be for an initial term of three (3) years and may be cancelled only upon the written consent of the management company. Thereafter, any decision to establish self management by the Association shall require the prior written consent of sixty-seven percent (67%) of the votes of the Association and the approval of fifty-one percent (51%) of the first mortgagees (based upon one vote for each Unit upon which a mortgage is owned).

18. NOTICE OF MORTGAGE LIEN OR SUIT.

(a) A Unit Owner shall give notice to the Association of every lien upon his Unit other than for taxes and special assessments, within ten (10) days after the attaching of the lien.

(b) Notice shall be given to the Association of every suit or other proceeding which may affect the title to a Unit within five (5) days after the Unit Owner receives knowledge thereof.

(c) Failure to comply with this Paragraph 18 will not affect the validity of any mortgage instrument or the enforcement thereof at any public or judicial sale.

19. COMPLIANCE, DEFAULT AND REMEDIES.

Each Unit Owner shall be governed by, and shall comply with, the terms of this Declaration, the Articles of Incorporation, By-Laws, and Rules and Regulations adopted pursuant thereto, as any of the same may be amended from time to time. In addition to the remedies provided by the Condominium Act, a default by a Unit Owner shall entitle the Association, acting through the Board of Directors or through the Managing Agent, to the following relief:

(a) Additional Liability. A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit, or its appurtenances.

(b) Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

(c) No Waiver of Rights. Failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation, the By-laws, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so

thereafter. All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to the terms of the Condominium Act, this Declaration, the By-laws or Rules and Regulations of the Association shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising such other privileges as may be granted to such party by the Condominium Act, the condominium instruments above named, or at law or equity.

(d) Abating and Enjoining Violations. The violation of any restriction, condition or regulation adopted by the Board of Directors, or the breach of any covenant or provision herein contained, shall give the Board of Directors or its Managing Agent the right, in addition to any other rights provided for in this Declaration:

(1) to enter (either peaceably or forceably without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Condominium upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board of Directors, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or

(2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

(3) to take possession (either peaceably or forceably without liability to such Unit Owner for such entry) of such Unit Owner's interest in the Land and to maintain an action for possession of such Unit in the manner provided by law.

(e) Legal Proceedings. Any violation of the provisions of the Condominium Act, this Declaration, the By-laws, or the Rules and Regulations adopted pursuant thereto, shall be grounds for relief, including, but not limited to, an action for money damages, injunctive relief, specific performance, foreclosure of the lien for payment of all assessments, or sale of the Unit pursuant to subparagraph (f) hereof. All expenses of the Association incurred in connection with

any such actions or proceedings, including court costs, attorney's fees, all damages and interest thereon at the highest rate allowed by applicable law, shall be assessed against such defaulting Unit Owner and shall be deemed part of his respective share of the Common Expenses. The Association shall have a lien for all of the same upon the Unit and its appurtenant interest in the Common Elements, upon all of the Unit Owner's additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the land. Such lien shall be subordinate to the lien of a recorded first mortgage or deed of trust on the Unit. In the event of any such default by a Unit Owner, the Board of Directors and the Managing Agent, if so authorized by the Board of Directors, shall have the authority to correct such default, and to do whatever may be necessary for such purpose. All expenses incurred in connection therewith shall be charged to and assessed against such defaulting Unit Owner.

(f) Judicial Sale. If any violation by a Unit Owner (or other occupant of a Unit) continues or occurs repeatedly during any ten (10) day period after notice of such violation from the Board of Directors, the Board of Directors shall have the power to terminate such Unit Owner's rights as a Unit Owner. The Board of Directors shall issue a written notice to such defaulting Unit Owner terminating his right to continue to occupy, use or control his Unit. Thereafter, the Board of Directors shall file an action seeking a decree terminating such Unit Owner's right to occupy, use or control his Unit, and ordering that all right, title and interest of such defaulting Unit Owner in his Unit and in the Common Elements be sold at a judicial sale. The judicial sale shall be held upon such notice and terms as the Court shall determine, except that the court shall enjoin the defaulting Unit Owner from reacquiring his interest at the sale. Such judicial sale shall be subject to the lien of any existing deed of trust or mortgage. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of

such charges and any unpaid assessments hereunder, or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession. It shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in such Unit and the Common Elements subject to this Declaration.

(g) Sale for Non-payment of Assessments. Notwithstanding any term or provision of this Paragraph 19, the Association shall obtain the written consent of a majority of the votes of the Association prior to the Association's exercise of any of the remedies provided in this Paragraph 19 to terminate the rights of any Unit Owner to occupy, use or control the Unit owned by him, except that in the case of the sale of a Unit for non-payment of assessments no such consent shall be required.

20. LEASE AND TRANSFER OF A UNIT: NOTICE TO ASSOCIATION.

(a) Prior Approval of Tenants by Association. The Association shall provide a Resident Qualifying Service for all prospective tenants of Unit Owners. Prior to any tenant's occupancy of a unit, a complete lease application on forms provided by the Association, must be submitted to the Association for each prospective tenant. The Association shall approve or disapprove the application, in writing, within three (3) business days after receipt of the application. If the Association has not made such determination within three (3) business days, then the application shall be deemed to be approved. The Association shall charge each Unit Owner a fee of Twenty Dollars (\$20.00) per tenant application.

(b) Leases. All leases shall be in writing and shall be for a term of not less than one month. A copy of every lease of a Unit shall be furnished to the Board prior to occupancy by the tenant. Every such lease shall provide that the lessee shall be bound by and subject to the Rules and Regulations of the Association. A copy of the Rules and Regulations shall be attached to each lease and shall be

delivered by the Unit Owner to the lessee. The Unit Owner making such lease shall not be relieved thereby from any of his obligations under this Declaration. The Board shall have all the authority in its sole discretion to require at any time that any Unit Owner who is leasing his Unit, place on deposit with the Board such reasonable sums as the Board may require to be used as an indemnity against loss or damage to the Common Elements which might be caused by such Unit Owner's lessee. The terms of the indemnity shall be such terms as might be satisfactory to the Board. The Board shall furnish Unit Owner a notice in writing which shall constitute that Unit Owner's notice to make such deposit. In the event Unit Owner fails to comply with the terms of the notice within ten (10) days from the date the notice is mailed to him, the Board at its option may elect to terminate the subject lease. The Board shall give Unit Owner and his lessee notice of such election in writing. Within ten (10) days after said notice is placed in the United States mail addressed to Unit Owner's last known address or within ten (10) days after a written notice of such election is delivered to the residence of the lessee, whichever shall last occur, lessee shall forthwith and immediately vacate the subject Unit and Unit Owner shall take such further action as may be necessary to insure that said lessee vacates said Unit.

(c) Notice of Transfer of Unit. Whenever a Unit Owner shall sell, give or otherwise transfer his Unit, or any interest therein, such Unit Owner shall give the Association written notice within thirty (30) days (before or after closing) of the transfer, which notice shall briefly describe the transfer and shall state the name and address of the transferee.

(d) Miscellaneous.

(1) A transfer or lease of a Unit, or interest therein, by or to the Board or the Declarant shall not be subject to the provisions of this Paragraph 20.

(2) All notices referred to or required under this Paragraph 20 shall be given in writing by certified mail return receipt requested or by personal service.

(3) The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Paragraph 20, for the purpose of implementing and effectuating said provisions.

(4) If any transfer or lease of a Unit is made or attempted without complying with the provisions of this Paragraph 20, such transfer or lease shall be subject to each and all of the rights and options of, and remedies and actions available to, the Association hereunder and otherwise.

21. ASSOCIATION'S RIGHT TO PURCHASE AT A FORECLOSURE SALE.

(a) The Board shall have the power and authority to purchase, on behalf of the Association, any Unit, or interest therein, at a sale pursuant to this Declaration, a mortgage foreclosure, a foreclosure of the lien for Common Expenses under the Condominium Act, or an order or direction of a court, or at any other involuntary sale, upon the consent or approval of Unit Owners owning not less than seventy-five percent (75%) of the total ownership of the Common Elements.

(b) The Board of Directors shall have authority to make special assessments proportionately among the respective Unit Owners, and such other financing arrangements as the Board of Directors may deem desirable, in order to close and consummate the purchase of a Unit, by the Association. However, no such financing arrangement may be secured by an encumbrance on any interest in property other than the Unit to be purchased and such Unit's appurtenant interest in the Common Elements.

(c) The Association shall hold or lease any Unit, pursuant to the terms hereof, in the name of the Association, or a nominee thereof delegated by the Board of Directors, for the benefit of all Unit Owners. The Board of Directors shall have authority at any time to sell, lease or sublease said Unit on behalf of the Association upon such terms as the Board shall deem desirable, but in no event shall a Unit be sold for less than the amount paid by the Association to purchase the Unit unless Unit Owners owning not less than seventy-five percent (75%) of the Common Elements first authorize the sale for such lesser amount.

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22. AMENDMENTS.

This Declaration may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings in which the amendment is considered may express their approval in writing, providing such approval is delivered to the secretary at or prior to the meeting. Such approval must be by sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association. Until the first election of Directors, any amendment must be approved by the initial Board of Directors.

(c) No amendment shall discriminate against any Unit Owner, or against any Unit or class or group of Units, unless the Unit Owners so affected shall consent. No amendment shall change any Unit, nor the share of the Common Elements appurtenant to it, nor increase the Unit Owner's share of the Common Expenses, unless such Unit Owner and all record owners of liens thereon, shall join in the execution of the amendment, and the provisions of Paragraph 25 are followed.

(d) Any amendment which would prohibit the leasing of Units shall require the approval of ninety-five percent (95%) of the votes of the entire membership of the Association.

(e) Any amendment which would restrict Declarant's right to maintain a sales office, model units, or any other right reserved by Declarant pursuant to Paragraph 16 herein, shall require the unanimous approval of all the votes of the entire membership of the Association.

(f) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Recorder for Marion County, Indiana.

(g) Declarant hereby reserves the power to amend this Declaration and any Exhibit hereto without the consent of any Unit

Owner for the purposes hereinafter set forth. Such power of Declarant shall expire seven (7) years from the date this Declaration is filed of record in the Office of the Recorder for Marion County, Indiana. This power to amend shall be used to correct clerical errors and make other clarifications, and to adjust boundary lines where necessary for clarification or to reflect accurate surveys. Declarant shall exercise this power to amend by filing an amendment of record with the Office of the Recorder for Marion County, Indiana. Declarant shall in no way be obligated to amend this Declaration or any Exhibit hereto.

23. TERMINATION.

The Condominium may be terminated as follows:

(a) In the event it is determined under Paragraph 13 that the damaged property shall not be reconstructed because of complete destruction of the Apartment Buildings in accordance with I.C. § 32-1-6-19 as amended, the Condominium shall be terminated.

(b) The Condominium may be terminated at any time after obtaining the prior approval in writing of all Unit Owners, and by all record owners of liens thereon in accordance with I.C. § 32-1-6-28.

(c) The termination of the Condominium shall be evidenced by an instrument in compliance with I.C. § 32-1-6-28, certifying the facts effecting the termination, which instrument shall become effective upon being recorded in the Office of the Recorder for Marion County, Indiana. Upon removal of the Land from the Condominium Act, the Land shall be deemed to be owned in common by the Unit Owners. Thereafter, the undivided interest of each Unit Owner in the Land shall be equal to the percentage of undivided interest previously owned by such Unit Owner in the Common Elements. Additionally, any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owner in the Land, and the Land shall be subject to a suit for partition in accordance with the Condominium Act.

24. APPROVAL RIGHTS OF MORTGAGEES.

Except as provided by the Condominium Act in case of complete destruction of the Units and/or Common Elements, unless at least sixty-six and two-thirds percent (66-2/3%) of the first mortgagees of the Units (based upon one vote for each Unit upon which a mortgage is owned), or Unit Owners with sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association (other than Declarant) have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the Condominium;
- (b) Change the pro rata interest or obligations of any Unit for the purpose of:
  - (1) Levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or
  - (2) Determining the prorata share of ownership of each Unit in the Common Elements.
- (c) Partition or subdivide any Unit;
- (d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this clause);

(e) Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of complete destruction of the Units and/or Common Elements of the Condominium project.

25. FURTHER ASSURANCES FOR FIRST MORTGAGEES.

In addition to all other rights as may be provided herein or in the Condominium Act, the following provisions shall be complied with regarding the Condominium:

(a) Any first mortgagee who obtains title to a Unit pursuant to the remedies provided in the mortgage or deed of trust, or upon foreclosure of the mortgage or deed of trust or upon receiving a deed (or assignment) in lieu of foreclosure will be exempt from the provisions of Paragraph 20 relating to the rights of the Association upon transfer of a Unit. Specifically, and without limitation upon the above provisions of this Subparagraph (a), the Declaration, the attached By-Laws, or any other of the Condominium's constituent documents shall not impair the rights of a first mortgagee to:

(1) Foreclose or take title to a Unit pursuant to the remedies provided in the mortgage, or

(2) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or

(3) Sell or let a Unit acquired by the mortgagee.

(b) First mortgagees shall have the right to examine the books, records and financial statements of the Association, as well as the By-Laws and other rules concerning the Condominium at reasonable times and upon reasonable notice.

(c) First mortgagees shall have the right, upon written request, to receive a financial statement from the Association for the immediately preceding fiscal year.

(d) Condominium assessments shall include an adequate reserve fund for maintenance, repair and replacement of those Common Elements that must be replaced on a periodic basis and shall be payable in regular installments rather than by special assessments. To the extent required by the Condominium Act, this fund shall be maintained in a separate interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County, Indiana.

(e) No interpretation shall be given to this Master Deed or any of the other Condominium constituent documents which would give a Unit Owner, or any other party, priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

(f) Upon the expiration of the initial professional management contract entered into pursuant to Paragraph 17 hereof, any subsequent agreement for professional management of the Condominium, or any other contract providing for services by the Declarant may not have a term greater than three (3) years. In addition, any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice. If a mortgagee holds first mortgages on fifty-one percent (51%) of the Units, the Association shall be required to obtain the prior written consent of such mortgagee in the selection of professional management for the Condominium.

(g) The Association, upon receiving notification of the existence of a first mortgage on any particular Unit, shall provide notice in writing to such mortgagee, or to such other entity as such mortgagee may direct, of any loss to, or taking of, the Common Elements of the Condominium if such loss or taking exceeds the market value of any one Unit, or damage to a Unit covered by such mortgage if such loss or taking exceeds ten percent (10%) of the market value of any one Unit.

(h) First mortgagees shall have the right, upon written request, to receive notice from the Association of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(i) First mortgagees shall also have the right, upon written request, to receive written notice from the Association of any proposed action which requires the consent of a specified percentage of mortgage holders.

26. NON-LIABILITY OF THE DECLARANT, DIRECTORS AND OFFICERS OF THE ASSOCIATION.

The Declarant, directors and officers of the Association shall not be personally liable to the Unit Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Declarant, director or officer, except for any acts or omissions found by a Court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the directors,

officers, or Declarant, and their respective heirs, executors, administrators, successors and assigns, in accordance with the provisions of Paragraph 8 of the By-Laws.

27. SERVICE CONTRACTS.

Declarant shall assign and the Association shall assume certain service contracts designated by Declarant dealing with the maintenance and operation of the Condominium. These contracts may include, but not be limited to, lawn care, laundry leases, cable television service and garbage disposal.

28. SEVERABILITY.

The invalidity in whole or in part of any covenant or restriction, or any paragraph, subparagraph, sentence, clause, phrase, or word, or other provision of this Declaration and the Articles of Incorporation, By-Laws, and Regulations of the Association shall not affect the validity of the remaining portions thereof.

IN WITNESS WHEREOF, SEC Realty Corp., as owner of the real estate herein described has executed this Declaration as of May 31, 1985.

SEC REALTY CORP., a Tennessee Corporation

BY: [Signature]

ITS: President

STATE OF TENNESSEE )  
COUNTY OF DAVIDSON )

Before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared L. H. Hardwick, III, the president of SEC Realty Corp., a Tennessee corporation who acknowledged the execution of the foregoing instrument for and on behalf of SEC Realty Corp., and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 28 day of May, 1985.

Emmy K. Frost  
NOTARY PUBLIC

Emmy K. Frost  
(Print Name of Notary)

My Comm. Expires: Oct. 24, 1988

My County of Residence is: Davidson

THIS INSTRUMENT PREPARED BY:  
STEPHEN C. BAKER  
Dearborn & Ewing  
Suite 1200  
One Commerce Place  
Nashville, Tennessee 37239

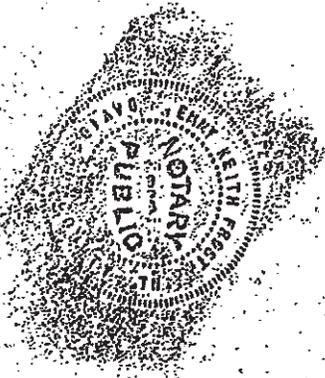


EXHIBIT A

PROPERTY DESCRIPTION

Part of the Southwest Quarter of Section 27, Township 17 North, Range 3 East in Marion County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the said Quarter Section; thence South 00 degrees 12 minutes 15 seconds East along the West line of the said Quarter Section a distance of 1467.11 feet to the center line of West 73rd Street (being on a 636.62 foot radius curve and bearing North 04 degrees 29 minutes 25 seconds West from the radius point of the said curve); thence in an Easterly direction along the center line of West 73rd Street and along the said curve to the right a distance of 17.31 feet to the tangency of the said curve; thence North 87 degrees 04 minutes 04 seconds East along the said center line and tangent with the said curve a distance of 82.69 feet; thence North 45 degrees 20 minutes 15 seconds East a distance of 69.35 feet; thence North 49 degrees 25 minutes 15 seconds East a distance of 412.80 feet; thence North 40 degrees 23 minutes 15 seconds East a distance of 425.70 feet; thence North 09 degrees 08 minutes 15 seconds East a distance of 390.80 feet; thence North 13 degrees 05 minutes 15 seconds East a distance of 183.30 feet; thence North 04 degrees 38 minutes 45 seconds West a distance of 263.23 feet to the North line of the said Quarter Section; thence South 89 degrees 32 minutes 15 seconds West along the North line of the said Quarter Section a distance of 826.18 feet to the place of beginning.

EXCEPT: A part of the Southwest Quarter of Section 27, Township 17 North, Range 3 East, in Marion County, Indiana, more particularly described as follows: Commencing at the Northwest corner of the said Quarter Section; thence South 00 degrees 12 minutes 15 seconds East (deed bearing) along the West line of the said Quarter Section, a distance of 1467.11 feet to the centerline of West 73rd Street (being on a 636.62 foot radius curve and bearing North 04 degrees 29 minutes 25 seconds West from the radius point of the said curve); thence in an Easterly direction along the centerline of the West 73rd Street and along the said curve to the right a distance of 17.31 feet to the tangency of the said curve; thence North 87 degrees 04 minutes 04 seconds East along the said centerline and tangent with the said curve a distance of 82.69 feet; thence North 45 degrees 20 minutes 15 seconds East a distance of 37.07 feet to the point of beginning, said point being on the existing right of way of West 73rd Street, as per I.S.N.C. Project No. 3, Fiscal 1938; thence continuing on and along the last described course a distance of 32.48 feet; thence North 49 degrees 25 minutes 15 seconds East a distance of 9.38 feet; thence deflecting to the left 134 degrees 05 minutes a distance of 77.80 feet; thence deflecting to the right 40 degrees 07 minutes 47 seconds a distance of 46.58 feet; thence deflecting to the right 44 degrees 22 minutes 15 seconds a distance of 300.04 feet to a point 40 feet East of, and measured at right angles from the centerline of Ditch Road; thence deflecting to the left 16 degrees 26 minutes 34 seconds, more or less, a distance of 78.60 feet to the East right-of-way of Ditch Road; thence Southerly on and along the right of way of Ditch Road a distance of 400.00 feet to a point on the right of way of West 73rd Street; as per said I.S.N.C. Project, the Grant for said I.S.N.C. right of way being signed by John Cline, July 21, 1938, and recorded May 17, 1976 as Instrument #76-27172, in the Recorder's Office of the Marion County; thence Southeasterly on and along the said I.S.N.C. right of way a distance of 71.55 feet to the North right of way of West 73rd Street, as per said I.S.N.C. Project; thence Easterly on and along the West 73rd Street right of way a distance of 54.78 feet to point of beginning.

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EXHIBIT A-1 TO DECLARATION ESTABLISHING  
COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 1 of 3)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 1301            | .65980                     |
| 1303            | .63365                     |
| 1305            | .63365                     |
| 1306            | .65980                     |
| 1307            | .63365                     |
| 1308            | .63365                     |
| 1309            | .63365                     |
| 1310            | .63365                     |
| 1311            | .65980                     |
| 1312            | .63365                     |
| 1314            | .63365                     |
| 1316            | .65980                     |
| 1318            | .65980                     |
| 1320            | .63365                     |
| 1322            | .63365                     |
| 1324            | .63365                     |
| 1326            | .63365                     |
| 1328            | .65980                     |
| 1330            | .65980                     |
| 1332            | .63365                     |
| 1334            | .63365                     |
| 1336            | .63365                     |
| 1338            | .63365                     |
| 1340            | .65980                     |
| 1342            | .65980                     |
| 1344            | .63365                     |
| 1346            | .63365                     |
| 1348            | .63365                     |
| 1350            | .63365                     |
| 1352            | .65980                     |
| 1354            | .65980                     |
| 1356            | .63365                     |
| 1358            | .63365                     |
| 1360            | .63365                     |
| 1362            | .63365                     |
| 1364            | .63365                     |
| 1366            | .63365                     |
| 1368            | .65980                     |
| 7330            | .65980                     |
| 7332            | .63365                     |
| 7334            | .63365                     |
| 7336            | .63365                     |
| 7338            | .63365                     |
| 7340            | .65980                     |
| 7342            | .65980                     |
| 7344            | .63365                     |
| 7346            | .63365                     |
| 7348            | .63365                     |
| 7350            | .63365                     |
| 7352            | .63365                     |
| 7354            | .63365                     |
| 7356            | .65980                     |
| 7358            | .65980                     |
| 7360            | .63365                     |
| 7362            | .63365                     |
| 7364            | .63365                     |
| 7366            | .63365                     |
| 7368            | .65980                     |
| 7370            | .65980                     |

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EXHIBIT A-1 TO DECLARATION ESTABLISHING  
COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 2 of 3)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 7372            | .63365                     |
| 7374            | .63365                     |
| 7376            | .63365                     |
| 7378            | .63365                     |
| 7380            | .63365                     |
| 7401            | .65980                     |
| 7402            | .65980                     |
| 7403            | .65980                     |
| 7404            | .63365                     |
| 7405            | .63365                     |
| 7406            | .63365                     |
| 7407            | .63365                     |
| 7408            | .63365                     |
| 7409            | .63365                     |
| 7410            | .63365                     |
| 7411            | .63365                     |
| 7412            | .63365                     |
| 7413            | .63365                     |
| 7414            | .63365                     |
| 7415            | .63365                     |
| 7416            | .65980                     |
| 7417            | .65980                     |
| 7418            | .65980                     |
| 7419            | .65980                     |
| 7420            | .63365                     |
| 7421            | .63365                     |
| 7422            | .63365                     |
| 7423            | .63365                     |
| 7424            | .63365                     |
| 7425            | .63365                     |
| 7426            | .63365                     |
| 7427            | .63365                     |
| 7428            | .63365                     |
| 7429            | .63365                     |
| 7430            | .63365                     |
| 7431            | .65980                     |
| 7432            | .65980                     |
| 7433            | .65980                     |
| 7434            | .65980                     |
| 7435            | .65980                     |
| 7436            | .63365                     |
| 7437            | .63365                     |
| 7438            | .63365                     |
| 7439            | .63365                     |
| 7440            | .63365                     |
| 7441            | .63365                     |
| 7442            | .63365                     |
| 7443            | .63365                     |
| 7444            | .65980                     |
| 7445            | .63365                     |
| 7446            | .65980                     |
| 7447            | .63365                     |
| 7448            | .63365                     |
| 7449            | .65980                     |
| 7450            | .63365                     |
| 7451            | .65980                     |
| 7452            | .63365                     |
| 7453            | .63365                     |
| 7454            | .63365                     |
| 7455            | .63365                     |
| 7456            | .63365                     |

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EXHIBIT A-1 TO DECLARATION ESTABLISHING  
COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 3 of 3)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 7457            | .63365                     |
| 7458            | .63365                     |
| 7459            | .65980                     |
| 7460            | .63365                     |
| 7461            | .65980                     |
| 7462            | .63365                     |
| 7463            | .63365                     |
| 7464            | .65980                     |
| 7465            | .63365                     |
| 7466            | .65980                     |
| 7467            | .63365                     |
| 7468            | .63365                     |
| 7469            | .63365                     |
| 7470            | .63365                     |
| 7471            | .63365                     |
| 7472            | .63365                     |
| 7473            | .63365                     |
| 7474            | .63365                     |
| 7475            | .65980                     |
| 7476            | .63365                     |
| 7477            | .65980                     |
| 7478            | .63365                     |
| 7479            | .63365                     |
| 7480            | .65980                     |
| 7481            | .63365                     |
| 7482            | .65980                     |
| 7483            | .63365                     |
| 7484            | .63365                     |
| 7485            | .63365                     |
| 7486            | .63365                     |
| 7487            | .65980                     |
| 7488            | .63365                     |
| 7490            | .63365                     |
| 7492            | .63365                     |
| 7494            | .63365                     |
| 7496            | .65980                     |

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EXHIBIT A-2

TO DECLARATION ESTABLISHING COUNTRYBROOK NORTH CONDOMINIUM  
COMPONENT IDENTIFICATION, MAINTENANCE & EXPENSE CHART

COMPONENTS OF UNIT

All components located within or constituting the boundaries of the unit including, but not limited to: wallboard; wallpaper; paint; all finished flooring; appliances; carpet; exterior doors, including sliding glass doors; windows; all pipes, ducts, electrical wiring and conduits located entirely within a unit and serving only such unit.

LIMITED COMMON ELEMENTS

I. Identification

Air conditioning and heating equipment; patios; wooden fencing enclosing patios; wooden storage buildings at the rear of each unit; fireplaces; window screens; patio screen doors; storm doors; those portions of any chute, flue, duct, wire, or conduit located partially within and partially outside a unit which serve only that unit.

COMMON ELEMENTS

Land; parking areas; swimming pool; tennis courts; basketball court; laundries; club house; office; car ports; landscaping improvements; all personal property held and maintained for the joint use and enjoyment of all Unit Owners; all leases of personally and service contracts assigned to the Association by Declarant; those portions of any chute, flue, duct, wire, or conduit, located partially within and partially outside a unit which serve more than one unit or any portion of Common Elements; load-bearing columns and load-bearing walls; all real property, improvements and facilities other than the Units and Limited Common Elements.

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EXHIBIT A-2

TO DECLARATION ESTABLISHING COUNTRYBROOK NORTH CONDOMINIUM

II. Assignment of Maintenance Responsibilities

UNIT

Responsibility of Unit Owner except: water damage to Unit, unless the primary cause of the damage is the negligence of the Owner or occupants of such Units or the result of water leakage from the water heater or other appliance or fixture in such Unit; painting or otherwise maintaining exterior surfaces of exterior doors; cleaning exterior surfaces of windows.

LIMITED COMMON ELEMENTS

Responsibility of Association except: air conditioning and heating equipment; window screens; patio screen doors; repair and replacement of storm doors; maintaining patios in an orderly and clean condition; maintaining portion of fireplace lying within the boundaries of Unit.

COMMON ELEMENTS

Completely the responsibility of Association.

UNIT

Expense of Unit Owner except: water damage, the primary cause of which is not the negligence of the Owner or occupants of such Unit, nor the result of water leakage from the water heater or other appliance or fixture in such Unit; painting or otherwise maintaining exterior surfaces of exterior doors; cleaning exterior windows.

III. Allocation of Maintenance Expense

LIMITED COMMON ELEMENTS

Charged to Unit Owners to whom Limited Common Element is allocated, except structural repair of patio, repair and maintenance of the wooden fences enclosing the patios and the wooden storage buildings at the rear of each Unit, all of which are Common Expenses of Association.

COMMON ELEMENTS

Common Expense of Association.

Note: This chart is merely illustrative and not exhaustive. It is not intended to be an exclusive identification of components or allocation of maintenance responsibilities and expenses, and does not affect other identification, maintenance or expense allocations made by the Declaration or By-laws.

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EXHIBIT B TO DECLARATION OF COUNTRYBROOK NORTH CONDOMINIUM

BY-LAW FOR COUNTRYBROOK NORTH CONDOMINIUM  
AND COUNTRYBROOK NORTH CONDOMINIUM ASSOCIATION, INC.

1. Identity.

(a) These are the By-Laws of Countrybrook North Condominium, herein called the "Condominium", and Countrybrook North Condominium Association, Inc., herein called the "Association", a corporation not for profit, incorporated under the Indiana Not-For-Profit Corporation Act, as amended, the Articles of Incorporation of which were filed in the Office of the Secretary of State of Indiana effective as of May 31, 1985.

(b) The Association has been organized for the purpose of administering the Condominium established by a Declaration of record in the Office of the Recorder of Marion County, Indiana, as Instrument No. \_\_\_\_\_, herein called the "Declaration," pursuant to Section 32-1-6-1 et seq., as amended, of the Indiana Code, herein called the "Condominium Act", which Condominium is identified by the name Countrybrook North Condominium, and is located at 7348 Countrybrook Drive, Indianapolis, Indiana 46260.

2. Members.

The members of this Association shall be SEC Realty Corp., hereinafter referred to as "Declarant" and all subsequent Unit Owners in Countrybrook North Condominium. Membership in the Association shall be an appurtenance to ownership of a Unit of the Condominium and shall be automatically transferred upon the transfer of a Unit.

3. Meetings of Members.

(a) The members of the Association shall have an annual meeting. The first annual meeting of the members shall be held, at the office of the Association or other place to be designated by the Board of Directors, on May 7, 1986, at 7:00 o'clock p.m., or at such other time designated by the Board of Directors. Thereafter, the annual meeting of members shall be held on the first Tuesday in each May at 7:00 p.m. or as scheduled by the Board of Directors.

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(b) Special meetings of members shall be held whenever called by the President, Vice-President, or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast not less than one-tenth (1/10) of the votes of the entire membership.

(c) Notice of all members' meetings, stating the place, day and hour and the objects for which the meeting is called, shall be given by the President, Vice-President or Secretary, unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association, and shall be mailed not less than ten (10) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

(d) A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership except as otherwise provided in the Condominium Act. If any meeting of the members cannot be organized because a quorum has not attended, the members who are present, either in person or by proxy, may adjourn the meeting for at least ten (10) days, and adequate notice of the new date shall be given as described in subparagraph (c) of this Paragraph 3.

(e) The aggregate number of votes for all Unit Owners shall be one hundred fifty-six (156) and one (1) vote shall be allocated to each Unit.

(f) If a Unit is owned by one (1) person, his right to vote shall be established by the record title to his Unit. If a Unit is owned by more than one (1) person, or is under lease, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the President or Vice-President of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked, or until

superseded by a subsequent certificate, or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote of a Unit may be revoked by any Unit Owner at any time.

If no certificate is presented to the Secretary and a Unit is owned by two (2) or more individuals, any record owner present at a meeting of the Association may cast the vote of the Unit. If more than one (1) record owner of a Unit is present at a meeting, only one such owner may cast the vote of the Unit. If the record owners of a Unit cannot unanimously agree as to who may cast the vote of the Unit, the vote of the Unit shall not be counted.

(g) Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated and must be filed with the Secretary before the appointed time of the meeting.

(h) The presence or proxies of individual Unit Owners entitled to cast a majority of the votes of the Association is required at members' meetings to adopt decisions, except where approval by a greater number of members is required by the Declaration, Articles of Incorporation, or these By-Laws.

(i) The order of business at annual members' meetings, and as far as practical at all other members' meetings, shall be:

- (1) election of a chairman of the meeting, if the President is unavailable to preside;
- (2) calling of the roll and certifying the proxies;
- (3) proof of notice of meeting or waiver of notice;
- (4) reading and disposal of any unapproved minutes;
- (5) reports of officers;
- (6) reports of committees;
- (7) election of inspectors of election;
- (8) election of Directors;
- (9) unfinished business;

(10) new business, and

(11) adjournment.

4. Directors.

(a) The affairs of the Association shall be managed by a Board of Directors. Until May 7, 1986, the initial Board of Directors shall consist of L. H. Hardwick, III, John Bearden, and Ed Bryan. The Declarant may, but shall not be obligated to do so, appoint an Advisory Board of Directors, consisting of 3 Unit Owners during the term of the initial Board of Directors. Such Advisory Board shall have no authority to manage the affairs of the Condominium, but may, upon invitation, meet with the Board of Directors from time to time. After the first annual meeting, the Board of Directors shall consist of five (5) persons, all of whom shall be Unit Owners, or, in the event any Unit be owned by a partnership, corporation, or fiduciary, such person shall be a partner, officer of the corporation, or the fiduciary or officer of the fiduciary, as the case may be. The initial Board of Directors shall serve without compensation. Thereafter, the compensation, if any, of the Directors shall be as fixed by the vote of a majority of the Unit Owners.

(b) At the first annual meeting of the members of the Association (May 7, 1985), five persons shall be elected to serve as the Board of Directors, and the term of office of those elected shall be fixed at one (1) year. The election shall be by ballot and by a plurality of the votes cast, each member voting must cast his vote (or votes) for as many nominees as there are vacancies to be filled, but there shall be no cumulative voting.

(c) Except as to vacancies provided by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors until the next annual meeting at which time a Director shall be elected to fill the remaining term of any such vacancy.

(d) Any Director may be removed by concurrence of two-thirds (2/3) of the votes of the entire membership at a special or general meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

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(e) In the event of vacancies during the existence of the initial Board of Directors, the remaining Directors shall fill the vacancies, and, if there are no remaining Directors, the vacancies shall be filled by the Declarant.

(f) The term of each Director's service shall be one (1) year. A Director's term of service shall extend until his successor is elected at the annual meeting of the members and thereafter until his successor is qualified and assumes office, or until he is removed in the manner elsewhere provided.

5. Directors' meetings.

(a) The organizational meeting of a newly elected Board of Directors shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary providing a quorum shall be present.

(b) Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph, at least three (3) days prior to the day named for such meeting.

(c) Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of any two (2) of the Directors. Notice of the meeting shall be given personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting, which notice shall state the time, place, and purpose of the meeting.

(d) Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

(e) A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the

Declaration, Articles of Incorporation, or these By-Laws. If, at any meeting of the Board of Directors, less than a quorum is present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

(f) The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one of their number to preside.

(g) The order of business at Directors' meeting shall be:

- (1) calling of roll;
- (2) proof of due notice of meeting;
- (3) reading and disposal of any unapproved minutes;
- (4) reports of officers and committees;
- (5) election of officers (if necessary);
- (6) unfinished business;
- (7) new business; and
- (8) adjournment.

(h) The Directors may adopt any resolution by an instrument in writing, signed by all of the then qualified and acting Directors, provided there then be at least three (3) in number, and any such resolution, when so executed, shall have the force and validity of a resolution adopted at any regular or special meeting.

(i) All minutes and records of actions of the Directors, and all records pertaining to operations of the Association, shall be kept at the Association office or at such place as may be designated by the Secretary of the Association, and shall be available to members for inspection at all times during normal business hours.

6. Powers and Duties of the Board of Directors.

(a) All of the powers and duties of the Association existing under the Condominium Act, the Declaration, the Articles of Incorporation, and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by Unit Owners when such is specifically required. Compensation of employees of the Association shall be fixed by the Directors. A Director may be an employee of the Association, and a contract for management of the condominium may be entered into with a Director. The Board of Directors is specifically charged with the responsibility of providing for the care and upkeep of all Common Elements and Limited Common Elements of the Condominium pursuant to the provisions of the Declaration. Specifically included in the foregoing general powers of the Board of Directors are the following powers and duties, which are listed by way of enumeration and not by limitation:

- (1) To elect and remove the officers of the Association;
- (2) To administer the affairs of the Association and the Condominium property;
- (3) To engage the services of an agent, hereinafter sometimes called the "Managing Agent", to maintain, repair, replace, administer and operate the Condominium or any part thereof for all the Unit Owners upon such terms and for such compensation and authority as the Board of Directors may approve;
- (4) To formulate policies for the administration, management and operation of the Condominium and the Common Elements;
- (5) To adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Condominium property and the Common Elements, and to amend such rules and regulations from time to time;
- (6) To provide for the maintenance, repair, and replacement of the Common Elements and Limited Common Elements as required by the Declaration, to make payments therefor, and to approve payment vouchers or to delegate such approval to the officers or Managing Agent;

(7) To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Condominium property and the Common Elements, and to delegate any such powers to the Managing Agent (or any employees of the Managing Agent);

(8) To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board of Directors;

(9) To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board of Directors deems advisable;

(10) To fix the estimated annual budgets, and to provide the manner of assessing and collecting from Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(11) To enter into any lease agreement for lease of premises suitable for use as guest or custodian apartments, upon such terms as the Board of Directors may approve;

(12) To borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association;

(13) To secure insurance policies as required by the Declaration and in this regard, annually to review the amounts of coverage afforded by such policy or policies;

(14) To grant permits, licenses, and easements over the Common Elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium;

(15) To maintain or defend any action in any court or other proceeding on behalf of the Unit Owners which arises in connection with the Common Elements;

(16) Unless otherwise provided herein or in the Declaration, to comply with the instructions of a majority of Unit Owners as expressed in resolutions duly adopted at any annual or special meeting of Unit Owners;

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(17) To exercise all other powers and duties of Unit Owners as a group referred to in the Condominium Act, in the Declaration or these By-Laws.

(b) Specifically, whenever in these By-Laws or in the Declaration the Association is given the power to take any action, it is the intention of such instruments that the Board of Directors shall act for the Association in all cases, except to the extent that it is expressly provided that action may be taken upon vote of the Unit Owners.

(c) Nothing in these By-Laws shall be considered to grant to the Board of Directors, the Association, or to the officers of the Association, any powers or duties which, by law, have been delegated to the Unit Owners.

#### 7. Officers.

(a) The executive officers of the Association shall be a President, who shall be a Director, a Vice President, who shall be a Director, a Treasurer, a Secretary, and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be removed by vote of the Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be the Secretary or the Assistant Secretary. The Board of Directors may from time to time elect other officers to exercise such powers and duties as the Board shall find to be required to manage the affairs of the Association. Compensation, if any, of officers shall be fixed by the Board of Directors.

(b) The President shall be the Chief Executive Officer of the Association. He shall have all of the powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate, to assist in the conduct of affairs of the Association.

(c) The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and

exercise such other powers and perform such other duties as shall be prescribed by the Directors.

(d) The Secretary shall keep the minutes of all proceedings of the Directors and the members and shall keep a complete and accurate list of all members entitled to vote at meetings of the Association. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

(e) The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of treasurer of an association.

#### 8. Indemnification.

(a) To the extent not covered by insurance, the Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to the By-Laws of the Association, the Board of Directors and the Declarant, against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members or Declarant, on behalf of the Unit Owners, or arising out of their status as directors, Board, officers, committee members or Declarant, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Declarant may be involved by virtue of such persons being or having

been such director, officer, Board, committee member, or Declarant, provided, however, that such indemnity shall not be operative with respect to:

(1) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Declarant, or

(2) any matter settled or compromised, unless the Board determines there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member, or Declarant.

(b) To the extent that the Declarant or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subparagraph (a) or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

(c) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Paragraph 8.

(d) The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge its obligations under this Paragraph, provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees, or Declarant, or out of the aforesaid indemnity in favor of the directors, Board, officers,

members of such committees, or Declarant shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements, bears to the total percentage interest of all the Unit Owners in the Common Elements. Every agreement made by the directors, Board, officers, members of such committees, Declarant or by the Managing Agent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, Declarant or the Managing Agent, as the case may be, are acting only as agents for the Unit Owner and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements. The indemnification provided by this Paragraph 8 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Declarant or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

9. Assessments.

(a) The first monthly installment of the initial annual assessment against the Unit Owners for their shares of the Association budget shall be done on the first day of the month in which Declarant records a deed conveying a Unit to a Unit Owner other than Declarant. The initial annual assessment shall be for the period ending twelve (12) months from the due date of the first monthly installment. Thereafter, an annual assessment shall be made every twelfth month or as otherwise determined by the Board, and shall be payable in twelve (12) equal payments due on the first day of each month. If an annual assessment is not made as required, an assessment shall be presumed to

have been made in the same amount as the immediately preceding assessment.

(b) Such assessments shall include amounts necessary to establish and maintain a replacement reserve fund for capital expenditures and replacement and repair of the Common Elements, which funds shall be used for those purposes and not for usual and ordinary repair expenses of the Common Elements. This fund shall be maintained by the Board of Directors in a separate interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County, Indiana.

(c) At the closing of the initial sale by Declarant of each Unit, the purchaser of such Unit shall be required to pay the following:

(1) The prorata share of the first year's insurance premiums paid by the Association based upon each Unit's percentage ownership of the Common Elements;

(2) A Working Capital Assessment of \$100.00.

(d) If a Unit Owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the Unit Owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Unit Owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

(e) In the event that during the course of any year it shall appear to the Board of Directors that the annual assessment, payable monthly, determined as aforesaid, is insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board of Directors shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, copies of which supplemental budget shall be furnished to each Unit Owner, and thereupon a supplemental assessment shall be made to each Unit Owner for his proportionate share of such supplemental budget, and such supplemental assessment shall be paid in a time and manner directed by the Board of Directors.

(f) The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by the Directors. The Directors may contract with a Managing Agent to provide that the Managing Agent shall collect assessments from Unit Owners and other moneys of the Association and disburse Association funds pursuant to the terms of such contract; provided, however, all employees of the Managing Agent handling or responsible for Association funds must be covered by fidelity bonds as set forth below in subparagraph (g). The signatures of two officers of the Association or in the event a Managing Agent is employed, the signatures of at least two employees specified in the contract, shall be required to sign any check in excess of \$5,000.00. Three authorized signatures, one of which must be of an officer of the Association, shall be required for any checks in excess of \$10,000.00. All reserve funds of the Association shall be kept in a separate bank account and all checks written on such account shall be signed by at least two officers of the Association and one employee of the Managing Agent. If there is no Managing Agent, the signatures of two officers shall be sufficient.

(g) An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than one hundred twenty (120) days following the year for which the report is made.

(h) Fidelity bonds shall be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors, but shall be at least one-fourth (1/4) of the amount of the total annual assessments against members for Common Expenses plus the amount of the reserve account. The premiums on such bonds shall be paid by the Association. The Managing Agent shall be required to provide satisfactory evidence that all employees handling Association funds are protected by a bond naming the Association as the insured.

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(i) The Board of Directors shall cause to be kept detailed and accurate records in chronological order of its receipts and expenditures affecting the Common Elements, specifying and itemizing the Common Expenses incurred. Payment vouchers may be approved in such manner as the Board of Directors may determine.

(j) Upon the request of any Unit Owner, prospective grantee, title insurance company, or mortgagee, the Board shall provide, within five (5) days of the request, a statement of the amount of current and delinquent assessments of Common Expenses against a particular Unit.

10. Rules and Regulations.

The Directors are expressly empowered to adopt and promulgate, from time to time, reasonable rules and regulations governing the use of the Units and the common areas, including the imposition of penalties for violation thereof. All such rules and regulations shall be binding rules and regulations of the Association unless rejected by a resolution adopted at a meeting of the members or by a writing signed by members representing at least sixty percent (60%) of the votes of the Association. The Directors shall give written notice to all members of the adoption of any new rules and regulations or of the amendment of any existing rule or regulation.

11. Amendments.

These By-Laws may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings to consider the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Such approvals must be by sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association.

(c) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units unless the Unit Owners so affected shall consent. No amendment shall change any Unit, nor the share in the Common Elements appurtenant to it, nor increase the Unit Owner's share of the Common Expenses, nor change the voting rights of members, unless the record owner of the Unit concerned and all record owners of liens thereon shall join in the execution of the amendment giving their written approval.

(d) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective upon recording in the Office of the Recorder for Marion County, Indiana as an amendment to the Declaration.

(e) Any amendment to these By-Laws which modifies the system of administration of the Association must be approved by the Unit Owners possessing sixty-six and two-thirds percent (66-2/3%) of the votes of the entire Association.

(f) Any amendment which limits a Unit Owner's ability to lease a Unit, or which limits the ability of any person or entity to own more than one (1) unit, must be approved by Unit Owners possessing ninety-five percent (95%) of the votes of the entire Association.

#### 12. Books and Records.

The Association shall maintain full and complete books and records which shall show, at all times, the financial condition of the corporation and a separate financial account of each member. All books and records of the Association shall be open for inspection by any member upon reasonable notice.

#### 13. Parliamentary Rules.

Roberts' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration, the Articles of Incorporation or these By-Laws.

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14. Definition of Terms.

The terms used in these By-Laws, to the extent they are defined therein, shall have the same definition as set forth in the Declaration. The term "member" as used in these By-Laws, means "Unit Owner" as defined in the Declaration.

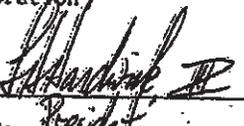
15. Compliance with Statute.

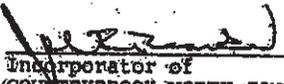
These By-Laws are set forth to comply with the requirements of the Condominium Act, as it may be amended from time to time. In case any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply.

The foregoing By-Laws are hereby adopted as the By-Laws of Countrybrook North Condominium and Countrybrook North Condominium Association, Inc. by the undersigned as of May 31, 1985.

SEC REALTY CORP., a Tennessee corporation

  
\_\_\_\_\_  
Incorporator of  
COUNTRYBROOK NORTH CONDOMINIUM  
ASSOCIATION, INC.

BY:   
\_\_\_\_\_  
TITLE: President

  
\_\_\_\_\_  
Incorporator of  
COUNTRYBROOK NORTH CONDOMINIUM  
ASSOCIATION, INC.

  
\_\_\_\_\_  
Incorporator of  
COUNTRYBROOK NORTH CONDOMINIUM  
ASSOCIATION, INC.

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Cross-Reference: 85-44911

MARION COUNTY RECORDER

513931 FEB 26 3

AMENDED AND RESTATED DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS FOR THE COUNTRYBROOK NORTH CONDOMINIUM

RECEIVED FOR TRANSFER

This Amended and Restated Declaration of Horizontal Property Ownership and By-Laws for the Countrybrook North Horizontal Property Regime was executed this 19th day of December, 2003.

WITNESSETH THAT:

WHEREAS, the Countrybrook North Horizontal Property Regime located in Marion County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act codified at Indiana Code § 32-1-6-1 et seq. (presently codified at Indiana Code § 32-25-1-1, et seq.), as amended, and pursuant to a certain "Declaration Establishing Countrybrook North Condominium," recorded in the Office of the Recorder of Marion County, Indiana, on June 5, 1985, as Instrument No. 85-44911 ("Original Declaration"), to which were attached as an exhibit the "By-Laws for Countrybrook North Condominium and Countrybrook North Condominium Association, Inc." ("By-Laws"), said By-Laws being recorded on the same date and under the same Instrument No. 85-44911; and

WHEREAS, the Original Declaration established the Countrybrook North horizontal property regime, consisting of one hundred fifty-six (156) Units and the Common Elements applicable thereto; and

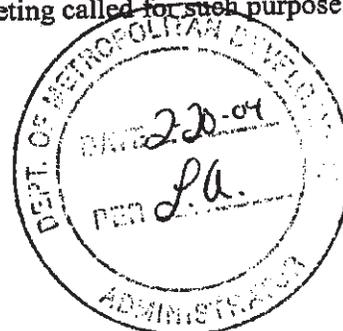
WHEREAS, the name by which this condominium was and is to be identified is "Countrybrook North Condominium", hereinafter called the "Condominium"; and

WHEREAS, the office address of the Condominium is 7400 Countrybrook Drive, Indianapolis, Indiana 46260; and

WHEREAS, Paragraph 22 of the Original Declaration enables the same to be amended by the written approval of sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association; and

WHEREAS, Paragraph 11(b) of the By-Laws, as amended, enables the By-Laws to be amended by the approval of at least sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association at a duly constituted meeting called for such purpose; and

Approved 02 / 17 / 2004 Washington Township Assessor By: [Signature] Real Estate Deputy



02/26/04 11:50AM MARION COUNTY RECORDER Inst # 2004-0046885 CAN 111.00 PAGES: 51

WHEREAS, the Unit Owners of the Countrybrook North Condominium, being the members of the Countrybrook North Condominium Association, Inc. ("Association") desire to adopt certain amendments to the Original Declaration and the By-Laws of the Association as set forth herein and to incorporate such amendments into this single document, namely, this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws for the Countrybrook North Horizontal Property Regime; and

WHEREAS, after notice was duly given pursuant to the By-Laws, as amended, the Annual Meeting of the Unit Owners was held on the 31st day of May, 2003, for the purpose of considering and adopting this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws; and

WHEREAS, at said Annual Meeting, the Owners of more than sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association voted to approve this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws.

NOW, THEREFORE, the Declaration and By-Laws are hereby amended and restated as follows:

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**AMENDED AND RESTATED DECLARATION  
OF HORIZONTAL PROPERTY OWNERSHIP  
AND BY-LAWS FOR THE  
COUNTRYBROOK NORTH CONDOMINIUM**

**ARTICLE I  
DEFINITIONS**

The following terms, as used in this Declaration and By-Laws, unless the context clearly requires otherwise, shall mean the following:

Section 1.1. "Assessments" mean the Regular Assessments and Special Assessments as described more fully below in Article XXII.

Section 1.2. "Association" means Countrybrook North Condominium Association, Inc., an Indiana nonprofit corporation, being the entity responsible for the operation of the Condominium.

Section 1.3. "Board of Directors" means the governing body of the Association elected by the Unit Owners.

Section 1.4. "By-Laws" means Articles XV through XXIV of this Declaration.

Section 1.5. "Common Elements" means all of the real property, improvements, and facilities of the Condominium, other than the Units, as the same are hereinafter defined.

Section 1.5. "Condominium Act" means the Indiana Horizontal Property Act, as amended, presently codified at Indiana Code § 32-25-1-1, *et seq.*

Section 1.7. "Condominium Building" means one of the twenty-two (22) two-story buildings containing the one hundred fifty-six (156) Units within Countrybrook North.

Section 1.8. "Countrybrook North Condominium" or "the Condominium" shall mean the Countrybrook North Horizontal Property Regime, including all Units, Common Elements and Limited Common Elements. The land which was submitted to the condominium form of ownership for Countrybrook North was fully described in Exhibit "A" which was attached to the Original Declaration, which, by reference, is made a part hereof as fully as if copied herein. The improvements located on such land include, but are not limited to, twenty-two (22) two-story apartment buildings containing one hundred fifty-six (156) residential condominium units, an office, a one-story clubhouse, a swimming pool, tennis courts, laundry facilities (one laundry facility for each of the eight "courts"), sidewalks, paved parking areas, driveways, carports, and landscaping improvements. This land as more particularly described in Exhibit A as attached to the Original Declaration shall hereinafter be referred to as the "Land".

Section 1.9. "Limited Common Elements" means a portion of the Common Elements allocated by this Declaration for the exclusive use of one or more but fewer than all the Units.

Section 1.10. "Nonprofit Act" means the Indiana Nonprofit Corporations Act, as amended, presently codified at Indiana Code § 23-17-1-1, *et seq.*

Section 1.11. "Plans" means the description and identification of the Units as shown on the Plans of Countrybrook North Condominium recorded as of May 31, 1985, as Instrument No. 85-44910, in the Recorder's Office for Marion County, Indiana, and which Plans are incorporated by reference herein.

Section 1.12. "Unit" means the fee simple estate to one of the residential units within a Condominium Building, as such area is identified, located and described on the Plans and as hereinafter set forth.

Section 1.13. "Unit Owner" means the person or persons holding title in fee simple to a Unit.

Section 1.14. "Utility Services" shall include, but not be limited to garbage collection (unless provided by the City), gas required to operate the laundry room and certain exterior lights, electricity required to operate lights and other elements deemed to be Common Elements by this Declaration and By-Laws, and other utility services provided to the Condominium as a whole.

## **ARTICLE II** **IDENTIFICATION & APPLICABILITY**

Section 2.1. Identification and Adoption. The provisions of this Declaration and these By-Laws shall apply to the Countrybrook North Condominium property and the administration and conduct of the affairs of the Association. The By-Laws shall also constitute the By-Laws of the Association.

Section 2.2. Individual Application. Each of the Owners within the Countrybrook North horizontal property regime located in Marion County, Indiana shall automatically and mandatorily be Members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Units, covenant and agree to be bound by the conditions, restrictions, and obligations contained herein, together with all subsequent amendments thereto, the Association's Articles of Incorporation, and the rules and regulations of the Association promulgated by the Board of Directors. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Unit or any part of the Common Elements or Limited Common Elements shall be subject to the rules, restrictions, terms, and conditions set forth in this Declaration and By-Laws, the Articles of Incorporation, the

Condominium Act, and the Nonprofit Act, all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. All of the covenants, rights, restrictions, and liabilities contained in this Declaration and the By-Laws shall apply to and govern the interpretation of the Articles of Incorporation.

**Section 2.3. Membership.** The members of the Association shall be all Unit Owners in the Countrybrook North Condominium. Each Owner of a Unit shall automatically become a member of the Association and shall remain a member of the Association so long as he or she owns a Unit. Membership shall be appurtenant to, and may not be separated from, ownership of any Unit. Membership shall be automatically transferred upon the transfer of a Unit.

### **ARTICLE III** **BOUNDARIES OF UNITS**

**Section 3.1. Boundaries.** The boundaries of each Unit shall be as follows:

- (a) The upper boundary shall be its highest ceiling,
- (b) The lower boundary shall be the upper unfinished surface of its floor ( i.e. that surface directly beneath the carpeting, hardwood floors or other floor covering),
- (c) The vertical boundaries (measuring the horizontal area of a Unit) shall be the perimeter walls.

**Section 3.2. Further Definition of the Boundaries.** Notwithstanding the definition of the boundaries of a Unit contained in Section 3.1 above, in order to more precisely define the boundaries of a Unit, the following shall govern in determining whether an item is part of the Unit, a Limited Common Element, or a portion of the Common Elements:

- (a) all drywall, paneling tiles, wallpaper, paint, carpet, windows, exterior doors, finished flooring and any other material constituting any part of the finished surfaces of the upper, lower and vertical boundaries, are part of the Unit, and all other portions of the walls, floors, or ceilings constituting part of such boundaries are a part of the Common Elements.
- (b) if any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element applicable solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

- (c) Subject to the provisions of the immediately preceding subparagraph (b), all spaces, interior partitions or walls, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.
- (d) All air conditioning and heating equipment, patios, wooden privacy fencing enclosing the patios, screens, storm doors, patio screen doors, storage buildings, and all fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements applicable exclusively to that Unit.
- (e) Despite the enumerations above concerning ownership, the duties with respect to maintenance, repair, replacement and insurance for each item are set forth elsewhere herein, including Exhibit A-2.

#### **ARTICLE IV**

#### **OWNERSHIP OF COMMON ELEMENTS AND COMMON EXPENSE LIABILITY**

**Section 4.1. Ownership of Common Elements and Common Expense Liability.** Each Unit Owner shall own a share in the Common Elements, and shall be liable for payment of the of the percentage of Common Expenses equal to the percentage of the undivided interest in the Common Elements appertaining to each Unit as set forth in Exhibit A-1 attached hereto and by reference incorporated herein.

**Section 4.2. Method of Calculation.** The calculation of each Unit Owner's percentage of the undivided interest in the Common Elements was originally based on the value of each Unit in relation to the value of all Units in the Condominium.

**Section 4.3. Conveyance Includes Percentage Interest.** Any conveyance of an individual Unit shall be deemed to also convey the undivided percentage interest of the Unit Owner in the Common Elements and Limited Common Elements appertaining to such Unit, even if such conveyance does not specifically refer to such undivided interest.

#### **ARTICLE V**

#### **MAINTENANCE AND ALTERATION OF UNITS**

**Section 5.1. Unit Owner's Responsibilities.** Unless otherwise described in Exhibit A-2 attached hereto and incorporated herein, the maintenance and repair of the Unit shall be the responsibility and expense of the Unit Owner. In addition to any exceptions set forth in Exhibit A-2, the following exceptions shall also apply:

- (a) The Association at its own expense shall repair those portions of a Unit which sustain water damage, the primary cause of which is not the negligence of the occupants or Unit Owner of such Unit, nor the result of water leakage from the water heater or other appliance or fixture located in such Unit.

(b) Only if approved and authorized by the Board of Directors, the Association at its expense shall clean the exterior surfaces of the windows at such intervals as determined appropriate by the Association. Otherwise, the Owner shall be responsible for such cleaning.

Section 5.2. Changes or Alterations. The Unit Owner shall not make any changes, decorations or alterations of his or her Unit, the Unit's patio or any other Limited Common Element allocated to said Unit that would affect the exterior appearance of any portion of Countrybrook North, unless approved in advance by the Association's Architectural Review Committee pursuant to Article XXIV below. Unit Owners shall not decorate the glass windows serving their Units or otherwise change the appearance of the windows as viewed from the exterior of the Unit, except for drapes, curtains or shades which must comply with the rules and regulations adopted by the Board of Directors and the requirements set forth in Exhibit A-2 hereto.

Section 5.3. Owner's Duty to Report. The Unit Owner shall promptly report in writing to the Association's Board of Directors or Managing Agent any defect or need for repairs, the responsibility for which is that of the Association. If in the sole discretion of the Board of Directors the Unit Owner has failed to report promptly the need for repair, the Association shall not be liable for such repairs. In that case, the Unit Owner shall be responsible for all repairs, whether to the Unit, the Common Elements or the Limited Common Elements, at such Owner's sole cost and expense. If the Owner refuses or fails to do so, the Association may perform such repairs, with all costs and expenses constituting a Special Assessment only against that Unit and Owner.

Section 5.4. Changes to Exterior Appearance. In replacing those portions of a Unit which affect the exterior appearance of any portion of the Condominium Building or the Common Elements, the Unit Owner shall use components of the same color, grade and style as those currently in place, unless permission is otherwise obtained from the Association's Architectural Review Committee pursuant to Article XXIV below.

Section 5.5. Denial. If the Architectural Review Committee determines that any alteration or structural change proposed by a Unit Owner would jeopardize the soundness or safety or the Condominium, reduce the value thereof or impair any easement, approval shall be denied.

Section 5.6. Owner's Failure to Repair. Each Owner shall promptly perform all repairs within his or her Unit which, if neglected, might adversely affect any other part of Countrybrook North. If a Unit Owner fails to maintain and repair his or her Unit as required by any provisions of this Declaration and By-Laws, including Exhibit A-2, the Association may perform such maintenance or repair, with all costs and expenses incurred by the Association, together with up to a twenty percent (20%) service charge for the Association's services, constituting a Special Assessment only against that Unit and Owner.

**ARTICLE VI**  
**MAINTENANCE AND REPAIRS OF COMMON ELEMENTS AND**  
**LIMITED COMMON ELEMENTS**

**Section 6.1. Common Elements.** Except as otherwise described in Exhibit A-2 attached hereto and incorporated herein, the maintenance, operation, repair and replacement of the Common Elements shall be the responsibility and a Common Expense of the Association.

**Section 6.2. Limited Common Elements.** Except as otherwise described in Exhibit A-2 attached hereto and incorporated herein, the maintenance, repair and replacement of the Limited Common Elements shall be the responsibility and expense of the applicable Owner(s) of the Unit(s) to which the Limited Common Elements are allocated. If a Unit Owner fails to maintain, repair or replace the Limited Common Elements allocated to his or her Unit as required by any provisions of this Declaration and By-Laws, including Exhibit A-2, the Association may perform such maintenance or repair, with all costs and expenses incurred by the Association, together with up to a twenty percent (20%) service charge for the Association's services, constituting a Special Assessment only against that Unit and Owner.

**ARTICLE VII**  
**EASEMENTS**

**Section 7.1. Association Easements.** The following easements were and are granted to the Association for the following purposes:

- (a) Easements through or over the Units and any Limited Common Element allocated to any Unit for conduits, ducts, plumbing, wiring and other facilities for the furnishing or repair of Utility Service to Units, Limited Common Elements or Common Elements;
- (b) Easements through or over the Units and any Limited Common Element allocated to any Unit for the purpose of maintaining or repairing any portion of the Common Elements, Limited Common Elements or any Unit. All incidental damage caused to a Unit by such maintenance or repair work shall be promptly repaired at the expense of the Association;
- (c) Easements of support in every portion of a Unit which contributes to the support of the Condominium Building, including easements for access to and repair of such elements of support;
- (d) Easements for encroachments of any portion of the Common Elements upon the boundary of any Unit whether caused by the settlement of the Condominium Building or by minor inaccuracies in the Plans, or rebuilding of any part of the Condominium Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

Section 7.2. Owners' Easements. As an appurtenance to each Unit, easements were and are granted to the Unit Owners for encroachments by any portion of the boundaries of each Unit upon the Common Elements, whether caused by the settlement of the Building or by minor inaccuracies in the Plans of the Condominium, or rebuilding of any part of the Building, whether such encroachments now exist or hereafter may exist. All such easements shall continue until such encroachments shall cease to exist.

## **ARTICLE VIII INSURANCE**

Section 8.1. Casualty Insurance. The Association shall obtain and continue in effect a master casualty insurance policy issued in the name of the Association for the use and benefit of the Owners affording fire and extended coverage insurance for an amount consonant with the full replacement value of the improvements that in whole or in part comprises the Common Elements and Limited Common Elements (commonly referred to as "All In" coverage). In terms of the interior portions of the Units, said insurance shall cover the following:

- A. Improvements, additions, and alterations comprising a part of the Unit; and
- B. Fixtures, including, but not limited to, items such as cabinets, counter tops, sinks, bathroom fixtures, and kitchen fixtures.

The Association's policy shall cover the items above even if they are upgrades (or improvements and betterments) of what was originally provided at the initial sale of the Unit to the first purchaser thereof; however, any increased cost in the Association's premium due to improvements and betterments may be assessed by the Association against the Units affected. "Improvements and betterments" means all decorating, fixtures, and furnishings installed or added to and located within the boundaries of the Unit, including electrical fixtures, appliances, air conditioning and heating equipment, water heaters, or built-in cabinets installed by Unit Owners. The Association's policy shall NOT insure any Owner's wall coverings or floor coverings.

If the Board of Directors can obtain such coverage for reasonable amounts, it shall also obtain "all risk" coverage. Such insurance coverage shall be for the benefit of each Owner and, if applicable, the Owner's mortgagee under a mortgage of record, as their interests appear.

The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. The Board of Directors may cause such full replacement value to be determined by a qualified appraiser, if it deems such action advisable. The cost of such appraisal shall be a Common Expense.

All proceeds payable at any time and from time to time under such insurance policy shall be payable to the Association, which shall hold such proceeds as trustee for the individual Owners and mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Declaration and By-Laws. In the event that the members of the Board of Directors have not posted fidelity bonds for the faithful performance of their duties as such directors or if such bonds do not exceed the funds which will come into their hands, and there is a damage to a part or all of the Condominium resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of their duties in an amount to be determined by the Owners having more than fifty percent (50%) of the total percentage interest, which amount shall not exceed 125% of the loss, before the Association shall be entitled to receive the proceeds of the insurance payable as a result of such loss.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable): (i) contain the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors in the area in which the Condominium is located; (ii) provide that the insurer waives any defense based on invalidity arising from the acts of the insured; (iii) provide that the insurer waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, the Owners, and their respective agents and guests; (iv) provide that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted; and (v) provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Article X of this Declaration.

Section 8.2. Public Liability Insurance. The Association shall also obtain and continue in effect a master comprehensive public liability insurance policy in such amounts as the Board of Directors shall deem appropriate from time to time; provided, however, that such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury (including deaths of persons) and property damage arising out a single occurrence. Such insurance shall cover each Owner and all other persons entitled to occupy any Unit, the Association, the Board of Directors, any Managing Agent acting on behalf of the Association and all persons acting or who may come to act as agents or employees of the foregoing with respect to Countrybrook North. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and death of persons in connection with the operation, maintenance or use of the Common Elements and Limited Common Elements and, if available at a reasonable premium, legal liability arising out of lawsuits related to employment contracts of the Association. Such insurance coverage shall also cover cross-liability claims of one insured against the other. Such policy shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each mortgagee listed as a mortgagee in the policy.

Section 8.3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation insurance, and such other liability insurance as the Board of Directors shall deem necessary, advisable or appropriate, including, but not limited to, liability insurance on motor vehicles owned by the Association, specialized policies covering land or improvements on which the Association has or shares ownership or other rights, and directors' and officers' liability policies. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Such insurance coverage shall also cover cross-liability claims of one insured against the other.

Section 8.4. Premiums. The insurance premiums for any insurance coverage hereinabove described shall be a Common Expense to be paid by assessments levied by the Association.

Section 8.5. Notice; Distribution. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner and to each mortgagee whose interest may be affected thereby. Such notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association, or the Managing Agent if directed by the Board of Directors.

In no event shall any distribution of proceeds be made by the Association directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and his mortgagee jointly.

Section 8.6. Mandatory Unit Owner's Insurance. All Unit Owners are required to maintain, at their own expense, the appropriate form of condominium insurance (typically referred to as an HO-6 policy) to cover their wall coverings, floor coverings, personal property, comprehensive personal liability, Association deductible reimbursement (see Section 9.1), and loss assessment exposures. Each Owner's policy must include coverage for, but not be limited to, appliances, such as those used for refrigerating, ventilating, cooking, dishwashing, laundering, security, and housekeeping, even if any of said appliances are "built in". All coverage should be on a replacement cost basis. The Association must be listed on each Owner's policy as an Additional Insured. If an Owner does not purchase or produce evidence of insurance as required by the Board, the Association may purchase the insurance coverage and charge the premium costs back to such Owner and the Unit as a Special Assessment. In no event shall the Association, its Board of Directors, officers, or agents be liable to any person either with regard to the decision not to purchase the insurance, or with regard to the timing of its purchase of the insurance or the amounts or types of coverages obtained. The Board of Directors shall have the power to adopt Rules and Regulations to further clarify this Section 8.6.

Each Owner may, at his or her own expense, purchase such additional insurance as he or she may deem necessary. Each Owner shall be solely responsible for loss or damage to the

solely to that Owner's Unit or the Limited Common Elements assigned to that Owner's Unit.

C. Except as provided in paragraphs A and B above, or where the damage is a result of the sole fault of the Association, liability for the amount of damage within the limits of any applicable insurance deductible on a policy of insurance issued to the Association shall be pro-rated between the Association and any involved Owners in proportion to the relative amounts of damage to the Common Elements and to each of the affected Units, including the Limited Common Elements assigned to such Unit or Units, where the damage involves both the Common Elements and/or one or more Units or the Limited Common Elements assigned to a Unit or Units.

Each Owner is responsible for verifying with his or her own insurance agent that the Owner's share of any such Association deductible is covered under his or her own Unit Owner's insurance policy (assuming the deductible is not assessed as part of the Common Expenses allocable to all Owners). The Owner should pay particular attention to the portion of his or her HO-6 policy which is called "Coverage A--Building Property" to ensure that there is sufficient coverage for the Owner's possible share of the Association's deductible. Any portion of such a deductible which has been assessed to a particular Owner's account will be subject to the same collection procedures as provided elsewhere herein for Assessments.

## **ARTICLE X** **CASUALTY AND RESTORATION**

**Section 10.1. Repair.** Except as hereinafter expressly provided below in this Article X, in the event of damage to or destruction of the Condominium due to fire or other casualty or disaster, the Association shall promptly cause the same to be repaired, reconstructed and restored as nearly as practicable to its former condition and character. The proceeds of insurance, if any, received by the Association shall be applied to the cost of such repair and reconstruction.

**Section 10.2. Complete Destruction.** In the event of complete destruction of all Condominium Buildings:

(a) the Condominium Buildings shall not be reconstructed, except as provided in subsection (b) below, and the insurance proceeds, if any, shall be divided among the Unit Owners in the percentage by which each owns an undivided interest in the Common Elements; and

(b) Countrybrook North shall be considered as to be removed from the provisions of the Condominium Act as provided in the Condominium Act, unless by a vote of two-thirds (2/3) of the total percentage interest of the Owners a decision is made to rebuild the Building(s).

Section 10.3. Decision to Rebuild. If a decision is made under Section 10.2(b) to rebuild the Building(s), the insurance proceeds shall be applied, and any excess of construction costs over insurance proceeds shall be contributed as provided in this Article X in the event of less than total destruction of the Condominium Buildings.

Section 10.4. Determination of Total Destruction. A determination of total destruction of the Condominium Buildings containing all Units shall be made by a vote of two-thirds (2/3) of the total percentage interest of the Owners at a special meeting of the Association called for that purpose. If it is not determined by the Owners to rebuild after a casualty or disaster has occurred, the provisions and procedures set forth in the Condominium Act shall apply.

Section 10.5. Insufficient Insurance Proceeds. If the insurance proceeds, if any, received by the Association as a result of any such fire or other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or if there are no insurance proceeds, and if the Condominium is not to be removed from the provisions of the Condominium Act, all Owners shall contribute the balance of the cost of repair or reconstruction in the percentage by which a Unit Owner owns an undivided percentage interest in the Common Elements. Any such amount payable by the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Condominium Act.

Section 10.6. Surplus Proceeds. If there is any surplus of insurance proceeds after the repair and reconstruction of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Common Elements and Limited Common Elements.

Section 10.7. Non-Waiver. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against an Owner for committing willful or malicious damage.

## **ARTICLE XI** **ENFORCEMENT**

Section 11.1. Enforcement. Each Unit Owner shall be governed by, and shall comply with, the terms of this Declaration and the By-Laws, the Articles of Incorporation, and Rules and Regulations adopted pursuant thereto, as any of the same may be amended from time to time. In the event of a violation, or threatened violation, of any of the terms of this Declaration and the By-Laws, the rules and regulations adopted by the Board of Directors, or Articles of Incorporation of the Association, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions, and restrictions contained in the same, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief, or secure removal by due process of any structure or modification not in compliance with the provisions contained herein. In such an action, the Association shall be entitled to recover

reasonable attorneys' fees and the costs and expenses incurred as a result thereof. Furthermore, even if an action at law or in equity is not initiated in court, if the Association incurs:

- a. a charge from the Managing Agent to send correspondence to a defaulting or violating Owner (i.e., "violation letters"), or
- b. attorneys fees with respect to a defaulting or violating Owner;

such charges or attorneys fees shall be the responsibility of the applicable Owner and shall constitute a Special Assessment against such Owner and the Owner's Unit, collectible as described in Section 22.7. The failure or forbearance by the Association or any Owner to enforce any such covenant, condition or restriction shall not be deemed a waiver of the right to do so thereafter. All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to the terms of the Condominium Act, this Declaration and the By-Laws, or Rules and Regulations of the Association shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising such other privileges as may be granted to such party by the Condominium Act, the this Declaration and By-Laws, the Rules and Regulations, or at law or equity.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach of any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 11.2. Severability. Each provision of this Declaration and the By-Laws, and the Rules and Regulations, is severable from every other provision, and the invalidity or unenforceability of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any such provision is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent lawful, the provision shall be enforced.

Section 11.3. Captions. The captions contained in this Declaration and the By-Laws are for convenience only and are not a part of this Declaration and By-Laws and are not intended in any way to limit or enlarge the terms and provisions of this Declaration and By-Laws.

Section 11.4. Additional Liability. A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness, or by that of any member of his family, or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of a Unit, or its appurtenances.

**ARTICLE XII**  
**AMENDMENTS**

Section 12.1. Amendments. This Declaration and By-Laws (including the Exhibits attached hereto) may be amended in the following manner:

(a) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is considered.

(b) A resolution adopting a proposed amendment may be proposed by either the Board of Directors, or by the members of the Association who hold at least ten percent (10%) of the total percentage interest. Directors and members not present in person or by proxy at the meetings in which the amendment is considered may express their approval in writing, providing such approval is delivered to the Association's Secretary or Managing Agent at or prior to the meeting. Such approval must be by at least fifty-one percent (51%) of the votes of the entire membership of the Association.

In the event any Unit is subject to a mortgage, the mortgagee shall be notified of the meeting of the Association at which the proposed amendment is to be submitted to a vote and of the proposed amendment in the same manner as an Owner, but only if the mortgagee has given prior notice of its mortgage interest to the Association in accordance with the provisions herein.

(c) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Recorder for Marion County, Indiana.

**ARTICLE XIII**  
**APPROVAL RIGHTS OF MORTGAGEES**

Section 13.1. Except as provided by the Condominium Act in case of complete destruction of the Units and/or Common Elements, unless at least sixty-six and two thirds percent (66-2/3%) of the first mortgagees of the Units (based upon one vote for each Unit upon which a mortgage is owned), or Unit Owners with sixty-six and two-thirds percent (66-2/3%) of the votes of the entire membership of the Association (other than Declarant) have give their prior written approval, the Association shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the Condominium;

(b) Change the pro rata interest or obligations of any Unit for the purpose of:

(1) Levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or

(2) Determining the pro rata share of ownership of each Unit in the Common Elements.

(c) Partition or subdivide any Unit;

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium shall not be deemed a transfer within the meaning of this clause);

(e) Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by the Condominium Act in case of complete destruction of the Units and/or Common Elements of the Condominium.

#### **ARTICLE IV** **LEASE AND TRANSFER OF UNIT; NOTICE TO ASSOCIATION**

**Section 14.1. Prior Approval of Tenants by Association.** The Association shall provide a Resident Qualifying Service for all prospective tenants of Unit Owners. Prior to any tenant's occupancy of a unit, a complete lease application on forms provided by the Association or otherwise approved by the Board of Directors, must be submitted to the Association for each prospective tenant. The Board of Directors shall approve or disapprove the application, in writing, within five (5) business days after actual receipt of the application. If the Board of Directors has not made such determination within five (5) business days, then the application shall be deemed to be approved. The Association shall charge each Unit Owner a tenant application fee in an amount to be determined by the Board of Directors.

**Section 14.2. Leases.** All leases shall be in writing. A copy of every lease of a Unit shall be furnished to the Board prior to occupancy by the tenant. Every such lease shall provide that the lessee shall be bound by and subject to the provisions of this Declaration and the By-Laws, and the Rules and Regulations of the Association. A copy of the Declaration and Rules and Regulations shall be attached to each lease and shall be delivered by the Unit Owner to the lessee. The Unit Owner making such lease shall not be relieved thereby from any of his obligations under this Declaration and the By-Laws. The Board shall have all the authority in its sole discretion to require at any time that any Unit Owner who is leasing his Unit, place a deposit with the Board such reasonable sums as the Board may require to be used as an indemnity against loss or damage to the Common Elements which might be caused by such Unit Owner's lessee. The terms of the indemnity shall be such terms as might be satisfactory to the Board. The Board shall furnish Unit Owner a notice in writing which shall constitute that Unit Owner's notice to make such deposit. In the event Unit Owner fails to comply with the terms of the notice within ten (10) days from the date the notice is mailed to him, the Board at its option may elect to terminate the subject lease. The Board shall give Unit Owner and his lessee notice of such

election in writing. Within ten (10) days after said notice is placed in the United States mail addressed to Units Owner's last known address or within ten (10) days after a written notice of such election is delivered to the residence of the lessee, whichever shall last occur, lessee shall forthwith and immediately vacate the subject Unit and Unit Owner shall take such further action as may be necessary to insure that said lessee vacates said Unit.

Section 14.3. Notice of Transfer of Unit. Whenever a Unit Owner shall sell, give or otherwise transfer his Unit, or any interest therein, such Unit Owner shall give the Association written notice within thirty (30) days (before or after closing) of the transfer, which notice shall briefly describe the transfer and shall state the name and address of the transferee.

Section 14.4. Miscellaneous.

- (1) A transfer or lease of a Unit, or interest therein, by or to the Board, shall not be subject to the provisions of this Article XIV.
- (2) All notices referred to or required under this Article XIV shall be given in writing by certified mail, return receipt requested or by personal service.
- (3) The Board may adopt rules and regulations, from time to time, not inconsistent with the provisions of this Article XIV, for the purpose of implementing and effectuating said provisions.
- (4) If any transfer or lease of a Unit is made or attempted without complying with the provisions of this Article XIV, such transfer or lease shall be subject to each and all of the rights and options of, and remedies and actions available to, the Association hereunder and otherwise.

Section 14.5. Maximum Number of Units Owned by a Single Owner. No Unit Owner may own more than ten percent (10%) of the Units within Countrybrook North at any time. As defined in Section 1.13 above, "Unit Owner" means the person or persons holding title in fee simple to a Unit. As used in this Section 14.5, "Owner" also means those persons or entities who comprise less than all persons or entities who own in any form or manner the fee simple title or any part thereof to any Unit and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Unit. As an example, if any person or entity owns or has any interest in the ownership of ten percent (10%) of the Units, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own an additional Unit, whether in his, her or its name only, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Any purchase agreement, conveyance or lease or rental agreement executed subsequent to the recording of this restriction which violates any provision of this Section 14.5 shall be

voidable at the election of the Association's Board of Directors or any Countrybrook North Owner, except that neither party to such agreement, conveyance or lease may assert this provision to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Countrybrook North Owner, shall have the right to exercise any and all available remedies at law or equity.

## **ARTICLE XV**

### **MEETINGS OF ASSOCIATION**

**Section 15.1. Purpose of Meetings.** At least annually, and at such other times as may be necessary or appropriate, a meeting of the Unit Owners shall be held for the purpose of electing the Board of Directors, and for such other purposes as may be required elsewhere herein, or by the Articles or the Nonprofit Act.

**Section 15.2. Annual Meeting.** The annual meeting for the Owners shall be held in the month of March or April of each year, with the specific date, time and place to be determined by the Board of Directors. At each annual meeting, the Unit Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

**Section 15.3. Special Meetings.** A special meeting of the Unit Owners may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total number of Units. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

**Section 15.4. Notice and Place of Meetings.** All meetings of the Members of the Association shall be held on the Countrybrook North property or at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Member entitled to vote thereat not less than thirty (30) days prior to the date of such meeting. Any written notice delivered to the Unit Owners as part of a newsletter or other publication regularly sent to the Unit Owners constitutes a written notice. If at any meeting an amendment to this Declaration and By-Laws, or the Articles of Incorporation is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Unit Owners at their respective addresses as the same shall appear upon the records of the Association. If an annual or special meeting of Unit Owners is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Nonprofit Act before adjournment.

In lieu of written notices from the Association sent pursuant to the above paragraph, an Owner may elect to receive notices from the Association by e-mail. Any Owner choosing e-mail shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Owner shall have the right at any time to withdraw his or her election to receive notice by e-mail, and shall thereafter be sent notices by the Association pursuant to the above paragraph.

Section 15.5. Voting.

(a) Number of Votes. Each member shall be entitled to cast one (1) vote for each Unit of which such member is the Owner. The total number of votes for all Unit Owners will be one hundred fifty-six (156). In voting for directors, each Owner (or his or her representative) shall be entitled to cast one vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his or her votes. To the extent provided in the Nonprofit Act, and except as otherwise provided elsewhere herein or in the Articles of Incorporation, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Unit, all such persons or entities shall be Members of the Association, but all of such persons or entities shall have only one vote applicable to the Unit, which vote shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. No such proxy shall

remain valid for longer than eleven (11) months from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Condominium Act, this Declaration and By-Laws, the Articles, or the Nonprofit Act, the presence of Owners or their duly authorized representatives owning at least twenty-five percent (25%) of the total number of Units shall constitute a quorum at all meetings. Unless otherwise required herein or by the Nonprofit Act, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum.

Section 15.6. Conduct of Annual Meeting. The Chairman of the annual meeting shall be the President of the Association. The President shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the Members held subsequent thereto, unless such reading is waived by a majority of the votes of the Owners present or represented at such meeting at which a quorum is present.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the present year to date.

(3) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Nominations may be sought by the Board through a notice or newsletter to the Owners prior to the annual meeting seeking nominations. All nominations must be in writing and presented to the Secretary of the Association at least thirty (30) days prior to the annual meeting. After such time, nominations will not be accepted. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Owner shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected.

(4) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written

request may be waived at the meeting if agreed by a majority of the votes of the Owners present or represented at such meeting.

(5) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed herein or assigned by the Board of Directors shall be presented.

(6) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting.

Section 15.7. Conduct of Special Meeting. The President of the Association shall act as Chairman of any special meetings of the Association. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 15.8. Written ("Mail-In") Ballots. In lieu of any annual or special meeting of the Unit Owners, written (or "mail-in") ballots may be utilized in the manner prescribed in the Nonprofit Act.

## **ARTICLE XVI**

### **BOARD OF DIRECTORS**

Section 16.1. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of five (5) persons who each own at least one (1) Unit. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed nine (9). If the number of Directors is ever greater than five (5), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than three (3) nor more than nine (9) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his or her term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the Members according to a procedure established by the Board by resolution.

Section 16.2. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Unit may be represented on the Board of Directors by more than one person at a time.

In addition to being a Unit Owner, in order to be elected and serve as a Director, the Owner must also be in "good standing", which is defined as being not more than thirty (30) days delinquent in payment to the Association of any Assessments (including any late charges) and any attorneys fees and court costs incurred by the Association as a result of such delinquency.

Section 16.3. Term of Office. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of three (3) years. One-third (1/3) of the persons on the Board of Directors shall be elected at each annual meeting of the Association. In the event the number of persons on the Board is not divisible by three, the number of Directors' positions available for election at the annual meetings shall be such number as to as closely approximate as possible the one-third requirement. For example, with a Board consisting of five (5) persons, two positions shall be elected at the annual meeting, two for the following annual meeting and one for the next annual meeting.

Section 16.4. Vacancy. If a Director is absent from three (3) or more consecutive Board meetings, the remaining Board members shall have the power to declare that Director's position on the Board as being vacant. Any vacancy or vacancies occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal or an increase in the number of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, a Director shall be elected by the Owners to serve for the balance of the term of the Director in respect to whom there has been a vacancy. Despite the expiration of a Director's term, the Director continues to serve until a successor is appointed or elected and qualified.

Section 16.5. Removal of Directors. A Director or Directors elected by the Owners, or elected by the Directors to fill a vacancy, may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners in "good standing" (defined in Section 16.2) nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

Notwithstanding the foregoing, if at any time a Director is not in "good standing" (as defined in Section 16.2 above), that Director may be removed from the Board if a majority of the Directors then in office votes for the removal. In such event, the remaining Board members shall appoint a successor from eligible Owners in good standing to serve for the remainder of the term of the removed Director.

Section 16.6. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Elements and Limited Common Elements as required by this Declaration and By-Laws, unless the same are otherwise the responsibility or duty of the Owners pursuant to Exhibit "A-2" or otherwise herein; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Elements to the extent determined by the Board;
- (c) Landscaping, painting, decorating, and furnishing of the Common Elements, the exterior of the Buildings, carports and walls;
- (d) Surfacing, paving, and maintaining private streets, parking areas, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses;
- (f) Preparation of the annual budget, a copy of which will be mailed or delivered to each Owner prior to December 1st each year;
- (g) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be made available to any Owner upon request;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Countrybrook North Condominium property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours upon reasonable advance written notice;
- (i) Procuring and maintaining in force all insurance coverage required herein and the Condominium Act, as amended;
- (j) Performing such other duties as may be reasonably inferred from the provisions elsewhere herein or the Condominium Act.

Section 16.7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

- (a) To employ a reputable and recognized professional Managing Agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed three (3) years, renewable by agreement of the parties for successive one (1) year periods;
- (b) To purchase such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;
- (c) To procure for the benefit of the Unit Owners fire and extended coverage insurance covering the buildings and improvements on the Countrybrook North Condominium property to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as is required or permitted herein, the Nonprofit Act, or the Condominium Act, all as amended, for the benefit of the Owners, the Association, and the Mortgagees;
- (d) To employ legal counsel, architects, engineers, contractors, accountants, and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (e) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Elements and, where applicable, the Limited Common Elements;
- (f) To include the costs of all of the above and foregoing as Common Expenses of the Association and to pay all of such costs therefrom;
- (g) To open and maintain a bank account or accounts in the name of the Association and to designate the signatories thereto;
- (h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the Countrybrook North Condominium provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof.

Section 16.8. Limitations on Board Action. The authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of the Owners of more than fifty percent (50%) of the total number of Units is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Countrybrook North Condominium property damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the annual budget as adopted by the Board of Directors. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

The said Five Thousand Dollar (\$5,000.00) maximum shall automatically be adjusted every five (5) years from the date of recording of these By-Laws to reflect changes in the purchasing power of the dollar, as determined by the most recently published Consumers Price Index or any comparable index.

Section 16.9. Compensation. No Director or Officer shall receive any compensation for his or her services in such capacity except to such extent as may be expressly authorized by the Owners of more than fifty percent (50%) of the total number of Units. Notwithstanding the foregoing, a Director or Officer of the Association may perform work on behalf of Countrybrook North (other than just in the capacity of being a Director or Officer) and be paid for his or her services so long as approved in advance by the Board of Directors. The Managing Agent, if any, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 16.10. Meetings and Notice. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at

least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Nonprofit Act, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

In lieu of written notices from the Association sent pursuant to the above paragraph, a Director may elect to receive notices of Board meetings by e-mail. Any Director choosing e-mail shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Director shall have the right at any time to withdraw his or her election to receive notice by e-mail, and shall thereafter be sent notices by the Association pursuant to the above paragraph.

**Section 16.11. Waiver of Notice.** Before or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 16.12. Quorum.** At all meetings of the Board, unless the Nonprofit Act or these By-Laws provide otherwise, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

**Section 16.13. Bond.** The Board of Directors shall require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

**Section 16.14. Informal Action by Directors.** Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

**Section 16.15. Standards of Conduct and Liability of Directors and Officers.** The standard and duty of conduct for and the standard or requirements for liability of the Directors

and Officers of the Association shall be as set forth in the Nonprofit Act, as the same may be amended from time to time.

## **ARTICLE XVII** **OFFICERS**

**Section 17.1. Officers of the Association.** The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

**Section 17.2. Election of Officers.** The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board or upon an affirmative vote of the Owners of more than fifty percent (50%) of the total number of Units, any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

**Section 17.3. The President.** The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

**Section 17.4. The Vice-President.** The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as may be prescribed herein or as shall, from time to time, be imposed upon him or her by the Board or by the President.

**Section 17.5. The Secretary.** The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Association's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The

Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions herein.

Section 17.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 17.7. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist and shall delegate to them such other powers and duties as these By-Laws or the Board of Directors may prescribe.

#### **ARTICLE XVIII** **ADDITIONAL RIGHTS AND DUTIES OF BOARD**

Section 18.1. Right of Entry. An Owner or occupant of a Unit shall be deemed to have granted the right of entry to his Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his or her Unit, the building located therein, or any other property or person, whether the Owner is present at the time or not. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

Section 18.2. Right of Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the operation of the Countrybrook North Condominium as the Board may deem desirable, including but not limited to the use of the Common Elements, Limited Common Elements and Units. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

**ARTICLE XIX  
INDEMNIFICATION**

Section 19.1. Indemnification of Directors and Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified by the Association to the same and fullest extent that directors of nonprofit corporations are indemnified under the Nonprofit Act, as it now exists or as hereinafter amended.

**ARTICLE XX  
NOTICES AND MORTGAGES**

Section 20.1. Notice to Association. Any Owner who places a first mortgage lien upon his or her Unit or the Mortgagee thereof may notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and 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 Declaration and By-Laws, or the Condominium Act 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 mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration and By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the provisions herein or proxy granted to such Mortgagee in connection with the mortgage.

Section 20.2. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under the foregoing Section of any of the following:

- (a) Any condemnation or casualty loss that affects a material portion of the Common Elements or the building(s) or improvements on any Unit securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Unit on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and,
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

**ARTICLE XXI**  
**MISCELLANEOUS**

Section 21.1. Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 21.2. Personal Interests. Except as permitted under Section 16.8 hereof, no Member of the Association shall have or receive any earnings from the Association; provided, however, that a Member who is an officer, director, employee, or agent of the Association may be reimbursed for expenses incurred on the Association's behalf.

Section 21.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Association and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Association, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer, and at least one other officer of the Association. Notwithstanding anything else herein to the contrary, any payment exceeding Five Thousand Dollars (\$5,000.00) shall require the signatures of the Association's Treasurer and President or such other two (2) officers or directors of the Association as designated by majority vote of the Board of Directors.

Section 21.4. Availability of Information. The Association shall keep and shall make available to prospective purchasers of Units, upon request at reasonable business hours and upon payment of a reasonable fee to defray copying expenses, copies of the Declaration and By-Laws, the Articles of Incorporation, together with all amendments thereto, current rules and regulations, if any, and the most recent financial statement of the Association.

Section 21.5. Parliamentary Rules. The New Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with this Declaration and By-Laws, the Articles of Incorporation, the Nonprofit Act or the Condominium Act.

**ARTICLE XXII**  
**ASSESSMENTS**

Section 22.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments; and (2) Special Assessments, such assessments to be established and collected as hereinafter provided. The Regular and Special Assessments, together with interest, late fees, costs, reasonable attorney's fees, and any other obligation which may be charged to an Owner pursuant to this Declaration and the By-Laws, shall be a charge on the Unit, and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with interest, late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. All payments upon account shall be first applied to court costs and attorneys

fees incurred by the Association, then to collection costs (if any) incurred by the Association to the Managing Agent for the processing of the delinquent Owner's account, then to late charges and/or interest, and then to the assessment payment first due.

Section 22.2. Annual Accounting. Annually, within ninety (90) days after the close of the Association's fiscal year, the Board of Directors shall cause to be prepared and made available to any Owner upon request a financial statement, which statement shall show all receipts and expenses received, incurred and paid during the preceding year.

Section 22.3. Annual Budget. Annually, the Board of Directors shall cause to be prepared an annual budget for the ensuing fiscal year, estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such budget to each Owner prior to December 1st. As further defined herein, "Common Expenses" means the actual and estimated cost to the Association for maintenance, management, operation, insurance, repair, improvement and replacement of Common Elements and Limited Common Elements, the utility services provided by the Association for the Units (consisting of water and sewer), and any other cost or expense incurred by the Association for the benefit of the same or the Owners. The annual budget shall be for the ensuing fiscal year which begins January 1st. The failure or delay of the Board of Directors to prepare a budget and furnish a copy thereof to the Unit Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Common Expenses as herein provided, whenever determined, and in the absence of an annual budget, the Owner shall continue to pay the then existing monthly assessment until such new annual budget and monthly assessment is established.

Section 22.4. Regular Assessments. The Board of Directors shall give written notice of the assessment against each respective Unit based on its Percentage Interest (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be assessed on a fiscal year basis commencing on January 1st and shall be due and payable in equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Regular Assessment shall automatically become a lien on that Unit on the date it is due and payable.

In addition to meeting the estimated cash requirements for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Elements and Limited Common Elements, which replacement reserve fund shall be used only for those purposes and not for usual and ordinary repair expenses of the Countrybrook North Condominium property. Such reserve fund shall be:

- (a) maintained in a separate, federally insured, interest bearing account with a bank or savings association authorized to conduct business in Marion County; or

- (b) invested in the same manner, and in the same types of investments, in which the funds of a political subdivision may be invested under Indiana Code 5-13-9, as amended, or as otherwise provided by law.

**Section 22.5. Special Assessments.** From time to time, Common Expenses of an unusual or extraordinary nature or otherwise not anticipated may arise. At such time, the Board of Directors shall have the full right, power and authority to make and levy special assessments which, upon resolution of the Board of Directors, shall become a lien on each Unit, prorated in accordance with the Percentage Interest of each Unit, payable in a lump sum or installments as directed by the Board of Directors (herein called "Special Assessment").

**Section 22.6. Rate of Assessments.** Each Owner shall pay the Regular Assessments and Special Assessments according to the percentage interest of such Owner's Dwelling Unit as set forth herein and Exhibit "A-1" hereto.

**Section 22.7. Failure of Owner to Pay Assessments.** No Owner may exempt himself or herself from paying Regular or Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Elements and Limited Common Elements and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Elements or Limited Common Elements, or by abandonment of the Unit belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular and Special Assessments and all other charges. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular or Special Assessments when due, the lien for such assessment on the Owner's Unit may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments within five (5) days after such are due, the Board, in its discretion, may:

- (1) impose a monthly late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary;
- (3) suspend such Owner's right to use the recreational facilities within Countrybrook North as provided in the Nonprofit Act; and
- (4) suspend such Owner's right to vote as provided in the Nonprofit Act.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for

such Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs incurred by the Association to the Managing Agent for processing delinquent Owners' accounts, and reasonable attorney's fees, from the Owner of the respective Unit.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Unit have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 22.8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the property subject to assessment. Notwithstanding anything contained in this section or elsewhere in this Declaration and By-Laws, any sale or transfer of a Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Unit from which it arose).

Section 22.9. Maintenance and Repairs. Consistent with this Declaration and By-Laws, and rules and regulations or policies adopted by the Board, every Owner shall promptly perform all maintenance, repair and replacement within his or her own Unit and carport area, which, if neglected, would affect the value of the Countrybrook North Condominium property and is the responsibility of the Owner to make personally. Such maintenance, repairs and replacements include, but are not limited to, internal water lines, plumbing, electric lines, appliances, gas lines, telephones, heating and air conditioning equipment, doors, windows, light fixtures and all other accessories belonging to the Owner and appurtenant to the Unit, including washing and cleaning of exterior window surfaces of the Unit.

**ARTICLE XXIII**  
**RESTRICTIONS**

Section 23.1. Restrictions on Use. The following restrictions on the use and enjoyment of the Units, Common Elements, Limited Common Elements shall be applicable to the Countrybrook North Condominium property:

- (a) All Units shall be used exclusively for residential purposes and the occupancy of a single family, all as permitted under local zoning ordinances. "Single Family" is defined as a single housekeeping unit, operating on a nonprofit, non-commercial basis between its occupants with a common kitchen and dining area. No Units may be rented on a daily or weekly basis.
- (b) No additional buildings shall be erected or located on the Countrybrook North Condominium property other than the buildings designated herein or shown on the Plans. Also, no Unit may be divided or subdivided into a smaller Unit, nor any portion thereof sold or otherwise transferred.
- (c) Nothing shall be done or kept in any Unit or in the Common Elements or Limited Common Elements which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Unit or in the Common Elements or Limited Common Elements which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.
- (d) No nuisance shall be permitted, including without limitation any activities which are unsafe or hazardous with respect to any person or property, and no waste shall be committed in the Units, Common Elements or Limited Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units and the Owners.
- (e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of the Building, and no sign, awning, canopy, shutter, or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any Building without the prior written consent of the Board. The placement, installation, use and maintenance of antennas, including satellite dishes, shall be subject to rules and regulations promulgated by the Board of Directors.
- (f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any part of the Property, except that no more than a total of two (2) small dogs, cats or customary household pets may be kept in a Unit subject to rules and regulations

adopted by the Board of Directors and pursuant to a pet license issued by the Board of Directors or the Managing Agent; provided that such pet is not kept, bred or, maintained for any commercial purpose, and does not create a nuisance. The Board of Directors may impose a non-refundable fee of up to \$100 for the issuance of each pet license. However, any requirement for such fee shall not be deemed to release or in any way limit an Owner's responsibility and liability for injury or damage caused by his or her pets. Pet licenses for all pets shall be issued only to pets that will not exceed fourteen inches (14") in height at the shoulder and twenty (20) pounds in weight at maturity. The foregoing height and weight limitation shall not apply to service dogs such as seeing-eye or hearing-ear dogs.

All pets (including cats) shall be taken outdoors only under leash or other restraint and while attended by its owner, and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Elements or Limited Common Elements, caused by his or her pet. The Owner shall be responsible for the cleaning of any Common Area or Limited Common Elements made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The tethering of pets in any area outside the Owner's home does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. The appropriate governmental authorities shall have an easement across the Property to enforce local animal control laws and ordinances.

Notwithstanding the above, in no event will any dog whose breed is known for its viciousness or ill temper, in particular, the American Staffordshire Terrier (commonly known as a "Pit Bull Terrier"), the Rottweiler, or the Doberman Pinscher, be permitted on the Countrybrook North Property. Also, no animal of any kind that has venom or poisonous or capture mechanisms, or if let loose would constitute vermin, will be allowed on the Countrybrook North Property.

Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon ten (10) days' written notice from the Board to the respective Owner.

- (g) Nothing shall be done or permitted in any Unit which will impair the structural integrity of any Building or which would structurally change any Building, except as otherwise provided in this Declaration and By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the Countrybrook North Condominium or to be a nuisance, annoyance, inconvenience or damage to other residents of the Building or neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment,

amplifiers or other equipment or machines, or by loud persons, and objectionable odors. Nothing shall be done to interfere with the peaceful possession and proper use of the Countrybrook North Condominium by its residents.

- (h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Elements or Limited Common Elements. The Common Elements and Limited Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials.
- (i) No industry, business, manufacturing, mercantile, storing, trade, or any commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Countrybrook North Condominium property; provided, however, that an Owner may maintain an office or home business in the Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Unit; (3) there are no employees or independent contractors within the Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner complies with all provisions of the Marion County/City of Indianapolis Dwelling District Ordinances, including the "home occupations ordinance"; and (6) all other provisions of this Declaration and By-Laws and the rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use. No Unit shall be used or rented for transient, motel or hotel purposes.
- (j) No "For Sale", "For Rent" or "For Lease" signs or other window or advertising display shall be maintained or permitted on any part of the Property or any Unit without the prior written consent of the Board.
- (k) All Owners and members of their families, their guests, or invitees, and all occupants of any Unit or other persons entitled to use the same and to use and enjoy the Common Elements and Limited Common Elements or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Units, Common Elements and Limited Common Elements.
- (l) No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description (other than normal passenger vehicles consisting of (i) trucks with a maximum load capacity of three-quarters

(3/4) of a ton or less, (ii) vans or (iii) automobiles), shall be permitted, parked or stored anywhere within Countrybrook North; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage and the driving or using of such vehicles solely for the purpose of ingress and egress to and from the Countrybrook North Condominium provided the shortest route to and from a public road outside the community is used. No Owners or other residents shall repair or restore any vehicle of any kind within Countrybrook North, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. "Commercial" vehicles are vehicles, regardless of size, on which commercial lettering or equipment is visible or which are larger than normally used for noncommercial purposes. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Countrybrook North Condominium property. Any vehicle in violation of the above shall be subject to being towed at the expense of the owner thereof.

- (m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Elements or Limited Common Elements, except with the express written permission from the Board.
- (n) All trash or refuse shall be stored in appropriate containers inside the Unit or designated trash areas and made accessible for the programmed trash collection system established by the Board of Directors.

#### **ARTICLE XXIV** **ARCHITECTURAL CONTROL**

**Section 24.1. The Architectural Review Committee.** As a standing committee of the Association, there shall be, and hereby is, established an Architectural Review Committee consisting of three (3) or more Owners. The Board of Directors may also serve as the Architectural Control Committee. If the Committee is separate from the Board, the chairperson of the Architectural Committee shall be a member of the Board of Directors.

**Section 24.2. Purposes.** The Architectural Review Committee shall regulate the external design, appearance, use, location and maintenance of the Countrybrook North Property and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

**Section 24.3. Conditions.** No improvements, alterations, repairs, change of colors, excavation, changes in grade or other work by an Owner or resident which in any way alters the exterior of any Unit, the Common Elements, or the Limited Common Elements shall be made or done without the prior approval of the Architectural Review Committee. Examples of items

requiring prior approval include mailboxes, exterior light fixtures, doors (including storm doors) and windows.

Section 24.4. Procedures. In the event the Architectural Review Committee fails to approve, modify or disapprove in writing an application within sixty (60) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed granted by the Architectural Review Committee. The approvals of the Architectural Review Committee required hereunder shall be in addition to, and not in lieu of, any approvals as to such matters required to be obtained from any other persons or governmental agencies pursuant to the terms of any statute, law, ordinance, other governmental regulation or otherwise.

Section 24.5. Architectural Guidelines. The Architectural Review Committee shall have the power to adopt and amend architectural guidelines applicable to Countrybrook North. Such guidelines shall be deemed to be incorporated herein by this reference.

**IN WITNESS WHEREOF**, We, the undersigned, do hereby execute this Amended and Restated Declaration of Horizontal Property Ownership and By-Laws for the Countrybrook North Horizontal Property Regime and certify the truth of the facts herein stated, this \_\_\_ day of December, 2003.

**Countrybrook North Condominium Association, Inc.**

By Joy Quyle  
Joy Quyle, President

ATTEST:  
[Signature]  
Thomas Wagner, Secretary

STATE OF INDIANA        )  
COUNTY OF Marion    )

Before me a Notary Public in and for said County and State, personally appeared Joy Quyle and Thomas Wagner, the President and Secretary, respectively, of Countrybrook North Condominium Association, Inc., who acknowledged execution of the foregoing for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true. Witness my hand and Notarial Seal this 19 day of December, 2003.

My Commission Expires 10-2-11

Cara Stroup \*528221  
Notary Public - Signature  
Cara Stroup  
Printed

Residence County: Marion

This instrument prepared by P. Thomas Murray, Jr., Eads Murray & Pugh, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.

EXHIBIT "A-1" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 1 of 5)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 1301            | .65980                     |
| 1303            | .63365                     |
| 1305            | .63365                     |
| 1306            | .65980                     |
| 1307            | .63365                     |
| 1308            | .63365                     |
| 1309            | .63365                     |
| 1310            | .63365                     |
| 1311            | .65980                     |
| 1312            | .63365                     |
| 1314            | .63365                     |
| 1316            | .65980                     |
| 1318            | .65980                     |
| 1320            | .63365                     |
| 1322            | .63365                     |
| 1324            | .63365                     |
| 1326            | .63365                     |
| 1328            | .65980                     |
| 1330            | .65980                     |
| 1332            | .63365                     |
| 1334            | .63365                     |
| 1336            | .63365                     |
| 1338            | .63365                     |
| 1340            | .65980                     |
| 1342            | .65980                     |
| 1344            | .63365                     |
| 1346            | .63365                     |
| 1348            | .63365                     |
| 1350            | .63365                     |
| 1352            | .65980                     |
| 1354            | .65980                     |
| 1356            | .63365                     |

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EXHIBIT "A-1" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 2 of 5)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 1358            | .63365                     |
| 1360            | .63365                     |
| 1362            | .63365                     |
| 1364            | .63365                     |
| 1366            | .63365                     |
| 1368            | .65980                     |
| 7330            | .65980                     |
| 7332            | .63365                     |
| 7334            | .63365                     |
| 7336            | .63365                     |
| 7338            | .63365                     |
| 7340            | .65980                     |
| 7342            | .65980                     |
| 7344            | .63365                     |
| 7346            | .63365                     |
| 7348            | .63365                     |
| 7350            | .63365                     |
| 7352            | .63365                     |
| 7354            | .63365                     |
| 7356            | .65980                     |
| 7358            | .65980                     |
| 7360            | .63365                     |
| 7362            | .63365                     |
| 7364            | .63365                     |
| 7366            | .63365                     |
| 7368            | .65980                     |
| 7370            | .65980                     |
| 7372            | .63365                     |
| 7374            | .63365                     |
| 7376            | .63365                     |
| 7378            | .63365                     |
| 7380            | .65980                     |

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EXHIBIT "A-1" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 3 of 5)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 7401            | .65980                     |
| 7402            | .65980                     |
| 7403            | .63365                     |
| 7404            | .63365                     |
| 7405            | .63365                     |
| 7406            | .63365                     |
| 7407            | .63365                     |
| 7408            | .63365                     |
| 7409            | .63365                     |
| 7410            | .63365                     |
| 7411            | .63365                     |
| 7412            | .63365                     |
| 7413            | .63365                     |
| 7414            | .63365                     |
| 7415            | .65980                     |
| 7416            | .65980                     |
| 7417            | .65980                     |
| 7418            | .65980                     |
| 7419            | .63365                     |
| 7420            | .63365                     |
| 7421            | .63365                     |
| 7422            | .63365                     |
| 7423            | .63365                     |
| 7424            | .63365                     |
| 7425            | .63365                     |
| 7426            | .63365                     |
| 7427            | .63365                     |
| 7428            | .63365                     |
| 7429            | .63365                     |
| 7430            | .63365                     |
| 7431            | .65980                     |
| 7432            | .65980                     |

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EXHIBIT "A-1" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 4 of 5)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 7433            | .65980                     |
| 7434            | .65980                     |
| 7435            | .63365                     |
| 7436            | .63365                     |
| 7437            | .63365                     |
| 7438            | .63365                     |
| 7439            | .63365                     |
| 7440            | .63365                     |
| 7441            | .63365                     |
| 7442            | .63365                     |
| 7443            | .65980                     |
| 7444            | .63365                     |
| 7445            | .65980                     |
| 7446            | .63365                     |
| 7447            | .63365                     |
| 7448            | .65980                     |
| 7449            | .63365                     |
| 7450            | .65980                     |
| 7451            | .63365                     |
| 7452            | .63365                     |
| 7453            | .63365                     |
| 7454            | .63365                     |
| 7455            | .63365                     |
| 7456            | .63365                     |
| 7457            | .63365                     |
| 7458            | .63365                     |
| 7459            | .65980                     |
| 7460            | .63365                     |
| 7461            | .65980                     |
| 7462            | .63365                     |
| 7463            | .63365                     |
| 7464            | .65980                     |

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EXHIBIT "A-1" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

PERCENTAGE OF EACH UNIT'S UNDIVIDED OWNERSHIP  
INTEREST IN THE COMMON ELEMENTS

(Page 5 of 5)

| <u>Unit No.</u> | <u>Percentage Interest</u> |
|-----------------|----------------------------|
| 7465            | .63365                     |
| 7466            | .65980                     |
| 7467            | .63365                     |
| 7468            | .63365                     |
| 7469            | .63365                     |
| 7470            | .63365                     |
| 7471            | .63365                     |
| 7472            | .63365                     |
| 7473            | .63365                     |
| 7474            | .63365                     |
| 7475            | .65980                     |
| 7476            | .63365                     |
| 7477            | .65980                     |
| 7478            | .63365                     |
| 7479            | .63365                     |
| 7480            | .65980                     |
| 7481            | .63365                     |
| 7482            | .65980                     |
| 7483            | .63365                     |
| 7484            | .63365                     |
| 7485            | .63365                     |
| 7486            | .63365                     |
| 7487            | .65980                     |
| 7488            | .63365                     |
| 7490            | .63365                     |
| 7492            | .63365                     |
| 7494            | .63365                     |
| 7496            | .65980                     |

EXHIBIT "A-2" TO AMENDED AND RESTATED  
DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP AND BY-LAWS  
FOR THE COUNTRYBROOK NORTH CONDOMINIUM

HOMEOWNERS REPAIR AND MAINTENANCE GUIDELINES

MAY 2003

| DESCRIPTION                              | HOMEOWNER | ASSOCIATION |
|--|-----------|-------------|
| <b>BRICK</b>                             |           |             |
| Replacement & Repair Fences              |           | X           |
| Buildings                                |           | X           |
| <b>BUILDING STRUCTURE</b>                |           |             |
| Fountation/Slab                          |           | X           |
| Walls                                    |           | X           |
| <b>CARPORTS</b>                          |           |             |
| Painting, Trim, Framing                  |           | X           |
| Roofs                                    |           | X           |
| Numbers & assignments                    |           | X           |
| Asphalt & Curbs                          |           | X           |
| <b>CHIMNEYS/FIREPLACES</b>               |           |             |
| Exterior Brick                           |           | X           |
| Exterior Flashing                        |           | X           |
| Interior Brick                           | X         |             |
| Chimney Cleaning                         |           | X           |
| Firebox Cleaning & Ash Removal           | X         |             |
| Chimney Cap                              |           | X           |
| Bird Screens/Animal Removal              | X         |             |
| Interior Maintenance/Painting & Repair   | X         |             |
| Flue Maintenance & Repair                | X         |             |
| <b>CLUBHOUSE</b>                         |           |             |
| All Repair and Maintenance               |           | X           |
| Storage Sheds                            |           | X           |
| Storage Closets                          |           | X           |
| Saunas                                   |           | X           |
| <b>DOORS</b>                             |           |             |
| Exterior Painting                        |           | X           |
| Interior Painting & Maintenance & Repair | X         |             |
| Sliding Doors                            | X         |             |
| Sliding Door Maintenance & Repair        | X         |             |
| Caulking                                 | X         |             |
| Hinges & Hardware                        | X         |             |
| Locks                                    | X         |             |
| Glass                                    | X         |             |

| DESCRIPTION                            | HOMEOWNER | ASSOCIATION |
|--|-----------|-------------|
| <b>DUCTWORK</b>                        |           |             |
| Cleaning                               | X         |             |
| Repair/Replacement                     | X         |             |
| <b>EXTERIOR DOORS</b>                  |           |             |
| Doors, Framing, Threshold, Glass       | X         |             |
| Hardware and Jams                      | X         |             |
| Operations and Adjustments             | X         |             |
| Patio Doors                            | X         |             |
| Exterior Caulking, Trim                | X         |             |
| Entry & Kitchen Door Painting          |           | X           |
| Screen/Storm Door                      | X         |             |
| <b>EXTERIOR LIGHTS</b>                 |           |             |
| Exterior Security Lights               |           | X           |
| Street Lights                          |           | X           |
| Pool Lights                            |           | X           |
| Carport Lights                         |           | X           |
| Lights attached to Unit                |           | X           |
| <b>FENCES</b>                          |           |             |
| Replacement and Repair                 |           | X           |
| Painting or Staining                   |           | X           |
| Latches                                |           | X           |
| <b>FLOWER AND GARDEN BEDS</b>          |           |             |
| Side, Front, Rear of Units             |           | X           |
| Within Privacy Area                    | X         |             |
| Common Areas                           |           | X           |
| <b>FURNACES AND AIR-CONDITIONING</b>   |           |             |
| Cleaning                               | X         |             |
| Inspection, Testing                    | X         |             |
| Repair, Replacement                    | X         |             |
| Electric Shutoff outside unit          | X         |             |
| <b>GAS LINES</b>                       |           |             |
| Outside Boundries Repair & Maintenance |           | X           |
| Inside boundries Repair & Maintenance  | X         |             |

| DESCRIPTION                                   | HOMEOWNER | ASSOCIATION |
|---|-----------|-------------|
| <b>HVAC ADD ON EQUIPMENT</b>                  |           |             |
| Humidifiers                                   | X         |             |
| Dedumidifiers                                 | X         |             |
| Water Softeners                               | X         |             |
| Water Purifiers                               | X         |             |
| Air Cleaners                                  | X         |             |
| <b>INSURANCE</b>                              |           |             |
| Casualty                                      |           | X           |
| Public Liability                              |           | X           |
| Interior Damage                               | X         |             |
| Personal Contents                             | X         |             |
| Provide Copy of Policy to Association         | X         |             |
| Renters Insurance Required all Rentals        | X         |             |
| <b>INTERIOR REPAIRS</b>                       |           |             |
| Settling Cracks                               | X         |             |
| Appliances, Light, Thermostats                | X         |             |
| Caulking Interior                             | X         |             |
| Plumbing Fixtures                             | X         |             |
| Flooring                                      | X         |             |
| Painting                                      | X         |             |
| Electric Fixtures                             | X         |             |
| <b>LAUNDRY</b>                                |           |             |
| Repair & Maintenance                          |           | X           |
| Cleaning                                      |           | X           |
| <b>LAWN</b>                                   |           |             |
| Common and Limited Areas                      |           | X           |
| Cutting/Mowing Fertilizer/Pruning Bushes      |           | X           |
| Planting of Flowers and Trees - Common Area   |           | X           |
| Cleaning of Sidewalks                         |           | X           |
| Replacement, Reseeding                        |           | X           |
| Planting of Flowers and Trees - Personal Area |           | X           |
| Leaf Removal                                  |           | X           |
| <b>PAINTING</b>                               |           |             |
| Exterior Of Buildings                         |           | X           |
| Interior if not due to Roof Leak              | X         |             |

| DESCRIPTION  | HOMEOWNER | ASSOCIATION |
|--|-----------|-------------|
| <b>PATIOS</b>  |           |             |
| Maintenance, Repair, Replacement   | X         |             |
| <b>PEST CONTROL</b>  |           |             |
| Exterior   |           | X           |
| Interior   | X         |             |
| <b>PLAYGROUND</b>  |           |             |
| Repair & Maintenance   |           | X           |
| <b>PROPERTY DAMAGE</b>   |           |             |
| Owner, Tenant, Guest Negligence  | X         |             |
| Outside Damage from Acts of Nature                                       |           | X           |
| Any Repairs within a Unit from Faulty equipment, water leaks, negligence | X         |             |
| Damage caused by ants termites etc                                       | X         |             |
| <b>ROOFS</b>   |           |             |
| Flat Roof  |           | X           |
| Mansard Roof   |           | X           |
| Gutters Downspouts Vents   |           | X           |
| Cleaning   |           | X           |
| Repair Maintenance   |           | X           |
| Roof Leak Damage Exterior  |           | X           |
| Roof Leak Damage Interior  |           | X           |
| Repair, Repainting Interior  |           | X           |
| Drywall Repair If Roof Leak  |           | X           |
| Exhaust Fan Vents  | X         |             |
| <b>SIDEWALKS</b>   |           |             |
| Common Area Sidewalks, Steps   |           | X           |
| Private Steps attached to Patios   | X         |             |
| <b>SECURITY SYSTEMS, SMOKE DETECTORS</b>                                 |           |             |
| Security System (Individual Unit)  | X         |             |
| Smoke Detector (required)  | X         |             |
| Fire Extinguishers ( Individual Unit)                                    | X         |             |

| DESCRIPTION                                      | HOMEOWNER | ASSOCIATION |
|--|-----------|-------------|
| <b>SNOW REMOVAL OVER 3 INCHES</b>                |           |             |
| Stoops, Sidewalks                                |           | X           |
| Common Streets                                   |           | X           |
| Unit and Visitor Parking                         |           | X           |
| Patio's  | X         |             |
| <b>STORM DOORS</b>                               |           |             |
| Installation                                     | X         |             |
| Maintenance, Repair, Replacement                 | X         |             |
| Screen Repair, Replacement                       | X         |             |
| <b>STREETS</b>                                   |           |             |
| Signs  |           | X           |
| Paving, Repair                                   |           | X           |
| Numbering Parking Spaces                         |           | X           |
| Curb Repair                                      |           | X           |
| <b>SWIMMING POOL</b>                             |           |             |
| Care and Maintenance                             |           | X           |
| <b>TENNIS COURTS</b>                             |           |             |
| Care and Maintenance                             |           | X           |
| <b>TERMITE/PEST CONTROL</b>                      |           |             |
| Exterior of Buildings                            |           | X           |
| Interior of Buildings                            | X         |             |
| Damage to interior of unit by Pest               | X         |             |
| <b>WATER SEWER</b>                               |           |             |
| Pipes Outside Structure Leading to Sewer or Main |           | X           |
| Pipes Inside Walls                               | X         |             |
| Pipes inside Walls serving multiple units        |           | X           |
| Exterior faucets                                 |           | X           |
| Sewer Vent Pipe                                  |           | X           |
| <b>WINDOWS</b>                                   |           |             |
| Repair, Replacement, Maintenance                 | X         |             |
| Screens  | X         |             |
| Framing, Sills, Jams, Sashes                     | X         |             |
| Window Washing Exterior                          |           | X           |
| Window Washing Interior                          | X         |             |

| DESCRIPTION         | HOMEOWNER | ASSOCIATION |
|---------------------|-----------|-------------|
| <b>WIRING</b>       |           |             |
| Interior Electrical | X         |             |
| Exterior Electrical |           | X           |
| Telephone Cable     | X         |             |
| TV Cable            | X         |             |
| Security Cable      | X         |             |