

BY-LAWS OF LOCKERBIE GLOVE COMPANY
TOWN HOME OWNERS ASSOCIATION

NOTES

The By-Laws accompanying this page have been typed from the By-Laws written in 1982 by the original developers of the town home community.

To simplify communication and further changes, page breaks and numbering happen exactly as in the original document. The legal "Declaration" that preceded the By-Laws constitute some 71 pages, and, except for a few definitions, have little or no bearing on the By-Laws. Subsequently, the By-Laws begin on page 72.

Spelling errors and uncertain wording were (to the best of my ability) corrected and/or changed in re-typing. To that extent, your copy of these By-Laws varies slightly from the "legal, filed and approved" version.

This copy also incorporates changes and additions approved by owners at the 1989 Annual Meeting.

Jay Soule
October 27, 1992

BY-LAWS OF LOCKERBIE GLOVE COMPANY
TOWN HOME OWNERS ASSOCIATION

ARTICLE I. PLAN OF OWNERSHIP

Section 1.01. Real Estate located at 430 N. Park Street, City of Indianapolis, State of Indiana, immediately adjacent to the Building known as the Lockerbie Glove Company, has been submitted to the provisions of a Planned Unit Development. The provisions of these Bylaws shall be applicable to the Community created by the Declaration attributable thereto, ("Community").

Section 1.02. All present and future owners, tenants, future tenants, or their employees, or any other person who might use the facilities of the Community in any manner, are subject to the regulations set forth in these Bylaws. The acquisition or rental of any of the Apartment Spaces or the mere act of occupancy thereof, will constitute acceptance and ratification of these Bylaws.

ARTICLE II. VOTING, MAJORITY OF OWNERS

QUORUM, AND PROXIES

Section 2.01. Voting shall be subject to the terms of the Declaration.

Section 2.02. As used in these Bylaws, the term "majority of owners" shall mean those owners holding fifty-one percent (51%) of

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 73

the votes in accordance with the Declaration.

Section 2.03. Except as otherwise provided in these Bylaws, the presence, in person or by proxy, of a majority of owners as defined in Section 2.02 hereof shall constitute a quorum.

Section 2.04. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting. An owner may file written notice with the Association designating an individual who shall vote at meetings of the Association and receive notices and other communications from the Association on behalf of such owner. Such notice shall state the name and address of the individual representative so designated, the number of units owned by the owner, the name and address of the owner, and shall be signed by the owner. The owner may change the individual representative at any time by filing a new notice as required herein.

ARTICLE III. ASSOCIATION OF OWNERS

Section 3.01. The owners of the units shall constitute the Lockerbie Glove Company Town Home Owners Association, Inc., an Indiana Not-for-Profit Corporation ("Corporation") which will have the responsibility of administering the Community, approving the annual budget, establishing and collecting monthly assessments, and arranging for a management agent, if one is to be employed. These duties may be delegated to the Board of Directors either by the operation of these Bylaws or by duly approved resolution of

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 74

the Association. Except as otherwise provided herein or in the Declaration or the Horizontal Property Law, decisions and resolutions of the Corporation shall require approval by a majority of owners.

Section 3.02. Meeting shall be held at such suitable place convenient to the owners as may be designated by the Board of Directors.

Section 3.03. The first annual meeting of the Corporation shall be held within thirty (30) days following the Applicable Date as defined in the Declaration, or on the first Tuesday of October, 1985, whichever first occurs. Thereafter, annual meetings shall be held on the first Tuesday of October in each succeeding year. At such meetings there shall be elected a Board of Directors in accordance with Section 4.05 hereof, and the owners may transact such other business of the Corporation as may properly come before them.

Section 3.04. It shall be the duty of the President to call a special meeting of the Corporation upon resolution to that effect by the Board of Directors or upon a petition signed by a majority of the owners and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless a quorum

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 75

(51%) of the owners are present either in person or by proxy and consent thereto.

Section 3.05. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each owner of record, at least ten (10) days prior to such meeting. The mailing of notice by first class mail in the manner provided in this section shall be considered notice served.

Section 3.06. If at any meeting of owners a quorum is not present, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 3.07. The order of business at all meetings of the owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Election of inspectors of election.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 76

ARTICLE IV. BOARD OF DIRECTORS

Section 4.01. The affairs of the Corporation shall be governed by a Board of Directors composed of seven (7) persons, all of whom must be owners.

Section 4.02. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Corporation and may do all things as are not reserved to the owners by law or these Bylaws.

Section 4.03. In addition to any other duties imposed by these Bylaws or by resolution of the Association, the Board of Directors shall be responsible for the following:

- (a) Care, upkeep, and surveillance of the Community and the Common Areas and Facilities, including disbursement of funds from the account of the Corporation to cover payment therefor upon a determination that such services have been properly performed or other expenses reasonably incurred.
- (b) Collections of assessments from owners.
- (c) Employment of the personnel necessary for the maintenance and operation of the Community and the Common Areas and Facilities.
- (d) Obtaining adequate and appropriate kinds of insurance.
- (e) Owning, conveying, encumbering, leasing, or otherwise dealing with Lots which may be conveyed to or purchased by it.
- (f) Preparation, adoption, and distribution of the annual budget for the property.
- (g) Adoption and amendment of rules and regulations covering the details of the operation and use of the property.

Section 4.04. The Board of Directors may employ a management agent, upon such terms at such compensation as may be established by the Board, to perform such duties and services as the Board

---continued---

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 77

shall authorize, including, but not limited to, the duties listed in Section 4.03 hereof. Any contract or agreement with any such management agent shall conform to any requirements now or hereafter imposed on such agreements by law.

Section 4.05. At the first annual meeting of the Corporation the term of office of the Directors shall be fixed as provided in the Declaration.

Section 4.06. Vacancies in the Board of Directors caused by any reason other than the removal of a Director or by a vote of the Corporation shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Corporation.

Section 4.07. (a) At any regular or special meeting any one or more of the Directors may be removed with or without cause by a majority of the owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the owners shall be given an opportunity to be heard at the meeting.

(b) Any Board member who misses three consecutive Board meetings, or four Board meetings in six months will be removed from the Board by a majority vote of the remaining Board members.

[Amendment approved October, 1989]

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 78

Section 4.08. The first meeting of a newly-elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly-elected Directors in order for such meeting to be legally constituted, providing a majority of the entire Board shall be present.

Section 4.09. 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, but at least six (6) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director personally or by first class mail, at least five (5) days prior to the day named for such meeting. Meetings shall be open to all owners.

Section 4.10. Special meetings of the Board of Directors may be called by the President on three (3) days notice to each Director in the manner specified in Section 4.09 hereof, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least three (3) Directors.

Section 4.11. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 79

meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.12. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 4.13. The Board of Directors shall require that all officers responsible for Corporation funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Corporation.

Section 4.14. The members of the Board of Directors shall be entitled to indemnification from the Corporation for any and all liabilities resulting from acts or omissions done or failed to be done by them, either individually or collectively, in reasonable discharge of their duties, responsibilities, and authority under

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 80

these Bylaws, except for liabilities arising from willful and wanton misconduct or gross negligence. The Board of Directors shall obtain a policy of insurance, in the name of the Corporation providing such indemnification. The Board shall provide ten (10) days' notice to each owner before any payment is made to any Directors under this clause.

Section 4.15. Notwithstanding anything to the contrary contained herein, the initial Board of Directors shall be made up of three persons appointed by Declarant. Such initial Board shall continue in office until the Applicable Date.

ARTICLE V. OFFICERS

Section 5.01. The principal officers of the Corporation shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors.

Section 5.02. The Officers shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 5.03. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed,

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 81

with or without cause, and his successor elected at any regular or special meeting of the Board of Directors.

Section 5.04. The President shall be the chief executive officer of the Corporation, and shall preside at all meetings of the Corporation and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of President, including but not limited to the power to appoint committees from among the owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Corporation.

Section 5.05. The Vice President shall take the place of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 5.06. The Secretary shall keep the minutes of all meetings of the Board and the Corporation; shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary.

Section 5.07. The Treasurer shall have responsibility for Corporation funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 82

disbursements in books belonging to the Corporation. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Corporation in such depositories as may from time to time be designated by the Board of Directors.

Section 5.08. The Officers shall receive no compensation for their services, but shall be entitled to reimbursement from the Corporation for all expenses reasonable incurred in the discharge of their duties and responsibilities.

ARTICLE VI. FINANCE AND ADMINISTRATION

Section 5.09. The Board of Directors, through the Treasurer and management agent, if any, shall keep accurate books and financial records, including, but not limited to, a detailed account of expenditures and receipts affecting the Community and its administration, and specifying the Community's operating expenses. Such expenses shall be determined and allocated as provided by the Declaration and these Bylaws.

Section 6.02. The Board shall annually cause to be prepared and distributed to each owner an itemized accounting of the common expenses actually incurred and paid during the preceding year together with a tabulation of the amounts collected pursuant to the annual budget or by assessment, and showing the net excess or deficit of income over expenditures plus reserves.

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 83

Section 6.03. The books and records of the Corporation, and all related documents shall be open to inspection by any owner at all reasonable times during regular business hours.

Section 6.04. In preparing the annual budget, the Board of Directors shall include provision for reasonable anticipated expenses resulting from normal maintenance and wear and tear to the Common Areas and Facilities, any extraordinary expenses that will be required, salaries and compensation for any employees not in excess of the prevailing rate, insurance premiums, reasonable incidental expenses related to administration, any reserves required under these Bylaws or deemed necessary by the board to meet unanticipated expenses, and such other items as may be designated as expenses of the Corporation by the Declaration, the Articles, these Bylaws, or by law. All expenses shall be itemized specifically and in detail. The anticipated amount of each such item or service shall whenever possible be determined from a contract with or estimate from a provider of such item or service; or, if there is no contract or estimate, from a good-faith determination as to the cost at which such item or service can be obtained. Each unit owner shall be provided with a copy of the annual budget at least thirty (30) days prior to its adoption by the Board.

Section 6.05. The Board shall procure a policy of insurance, as specified in the Declaration.

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 84

Section 6.06. In the event of severe damage or destruction of the property by fire or other casualty, the repair, reconstruction, or disposition of the property shall be governed by the provisions of the Declaration and Indiana Horizontal Property Law.

Section 6.07. The Corporation shall maintain a reserve fund to cover major repairs and replacement of Common Areas and Facilities. The fund shall at a minimum be equal to five percent (5%) of the current annual budget on a noncumulative basis. This fund shall be used only for major repairs and replacement of Common Areas and Facilities, and for no other purpose.

Section 6.08. (a) The rules and regulations adopted by the Board of Directors may impose reasonable fines for noncompliance with the provisions thereof, and may provide for reasonable interest and late charges on past due assessments.

(b) Any dispute, claim, or grievance arising out of, or relating to, the interpretation or application of the Declaration, Articles, Bylaws, or management agreement, if any, shall, upon

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 86

Section 7.02.

- (a) Every owner must perform promptly all maintenance and repair work within his own Dwelling which, if omitted, would affect the Community in its entirety or in part and Owners are hereby made expressly responsible for any damages and liabilities caused by failure to do so.
- (b) All the repairs of internal installations such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows, lamps, and all other accessories belonging to an Apartment Space shall be at the owners' expense.
- (c) An owner shall reimburse the Corporation for any expenditures incurred in repairing or replacing any Common Area and Facility damaged through his fault or negligence.
- (d) All Dwellings shall be utilized for residential purposes only.
- (e) An owner shall not make structural modifications or alterations within his Apartment Space without previously notifying the Corporation in writing, through the management agent, if any, or through the President of the Board of Directors, if no management agent is employed. The Corporation shall have the obligation to answer within ten (10) days, and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration. No modifications whatsoever may be made to the Building Exterior.
- (f) An owner shall not place or cause to be placed in the Common Areas and Facilities any furniture, packages, or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them.

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 87

- (g) An owner shall grant the right of entry to the management agent or to any other person authorized by the Board of Directors or the Corporation in case of any emergency originating in or threatening his Dwelling whether the owner is present at the time or not.
- (h) An owner shall permit other owners, or their representatives, when so required, to enter his Dwelling for the purpose of performing installations, alterations, or repairs to the mechanical or electrical services, provided that requests for entry are made in advance and that such entry is at a time convenient to the owner. In case of an emergency, such right of entry shall be immediate.
- (i) No resident of the project shall post any advertisements or posters of any kind on the project except as authorized by the Corporation. The Board of Directors has authorized the use of small, one-color For Sale signs (not to exceed 9 inches by 12 inches) to be displayed on the inside window of a home for sale. [Amendment approved October, 1989]
- (j) Residents shall exercise extreme care about making noises or the use of musical instruments, radios, televisions, and/or sound systems that may disturb other residents.
- (k) Residents may not hang garments, rugs, etc., from the windows or from any of the facades.
- (l) No owner, resident, or lessee shall install wiring for electrical or telephone installation or television antennae, etc., on the exterior of the building or do anything which would protrude through the walls or the roof of the buildings.
- (m) No animals other than common domestic pets may be kept in the building at any time. Dogs should be confined on leashes at all times and should be curbed.

LOCKERBIE TOWN HOME OWNERS ASSOCIATION
BY-LAWS, PAGE 88

ARTICLE VIII. AMENDMENTS

Section 8.01. These Bylaws may be amended by the Corporation in a duly-constituted meeting for such purpose upon approval of such amendments by a quorum (51%) of the owners present and voting.

ARTICLE IX. MORTGAGEES

Section 9.01. An owner who mortgages his Apartment Space shall notify the Corporation through the management agent, if any, or the President of the Board of Directors in the event there is no management agent, of the name and address of his mortgagee; and the Corporation shall maintain such information in a book entitled "Mortgagees of Family Units."

Section 9.02. The Corporation shall, at the request of a mortgagee of an Apartment Space, report any unpaid assessments due from the owner of such Apartment Space.

ARTICLE X. COMPLIANCE WITH APPLICABLE LAW

Section 10.01. Should any of these Bylaws be found to conflict with the provisions of the Indiana Horizontal Property Law, the provisions of the statute shall control.

RECEIVED FOR RECORD
LUCILLE CAMP
RECORDER-MARION CO.

JUL 22 9 10 AM '82

82 38857

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
LOCKERBIE GLOVE COMPANY TOWN HOMES

RECORDED FOR RECORD
LUCILLE CAMP
RECORDER-MARION CO.
JUL 22 2 29 PM '82

This Declaration made this 21st day of JULY
1982, by The Lockerbie Glove Company, an Indiana Limited
Partnership (hereinafter referred to as "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real estate in
Marion County, State of Indiana, more particularly described in
Exhibit "A" attached hereto and by this reference made a part
hereof ("Real Estate").

WHEREAS, Declarant desires and intends to create on the Real
Estate a residential community with parking spaces, open spaces,
walls, fences and other common facilities and amenities for the
benefit of such residential community, to be known as Lockerbie
Glove Company Condominiums and Town Homes; and

WHEREAS, Declarant desires to provide for the preservation
and enhancement of the values and amenities in such community and
the common facilities therein contained, and, to this end,
Declarant desires to subject the Real Estate (being a portion of
such community) to certain rights, privileges, covenants,
conditions, restrictions, easements, assessments, charges and
liens, each and all to the extent herein provided, for the benefit
of the Real Estate and each owner of all or part thereof; and

82 38857

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering any common facilities located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name of Lockerbie Glove Company Town Homes Owners Association, Inc., or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and

attractiveness of the Real Estate as a whole and of each of the Lots situated therein.

ARTICLE I.

Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Not-For-Profit Corporation Action of 1971 as amended;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Architectural Review Board" shall mean and refer to that committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;
- (d) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;
- (f) "Building" shall mean and refer to a structure having more than one "Dwelling Unit";
- (g) "By-Laws" shall mean and refer to the Code of By-Laws of the Corporation, as the same may be amended from time to time;
- (h) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, maintenance, repair and replacement of the Common Properties, all sums lawfully assessed against the Owners by the Corporation, and all sums, costs and expenses declared by this Declaration to be Common Expenses;

- (i) "Common Properties" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not Lots, (ii) to the extent herein established, such portions of the Real Estate as are herein declared to be Common Properties even though located on or constituting part of one or more Lots, including but not limited to recreational easements, (iii) to the extent herein established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Properties whether located, installed or established entirely or partially on Lots or portions of the Real Estate which are not Lots, or both; and (iv) items deemed Common Properties for purposes of maintenance;
- (j) "Corporation" shall mean and refer to Lockerbie Glove Company Town Homes Owners Association, Inc., an Indiana ~~not-for-profit~~ corporation which Declarant has caused to be incorporated under such name or a similar name, its successors and assigns;
- (k) "Declarant" shall mean and refer to the Lockerbie Glove Co., an Indiana limited partnership, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;
- (l) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family, whether such Dwelling is detached or attached to another Dwelling Unit;
- (m) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Properties) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit, as designated by Declarant by its deed of the same to another Person.
- (n) "Mortgagee" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (o) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to

any Lot, but in any event shall not include or mean to refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;

- (p) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or combination thereof;
- (q) "Plat" shall mean and refer to the subdivision plat or plats of the Real Estate (and any additional real estate annexed to the Real Estate) recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented;
- (r) "Real Estate" shall mean and refer to the parcel of real estate in Marion County, Indiana, described in the first recital clause of this Declaration, and defined therein as the Real Estate or to any parcel of real estate which may become subject to this Declaration by annexation;
- (s) "Restrictions" shall mean and refer to the agreements, covenants, conditions, restrictions, easements, assessments, charges, liens and all other provision set forth in this Declaration, as the same may be amended from time to time;
- (t) "Townhome" shall mean and refer to Dwelling Units which are a part of a Building and "Townhome Area" shall mean and refer to those sections of the plat designated as "Townhome Area";

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II

Declaration; Common Properties and Rights Therein; Easements

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred, and occupied subject to the Restrictions. Subsequent owners or contract purchasers of any Lot (i) by acceptance of a deed conveying title

thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall accept such deed or execute such contract subject to each Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, each Owner or contract purchaser acknowledges the rights and powers of Declarant and of the Corporation with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Corporation, and the Owners and subsequent Owner of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Properties, subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot. Without limiting the generality of the foregoing, each Owner, his tenants, invitees and guests, shall have and is hereby granted; a non-exclusive easement for the use and enjoyment of the areas designated as "Recreational Easement" on a Subdivision Plat of the Real Estate.

Section 3. Easement to Corporation. Declarant hereby grants a non-exclusive easement in favor of the Corporation for the

maintenance of the Common Properties (including items deemed Common Properties for maintenance, including but not limited to lawns in the Townhome Area). Such easement shall permit the Corporation or its agents to enter onto any Lot to make emergency repairs or to do other work reasonably necessary for the proper maintenance or operation of the subdivision and to enter onto any Lot in the Townhome Area for the purpose of reconstruction and restoration in the event of casualty. Maintenance shall include but not be limited to maintenance of utilities which serve more than one Dwelling Unit and utilities owned and utilized by the Corporation.

Section 4. Encroachment Easements. If any portion of the Common Properties encroaches on any Dwelling Unit or any Dwelling Unit encroaches upon the Common Properties or another Dwelling Unit or Lot as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement shall be deemed to exist and run to the Corporation or to the Owner of the encroaching Lot or improvement for the encroachment and for the maintenance thereof so long as such encroachment exists.

ARTICLE III

Obligations of Declarant

as to Common Properties; Dedication

Section 1. Agreement To Construct and Convey Other Common Properties. Declarant has constructed or provided for, or will

construct or provide for, Common Properties consisting of the following items:

- (a) installation of utility equipment, facilities and systems to serve the Townhome Area of the Real Estate and the Common Properties,
- (b) intersection street lighting facilities,
- (c) perimeter treatment of the Real Estate, including walls, fencing and landscaping,
- (d) the installation of open spaces as shown in Exhibit "A" hereto.

Upon final construction or provision of the Common Properties described in this Section 1, Declarant covenants to convey all of its right, title and interest in and to such Common Properties to the Corporation and all such right, title and interest in and to such items (whether owned in fee, by leasehold or in the nature of an easement or license) shall then be the property of the Corporation, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Properties located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein, as described in Article II, Section 2 of this Declaration.

Section 3. Dedication. The street shown on the Plat is hereby dedicated to the Department of Transportation of the City of Indianapolis for the use and benefit of the public.

ARTICLE IV

Corporation; Membership; Voting; Functions

Section 1. Membership in Corporation. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and member of the Corporation.

Section 2. Voting Rights. The Corporation shall have two (2) classes of membership, with the following voting rights:

- (a) Class A. Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (b) Class B. Class B members shall be Declarant and his successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B member shall be entitled to three (3) votes for each Lot of which it is the Owner on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the total votes outstanding in the Class A membership equal the total votes outstanding in

the Class B membership or (iii) December 31, 1985
("Applicable Date").

Section 3. Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Properties, to pay taxes assessed against and payable with respect to the Common Properties, to pay any other necessary expenses and costs in connection with the Common Properties, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE V

Board of Directors

Section 1. Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with the Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated in the Articles, ("Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason

or cause whatsoever, prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Corporation and an Owner solely for the purpose of qualifying to act as member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

Section 3. 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 Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to Section 2 of this Article V, one-third (1/3) of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date

provided herein. After the Applicable Date, one-third (1/3) of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one-third (1/3) of the Board of Directors shall be elected for a three (3) year term, one-third (1/3) for a two (2) year term, and one-third (1/3) for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by ~~vote of~~ a majority of the votes entitled to be

cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Properties (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may, on behalf of the Corporation, employ a reputable property management agent ("Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) maintenance, repair, replacement and upkeep of the Common Properties (or items deemed Common Properties for purposes of maintenance).
- (b) protection, surveillance and replacement of the Common Properties, unless the same are otherwise the responsibility or duty of Owners of ~~LOTS~~ or Dwelling Units; provided, however, that this duty shall not

include or be deemed or interpreted as a requirement that the Corporation, 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 may, but need not be furnished;

- (c) maintenance of utilities used in connection with the Lots and Dwelling Units in the Townhome Area;
- (d) removal of trash and waste from the Real Estate on a basis of not less than weekly, provided further that only the Board or Managing Agent shall contract for such service in the Townhome Area and no Owner shall contract for such service;
- (e) snow removal from the Common Properties and from streets dedicated to the public by the Plat;
- (f) assessment and collection from the Owners of the Owner's respective share of the Common Expenses;
- (g) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (h) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (i) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Properties and the business and affairs of the Corporation, 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;
- (j) procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable; and
- (k) paying taxes assessed against and payable with respect to the Common Properties and paying any other necessary

expenses and costs in connection with the Common Properties;

- (l) making available to Owners and Mortgagees, and to holders, insurers or guarantors of any first mortgage, current copies of this Declaration, the By-Laws or other rules concerning the Subdivision and the books, records and financial statements of the Corporation. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances;
- (m) making available to an Mortgagee or any holder, insurer or guarantor of a first mortgage, upon request, a copy of the Corporation's audited financial statement for the immediately preceding fiscal year free of charge to the party making such request.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers

include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties; provided that no employment agreement with the Declarant (or any entity affiliated with the Declarant) as Managing Agent or for any other service shall be for more than three (3) years after the Applicable Date and after such date any such agreement shall be subject to termination by either party without cause and without payment of termination fee upon ninety (90) days written notice to the other party;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, 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 Corporation;
- (d) 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 Properties;

- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Properties (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners.

Section 8. Limitation on Board Action. The Board's powers

are subject to the following limitations. (a) After the ~~Applicable Date, the authority of the Board of Directors to enter~~ into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary.

(i) contracts for replacing or restoring portions of the Common Properties damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(ii) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

(iii) 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.

~~(b)~~ The Board shall not, without the prior written approval of at least sixty-seven percent (67%) of the Owners (other than

Declarant) and Mortgagees (whose mortgage interests have been made known to the Board of Directors) holding mortgages on Dwelling Units which have at least Sixty-Seven percent (67%) of the votes of Dwelling Units subject to mortgages:

(i) by act or omission abandon, partition, subdivide, encumber, sell or transfer the Common Properties owned by the Corporation (provided, the granting of easements for public utilities or for other public purposes shall not be deemed a transfer within the meaning of this clause);

(ii) by act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of Dwellings, the exterior maintenance of Dwellings, the maintenance of side walls in the Common Properties or common fences, or the upkeep of lawns in the Subdivision;

(iii) fail to maintain fire and extended coverage insurance on Common Properties on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement costs; and

(iv) use hazard insurance proceeds for losses to any of the Common Properties for other than the repair, replacement or reconstruction of Common properties.

Section 9. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if one is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and