

DECLARATION OF COVENANTS AND RESTRICTIONS

HILLINDALE COMMONS

BATESVILLE, IN

DECLARATION OF COVENANTS AND RESTRICTIONS

HILLINDALE COMMONS

October 1983

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SUPPLEMENTRY DECLARATION OF COVENANTS AND RESTRICTIONS
HILLINDALE COMMONS Hillindale Estates

DECLARATION OF COVENANTS AND RESTRICTIONS

HILLINDALE COMMONS

This Declaration, made as of 25th day of October, 1983, by HILLENBRAND DEVELOPMENT CORPORATION, an Indiana corporation.

WITNESSETH:

WHEREAS, the following facts are true:

- A. Declarant is the owner of the real estate located in Ripley County, Indiana, cross-hatched on Exhibit A, upon a part of which Declarant may, but is not obligated to, construct residential and recreational facilities.
- B. Declarant has constructed certain of the community Area and intends but is not obligated, to construct additions to the community Area.
- C. Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in Hillindale commons and for the maintenance of the tract and the improvements thereon, and to this end desires to subject the Tract together with such additions as may hereafter be made thereto (as provided in Paragraph 3) to the covenants, restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefits of the Lots and lands in the Tract and the future owners thereof.
- D. Declarant deems it desirable, for the efficient preservation of the values and amenities in Hillindale Commons, to create an agency to which may be delegated and assigned the powers of owning, maintaining and administering the community Area, administering and enforcing the Restrictions, collecting and disbursing the Assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the Occupants of Units and the Owners of Lots in Hillindale Commons.
- E. Declarant has incorporated under the laws of the State of Indiana a not-for-profit corporation known as Hillindale Homeowners Association, Inc. for the purpose of exercising such functions.

NOW, THEREFORE, Declarant hereby declares that all of the Lots and lands in the Tract and such additions thereto as may hereafter be made pursuant to Paragraph 3 hereof, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are declared to be in furtherance of a plan for the improvement and sale of Units Lots and lands in the Tract, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Tract as a whole and of each of said Units, Lots and lands situated therein. The Restrictions shall run with the land and shall be binding upon Declarant and upon the parties having or acquiring any interest in the Tract or any part or parts thereof subject to such

Restrictions, and shall inure to the benefit of Declarant and its successors in title to the Tract or any part or parts thereof.

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) “Architectural Review Board” means that entity established pursuant to Paragraph 13 of this Declaration for the purposes therein stated.

(b) “Articles” means the Articles of Incorporation of the Corporation, as amended from time to time.

(c) “Assessments” means all sums lawfully assessed against the Members of the corporation or as declared by this Declaration, any Supplementary Declaration, the Articles or the By-Laws.

(d) “Board of Directors” means the governing body of the corporation elected by the Members in accordance with the By-Laws.

(e) “By-Laws” means the Code of By-Laws of the Corporation, as amended from time to time.

(f) “Condominium” means a Living Unit in a Horizontal Property Regime.

(g) “Community Area” means (i) the Park, (ii) the Drainage System, (iii) the Recreational Area if conveyed by Declarant to the Corporation pursuant to Paragraph 4, (iv) the Private Roadways, (v) the Marina if title thereto is vested in the Corporation, (vi) the Paths and Path lights, (vii) any utility service lines or facilities not maintained by a public utility company or governmental agency that are located on, over or below or through more than one Section or parcel, and (viii) any areas of land (1) shown on any recorded subdivision plat, (2) described in any recorded instrument prepared by Declarant or its agents or (3) conveyed to or acquired by the Corporation, together with all improvements thereto, that are intended to be devoted to the use or enjoyment of some, but not necessarily all, of the Owners and Occupants of Lots and Living Units.

(h) “Corporation” means Hillindale Homeowners Association, Inc. , an Indiana not-for-profit corporation, its successors and assigns.

(i) “Declarant” means Hillenbrand Development Corporation, its successors and assigns to its interest in the Tract other than Owners purchasing Lots or Living Units by deed from Declarant (unless the conveyance indicated an intent that the grantee assume the rights and obligations of Declarant).

(j) “Development Area” means the real estate described in Exhibit B.

(k) “Drainage Board” means the Ripley County Indiana Drainage Board, its successors or assigns.

- (l) “Drainage System” means the open drainage ditches and swales, the subsurface drainage tiles, pipes and structures, and the other structures, fixtures, properties, equipment and facilities located in the Tract and designed for the purpose of expediting the drainage of surface and subsurface waters from, over and across the Tract, including but not limited to those shown or referred to on a Plat, all or part of which may be established as legal drains subject to the jurisdiction of the Drainage Board.
- (m) “General Plan of Development” means that plan prepared by Declarant and approved, if necessary, by appropriate public agencies that outlines the total scheme of development and general uses of land in the Development Area, as such may be amended from time to time.
- (n) “Horizontal Property Regime” means a horizontal property regime established in the Tract.
- (o) “Lake” means Lake Bischoff.
- (p) “Living Unit” means any structure or portion thereof situated upon the Tract that is designed and intended for use and occupancy as a residence by a single family.
- (q) “Lot” means (1) any plot of land shown upon any recorded subdivision plat, with the exception of Community Area, (2) any Condominium, (3) any part of the Tract designated in a recorded instrument as a “Lot”, and (4) any other part of the Tract acquired by an Owner or used by Declarant for the construction or operation of, or occupancy as, a Living Unit or a Multifamily Structure.
- (r) “Lot Development Plan” means (i) a site plan prepared by a licensed engineer or architect, (ii) building plans, including elevation and floor plans. (iii) material plans and specifications. (iv) landscaping plan, and (v) all other data or information that the Architectural Review Board may request with respect to the improvement of a Lot or the construction of a Living Unit, Multifamily Structure or other structure or improvement thereon.
- (s) “Maintenance Costs” means all of the costs necessary to keep the facilities to which the term applies operational and in good condition, including but not limited to the cost of all upkeep, maintenance, repair, replacement of all or any part of any such facility, payment of all insurance with respect thereto, all taxes imposed on the facility and on the underlying land, leasehold easement or right-of-way, and any other expense related to the continuous maintenance, operation or improvement of the facility.
- (t) “Marina” means any marina and/or boat launch constructed in the Recreational Area.
- (u) “Member” means a Class A or Class B member of the Corporation and “Members” means Class A and Class B members of the Corporation.

- (v) “Multifamily Structure” means a structure with two or more Living Units under one roof, except when such Living Unit is situated upon its own individual Lot or is a Condominium.
- (w) “Owner” means a Person, including Declarant, who at the time has or is acquiring any interest in a Lot except a Person who has or is acquiring such an interest merely as security for the performance of an obligation.
- (x) “Occupant” means any Person who is in possession of a Living Unit either as an Owner or as a lessee pursuant to a written lease having an initial term of at least twelve (12) months.
- (y) “Parcel” means the real estate described in Exhibit C and all platted subdivisions, parcels of land, or Horizontal Property Regimes consisting of one or more Lots that are subject to the same Supplementary Declaration or are declared by Declarant to constitute a “Parcel,” but excepting there from Community Area.
- (z) “Part of the Development Area” means any part of the Development Area not included in the Tract.
- (aa) “Park” means the real estate described in Exhibit D.
- (bb) “Paths” means those walkways or paths installed pursuant to the provisions of Paragraph 8 and such other real estate or interest therein as is conveyed or granted to the Corporation for the purpose of being used for walkways and paths.
- (cc) “Path Lights” means the light standards, conduits, wiring, bulbs and other appurtenances installed to illuminate the Paths.
- (dd) “Person” means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.
- (ee) “Plat” means a plat of a portion of the Development Area recorded in the Office of the Recorder of Ripley County, Indiana.
- (ff) “Private Roadway” means a street, lane, road or other right-of-way designed to provide access to one or more Lots in a Section or Parcel that has not been accepted for maintenance by a public authority.
- (gg) “Recreational Area” means the real estate described in Exhibit E to this Declaration and any recreational facilities that are constructed thereon.
- (hh) “Restrictions” means the covenants, conditions, easements, charges, liens, restrictions, rules and regulations and all other provisions set forth in this Declaration, all applicable Supplementary Declarations and the Register of Regulations, as the same may from time to time be amended.

(ii) “Register of Regulations” means the document containing rules, regulations, policies, and procedures adopted by the Board of directors or the Architectural Review Board, as the same may from time to time be amended.

(jj) “Section” means that portion of the Development Area that is depicted on a Plat.

(kk) “Supplementary Declaration” means any declaration of covenants, conditions, restrictions or horizontal property regime that may be recorded and which extends the provisions of this Declaration to a Section or parcel and contains such complementary provisions for such Section or Parcel as are required or permitted by this Declaration.

(ll) “Tract” means the Park, the real estate described in Exhibit F to this Declaration, and such other real estate as may from time to time be annexed thereto under the provisions of Paragraph 3 hereof.

(mm) “Zoning Authority” with respect to any action means the Batesville Building Commissioner or where he lacks the capacity to take action, or fails to take such action, the governmental body or bodies, administrative or judicial, in which authority is vested under applicable law to hear appeals from, or review the action, or the failure to act, of the building commissioner.

2. Declaration. Declarant hereby expressly declares that the Tract and any additions thereto pursuant to Paragraph 3 hereof shall be held, transferred, and occupied subject to the Restrictions. The Owner of and Lot subject to these Restrictions, by (i) acceptance of a deed conveying title thereto or 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 and execute such Contract subject to each Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, each Owner 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 Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

3. Additions to the Tract. Additional real estate may become subject to the Restrictions in the following manner:

(a) Declarant shall have the right to bring within the scheme of this Declarative and add to the Tract real estate that is a part of the Development Area or that is contiguous to the Development Area. In determining contiguity, public rights of way shall not be considered.

(b) Notwithstanding the foregoing, additional real estate may be added to the Tract upon approval in writing of Declarant and the Corporation acting pursuant to the authorization of those Persons who own at least fifty percent (50%) of the Lots in the Tract.

The additions authorized under subparagraphs (a) and (b) shall be made by the filing of record of one or more Supplementary declarations with respect to the additional real estate and by filing with the Corporation any revisions to the General Plan of Development necessary to reflect the scheme of development of the additional real estate. Unless otherwise stated therein, such revisions to the General Plan of Development shall not bind Declarant to make the proposed additions.

4. Recreational Area. Declarant intends, but is not obligated, to construct upon the Recreational Area a Club house, bath house, swimming pool, tennis courts and other recreational and community facilities if development of the Development Area should, in the sole judgment of Declarant, justify such construction. If Declarant undertakes the development of the Recreational Area or any part thereof, Declarant intends upon completion of construction to convey the same to the Corporation free and clear of all liens and financial encumbrances. Upon such conveyance, the Recreational Area shall be responsible thereafter for its maintenance and operation. The Maintenance Costs thereof shall be assessed as a General Assessment against all Lots subject to assessment. The use of the Recreational Area shall be subject to rules and regulations adopted by the Corporation and the Corporation may charge reasonable admission and other fees for the use thereof.

5. The Lake. The Lake is not a part of the Development Area and Declarant has no right title or interest therein or any right to bestow upon any Owner or occupant rights to the use thereof. No access shall be permitted to the Lake from the Community Area, the Recreational Area or the Marina except at such points, if any, as shall be designated for such purpose by the Corporation and as shall be permitted by the governmental authority having jurisdiction over the Lake. The Corporation shall be responsible for maintaining so much of the Lake as abuts the Marina and the Recreational Area to the extent not maintained by public authority and the Maintenance Costs thereof shall be assessed as a General Assessment against all Lots subject to assessment. Each Owner of a Lot that abuts the Lake shall be responsible at all times for maintaining so much of the bank of the Lake as constitutes a part of or abuts, his Lot and shall keep that portion of the Lake abutting his Lot free of debris and otherwise in reasonably clean condition. Only such boats as are authorized by the corporation and permitted by the governmental authority having jurisdiction over the Lake shall be permitted upon any part of the Lake adjoining the Tract or the Development Area and no dock or other structure may be extended into the Lake without the prior written consent of the Architectural Review Board and such governmental authority as may have jurisdiction thereover. Each Owner of a Lot abutting the Lake shall indemnify and hold harmless Declarant, the Corporation and each other Owner against all loss or damage incurred as a result of injury to any Person or damage to any property, or as a result of any other cause or thing, arising from or related to use of or access to, the Lake by any Person who gains access thereto from, over or across such Owner's Lot. Declarant shall have no liability to any Person with respect to the Lake, the use thereof of access thereto, or with respect to any damage to any Lot resulting from the Lake or the proximity of a Lot thereto, including loss or damage from erosion.

6. The Park. The Corporation shall be responsible for maintaining the Park and the Maintenance Costs thereof, together with any costs incurred by the Corporation in connection with the improvement thereof shall be assessed as a General Assessment against all Lots subject to assessment. The use of the Park shall be subject to rules and regulations adopted by the Corporation.

7. Marina. Declarant may, but is not obligated to, construct the Marina. If it does so, it shall convey the Marina to the corporation within two years after the completion of construction. After conveyance to the Corporation, the Corporation shall operate the Marina and the Maintenance Costs thereof shall be assessed against all Lots subject to assessment. The Corporation may adopt such rules and regulations with respect to the use of the Marina as it deems appropriate and may charge reasonable fees for the use thereof

8. Paths and Path Lights. Declarant may but is not obligated to, install the Paths and Path Lights at the approximate locations depicted on the General Plan of Development and may reserve easements for such purpose over and across Lots. If installed, the Corporation shall operate and maintain the Paths and the Path Lights and the Maintenance Costs thereof shall be assessed as a General Assessment against all Lots subject assessment. The Corporation may adopt such rules and regulations with respect to the use thereof as it may deem appropriate except that it may not preclude the use of the Paths by bicycles and other non-motorized vehicles.

9. Drainage System. Declarant shall maintain the Drainage System in good condition satisfactory for the purpose for which it was constructed until the earlier of December 31, 1984, or the date the Drainage System is accepted as a legal drain by the Drainage Board. After the earlier of such dates, the Corporation shall maintain the Drainage System to the extent not maintained by the Drainage Board and the Maintenance Costs thereof shall be assessed against all Lots serviced by that part of the Drainage System with respect to which Maintenance Costs are incurred. Each Owner shall be individually liable for the cost of maintenance of any drainage system located entirely upon his Lot which is devoted exclusively to drainage of his Lot and which is not maintained by the Drainage Board.

10. Private Roadways. Unless otherwise provided in a Supplementary Declaration, Declarant shall maintain each Private Roadway in good condition satisfactory for the purpose for which it was constructed until Living Units, Condominiums, or Multi-Family Structures have been constructed on seventy-five percent (75%) of the Lots fronting such Private Roadways, at which time responsibility for the maintenance thereof shall be assumed by the Corporation. The Maintenance Costs incurred by the Corporation in connection with maintaining a Private Roadway shall be assessed against all Lots whose principal means of vehicular access to a public right-of-way is over and across such Private Roadway except that Maintenance Costs with respect to Private Roadways that serve all or part of the Recreational Area shall be assessed as a General Assessment against all Lots subject to assessment.

11. Hillindale Homeowners Association, Inc.

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

(b) Powers. The Corporation shall have such powers as are set forth in this Declaration and in the Articles, together with all other powers that belong to it by law.

(c) Classes of Members. The Corporation shall have three (3) classes of members as follows:

Class A. Every Person who is an Owner shall be a Class A member.

Class B. Declarant and those Persons who are the original subscribing members of the Corporation shall be Class B members.

No other Persons, except a successor to substantially all of the business and properties of Declarant, shall hold a Class B membership in the Corporation. The Class B membership shall terminate upon the resignation of the Class B members, when all of the Lots in the Development Area (as depicted on the General Plan of Development) have been sold or on December 31, 1993, whichever first occurs.

Associate Members. Individuals who are appointed by any Member who is not a natural person pursuant to the provisions of the Articles shall be Associate Members.

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

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

12. Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. Declarant hereby covenants and each Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Corporation the following: (1) General Assessments, (2) Special Assessments, and (3) annual or special Parcel Assessments to be established and collected as hereinafter provided.

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

(b) General Assessment.

(i) Purpose of Assessment. The General Assessment levied by the corporation shall be used exclusively to promote the recreation, health, safety, and welfare of the Occupants and Owners in the Tract and for the improvement, maintenance and operation for the Community Area.

(ii) Basis for Assessment.

(1) Improved Lots. Each Lot upon which a Living Unit, other improvement has been constructed and which is certified by the Zoning Authority for occupancy shall be assessed at a rate which is uniform for the type of Living Unit, Multi-Family Structure, or other improvement upon the Lot against which an Assessment is made.

(2) Unimproved Lots. Each Lot upon which an improvement has not been constructed shall be assessed at a uniform rate.

(3) Change in Basis. The basis for assessment may be changed with the assent of the Class B members and of two-thirds (2/3) of the Class A members who are voting in person or by proxy at a meeting of such members duly called for this purpose.

(iii) Method of Assessment. By a vote of a majority of the Directors, the Board of Directors shall, on the basis specified in subparagraph (ii), fix the General Assessment for each assessment year of the Corporation at an amount sufficient to meet the obligations imposed by this Declaration upon the corporation. The Board of Directors shall establish the date(s) the General Assessment shall become due, and the manner in which it shall be paid.

(iv) Allocation of Assessment. The cost of maintaining, operating, restoring or replacing the Community Area has been allocated in this Declaration among Owners of Lots on the basis of the location of the lands and improvements constituting the Community Area and the intended use thereof. In determining the General Assessment, costs and expenses which in accordance with the provisions of this Declaration are to be borne by all Owners shall first be allocated to all Owners. Costs and expenses which in accordance with the provisions of this Declaration are to be borne by the Owners of certain Lots shall then be allocated to the Owners of such Lots. The provisions of subparagraph (ii) for uniform assessment shall not be deemed to require that all assessments against vacant Lots or Lots improved with comparable types of Units be equal, but only that each Lot be assessed uniformly with respect to comparable Lots subject to assessment for similar costs and expenses.

(c) Special Assessment. The Corporation may levy in any fiscal year a Special Assessment applicable to that year and not more than the next two (2) succeeding fiscal years for the purpose of defraying in whole or in part, the cost of any construction, repair

or replacement of a capital improvement upon the Community Area, including fixtures and personal property relating thereto, provided that any such Assessment shall have the assent of the Class B members and of a majority of the votes of the Class A members whose Lots are subject to assessment with respect to the capital improvement who are voting in person or by proxy at a meeting of such members duly called for this purpose.

(d) Parcel Assessments.

(i) Purpose of Assessments. Parcel Assessment shall be used for such purposes as are authorized by the Supplementary Declaration for such Parcel

(ii) Method of Assessment. An annual parcel Assessment shall be levied by the Corporation against Lots in a Parcel (except a Parcel which is a Horizontal Property Regime), using the basis set forth in the Supplementary Declaration for such Parcel, and collected and disbursed by the Corporation. The board shall fix in accordance with the by-Laws and the provisions of any supplementary Declaration the annual Parcel Assessment for each Parcel, the date(s) such Assessment shall become due, and the manner in which it shall be paid.

(iii) Special Assessments. In addition to the annual Parcel Assessment, the Corporation may levy in any fiscal year a special Parcel Assessment against one or more of the Lots in a Parcel (except a Parcel which is a Horizontal Property Regime) for the purpose of (A) defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parcel, including fixtures and personal property related thereto, provided that any such majority of the Owners of Lots in the Parcel who are voting in person or by proxy at meeting of such Owners duly called for this purpose or (B) defraying any Maintenance Costs incurred in satisfying any requirements imposed on the Corporation by Supplementary Declaration relating to a Parcel.

(e) Date of Commencement of Assessments. The General Assessment and Parcel Assessment shall commence with respect to assessable Lots within a Parcel on the first day of the month following conveyance of the first Lot in the Parcel to an Owner who is not Declarant. The initial Assessment on any assessable Lot shall be adjusted according to the number of whole months remaining in the assessment year.

(f) Effect of Nonpayment of Assessments; Remedies of the Corporation. Any Assessment not paid within thirty (30) days after the due date may upon resolution of the Board of Directors bear interest from the due date at a percentage rate no greater than the current statutory maximum annual interest rate to be set by the Board of Directors for each assessment year. The corporation shall be entitled to institute in any court of competent jurisdiction any lawful action to collect the delinquent Assessment plus any expenses or costs, including attorneys fees, incurred by the Corporation in collecting such Assessment. If the Corporation has provided for collection of any Assessment in installments, upon default in the payment of one or more installments, the Corporation may accelerate payment and declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Community Area or abandonment of his Lot.

(g) Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

(h) Certificates. The Corporation shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Corporation that the Assessments on a Lot have been paid or that certain Assessments remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(i) Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charge and lien created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (2) the Community Area; (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to swelling use shall be exempt from said Assessments, charges or liens.

(j) Annual Budget. By a majority vote of the Directors, the Board of Directors shall adopt an annual budget for allocation of expenses in such a manner that the obligations imposed by the Declaration and all Supplementary Declarations (except those with respect to Horizontal Property Regimes) will be met.

13. Architectural Control.

(a) The Architectural Review Board. An Architectural Review Board consisting of three (3) or more Persons as provided in the By-Laws shall be appointed by the Class B members. At such time as there are no Class B members, the Architectural Review Board shall be appointed by the Board of Directors.

(b) Purpose. The Architectural Review Board shall regulate the external design appearance, use, location and maintenance of the Tract and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

(c) Conditions. No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work that in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise

expressly provided in this Declaration . Prior to the commencements, erection or alteration of any building, fence, wall Living Unit, or other structure by any Owner other than Declarant, a Lot Development Plan shall be submitted to the architectural Review Board, and no building, fence, wall, Living Unit or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Review Board.

(d) Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within sixty (60) days after notice of such application has been given to affected Owners in accordance with procedures published in the Register of Regulations, approval will be deemed granted; provided that if such procedures authorize a continuance of the consideration for the application on the motion of the applicant, such a motion shall constitute a waiver by the applicant of the sixty (60) day requirement. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

14. Community Area.

(a) Ownership. The Community Area shall remain private, and neither Declarant's execution or recording of an instrument portraying the community Area, nor the doing of any other act by Declarant is, or is intended to be, or shall be construed as, a dedication to the public of such Community Area. Declarant or the Corporation may, however, dedicate or transfer all or any part of the community Area to any public agency, authority or utility for use as roads, utilities parks or other public purposes.

(b) Density of Use. Declarant expressly disclaims any warranties or representations regarding the density of use of the Community Area or any facilities located thereon, and Declarant further declares that it intends but is not required to develop the Tract with Living Units. Such development shall be in accordance with applicable zoning regulations then in effect, shall be of such density as Declarant may determine, and may include Multifamily Structures for rent and commercial structures.

(c) Obligations of the Corporation. The Corporation, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the community Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the Community Area in good, clean, attractive and sanitary condition, order and repair.

(d) Easements of Enjoyment. Subject to the provisions of this Declaration or any Supplementary Declaration executed by Declarant, every Owner shall have a right and easement of enjoyment in and to the community Area which shall be appurtenant to and shall pass with the title to every Lot, and every Member shall have a right of enjoyment in the community Area. Occupants may use and enjoy the community Area only to the extent explicitly authorized herein or by the Corporation.

(e) Extent of Easements. The easements of enjoyment crated hereby shall be subject to the following:

(i) the right of the corporation to establish reasonable rules and to charge reasonable admission and other fees for the use of the community Area except for the Park and the Paths;

(ii) the right of the corporation to suspend the right of an Owner and all Persons whose right to use the Community Area derives from such Owner's ownership of a Lot (including Occupants of Living Units owned by such Owner) to use the community Area (except any part thereof necessary for ingress and egress to his Living Unit) for any period during which any Assessment against his Lot remains unpaid for more than thirty (30) days after notice;

(iii) the right of the Corporation to suspend the right of an Owner, an Occupant or any Person claiming through either of them to use those portions of the community Area that are intended for recreational purposes for a period not to exceed sixty (60) days for any other infraction of this Declaration r the Register of Regulations;

(iv) the right of the Corporation to mortgage any or al of the facilities constructed on the community Area for the purposes of improvements to, or repair of , the Community Area or facilities constructed thereon, pursuant to approval of the Class B members and two-thirds (2/3) of the votes of the Class A members voting in person or by proxy at a regular meeting of the Corporation or a meeting duly called for this purpose;

(v) the right of the Corporation to dedicate or transfer all or any part of the Community Area to any public agency, authority or utility. No such dedication or transfer shall be effective unless an instrument signed by the class B members and the appropriate officers of the Corporation acting pursuant to authority granted by two-thirds (2/3) of the votes of the Class A members, agreeing to such dedication or transfer, has been recorded.

(f) Additional Rights of Use. The members of the family and the guests of every Person who has a right of enjoyment to the community Area and facilities may use the community Area and facilities subject to such general regulations as may be established from time to time by the Corporation, and included within the Register of Regulations.

(g) Damage or Destruction by Owner. In the event the Community Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents, or member of his family, such Owner authorizes the Corporation to repair said damaged area; the Corporation shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Corporation in the discretion of the Corporation. The amount necessary for such repairs shall become a Special Assessment upon the Lot of said Owner.

(h) Conveyance of Title. Declarant may retain the legal title to the Community Area or any portion thereof until such time as it has completed improvements thereon, but notwithstanding any provision herein, the Declarant hereby covenants that it shall convey the Community Area to the corporation, free and clear of all liens and financial encumbrances except as otherwise provided herein, not later than two (2) years from the date such Community Area or portion thereof is subjected to this Declaration. Owners and Occupants shall have all the rights and obligations imposed by this Declaration with respect to such Community Area, except that the corporation shall not be liable for payment of taxes and insurance for such Community Area until title is conveyed.

15. Use of Tract.

(a) Protective Covenants.

(i) Residential Use. All lots designated by Declarant for residential use in any recorded instrument shall be used, improved and devoted exclusively to residential use. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot that is restricted to residential use by Declarant may be used for any "Special Use" that is permitted by such ordinance that is not clearly incidental and accessory to single family dwellings. Nothing herein shall be deemed to prevent an Owner from leasing a Living Unit to a single family, subject to all of the provisions of this Declaration and any Supplementary Declaration.

(ii) Nuisances. No nuisance shall be permitted to exist or operate upon any Lot so as to be detrimental to any other Lot in the vicinity thereof or to its occupants.

(iii) Other Restrictions. Upon conveyance of the first Lot to an Owner, the Architectural Review Board shall adopt general rules and regulations to implement the purposes set forth in Paragraph 13(b) and interpret the covenants in this Paragraph 15, including but not limited to rules to regulate animals, antennas, signs, fences, walls and screens, mailboxes, storage tanks, awnings, storage and use of recreational vehicles storage and use of machinery, use of outdoor drying lines, trash containers, and planting, maintenance and removal of vegetation on the Tract. Upon or before conveyance of the first Lot in any Parcel or Section added to or included in the Tract, the Architectural Review Board shall adopt general rules and regulations appropriate to that Parcel or Section. Such general rules may be amended by a two-thirds (2/3) vote of the Architectural Review Board, following a public hearing for which due notice has been provided, and pursuant to an affirmative vote of two-thirds (2/3) of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Register or Regulations and shall constitute Restrictions.

(iv) Exceptions. The Architectural Review Board may issue temporary permits to except any prohibitions expressed or implied by this Paragraph 15 or the Register of Regulations if the Architectural Review Board can show good cause and acts in accordance with adopted guidelines and procedures.

(b) Maintenance of Tract. To the extent that exterior maintenance is not provided for in a Supplementary Declaration each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair and free of debris including but not limited to the seeding, watering and mowing of all lawns the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management as determined by the Architectural Review Board. In the event an Owner of any Lot in the Tract shall fail to maintain the premises and the improvements situated thereon, as provided herein, the Corporation, after notice to the Owner as provided by the By-Laws and approval by two-thirds (2/3) vote of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. All costs related to such correction repair or restoration shall become a Special Assessment upon such Lot.

(c) Utility Easements. There is hereby created a blanket easement over, across, through and under the Tract for ingress, egress, installation, replacement, repair and maintenance of underground utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. By virtue of this easement it shall be expressly permissible for Declarant or the providing utility or service company to install and maintain facilities and equipment on the Tract and to excavate for such purposes providing Declarant or such company restores the disturbed area as nearly as is practicable to the condition in which it was found. No sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or relocated on the Tract except as programmed and approved by Declarant prior to the conveyance of the first Lot in a Parcel to an Owner or by the Architectural Review Board thereafter. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Corporation shall have the right to grant such easement on the Tract without conflicting with the terms hereof. This blanket easement shall in no way affect any other recorded easements on the Tract, shall be limited to improvements as originally constructed, and shall not cover any portion of a Lot upon which a Multifamily Structure or a Living Unit has been constructed.

(d) Public Health and Safety Easements. An easement is hereby created for the benefit of, and granted to, all police, fire protection, ambulance, delivery vehicles, and all similar Persons to enter upon the Community Area in the performance of their duties.

(e) Rights-of-Way Easements. Declarant expressly reserves for the benefit of itself, its successors and assigns, and for the benefit of all Owners and Occupants, an easement of right-of-way over and across the Private Roads and the Paths subject to such restrictions on the use of Private Roads by Owners and Occupants as Declarant may establish in any Supplementary Declaration.

(f) Drainage Board Easement. An easement is hereby created for the benefit of, and granted to, the Drainage board to enter the Tract and all Lots therein to the extent necessary to exercise its rights with respect to the Drainage System.

(g) Crossing Underground Easements. Easements utilized for underground service may be crossed by driveways, walkways and the Paths provided prior arrangements are made with the utility company furnishing service. Such easements as actually utilized for underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossings, driveways, walkways or the Paths, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, agents, employees, or servants to shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

(h) Declarant's Easement to Correct Drainage. For a period of ten(10) years from the date of conveyance of the first Lot in a Parcel, Declarant reserves a blanket easement and right on, over and under the ground within that Parcel to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which Declarant shall restore the affected property to its original condition as nearly as practicable. Declarant shall give reasonable notice to its intention to take such action to all affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice.

16. Declarant's Use During Construction. Notwithstanding any provisions to the contrary contained herein or in any other instrument or agreement, Declarant or its sales agents or contractors may maintain during the period of construction and rental of Units in Multifamily Structures, in the Tract or the Development Area, upon such portion thereof as is owned by Declarant, such facilities as in the sole opinion of Declarant may be reasonable required, convenient or incidental to the construction and sale of Lots and Living Units, or the construction and rental of Units in Multifamily Structures, including, but without limiting the generality thereof, a business office, storage area, construction yards, signs, model Living Units and sales and-or rental offices.

17. Enforcement. The Corporation, any Owner or Declarant shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and of any supplementary Declarations, but neither Declarant nor the Corporation shall be liable for damage of any kind to any person for failure either to abide, enforce or carry out any of the Restrictions. 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 circumstance be deemed or held to be a waiver by that Person of the right to do so thereafter, or an 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.

18. Limitations on Rights of the Corporation. As long as there is a Class b member, the corporation may not use its resources nor take a public position in opposition to the General Plan

of Development or to changes thereto proposed by Declarant. Nothing in this paragraph shall be construed to limit the rights of the Members acting as individuals or in affiliation with other Members or groups as long as they do not employ the resources of the Corporation or identify themselves as acting in the name or on the behalf ,m, of the Corporation

19. Approvals by Declarant. As long as there is a Class B member, the following actions shall require he prior approval of Declarant: the addition of real estate to the Tract; dedication or transfer of the Community Area; mergers and consolidations of Parcels within the Tract or of the Tract with other real estate; mortgaging of the Community Area; amendment of this Declaration and any Supplementary Declaration; and changes in the basis for assessment or the maximum general Assessment.

20. Amendments.

(a) Generally. This Declaration may be amended at any time by an instrument signed by (i) the appropriate officers of the corporation acting pursuant to the authority granted by not less than sixty percent (60%) of the votes of the Class A members cast at a meeting duly called for the purpose of amending this Declaration and, to the extent required by Paragraph 19, (ii) Declarant.

(b) By Declarant. Declarant hereby reserves the right unilaterally to amend and revise the standards, covenants and restrictions contained in this Declaration during the period prior to December 31, 1993. Such amendments shall be in writing, executed by Declarant, and recorded with the Recorder of Ripley County, Indiana. No such amendment, however, shall restrict or diminish the rights or increase or expand the obligations of Owners with respect to Lots conveyed to such Owners prior to the amendment. Declarant shall give notice in writing to such Owners of any amendments. Declarant shall not have the right at any time by amendment of this Declaration to grant or establish any easement through, across or over any Lot which Declarant has previously conveyed except with the consent of the Owner of such Lot.

(c) Effective Date. Any amendment shall become effective upon its recordation in the Office of the Recorder of Ripley County, Indiana.

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

22. Duration. The foregoing covenants and restrictions are for the mutual benefit and protection of the present and future Owners, the corporation, and Declarant, and shall run with the land and shall be binding on all parties and all Persons claiming under them until January 1, 2013, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those Persons who are then the Owners of a majority of the Lots in the Tract.

23. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or “running” quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, witness the signature of Declarant this 25th day of October, 1983.

HILLENBRAND DEVELOPMENT CORPORATION

By: George E. Brinkmoeller
President

HILLINDALE COMMONS
ARCHITECTURAL REVIEW BOARD

Guidelines and Requirements
Amended Version, dated October 2006

I Purposes, Responsibilities and Functions.

A. The purpose of the Board is to regulate the external design, appearance, use and maintenance of the Tract and the Living Units located therein and to preserve the aesthetic qualities and ecological integrity thereof.

B. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work that in any way alters the exterior of any Living Unit, Multifamily Structure or other building, structure or improvement, or the condition of any unimproved Lot, the Community Area or any other common area located within the community may be done without the prior approval of the board, except as otherwise provided in the Declaration of Covenants and Restrictions. No building, fence, wall, Living Unit or other structure may be commenced, erected, maintained, improved, altered, made or done without such prior approval.

C. The Board is authorized to adopt general rules to implement the purposes for which it was established, to interpret the protective covenants set forth in the Declaration of Covenants and Restrictions and any Supplementary Declaration, and to enforce the covenants, rules, regulations, restrictions and guidelines set forth in such declarations or adopted by the Board.

D. The Board has adopted rules of procedure for the conduct of its proceedings and established procedures for the processing of requests by Owners for permission to undertake work that requires prior approval of the Board. The Board will consider requests only if they are made in accordance with the Rules of Procedure adopted by the Board.

II Specific Community Requirements.

A. Alterations and Additions to Building; Detached Structures

1. General.

a. Any addition to an existing building, any exterior alteration, modification or change to an existing building or any new detached structure or improvement must be approved by the board before any work is undertaken. Examples of such projects include a deck, storage shed, fireplace, tennis court, swimming pool, etc.

b. Any addition, exterior alteration, modification or change to an existing building shall be compatible with the design character of the

original building. Any new detached structure must be compatible with the parent structure.

2. Awnings

a. Awnings are not felt to enhance the aesthetic qualities of the Community and, therefore, will be approved only if desired by an overwhelming majority of Owners

3. Materials and Color

a. Only the exterior materials existing on the parent structure or compatible with the architectural design of the community will be approved.

b. Exterior color changes will be approved only if the proposed color is in harmony with the other existing Living Units in the Community or if the color is similar to the colors originally employed in the Community

B. Fences and Screens

a. Any fence, wall or screen must have the approval of the board before installation is undertaken.

b. No fence, wall or screen will be approved if its installation will obstruct sight lines for vehicular traffic.

c. No chain link fence will be permitted

d. No owner may remove, alter, paint or stain a fence, wall or screen without the prior approval of the Board, and each owner shall maintain any fence, wall or screen in good condition as originally installed or constructed.

C. Landscaping

a. No live trees with a diameter in excess of 3" may be cut anywhere in the Community without prior approval of the Board.

b. No live trees or shrubbery may be cut, or other vegetation cleared on slopes greater than 15% without prior approval of the Board

c. No resident may plant trees, landscape or do any gardening in the Community Area or any other common area except with the prior approval of the Board.

d. Without the prior approval of the Board, no hedge or shrub planting higher than 18 inches will be permitted between the front building set back line of a Lot

and the front property line except where such planting is part of the house landscaping and the prime root therefore is within four feet of the Living Unit

e. Owners of Lots shall not permit the growth of weeds and volunteer trees and bushes upon their Lots and shall keep their lots reasonably clear from such unsightly growth at all times.

D. Mailboxes

a. Only mailboxes including community mailboxes, and newspaper tubes that meet the design standards of the Board shall be permitted, except for mail depositories that are the property of the United States Postal Service. All mailboxes installed at the street to service Lots in the Community shall be installed on posts approved as to type, size and location by the Board.

E. Antennas

a. Exterior television antennas and satellite receivers or down links will not be permitted on any Lot.

b. Any Person wishing to install an antenna for amateur radio activities exclusively shall submit plans for the same to the Board. The plans must show affidavits from all Owners within 200 feet of the proposed antenna stating that they have no objections thereto and the plans must include information on the proposed location, height, and configuration of the proposed antenna.

F. Vehicles

a. All motor vehicles are to be maintained in proper operating condition so as not to be a nuisance by noise or exhaust emissions. All motor vehicles, except those necessary for property maintenance, shall be driven only upon paved streets and parking lots.

b. Boats, campers, trailers of any kind, buses, mobile homes, trucks (other than pick up trucks and vans) or other unconventional vehicles of any description shall be permitted, parked or stored only at such locations as shall first be approved by the Board of Directors of the Corporation or the Board of Managers of an association of Owners organized pursuant to a Supplementary Declaration.

c. Boats, campers, trailers of any kind, busses, mobile homes, trucks (other than pick-up trucks and vans) or other unconventional vehicles allowed as set forth in paragraph b above are permitted to be parked or stored in areas designated "Marina Parking." Vehicles permitted to be parked or stored in designated areas must display a Hillindale Homeowner's Association, Inc. parking permit which may be renewed at the discretion of the Board of Directors or its designee on a yearly basis. Vehicles permitted to be parked or stored in said areas must be well maintained, in good condition, in proper working order, and boats must be properly stored (including snugly tarped) in a manner in keeping with the

aesthetics of the community. Noncompliance with any of these conditions may result in rescission of a parking permit, failure to qualify for renewal of a parking permit, removal of the non-complying vehicle, trailer, etc. at the expense of the owner including placing a lien on the Owners property, or other appropriate penalties as allowed by law.

G. Signs

a. No signs of any type shall be displayed to public view on any Lot or common area without the prior written consent of the board, except customary name and address signs, and lawn signs of not more than four (4) square feet in size advertising a Lot for sale or rent. Where a specific activity will require a number of signs, request for review for all such signs may be submitted to the Board in one Petition

H. Miscellaneous

1. Exterior lighting shall not be directed in such a manner as to create annoyance to neighbors.

2. Rubbish, garbage and other waste must be kept in sanitary containers. Such containers shall not be permitted to remain conspicuous except on days of collection, except such permanent containers as may be located throughout the Community for general use or for defined Living Units. All containers shall be kept clean and sanitary.

3. Generally recognized house pets may, in reasonable numbers, be kept and maintained at a Living Unit if such pets are not kept or maintained for commercial purposes. All pets must be kept under control by their owners when outside the owner's Living Unit and must not become a nuisance to other residents.

4. No clothes lines or other clothes drying apparatus shall be permitted in public view on any Lot.

5. Nothing shall be hung or displayed on the outside of the windows, patios or balconies or placed on the outside walls of Living Units without the prior approval of the Board.

6. Any gas or oil storage tanks used in connection with a Lot shall either be buried or located in the garage or Living Unit such that they are completely concealed from public view.

III County Building and Work Permits.

A. Approval of any project by the Architectural Review board does not waive the necessity of obtaining permits required by any governmental authority.

B. Obtaining a permit from any governmental authority does not waive the need for approval from the Architectural Review Board.

C. The Architectural Review board will not knowingly approve a project that is in violation of the building or zoning codes or any other regulations imposed by governmental agencies.

IV Definitions

As used in these Guidelines, unless the context clearly requires otherwise, the following terms shall mean the following:

A. “Board” means the Architectural Review Board.

B. “Community” means Hillindale Commons

C. “Petition” means any petition, application or other submission, including a Lot Development Plan, filed with the Board, whether upon a form prescribe by the Board or otherwise.

D. Any undefined term used in these Guidelines shall, if the context so permits, have the meaning set forth in Paragraph 1 of the Declaration of Covenants and Restrictions of Hillindale Commons recorded in the Office of the Recorder of Ripley County, Indiana as Instrument Number 83-2594

SUPPLEMENTARY DECLARATION OF
COVENANTS AND RESTRICTIONS
HILLINDALE COMMONS

Hillindale Estates

This Supplementary Declaration, made this 25th day of October, 1983, by HILLENBRAND DEVELOPMENT CORPORATION, an Indiana Corporation

WITNESSETH THAT:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the real estate located in Ripley County, Indiana, more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

B. This Declaration is a Supplementary Declaration as that term is defined in the Declaration of Covenants and Restrictions.

C. Declarant intends to subdivide the Parcel in to Lots upon each of which a Living Units may be constructed

NOW, THEREFORE, Declarant hereby makes this Supplementary Declaration as follows:

1. Definitions. Words, phrases and terms that are defined in the Declaration of Covenants and Restrictions have the same meaning in this Supplementary Declaration except as herein used in this Supplementary Declaration, unless the context clearly requires otherwise, mean the following:

(a) "Declaration of Convenants and Restrictions" means the Declaration of Convenants and Restrictions of Hillindale commons dated as of October 25, 1983 and recorded in the Office of the Recorder of Ripley County, Indiana as Instrument Number_____, as amended from time to time.

(b) "Hillindale Estates" means the name by which the Parcel shall be known.

(c) "Lot" means a numerically designated subdivided parcel of land depicted on the Plat.

(d) "Owner" means any Person, including Declarant, who at any time owns the fee simple title to a Lot.

(e) "Parcel" means the real estate describe in Exhibit A.

(f) "Plat" means the map of the Parcel recorded in Plat Book_____,pages_____-_____ in the Office of the Recorder of Ripley County, Indiana.

(g) "Tract" means the real estate, including the Parcel, that is subject to the covenants, restrictions, easements, charges and liens imposed by the Declaration of Covenants and Restrictions.

2. Declaration Declarant hereby declares that the Parcel shall be held, transferred, sold, conveyed and occupies subject to the Declaration of Covenants and Restrictions and subject to eh covenants restrictions, easements, charges and liens hereinafter set forth.

3. Land Use Lots may be used only for residential purposes and only one single-family dwelling, a private garage and other such structures and improvements usual and incidental to the use of a residential lot may be constructed thereon. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of houses in the Parcel than the number of original Lots shown on the Plat.

4. Building Control Prior to construction of any structure upon a Lot, the Lot Development Plan and any other data or information that may be requested must be submitted to the Architectural Review Board. The Architectural Review Board is authorized to determine whether the proposed structures, plans and specifications show conformity and harmony of external design with existing structures, whether the building and property set-back lines are in conformity with applicable plat requirements, and whether the proposed site storm drainage plan conforms to the over-all project and lot drainage plans as specified in the approved final construction plans for the Parcel. It shall also undertake such other duties and responsibilities as are assigned to it by the declaration of Covenants and Restrictions. No charge will be made to any purchaser of an unimproved Lot for examination of the Lot Development Plan or for giving approval for construction thereon. In the event the Architectural Review Board does not indicate in writing its approval or disapproval of the Lot Development Plan submitted or its review within a period of sixty (60) days after submission, the Architectural Review Board is deemed to have approve such a plan.

No member of the Architectural Review Board shall have any liability to the Owner of any Lot with respect to the exercise or non-exercise of his duties hereunder or under the Declaration of Covenants and Restrictions.

5. Dwelling Size.

(a) No residence may be constructed on any Lots 1-12 as shown on the Plat unless such residence, exclusive of open porches, attached garages and basements, shall have a ground floor area of 1,500 square feet if a one-story structure, or 1,000 square feet if a higher structure, but in the case of a

building higher than one story, there must also be at least 500 square feet in addition to the ground floor area. In no event shall any such residence have a floor area of less than 1,500 square feet.

(b) No residence may be constructed on Lots 13-28 unless such residence, exclusive of open porches, attached garages and basements, shall have a ground floor area of 1,800 square feet if a one-story structure, 1,000 square feet if a higher structure, but in the case of a building higher than one story, there must also be at least 800 square feet in addition to the ground floor area. In no event shall any such residence have a floor area of less than 1,800 square feet.

6. Temporary Structures. No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent, nor may any structure of a temporary character be used as a residence.

7. Building Location and Grade Line Elevation. No building may be erected between the building line shown on the Plat and the front lot line; and no structure or part thereof may be built or erected nearer than 6 feet to any side yard line or nearer than 20 feet to any rear lot line. A minimum grade line elevation shown on the development plan for the Parcel, is hereby established for each Lot and no grade line shall be constructed lower than said minimum without the written consent of the Architectural Review board and the Building commissioner of the City of Batesville. Demonstration of adequate storm water drainage with both on-lot and overall project drainage plans shall be a prime requisite of alternative grade line elevations. Before building commences, said grade line shall be physically checked on the Lot and certified by a licensed professional engineer or a licensed land surveyor.

8. Building Activity. Unless a delay is caused by strikes, war, court injunction or acts of God, the Owner of any Lot that on the date of purchase is not improved with a Living Unit shall commence construction of a Living Unit upon the Lot within two (2) years from the date the Owner acquired title thereto and shall complete construction of such Living Unit within one (1) year after the date of commencement of the building process, but in no event later than three (3) years after the date the Owner acquired title to the Lot. If the Owner fails to commence or complete construction of a Living Unit within the time periods specified herein, or if the Owner should, without Declarant's written approval, sell, contract to sell, convey, or otherwise dispose of, the Lot before completion of construction of a Living Unit on the Lot, then, in any of such events, Declarant may:

(a) re-enter the Lot and divest the Owner of title thereto by tendering to the Owner or to the Clerk of the circuit Court of Ripley County the lesser of (i) the same net dollar amount as was received by Declarant from such Owner as consideration for the conveyance by Declarant of the Lot, together with such actual costs, if any, as the Owner may prove to have been incurred in connection with the commencement of construction of a Living Unit on the Lot and (ii) the then fair market value of the Lot, as determined by

averaging two (2) appraisals made by qualified appraisers appointed by the Judge of the Ripley County Circuit Court;

(b) obtain injunctive relief to force the Owner to proceed with construction of any Living Unit, a Lot Development Plan for which has been approved by the Architectural Review board upon application by such Owner; or

(c) pursue such other remedies at law or in equity as may be available to Declarant.

The failure of the Owner of Lot to apply for approval of, or receive approval from, the Architectural Review board of a Lot Development Plan shall not relieve such Owner from his obligation to commence and complete construction of a Living Unit upon the Lot within the time periods specified herein. For the purpose of this Paragraph 8, construction of a Living Unit will be deemed "completed" when the exterior of the Living Units (including but not limited to the foundation, wall, roof, windows, entry doors, gutters, downspouts, exterior trim, paved driveway and landscaping) has been completed in conformity with the Lot Development Plan.

9. Easements for Drainage, Sewers, Utilities and Access. Lots are subject to drainage easements, sewer easements, utility easements and access easements, either separately or in any combination thereof, as shown on the plat, which are reserved for the use of Owners of Lots, the owners from time to time of any other portions or the Development Area, public utility companies and governmental agencies as follows:

(a) Drainage Easements (DE) are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of the Parcel and adjoining ground and/or public drainage systems; and it shall be the individual responsibility of each Owner to maintain the drainage across his own Lot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the waterflow. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage or by Declarant, but Declarant shall not have any duty to undertake any such construction or reconstruction. Said easements are for the mutual use and benefit of the owners of all Lots in the parcel and of any other land located in the Development Area.

(b) Sewer Easements (SE) are created for the use of the local governmental agency having jurisdiction over the storm and sanitary waste disposal system designed to serve the Parcel and adjacent areas for the purpose of installation and maintenance of sewers that are a part of said system.

(c) Utility Easements (UE) are created for the use of all public utility and cable television companies, but excluding transportation companies, for the installation and maintenance of mains, ducts, poles, lines and wires, as well as for all uses specified in the case of sewer easements.

(d) Entry Sign Easements (ESE) are created for the use by Declarant and the Corporation for the construction, location, maintenance and operation of entry signs and appurtenances to provide an entrance to the Parcel. The Owner of a Lot that is subject to an entry sign easement shall maintain such easement (exclusive of all improvements thereon) in a sightly condition and in proper repair. The Corporation shall maintain all improvements located on an entry sign easement and the Maintenance Costs thereof shall be assessed as a Special Parcel Assessment against all Lots in the Parcel. All such easements mentioned herein include the right of reasonable ingress and egress for the exercise of other rights reserved. No structure, including fences, shall be built on any drainage, sewer, utility or access easement except that a paved driveway may cross sewer, utility or access easement except that a paved driveway may cross sewer and utility easements which abut Callery Pear Drive and Beechwood Court.

10. Driveways All driveways shall be pave and maintained dust free.

11. General Community Rules Each Lot shall be subject to the guidelines, rules, regulation and procedures adopted by the Architectural Review board pursuant to Paragraph 15 (a) (iii) of the Declaration of covenants and Restrictions, and each Owner of a Lot shall at all times comply therewith.

12. Assessments The Board of Directors may make Assessments to cover any cost incurred in enforcing these covenants or in undertaking any maintenance or other activity that is the responsibility of the Owner of a Lot hereunder but which such Owner has not undertaken as required hereunder. Any such Assessment shall be assessed only against those Owners whose failure to comply with the requirements of these covenants necessitated the action to enforce these covenants or the undertaking of the maintenance or other activity.

13. Enforcement The right to enforce each of the foregoing Restrictions by injunction, together with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is reserved to the corporation, the Architectural Review board, the Owners of the Lots in the Parcel, their heirs and assigns, and to the Batesville Plan commission, their successors or assigns, who are entitled to such relief without being required to show any damage of any kind to the Corporation, the Architectural Review Board, any Owner or Owners, or such commission by or through any such violation or attempted violation. Under no circumstances shall the corporation, the Architectural Review board or Declarant be liable for damage of any kind to any Person for failure to abide by, enforce or carry out any provision or provisions of this Supplementary Declaration. There shall be no rights of reversion or forfeiture of title resulting from any violations.

14. Severability Invalidation of any of these covenants and restrictions or any part thereof by judgment or court order shall not affect or render the remainder of said covenants and restrictions invalid or inoperative.

15. Non-Liability of Declarant Declarant shall not have any liability to the Owner of any Lot or to any other Person with respect to drainage on, over or under a Lot such drainage shall be the responsibility of the Owner of the Lot upon which a Living Unit is constructed and of the builder of such Living Unit; and an Owner, by an acceptance of a deed to a Lot, shall be deemed to agree to indemnify and hold Declarant free and harmless from and against any and all liability arising from, related to, or in connection with drainage on, over and under the Lot described in such deed. Declarant shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Declarant, and no duty of, or warrant by Declarant shall be implied by or inferred from any term or provision of this Supplementary Declaration.

16. General Provisions This Supplementary Declaration may be amended at any time in the manner provide in Paragraph 20 of the Declaration of Covenants and Restrictions except that no amendment adopted pursuant to Paragraph 20 (a) of the Declaration of Covenants and Restrictions shall be effective unless approved by the Owners of at least two-thirds of the Lots in the Parcel.

Except as the same may be amended from time to time, the foregoing restrictions will be in full force and effect until December 31, 2003, at which time they will be automatically extended for successive periods of ten years, unless by a vote of the majority of the then Owners of Lots in the Parcel it is agreed that these Restrictions shall terminate in whole or in part.

IN WITNESS WHEREOF, this Supplementary Declaration has been executed as of the date first above written.

HILLENBRAND DEVELOPMENT CORPORATION

By: George E. Brinkmoeller,
President