CROSS-REFERENCE - **The Secondary Plat of The Lakes at Prairie Crossing, Section 1, recorded with the Recorder of Hamilton County, Indiana on the 20th day of August, 1999, as Instrument No. 19990949532, P.C. 2, slide 303.**

COPY

Instrument
19990952951

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE LAKES AT PRAIRIE CROSSING AND THE FAIRWAYS AT PRAIRIE CROSSING

THIS DECLARATION, made on the 27th day of AUGUST, 1999, by *WARSTLER ACQUISITIONS II, LLC, an Indiana limited liability company*, ("Declarant"),

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Hamilton County, Indiana, which is more particularly described in Exhibit "A" (hereafter "Property") attached hereto and by this reference, made a part hereof, upon which Declarant intends, but is not obligated to develop residential subdivisions to be known as *The Lakes at Prairie Crossing* and *The Fairways at Prairie Crossing*.

NOW, THEREFORE, the Declarant hereby declares that all the Property shall be held, sold, and conveyed subject to the following easements, restrictions, limitations, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

19990952951
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 09-08-1999 At 10:35 am.
DEC COV RES 67.00

ARTICLE I

Name

The subdivisions of the Property created by this Declaration shall be known and designated as *The Lakes at Prairie Crossing and The Fairways at Prairie Crossing* subdivisions located in Hamilton County, Indiana.

ARTICLE II

Definitions

The following terms, when used throughout this Declaration, shall have the following meanings and definitions:

Section 2.1 "Articles" means the Articles of Incorporation of the Association (as hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time.

Section 2.2 "Association" means ***The Lakes at Prairie Crossing and The Fairways at Prairie Crossing HOMEOWNERS ASSOCIATION, INC.***, a non-profit corporation, its successors and assigns.

Section 2.3 "Board of Directors" means the Board of Directors of the Association.

Section 2.4 "Builder" means a person or entity engaged in and responsible for the original construction of a residence on a Lot.

Section 2.5 "Common Area" means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) Lake Area, as defined below, and (3) items (if any) deemed Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereafter defined) as a "Block", "Common Area", "C.A.", or such other areas within the Property that are not otherwise identified on the Plat (as hereafter defined) as a lot or street. The Common Area to be conveyed to the Association at the time of conveyance of the first Lot to an Owner is described in the Plat (as hereinafter defined).

Section 2.6 "Common Expenses" shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of all Common Area, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 2.7 "Declarant" means the ***WARSTLER ACQUISITIONS II, LLC, an Indiana limited liability company***, and its successors and assigns.

Section 2.8 "Development Period" means the period of time commencing with Declarant's acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the Property.

Section 2.9 "Dwelling Unit" means any single-family residence situated upon a Lot (as hereafter defined).

Section 2.10 "Golf Course" shall mean the Fox Prairie Golf Course adjacent to the Property, part of which Fox Prairie Golf Course is described in Exhibit B attached hereto. The Golf Course is not part of the Property or any Common Area, and is not subject to this Declaration.

Section 2.11 "Lake Area(s)" means any Common Area on which a lake now exists or is later constructed by Declarant and "Lake" means a body of water which now exists or is later constructed by Declarant in a Lake Area.

Section 2.12 "Lot" or "Lots" means, as the context requires, any parcel or parcels of land designated as such upon the Plat (as hereinafter defined) or, after construction, that parcel of land upon which there is constructed a Dwelling Unit that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental

authority, a "Lot" may contain portions of real estate greater or less than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit.

Section 2.13 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant.

Section 2.14 "Plat" means the subdivision plats of the Property, which are recorded with the Recorder of Hamilton County, Indiana, as the same may be hereafter amended or supplemented pursuant to this Declaration.

ARTICLE III

Property Rights, Easements and Encroachments

Section 3.1 Owners' Easements of Enjoyment of Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement or enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities, if any, situated upon the Common Area owned by the Association;

(b) The right of the Association to suspend the voting rights and right to use of any recreational facilities, if any, by any Owner (i) for any period during which any assessment remains unpaid and (ii) for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area owned by the Association including, without limitation, parking, swimming, boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Common Area owned by the Association;

(d) The rights of Declarant as provided in this Declaration, as the same may be amended from time to time;

(e) The right of the Association to mortgage any or all of the Common Area owned by the Association, upon the approval of two-thirds (⅔) of the membership of each class of members of the Association;

(f) The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members;

(g) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members or otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by two-thirds (⅔) of the membership of each class of members of the Association; and

(h) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.2 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, and subject to the rights of others as set forth in this Declaration, any owner may assign his or her right of enjoyment of the Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligations and Access Rights to the Common Area.

(a) Except as otherwise set forth in this Declaration, the Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted a general right of access and easement to all of the Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency, as reasonably required by its officers, directors, employees and their agents and independent contractors, to the full extent necessary or appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder's warranty.

Section 3.4 General Drainage, Utility, Sewer and Other Development Easement - The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in

a manner that (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

(a) Declarant hereby reserves unto itself during the Development Period, and thereafter unto any public or private utility, a general easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Dwelling Unit constructed on the Property. Any Drainage, Utility, Sewer and other Development Easement shall include all areas of the Property outside any Dwelling Units, with the exception of any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement ("Lake Easement") and right-of-way in and to any Lake Area (s) or areas now or hereafter shown on the Plat as a "Block", "Common Area", or "Lake" or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined sign and facilities easement ("Sign and Facilities Easement") to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any

other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(e) The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 3.5 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 3.6 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake, or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property shall not extend upon such common property and the fee title to such common property is reserved to the grantor to be conveyed to the Association for the common enjoyment of all residents in *The Lakes at Prairie Crossing and The Fairways at Prairie Crossing*.

Section 3.7 Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof, which are hereby reserved to the appropriate governmental entities, public utilities, and private utilities for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities. Purchasers of Lots in this subdivision shall take title subject to

such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and no part thereof except fences which do not retard or impede the flow of drainage water and which are approved pursuant to Sections 7.2 and 7.28 below, shall be built, erected or maintained on said drainage easements, except by the Declarant or its assigns. It shall be the responsibility of the Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. It shall be the responsibility of the Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners of other land contained within the Plat, upstream and downstream. It shall be the responsibility of the Association and the Owners of these natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

Section 3.8 Designated Mounding, Landscaping, and Screening and Sign Easements. Any strips of grounds shown or designated on the Plat for (i) mounding easements, (ii) landscape or landscape maintenance access easements, and/or (iii) sign easements, are hereby reserved for such (i) mounding easements, (ii) landscape easements and/or landscape maintenance access easements and/or (iii) sign easements. Declarant hereby reserves unto itself during the Development Period, and, thereafter, unto the Association, any such easements for the purposes of (i) providing signs which either advertise the Property and the availability of Lots or identify the Property or, (ii) installing landscaping, fencing, mounding, and screening. Declarant reserves unto itself during the Development Period and thereafter unto the Association, the exclusive and sole right to erect signs and install landscaping, mounding, fencing, and screening within these strips of ground shown on the Plat as landscaping, mounding, and sign easements. Notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period, and thereafter by the Association. Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape

maintenance easement, and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant during the Development Period, and thereafter by the Association.

Section 3.9 Street Dedication. All streets now or hereafter located upon the Property are hereby dedicated to the public.

Section 3.10 Easement Work. Notwithstanding any architectural approval under Section 7.2 below, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Association, any private utility, any public utility, and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever planted, to any owner, to remove, damage, or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.7 and Section 3.8 above.

Section 3.11 No Access. There may be strips of ground designated on the Plat as "no access strips", "no access", "no access easement", "no access esmt", or by other similar language. Vehicular ingress, egress, and traveling and/or the construction of improvements for such ingress, egress and/or traveling, is prohibited on, over, or across any such strips or areas.

Section 3.12 Reservation of Right to Grant Easement. The Declarant hereby reserves the right, in its discretion, to (i) grant easements upon, under, over and across the Property for the benefit of land which is adjacent to the Property and/or (ii) to obtain, for the benefit of the Property, easements upon, under, over and across the real estate which is adjacent to the Property.

ARTICLE IV

Association Membership, Voting Rights Board of Directors and Professional Management

Section 4.1 Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one

person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) December 31, 2020; or

(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Declarant records a plat of part of or all of the Property and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to or greater than the total number of votes outstanding in the Class B Membership.

Section 4.3 Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

Section 4.4 Professional Management. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

ARTICLE V

Covenant for Maintenance Assessments

Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot now or hereafter owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) Regular Yearly Assessments (for maintenance, repairs and ordinary operating expenses, including Common Expenses); and

(b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration.

Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eight percent (8%) per annum, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 5.2 Purpose of Regular Yearly Assessments. The Regular Yearly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, and other capital improvements which the Association is required to maintain.

Section 5.3 Maximum Regular Yearly Assessments.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Yearly Assessment on any Lot shall be $170.00 per Lot per year.

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than ten percent (10%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership.

(c) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year by more than ten percent (10%) above the maximum Regular Yearly Assessment for the previous year, by a vote of two-thirds (⅔) of the votes entitled to be cast by members who cast votes in person or by proxy at a meeting duly called for this purpose.

(d) The Board of Directors from time to time may fix the Regular Yearly Assessment, without any vote of the membership, at any amount not in excess of the maximum.

Section 5.4 Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the

Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (⅔) of the votes entitled to be cast by those members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5 Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 Uniform Rate of Assessment. Regular Yearly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed at a uniform rate for all Lots, except that Declarant and any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale Dwelling Unit thereon (a "Builder") shall pay only twenty-five percent (25%) of the Regular Yearly Assessments and Special Assessments so long as any Dwelling Unit constructed upon a Lot by Declarant or Builder has not been conveyed to an Owner intending to occupy or rent said Dwelling Unit as a residence or leased to an individual or entity for use as a residence.

Section 5.7 Date of Commencement of Yearly Assessments; Due Dates. The Regular Yearly Assessment provided for herein shall commence as to each Lot within a recorded Plat on the first day of the first month following the recording of such Plat. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Yearly Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 5.8 Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefor pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and attorneys' fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the

then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. In such event, there shall be added to the amount of such assessment the costs and attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area owned by the Association or abandonment of his Lot.

Section 5.9 Subordination of the Lien to Mortgages; Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

ARTICLE VI

Golf Course

Section 6.1 General. Neither membership in the Corporation, nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use any Golf Course. Rights to use the Golf Course will be determined from time to time by the owner(s) of the Golf Course. The owner(s) of the Golf Course shall have the right, from time to time, in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Golf Course, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether.

Section 6.2 Conveyance of Golf Course. All persons, including all Owners, are hereby advised that no representation or warranties have been or are made by the Declarant or any other person with regard to the continuing ownership or operation of the Golf Course as depicted upon the Development Plan, and no purported representation or warranty in such regard, either written or oral,

shall ever be effective without an amendment hereto executed or joined into by the Declarant. Further, the ownership or operational duties of and as to the Golf Course may change at any time and from time to time by virtue of, but without limitation, (a) the sale or assumption of operations of the Golf Course by or to another person or entity, (b) the conversion of the Golf Course membership structure to an "equity" club or similar arrangement whereby the members of the Golf Course or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Golf Course, or (c) the conveyance, pursuant to contract, option, or otherwise, of the Golf Course to one or more affiliates, shareholders, employees, or independent contractors of Declarant. As to any of the foregoing or any other alternative, no consent of the Association, or any Owner shall be required to effectuate such transfer. Under no circumstances shall the Golf Course be conveyed to the Association and no Owner shall have any right or interest in the Golf Course by virtue of ownership or occupancy of a Lot.

Section 6.3 Access and Parking Rights. The Golf Course and their members (regardless of whether such members are Owners hereunder), their guests, invitees, and the employees, agents, contractors, and designees of the Golf Course shall at all times have a right and nonexclusive easement of access and use over all roadways located within the Property reasonably necessary to travel from/to the entrance of the Property to and/or from the Golf Course, respectively, and, further, over those portions of the properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Golf Course, and permitted members of the public shall have the right to park their vehicles on the roadways located within the Property at reasonable times before, during, and after golf tournaments and other similar functions held at the Golf Course.

Section 6.4 Easement to Retrieve Stray Golf Balls. There is hereby reserved an easement across any Lot adjacent to the Golf Course for the limited purpose of allowing any user or patron of the Golf Course to retrieve stray golf balls so long as such user or patron does not breach the peace or cause damage to a Lot or any part thereof upon said entry.

Section 6.5 Assessments. The owner(s) of the Golf Course shall not be obligated to pay assessments to the Association except as may specifically be provided in an agreement with the Association.

Section 6.6 Architectural Control. Neither the Association, nor the Architectural Committee, shall approve or permit any construction, addition, alteration, change, or installation on or to any Lot or Common Area which is adjacent to the Golf Course, without giving the Golf Course at least fifteen (15) days prior notice of its intent to approve or permit the same together with copies of the request therefor and all other documents and information finally submitted in such regard; provided, however, that this requirement of submittal to the Golf Course shall be inapplicable to the original construction of any Dwelling Units by Declarant or any Builder. The Golf Course shall then have fifteen (15) days to submit its comments on the proposal in writing to the Architectural Committee or Association, which shall consider, but shall not be bound by, such comments. The failure of the Golf Course to respond to the aforesaid notice within the fifteen (15) day period shall

constitute a waiver of the Golf Course's right to comment on the matter so submitted. Notwithstanding any comments submitted by the Golf Course to the Architectural Committee or Association, any decision hereafter of such committee or association shall be final. Neither the Association, the Architectural Committee, nor any Owner shall have the right to approve or review plans, or permit any construction, addition, alteration, installation change or modification to the Golf Course or any structure thereon. Notwithstanding anything herein to the contrary, under no circumstances shall the Declarant or any Builder be required to submit anything to the Golf Course before commencing original construction of any Dwelling Units.

Section 6.7 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Golf Course, no amendment to this Article, and no amendment in derogation hereof to any other provisions of this Declaration, may be made without the written approval thereof by the owners of the Golf Course. The foregoing shall not apply, however, to amendments made by the Declarant.

Section 6.8 Jurisdiction and Cooperation. It is Declarant's intention that the Association and the owner(s) of the Golf Course shall cooperate to the maximum extent possible in the operation of the Property and the Golf Course.

Section 6.9 Access and Use. Access to the Golf Course, if any, within or adjacent to any Neighborhood is strictly subject to the terms, conditions, rules and procedures established by the owner(s) of the Golf Course. No Owner or occupant gains any right to enter, to use, or to require the continued existence or operation of the Golf Course by virtue of ownership or occupancy of a Lot. Each Owner or occupant is expressly advised that there shall be no obligation on the part of the City of Noblesville, Hamilton County, Indiana, to maintain the Golf Course as a public facility and that the City of Noblesville, Hamilton County, Indiana, shall reserve the right to transfer or alienate the Golf Course as it deems appropriate consistent with any restrictions in the deed under which it took title to the Golf Course.

ARTICLE VII

Use, Restrictions, and Architectural Control

Section 7.1 Lot Use and Conveyance. All Lots shall be used exclusively for single family detached residential purposes, except that Declarant, during the Development Period, reserves (a) the rights provided in this Declaration respecting the Property generally, and (b) the right to subdivide, dedicate or otherwise convey or designate all or any portion of any one or more Lots which it may own from time to time for recreational or other common uses and benefit of all Owners and other members of the Association. Any Lot or portion thereof so designated for common use shall become part of the Common Area owned by the Association, and reasonable rules and regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the

Declaration, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

Section 7.2 Architectural Control. No building, outbuilding, mailbox, fence, satellite dish, wall or other structure, except original construction of Dwelling Units by or on behalf of the Declarant, Crossmann Communities Partnership, Deluxe Homes, Inc., Trimark Development, Inc., and Trinity Homes, LLC, and then related entities and officials, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, other than by the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, until the end of the Development Period, and thereafter by the Board of Directors of the Association. After the Development Period, the Board of Directors may appoint three (3) or more representatives to an Architectural Committee. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided. However, there shall be no such approval of the planting of hedges, walls, fences, structures and/or other improvements prohibited under Section 3.8 above, and any such approval shall be null and void. In the event that written approval is not received as required hereunder within thirty (30) days after complete plans and specifications have been submitted, then the request for approval shall be deemed denied.

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

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

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

Section 7.3 Leasing. Any Lot may be leased by its Owner.

Section 7.4 Animals. No animals shall be kept or maintained on any lot except domestic, household pets traditionally kept in individual residences throughout the state of Indiana. All such pets shall be kept reasonably confined so as not to become a nuisance. Excessive barking of dogs or vicious animals shall constitute a nuisance and may be ordered by the Association to be removed from the property.

Section 7.5 Outside Storage. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers.

Section 7.6 Setback Lines. Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the right-of-way lines there shall be erected, placed or altered no structure or part thereof, except fences in keeping with architectural style as specifically approved by the Declarant until the end of the Development Period, and thereafter by the Association Board of Directors or Architectural Review Committee; provided, however, except that in no case will such fences be permitted on the public right-of-way. The building lines which are from public right-of-way lines are parallel to and measured perpendicularly from these public right-of-way lines.

Section 7.7 Side Setbacks. The minimum side yard and minimum rear yard requirements shall be those established by the applicable zoning and subdivision control ordinances.

Section 7.8 Temporary Structures and Outbuildings. No structure of a temporary character, tent, shack, basement, garage, barn or other out-building shall be erected, placed, or altered upon any Lot for use as a residence either temporarily or permanently, or at any time be used for such purpose.

Section 7.9 Motor Vehicle Repair. The repair of inoperative motor vehicles or material alteration of motor vehicles shall not be permitted on any Lot unless entirely within a garage permitted to be constructed per the terms of the Declaration.

Section 7.10 Nuisances. No noxious or offensive activities shall be carried on or be permitted to exist on any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance. Any structure or building permitted to be constructed on any Lot by this Declaration, which may be all or in part destroyed by fire, wind, storm or any other reason, shall be rebuilt and restored to its previous condition within a reasonable length of time, and all debris accumulated in connection therewith shall be removed within a reasonable time after any such occurrence.

Section 7.11 Permitted Uses. No use shall be made of any Lot except as permitted by the applicable zoning and subdivision control ordinances under which this Property is developed.

Section 7.12 Drains. No house footing drain or roof water drain shall be discharged into the sanitary sewers.

Section 7.13 Number of Dwelling Units. The number of Dwelling Units shall not exceed the number of Lots within the Property.

Section 7.14 Residential Use. Lots may be used only for residential purposes and only for one single-family dwelling, a private garage, and other such outbuildings as are usual and incidental to the use of a residential lot.

Section 7.15 Size. Subject to any further restrictions imposed by any recorded commitment, every single-family dwelling erected, placed, altered or maintained on any Lot within shall have a minimum living area, exclusive of open porches, unfinished basements and attached garages, of not less than what is required by the applicable zoning and subdivision control ordinances.

Section 7.16 Unsightly Growth. In order to maintain the standards of the Property, no weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any Property, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply shall warrant the Declarant or the Association to cut weeds or clear the refuse from the Property at the expense of the Owner, and there shall be a lien against said Property for the expense thereof, which lien shall be due and payable immediately. If such lien is not promptly paid, the Association or the Declarant may file suit and recover such amount together with reasonable attorneys fees and costs of collection.

Section 7.17 Site Visibility. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No fences shall be permitted to be constructed between the front set back line and the street curb.

Section 7.18 Semi-tractor trucks, trailers, etc. No semi-tractor trucks, semi-trucks, semi-tractor trailers, boats, campers, mobile homes, disabled vehicles, and/or trailers shall be permitted to park on the Property or a Lot unless fully enclosed in a garage, or unless the same is necessary and incident to the Declarant's, builder's or Association's business on the Property.

Section 7.19 Sign Limitations. No sign of any kind, other than those installed by Declarant, the Association, or a Builder, may be displayed to public view on any Lot, except that one sign with

an area of not more than six (6) feet may be displayed with the purpose of advertising the Lot for sale.

Section 7.20 Lakes, Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may or may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Section 7.21 Rules and Regulations. The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the Common Area owned by the Association. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of all rules and regulations shall be furnished by the Board to all Owners, at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws, and other rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers and guarantors of first mortgages, that are secured by Dwelling Units in the Property. These documents shall be available during normal business hours or under other reasonable circumstances.

Section 7.22 Development and Sale Period. Nothing contained in this Article 7 shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Property and sale of Lots. During the Development Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required, or convenient or incidental to, the development of the Property and sale of the lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

Section 7.23 Outside Use of Lots. Except in an individual patio area appurtenant to a Dwelling Unit, no planting or gardening shall be done, and no fences, hedges, walls or other

improvements shall be erected or maintained upon the Property except such as installed in accordance with the initial construction of the buildings located thereon or as approved by the Board of Directors.

Section 7.24 Mailboxes. All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors of the Association.

Section 7.25 Yard Lights. The builder on each Lot shall supply and install a yard light in operable condition on such Lot at a location, having a height and of a type, style and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors of the Association. Each such light fixture shall also have a bulb of sufficient wattage to insure uniform illumination on each Lot and shall be equipped with a photo-electric cell or similar device to insure automatic illumination from dusk to dawn each day. The yard light thereafter shall be maintained in proper working order by the Owner of each Lot.

Section 7.26 Notice of Zoning Commitments. Notice is hereby given that certain written commitments were made in a Development Plan in connection with the zoning of all or part of the Property in connection with Ordinance 61-10-98, passed by the Common Council of the City of Noblesville on November 23, 1998.

Section 7.27 Home Occupations. No Lot or Dwelling Unit located thereon shall be used for any purpose other than as a single family residence, except a home occupation which is both permitted under the applicable zoning ordinance and which also complies with the following guidelines:

(a) Any home occupation must be conducted entirely within the residence and conducted solely by a member of the immediate family residing in said Dwelling Unit;

(b) Any home occupation must be clearly incidental and secondary to the use of the Dwelling Unit for residential purposes;

(c) There can be no sign or display that will indicate from the exterior of the Dwelling Unit that the Dwelling Unit is being used, in whole or in part, for any purpose other than that of a residential dwelling;

(d) No commodity can be sold from the Lot or Dwelling Unit located thereon.

(e) No person can be employed other than a member of the immediate family residing in the Dwelling Unit;

(f) No manufacturer or assembly operations can be conducted; and

(g) Customers cannot enter upon the Lot or Dwelling Unit for the purpose of conducting business.

In no event shall the following similar activities be conducted: child care, barber shop, styling salon, animal hospital, kennel, any form of animal care or treatment such as dog trimming, or any similar activities.

Section 7.28 Fences. The Architectural Committee, prior to any installation, must approve any fencing and landscape screening. It is the goal to keep all fencing or screening harmonious with the architectural character of the community. No fence or screen will be approved which obstructs necessary sight lines for vehicular traffic. Undue obstruction of views from adjoining properties and amenity areas will be taken into consideration by the Architectural Committee when reviewing fences for approval. No front yard fencing is permitted, except on a Lot on which there is maintained a sales office or model home by Declarant or Builder. If approved by the Architectural Committee, fences may be privately installed but must be constructed to professional levels of quality, design, material, composition, and color as determined by the Architectural Committee. Non-professionally installed fences may be inspected by the Architectural Committee after completion in order to ensure that the fence is of a professional quality, and final approval of such fence shall be deemed withheld until completion of this final review. All fences shall be kept in good repair by the Owner. No fence shall be located any closer to the front line than the rear foundation line of the residence.

Fences are to be vinyl coated chain link, wrought iron, cedar, or treated pine. Further, fences are to be dog-eared, flattop shadow box style with 1" x 6" vertical boards, and are to remain unpainted. The Architectural Committee must approve all fencing materials, design and location. Walls above grade must be constructed of natural stone, masonry, wood or shadow box fencing. The Architectural Committee will approve landscape screening materials, design, and location on an individual basis.

The exact location, material, color and height of the fence and rendering or photograph thereof shall be submitted to the Architectural Committee for written approval at least thirty (30) days prior to proposed construction. If however, approval has not been received by applicant in writing within thirty (30) days after being submitted, then said request shall be considered DENIED.

Fences on Lots adjacent to the Golf Course shall not exceed forty-eight (48) inches in height. The Architectural Committee may require that all such fences on Lots adjacent to the Golf Course to be of uniform height, color, materials, and appearance.

Fences on any Lots adjacent on any public highways or perimeter roadways not internal to the subdivision shall not exceed forty-eight (48) inches in height. The Architectural Committee may require that all such fences on Lots adjacent to public highways or perimeter roadways not internal to the subdivision be of uniform height, color, material, and appearance.

Section 7.29 Animal Kennels. Animal kennels or quarters which are not connected to a Dwelling Unit are prohibited. Animal quarters or kennels which are connected to the Dwelling Unit must be approved by the Architectural Committee.

Section 7.30 Pools. Above ground swimming pools are prohibited on the Property. No swimming pool on any Lot adjoining the Golf Course shall be closer than three-hundred (300) feet to any golf green or tee is originally located on the Golf Course. All pools located on Lots adjacent to the Golf Course shall be covered with an automated pool cover.

Section 7.31 Structures in Fifty Foot Buffer. Outbuildings and permanent structures, other than fences not otherwise prohibited by this Declaration, are prohibited in the area which is between (i) the line which is fifty (50) feet by parallel lines off the west side of any Lot adjacent to Hague Road and (ii) the western boundary line of such Lot adjacent to Hague Road.

ARTICLE VIII

Maintenance, Repairs and Replacements

Section 8.1 By Owners. Except as specifically provided in this Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. All fixtures and equipment installed within or as part of the Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Area owned by the Association. Such maintenance and repairs include, but are not limited to, all exterior surface, siding, roof, gutters, internal water lines, plumbing, electric lines gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 8.2 Common Properties and Lawns by the Association.

(a) The Association, as part of its duties, and as part of the Common Expenses, shall provide for:

(i) Maintenance of the Common Area. Maintenance of the Common Area shall include, but shall not be limited to, fertilizing, treating any Lakes, mowing and replanting when necessary of the grass and trees and maintenance of any other improvement within the Common Area;

(ii) Maintenance of the entry signs, permanent subdivision identification sign, and landscaping installed by the Declarant in any Common Area, Landscape Easement, or Landscape Maintenance Easement;

(iii) The maintenance of any street lights which are installed by Declarant and which are not located upon any Lot; and,

(iv) The maintenance of any brick surface installed by Declarant on any internal street or entryway.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only) as it deems necessary.

(b) Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only), if, due to the willful, intentional or negligent acts or omissions of an Owner or a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Area owned by the Association (or any items deemed as such for purposes of maintenance only), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

(c) The authorized representatives of the Association, the Board of Directors and the Managing Agent for the Association (if any) are hereby granted an easement for access upon and to any Lot as may be required in connection with maintenance only, repairs or replacements of or to the Common Area owned by the Association or any items deemed as Common Area for purposes of maintenance only, including, but not limited to, access to any easements reserved by any Plat of any portion of the Property for such purposes.

ARTICLE IX

Insurance

Section 9.1 Liability Insurance. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents, or employees of any of the foregoing with respect to the Association. It shall also cover all Common Area owned by the Associations, public ways and any other areas under the Association's control or supervision. The premiums for all such liability policies shall be a Common Expense.

Section 9.2 Fidelity Bonds. The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. Any management agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide the same coverage required of the Association. The Association shall be named as an additional obligee in the management agent's bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal one (1) years' assessments on all Dwelling Units in the Property, plus the Association's reserve funds. If available, the fidelity bonds must include a provision that calls for ten (10) days' written notice to the Association or insurance trustee before the bond can be canceled or substantially modified for any reason.

Section 9.3 Miscellaneous Insurance Provisions. The Association shall obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of the Association, its Board of Directors and any managing agent acting on behalf of the Association. The premiums for all such insurance coverage shall be a Common Expense.

Section 9.4 Casualty and Restoration. Damage to or destruction of any Common Area actually owned by the Association due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose. The same obligation shall apply to an Owner, and not the Association, for damage or destruction to the Owner's Dwelling Unit. For purposes of this Section, repair, reconstruction and restoration shall mean construction or rebuilding of the damaged property to as near as possible the same condition as it existed immediately prior to the damage or destruction, with the same or a similar type of architecture.

Section 9.5 Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area actually owned by the Association or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a Special Assessment against all Lots for such deficiency.

Section 9.6 Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair 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 Property. The action of the Board of Directors in proceeding to

repair or reconstruct damage shall not constitute a waiver of any rights against any Owner for committing willful or malicious damage.

ARTICLE X

Mortgages

Section 10.1 Mortgagee Rights. In addition to any other rights provided elsewhere in this Declaration to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area owned by the Association or any other property owned by the Association; and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this Section shall be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 10.2 Notice to Mortgagees. The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge maybe made by the Association for the issuance of any such certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided in this Declaration.

Section 10.3 Condemnation and Insurance Awards. No provisions of this Declaration, or any amendment thereto, shall give an Owner, or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area property.

Section 10.4 Right of First Refusal. The Association DOES NOT have the "right of first refusal" to purchase any Dwelling Unit. Any right of "right of first refusal" subsequently granted to the Association through amendment of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Properties must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any "right of first refusal" subsequently added in the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must not impair the rights of a first mortgagee to:

(a) Foreclose or take title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage;

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

(c) Sell or lease a unit acquired by the mortgagee.

Section 10.5 Unpaid Dues or Charges. Any first mortgagee who obtains title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the Dwelling Unit's unpaid dues or charges accrued before the acquisition of the title to the Dwelling Unit by the mortgagee.

ARTICLE XI

General Provisions

Section 11.1 Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, 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 not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 11.2 Severability and Waiver. Invalidation of any one of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 11.3 Amendment. This Declaration and the covenants, conditions and restrictions set forth in this Declaration, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them. This Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without

Declarant's prior written approval. Except as prohibited below, this Declaration may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within four (4) years after the recordation hereof. Any amendment must be recorded. Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of two-thirds (⅔) of the Owners of Lots (excluding Declarant or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area owned by the Association by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(b) Fail to maintain fire and extended coverage on insurable Common Area owned by the Association on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement costs);

(c) Use hazard insurance proceeds for losses to any Common Area owned by the Association for other than the repair, replacement, or reconstruction of the Common Area owned by the Association.

Section 11.4 HUD Amendment Approval. All other provisions of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property notwithstanding, so long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development:

(a) Annexation of additional properties other than the Property;
(b) Dedication or Mortgaging of Common Area; and
(c) Amendment of the Declaration of Covenants, Conditions and Restrictions.

Section 11.5 Assignment. Declarant may assign or otherwise transfer any and all of its rights as Declarant in whole or in part.

Section 11.6 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area owned by the Association, or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of this development shall be made on a reasonable and an equitable basis.

IN WITNESS WHEREOF, WARSTLER ACQUISITIONS II, LLC, an Indiana limited liability company, has caused this Declaration to be executed as of the date first written above.

WARSTLER ACQUISITIONS II, LLC, an Indiana limited liability company

By: _____
Robert B. Warstler, Member

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Robert B. Warstler, Member of Warstler Acquisition II, LLC, an Indiana limited liability company*, and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions of Prairie Crossing.

Witness my hand and Notarial Seal this 27th day of August, 1999.

My Commission Expires:
May 21, 2001

Residing in Hendricks County

_____
Notary Public

NOTARY PUBLIC SEAL INDIANA

Shirley J. White
Printed Name

Prepared By: Charles D. Frankenberger
NELSON & FRANKENBERGER
3021 East 98th Street, Suite 220
Indianapolis, Indiana 46280
(317) 844-0106

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EXHIBIT "A"

A part of the West Half of Section 25, Township 19 North, Range 4 East located in Noblesville Township, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 25; thence North 89 degrees 00 minutes 00 seconds East along the North line of said Quarter Section 1319.44 feet to the Northeast corner of the West Half of the Northwest Quarter of said Section 25; thence South 00 degrees 33 minutes 07 seconds West along the East line of the West Half of the Northwest Quarter of said Section 25 1138.87 feet; thence South 13 degrees 50 minutes 43 seconds West 114.77 feet; thence South 52 degrees 02 minutes 14 seconds West 115.14 feet; thence South 40 degrees 11 minutes 45 seconds West 395.16 feet; thence South 12 degrees 50 minutes 50 seconds West 56.81 feet; thence South 00 degrees 36 minutes 45 seconds West 104.67 feet; thence South 19 degrees 24 minutes 18 seconds West 134.22 feet; thence South 35 degrees 57 minutes 35 seconds West 566.91 feet; thence South 35 degrees 16 minutes 40 seconds West 47.39 feet; thence South 23 degrees 47 minutes 23 seconds West 214.92 feet; thence South 25 degrees 08 minutes 31 seconds West 75.27 feet; thence South 17 degrees 12 minutes 08 seconds East 139.04 feet; thence South 39 degrees 21 minutes 10 seconds East 115.00 feet; thence South 36 degrees 26 minutes 28 seconds East 71.96 feet; thence South 26 degrees 04 minutes 22 seconds East 74.50 feet; thence South 15 degrees 27 minutes 47 seconds East 67.11 feet; thence South 05 degrees 34 minutes 25 seconds East 67.20 feet; thence South 00 degrees 38 minutes 55 seconds West 1190.50 feet; thence South 09 degrees 38 minutes 49 seconds East 79.87 feet; thence South 30 degrees 24 minutes 09 seconds East 200.00 feet; thence South 27 degrees 48 minutes 06 seconds East 61.68 feet; thence South 18 degrees 08 minutes 05 seconds East 67.27 feet; thence South 07 degrees 42 minutes 10 seconds East 67.27 feet; thence South 03 degrees 46 minutes 34 seconds West 80.73 feet; thence South 15 degrees 59 minutes 12 seconds West 77.68 feet; thence South 20 degrees 43 minutes 15 seconds West 100.00 feet; thence South 14 degrees 50 minutes 42 seconds West 99.02 feet; thence South 01 degrees 01 minutes 48 seconds East 137.63 feet; thence North 88 degrees 57 minutes 39 seconds East parallel with the South line of the Southwest Quarter Section 180.79 feet; thence South 00 degrees 13 minutes 50 seconds West 35.01 feet to a point on said South line; thence South 88 degrees 57 minutes 39 seconds West along said South line; 925.40 feet to the Southwest corner of the Southwest Quarter of said Section 25; thence North 00 degrees 38 minutes 53 seconds East along the West line of the Southwest Quarter of said Section 25 2630.56 feet to the Northwest corner of said Southwest Quarter of said Section 25, said point also being the Southwest corner of the Northwest Quarter of said Section 25; thence North 00 degrees 36 minutes 45 seconds East along the West line of the Northwest Quarter of said Section 25 2654.20 feet to the place of beginning, containing 104.753 acres, more or less, subject to all legal highways, rights-of-way, easements and restrictions of record.

METES\30855LF
July 30, 1999
TLT(R) WAB(F)

EXHIBIT "B"

Part of the East Half of Section 25, Township 19 North, Range 4 East, in Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Southeast corner of the Southwest Quarter of said Section 25; thence North 00 degrees 34 minutes 04 seconds East (assumed bearing) along the East line of said Quarter Section 35.01 feet to the POINT OF BEGINNING of this description; thence South 88 degrees 58 minutes 12 seconds West 25.01 feet; thence North 00 degrees 34 minutes 04 seconds East 1247.55 feet; thence North 53 degrees 24 minutes 40 seconds West 156.10 feet; thence South 74 degrees 31 minutes 01 seconds West 177.33 feet; thence South 18 degrees 52 minutes 51 seconds West 177.33 feet; thence South 26 degrees 59 minutes 41 seconds East 70.00 feet; thence South 00 degrees 34 minutes 04 seconds West 235.00 feet; thence South 13 degrees 43 minutes 02 seconds West 62.94 feet; thence South 36 degrees 29 minutes 01 seconds West 39.65 feet; thence South 69 degrees 49 minutes 52 seconds West 80.00 feet; thence South 65 degrees 52 minutes 59 seconds West 44.96 feet; thence North 59 degrees 42 minutes 43 seconds West 180.91 feet; thence South 62 degrees 34 minutes 27 seconds West 185.87 feet; thence North 06 degrees 14 minutes 50 seconds West 116.64 feet; thence North 11 degrees 18 degrees 22 minutes West 371.17 feet; thence North 00 degrees 51 minutes 25 seconds East 98.68 feet; thence North 16 degrees 41 minutes 32 seconds East 355.89 feet; thence North 37 degrees 11 minutes 47 seconds East 100.04 feet; thence North 54 degrees 36 minutes 51 seconds East 365.27 feet; thence North 43 degrees 02 minutes 02 seconds East 81.85 feet; thence North 31 degrees 08 minutes 06 seconds East 81.72 feet; thence North 18 degrees 27 minutes 17 seconds East 81.72 feet; thence North 05 degrees 46 minutes 27 seconds East 81.72 feet; thence North 06 degrees 54 minutes 22 seconds West 81.72 feet; thence North 19 degrees 35 minutes 12 seconds West 81.72 feet; thence North 32 degrees 16 minutes 01 seconds West 81.72 feet; thence North 44 degrees 56 minutes 50 seconds West 81.72 feet; thence North 57 degrees 37 minutes 40 seconds West 81.72 feet; thence North 70 degrees 18 minutes 29 seconds West 81.72 feet; thence North 82 degrees 57 minutes 30 seconds West 81.72 feet; thence South 89 degrees 47 minutes 41 seconds West 660.10 feet; thence South 54 degrees 12 minutes 38 seconds West 136.88 feet; thence South 10 degrees 32 minutes 21 seconds West 133.93 feet; thence South 24 degrees 52 minutes 35 seconds East 141.69 feet; thence South 17 degrees 49 minutes 38 seconds East 169.18 feet; thence South 20 degrees 02 minutes 24 seconds East 117.37 feet; thence South 01 degrees 48 minutes 31 seconds East 40.09 feet; thence South 16 degrees 41 minutes 32 seconds West 177.23 feet; thence South 15 degrees 10 minutes 26 seconds West 69.67 feet; thence South 05 degrees 20 minutes 38 seconds West 79.93 feet; thence South 06 degrees 16 minutes 10 seconds East 79.93 feet; thence South 17 degrees 52 minutes 59 seconds East 79.93 feet; thence South 29 degrees 29 minutes 47 seconds East 79.93 feet; thence South 41 degrees 06 minutes 35 seconds East 79.93 feet; thence South 42 degrees 42 minutes 42 seconds East 82.65 feet; thence South 11 degrees 18 minutes 22 seconds East 502.68 feet; thence South 67 degrees 21 minutes 25 seconds West 128.81 feet; thence South 54 degrees 22 minutes 21 seconds West 114.24 feet; thence South 37 degrees 32 minutes 36 seconds West 114.10 feet; thence South 20

degrees 16 minutes 27 seconds West 114.10 feet; thence South 03 degrees 00 minutes 19 seconds West 114.10 feet; thence South 18 degrees 48 minutes 11 seconds East 87.18 feet; thence South 88 degrees 51 minutes 52 seconds West 314.00 feet; thence South 01 degrees 08 minutes 08 seconds East 50.00 feet; thence South 00 degrees 29 minutes 38 seconds West 214.99 feet; thence South 88 degrees 58 minutes 12 seconds West 180.94 feet; thence North 01 degrees 01 minutes 48 seconds West 137.49 feet; thence North 14 degrees 50 minutes 42 seconds East 99.02 feet; thence North 20 degrees 43 minutes 15 seconds East 100.00 feet; thence North 15 degrees 59 minutes 12 seconds East 77.68 feet; thence North 03 degrees 46 minutes 34 seconds East 80.73 feet; thence North 07 degrees 42 minutes 10 seconds West 67.27 feet; thence North 18 degrees 08 minutes 05 seconds West 67.27 feet; thence North 27 degrees 48 minutes 06 seconds West 61.68 feet; thence North 30 degrees 24 minutes 09 seconds West 200.00 feet; thence North 09 degrees 38 minutes 49 seconds West 79.87 feet; thence North 00 degrees 38 minutes 55 seconds East 1190.50 feet; thence North 05 degrees 34 minutes 25 seconds West 67.20 feet; thence North 15 degrees 27 minutes 47 seconds West 67.11 feet; thence North 26 degrees 04 minutes 22 seconds West 74.50 feet; thence North 36 degrees 26 minutes 28 seconds West 71.96 feet; thence North 39 degrees 21 minutes 10 seconds West 115.00 feet; thence North 17 degrees 12 minutes 08 seconds West 139.04 feet; thence North 25 degrees 08 minutes 31 seconds East 75.27 feet; thence North 23 degrees 47 minutes 23 seconds East 214.92 feet; thence North 35 degrees 16 minutes 40 seconds East 47.39 feet; thence North 35 degrees 57 minutes 35 seconds East 566.91 feet; thence North 19 degrees 24 minutes 18 seconds East 134.22 feet; thence North 00 degrees 36 minutes 45 seconds East 104.67 feet; thence North 12 degrees 50 minutes 50 seconds East 56.81 feet; thence North 40 degrees 11 minutes 45 seconds East 395.16 feet; thence North 52 degrees 02 minutes 14 seconds East 115.14 feet; thence North 13 degrees 50 minutes 43 seconds East 114.78 feet to a point on the East line of the West Half of the Northwest Quarter of the aforesaid Section 25; thence South 00 degrees 33 minutes 07 seconds West along said East line 1512.67 feet to the Southeast corner of said Half Quarter Section; thence North 88 degrees 53 minutes 16 seconds East along the North line of the Southwest Quarter of said Section 25 a distance of 1322.31 feet to the Northeast corner thereof; thence South 00 degrees 34 minutes 04 seconds West along the East line of said Quarter Section 2598.98 to the place of beginning, containing 76.802 acres, more or less.

METES/30855GC
October 13, 1998
Rev December 21, 1998
CDB (R) SCS (F)