

2019051242 DECL \$25.00
10/16/2019 09:02:03AM 28 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented

CDH

**Cross Reference Instrument No. 2019028604 (Instrument No. of Initial Villas Declaration
recorded in Hamilton County, Indiana
Recorder's Office)**

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
VILLAS AT TAMARACK

TABLE OF CONTENTS

	<u>Page</u>
1. Definitions.....	2
2. Villas Declaration.....	4
3. Villas at Tamarack.....	4
4. Lot Boundaries and Access.....	4
5. Common Area	4
6. Easements	4
7. Villas Corporation; Membership; Voting; Functions	4
8. Villas Board of Directors	5
9. Initial Management	10
10. Real Estate Taxes	10
11. Utilities.....	10
12. Maintenance, Repairs and Replacements	10
13. Architectural Control	13
14. Villas Assessments	13
15. Mortgages and Unpaid Villas Assessments	18
16. Insurance	19
17. Covenants and Restrictions.....	20
18. Amendment of Villas Declaration.....	21
19. Acceptance and Ratification	22
20. Negligence	23
21. Costs and Attorneys' Fees	23
22. Waiver	23
23. Severability Clause	23
24. Pronouns	23
25. Interpretation.....	23
26. Controlling Document	23
Exhibit A. Real Estate Description	25
Exhibit B. Real Estate Depiction	26

**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
VILLAS AT TAMARACK**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS of Villas at Tamarack (the "Villas Declaration") made this ____ day of October, 2019, by M/I Homes of Indiana, L.P., an Indiana limited partnership ("Declarant").

WITNESSETH:

A. Declarant has executed that certain Declaration of Covenants and Restrictions of Villas at Tamarack recorded July 2, 2019 as Instrument No. 2019028604 in the Office of the Recorder of Hamilton County, Indiana (the "Initial Villas Declaration").

B. Declarant desires to amend and restate the Initial Declaration in its entirety as set forth herein.

C. Under Section 18(b) of the Initial Villas Declaration, prior to the conveyance of the first Lot to an Owner, Declarant may unilaterally amend this Declaration.

D. As of the date hereof, Declarant has not conveyed a Lot to an Owner.

AMENDMENT AND RESTATEMENT

NOW, THEREFORE, the Initial Villas Declaration is hereby amended and restated in its entirety by this Declaration as follows:

WITNESSTH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title to certain real estate located in Hamilton County, Indiana, more particularly described and depicted on the attached **Exhibit A** and **Exhibit B**, respectively, which are incorporated herein by reference (herein referred to as the "Real Estate"), for the development of Villas at Tamarack, an attached single family housing development in Hamilton County, Indiana to be comprised of Lots 34A&B through 48A&B, inclusive (the "Development"). A portion of the Real Estate is more particularly described as Lots 34A&B through 44A&B, 47A&B and 48A&B (all inclusive) and will be more particularly described on the Plats (as defined in Section 1(p)) to be recorded in the office of the Recorder of Hamilton County, Indiana.

B. Declarant hereby subjects the Real Estate to the provisions of this Declaration of Covenants and Restrictions of Villas at Tamarack (the "Villas Declaration").

C. Declarant by execution of this Villas Declaration assures that all properties which are conveyed which are a part of the Real Estate shall be conveyed subject to the terms and conditions of this Villas Declaration, which shall run with the Real Estate and be binding upon all parties having any right, title or interest in the Real Estate, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

D. The Real Estate is also subject to the Master Declaration (defined below) pursuant to which the Master Association (defined below) has been formed.

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

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

(a) “Articles” or “Articles of Incorporation” means the Articles of Incorporation of Villas Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(b) “Common Area” means the area designated as such upon the Plats and all improvements located thereon.

(c) “Declarant” shall mean and refer to M/I Homes of Indiana, L.P., an Indiana limited partnership and any successors and assigns whom Declarant designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant. The consent of M/I Homes of Indiana, L.P. is required for any assignment of Declarants rights hereunder. Such consent shall not be unreasonably withheld.

(d) “Duplex Unit” means one-half (1/2) of any building generally designed for residential occupancy to accommodate more than one (1) Dwelling Unit and constructed on any part of the Real Estate (including one-half (1/2) of the party wall separating such Duplex Unit from the adjoining, attached Duplex Unit contained within the same building), it being understood that the lots in the Real Estate have been configured to accommodate the construction of attached Duplex Units which may be acquired, held, transferred, sold, hypothecated, leased, rented, improved, used and occupied as separate and distinct parcels of real property subject to the provisions of this Villas Declaration.

(e) “Dwelling Unit” means one of the living units, including a Duplex Unit, located upon a Lot.

(f) “Easements” means all of the easements identified on a Plat to be burdened by such easement(s) and are more particularly described in the Master Declaration.

(g) “Lot” means any plot of ground designated as Lots 34 through 48, inclusive, upon the Plats, and upon which one (1) Dwelling Unit is constructed, may be constructed or exists thereon. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon. The Plats divide the Real Estate into lots numbered 34 through 48. Such

lots are further divided on the Plats into two (2) lots to accommodate construction, development and sale of a duplex building containing two (2) Dwelling Units. Each such divided lot shall constitute a "Lot" hereunder.

(h) "Master Board of Directors" means the governing body of the Master Corporation.

(i) "Master Corporation" means Tamarack Homeowners Association, Inc.

(j) "Master Declaration" means the Declaration of Covenants and Restrictions recorded as Instrument No. 2019028603 in the Hamilton County Recorder's Office, as may be amended from time to time.

(k) "Master Common Expense" means expense for the administration of the Master Corporation, expenses for the upkeep, leasing, maintenance, repair and replacement of the Common Area and all sums lawfully assessed against the members of the Master Corporation.

(l) "Master Declarant" means the Declarant.

(m) "Member" means a member of Villas Corporation.

(n) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(o) "Owner" means a person, firm, Villas Corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(p) "Plat" or "Plats" shall mean the survey of Tamarack Secondary Plat Section One and the Lots, Easements and Common Area shown thereon prepared by Stoeppelwerth & Associates, Inc., certified by Dennis D. Olmstead under date of _____ as Job No. 77345MI-S1 and recorded of even date herewith in the Office of the Recorder of Hamilton County, Indiana and any additional subdivision or similar plat executed by Declarant (or any other owner of such property) recorded in the public records of Hamilton County, Indiana, pursuant to which any additional portions of the Real Estate are subjected to this Declaration as part of Villas at Tamarack.

(q) "Villas at Tamarack" means the name by which the Real Estate which is subject of this Villas Declaration, shall be known.

(r) "Villas Board of Directors" means the governing body of Villas Corporation elected by the Members in accordance with the Bylaws of Villas Corporation.

(s) "Villas Bylaws" shall mean the Bylaws of Villas Corporation and shall provide for the election of directors and officers and other governing officials of Villas Corporation.

(t) “Villas Common Expense” means expenses for administration of Villas Corporation and all sums lawfully assessed against the Members of Villas Corporation.

(u) “Villas Corporation” means the Villas at Tamarack Homeowners Association, Inc., its successors and assigns, a nonprofit corporation, whose Members shall be the Owners of Lots, or appointees as provided in Section 7 of this Villas Declaration, such Villas Corporation being more particularly described in Section 7 of this Villas Declaration.

(v) “Villas Replacement Reserve Fund” means the fund established pursuant to and more particularly described in Section 14(b) of this Villas Declaration.

2. Villas Declaration. Declarant hereby expressly declares that the Real Estate shall be held, conveyed and transferred in accordance with the provisions of this Villas Declaration.

3. Villas at Tamarack. The legal description for each Lot shall be as follows:

Lot _____ in Tamarack, a subdivision in Hamilton County, Indiana, as per plat thereof recorded _____ as Instrument Number _____ in the Office of the Recorder of Hamilton County, Indiana.

4. Lot Boundaries and Access. The boundaries of each Lot shall be as shown on the Plats.

5. Common Area. All Common Area designated as such on the Plats, including, but not limited to, the ponds, drainage areas, and recreational areas, but excluding all Lots and Easements located on the Lots, is Common Area under the Master Declaration and governed by the terms and conditions of the Master Declaration.

6. Easements. All Easements designated as such on the Plats, including, but not limited to, Landscape Maintenance Access Easement, Drainage and Utility Easements, are Easements under the Master Declaration and governed by the terms and conditions of the Master Declaration.

7. Villas Corporation; Membership; Voting; Functions.

(a) Membership in Villas Corporation. Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of Villas Corporation and shall remain a Member until such time as his ownership of a Lot ceases at which time his membership shall terminate and will be transferred to the new Owner of his Lot; provided, however, that any person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless he acquires fee simple title to such Lot, at which time he shall automatically be and become an Owner and a Member of Villas Corporation.

(b) Voting Rights. Villas Corporation shall have two (2) classes of membership with the following voting rights:

(i) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of Villas Corporation, but all of such persons together shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine. In no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the resident agent of Villas Corporation. Each Class B Member shall be entitled to ten (10) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of Villas Corporation. The Class B membership shall cease and terminate upon the Applicable Date. The “Applicable Date” is the last to occur of (i) the date upon which the written resignation of the Class B Members is delivered to the resident agent of Villas Corporation, (ii) within one hundred twenty (120) days after the date when eighty percent (80%) of all Lots have been conveyed by Declarant to third party purchasers who will reside on such Lots, or (iii) May 1, 2026.

(iii) Appointment of Declarant as Owner’s Agent. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any method shall be deemed to have appointed Declarant as such Owner’s agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date, to exercise all of said Owner’s right to vote, and to vote as Declarant determines, on all matters as to which Members of Villas Corporation are entitled to vote under Villas Declaration, the Articles, the Bylaws or otherwise. This appointment of Declarant as such Owner’s agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.

(c) Functions. Villas Corporation has been formed to pay any other necessary expenses and costs and to perform such other functions as may be designated for it to perform under this Villas Declaration.

8. Villas Board of Directors.

(a) Management. The business and affairs of Villas Corporation shall be governed and managed by the Villas Board of Directors. No person shall be eligible to serve as a member of the Villas Board of Directors unless he is, or is deemed in accordance with this Villas Declaration to be, an Owner, or is a person appointed by Declarant as provided in subsection (b) of this Section 8.

(b) Initial Villas Board of Directors. The Initial Villas Board of Directors shall be composed of three (3) persons as designated in the Articles, to-wit: Keith Blais, Jonathan

Isaacs and Jodi Rana (herein referred to as the “Initial Villas Board”), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Villas Declaration, the Articles or the Bylaws (a) the Initial Villas Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Villas Board for any reason or cause whatsoever prior to the Applicable Date, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Villas Board. Each person serving on the Initial Villas Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of Villas Corporation and an Owner solely for the purpose of qualifying to act as a member of the Villas Board of Directors and for no other purpose. No such person serving on the Initial Villas Board shall be deemed or considered a Member of Villas Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of Villas Corporation). The President of the Villas Board of Directors shall also be a member of the Master Board of Directors.

(c) Additional Qualifications. Where an Owner consists of more than one person or is a partnership, Villas Corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee of such Owner shall be eligible to serve on the Villas Board of Directors, except that no single Lot may be represented on the Villas Board of Directors by more than one (1) person at a time.

(d) Term of Office and Vacancy. Subject to the provisions of subsection (e) of this Section 8, at least one (1) member of the Villas Board of Directors shall be elected at each annual meeting of Villas Corporation. The Initial Villas Board shall be deemed to be elected and re-elected as the Villas Board of Directors at each annual meeting until the Applicable Date. Each member of the Villas Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date (which, if appropriate, may be a special meeting) one (1) member of the Villas Board of Directors shall be elected for a three (3) year term, one (1) member for a two (2) year term, and one (1) member for a one (1) year term so that the terms of at least one (1) of the members of the Villas Board shall expire annually. If such election is at a special meeting, the term of each of the Directors elected at the special meeting shall include the time from the special meeting to the applicable annual meeting. There shall be separate nominations for the office of each member of the Villas Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of subsection (b) of this Section 8 as to the Initial Villas Board, any vacancy or vacancies occurring in the Villas Board shall be filled by a vote of a majority of the remaining members of the Villas Board or by vote of the Owners if a Director is removed in accordance with subsection (e) of this Section 8. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or with respect to whom there has otherwise been a vacancy.

(e) Removal of Directors. A Director or Directors, except the members of the Initial Villas Board, may be removed with or without cause by vote of a majority of the

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

(f) Duties of the Villas Board of Directors. The Villas Board of Directors shall be the governing body of Villas Corporation representing all of the Owners and being responsible for the functions and duties of Villas Corporation, including, but not limited to, providing for the administration of Villas Corporation, the collection and disbursement of Villas Common Expenses and the collection and remittance of the Master Common Expenses. The Villas Board may, on behalf of Villas Corporation, employ a reputable and recognized professional property management agent (herein called the “Managing Agent”) upon such terms as the Villas Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Villas Board in carrying out its duties. The Villas Board’s duties include, but are not limited to:

(i) Assessment and collection from the Owners of each Owner’s respective share of Villas Common Expenses, and Master Common Expenses;

(ii) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(iii) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(iv) Procuring and maintaining for the benefit of the Villas Corporation and the Board the insurance coverages required under this Villas Declaration and such other insurance coverages as the Board, in its sole discretion may deem necessary or advisable including but not limited to, the insurance to be provided under the Insurance Guidelines adopted by the Villas Board of Directors (the “Insurance Guidelines”). The Insurance Guidelines may be amended by the Villas Corporation from time to time. Copies of the Insurance Guidelines are available upon request by an Owner from the Villas Corporation.

(v) Maintenance which is the obligation of the Villas Corporation per the Maintenance Guidelines adopted by the Villas Board of Directors (the “Maintenance Guidelines”). The Maintenance Guidelines may be amended by the Villas Corporation from time to time. Copies of the Maintenance Guidelines are available upon request by an Owner from the Corporation. Notwithstanding the foregoing, Owner of such Dwelling Unit shall be solely responsible for cutting any grass located inside any fenced area of the Lot unless the Owner shall provide safe, reasonable and regular access to such area to Villas Corporation and its authorized representatives including, but not limited to, a gate of at least five (5) feet wide which is unlocked. Safe access shall require that all pets be removed from the yard

during the time such maintenance activities occur. No owner may refuse such services. All such services and payment of all assessments under Section 14 for such services shall be mandatory.

(g) Powers of the Villas Board of Directors. The Villas Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(i) To employ a Managing Agent to assist the Villas Board in performing its duties;

(ii) To purchase, lease or otherwise obtain for Villas Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Villas Board of Directors;

(iii) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Villas Board of Directors may be necessary or desirable in connection with the business and affairs of Villas Corporation;

(iv) To employ, designate, discharge and remove such personnel as in the judgment of the Villas Board of Directors may be necessary for the Villas Board of Directors to perform its duties;

(v) To include the costs of all of the above and foregoing as Villas Common Expenses and to pay all of such costs therefrom;

(vi) To open and maintain a bank account or accounts in the name of Villas Corporation;

(vii) To promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate (in addition to those set forth in this Villas Declaration) as the Villas Board, in its discretion, deems necessary or advisable, provided, however, that copies of any such additional rules and regulations so adopted by the Villas Board shall be promptly delivered or mailed to all Owners. Such rules and regulations may provide that an Owner's failure to comply with such rules and regulations may result in the imposition of fines by Villas Corporation against such Owner.

(h) Limitation on Villas Board Action. After the Applicable Date, the authority of the Villas Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00) without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

(i) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget, and

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

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

(j) Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. Villas Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or Villas Corporation arising out of contracts made by the Villas Board on behalf of Villas Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of Villas Corporation.

(k) Additional Indemnity of Directors. Villas Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of Villas Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in actions, suits or proceedings where such Director is adjudged liable for bad faith, gross negligence or willful misconduct in the performance of his duties. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of Villas Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or Villas Corporation employed by Villas Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Villas Board of Directors.

(l) Bond. The Villas Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of Villas Corporation, and such other officers as the Villas Board deems necessary, to provide surety bonds, indemnifying Villas Corporation against larceny, theft, embezzlement, forgery, misappropriation, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Villas Board of Directors. Any such bond shall specifically include protection for any insurance proceeds received for any reason by the Villas Board. A Managing Agent shall provide such bond at its expense. For all officers and directors, the expense of any such bonds shall be a Villas Common Expense.

(m) HOA Act. Notwithstanding any provision of this Villas Declaration to the contrary, Villas Corporation shall be run with due regard and in compliance with the Homeowner's Association Act, Indiana Code Section 32-25.5 et seq. (the "HOA Act"). As a part of this obligation, Villas Corporation shall (i) maintain the roster and other information regarding the Owners and make such information available to the Owners as required under Section 32-25.5-3-1 of the HOA Act, (ii) shall prepare and adopt an annual budget and make documents available to the Owners consistent with the requirements and procedures of Section 32-25.5-3-3 of the HOA Act, (iii) not enter into any contract or borrow funds in violation of Sections 32-25.5-3-4 and 32-25.5-3-5, respectively, of the HOA Act, and (iv) maintain and follow a grievance resolution procedure required under Section 32-25.5-5 et seq. of the HOA Act, which procedure is set forth in the By-Laws. In the event of a conflict between the HOA Act and this Declaration, the HOA Act shall control.

9. Initial Management. The Initial Villas Board of Directors has entered or may hereafter enter into a management agreement with Declarant or a Corporation or other entity affiliated with Declarant or a third-party management company for a term not to exceed three (3) years with either party having the right to terminate upon ninety (90) days' notice. Declarant, such affiliate of Declarant or such third-party management company will perform all of the duties and obligations of Villas Corporation. Each Owner hereby authorizes Villas Corporation and the Villas Board of Directors and its officers to enter into the aforesaid management agreement and to adhere to and abide by the same. Until the Applicable Date, Declarant hereby reserves the exclusive right to manage the Real Estate and perform all the functions of Villas Corporation.

10. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Real Estate or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Real Estate or that part thereof that is assessed as a whole. Such Owner's proportionate share shall be the ratio that the square footage of his Lot bears to the total square footage of all the land comprising the Real Estate or part thereof assessed as a whole. Real estate taxes assessed on the improvements on the Real Estate shall be paid by the Owner of such improvements.

11. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered, if any, shall be treated as and paid as part of the Common Expense unless otherwise determined by Villas Corporation.

12. Maintenance, Repairs and Replacements.

(a) By Villas Corporation. After the Applicable Date and for so long as the Declarant owns any Lot(s), Declarant may, upon five (5) days' notice to Villas Corporation, undertake any maintenance, repair or upkeep which Villas Corporation is obligated, but has failed, to undertake. Declarant may then bill Villas Corporation for the cost of such maintenance, repair or upkeep. Such bill, if not paid by Villas Corporation within thirty (30) days of receipt, shall bear interest at the rate of twelve percent (12%) per annum.

(b) By Owners. Each Owner shall be responsible for maintaining and keeping his Lot, Dwelling Unit, and all other structural improvements located on his Lot in a good, clean, neat, sanitary and well-maintained condition. The obligation to maintain a Lot shall exist, whether or not a Dwelling Unit exists on such Lot, and the Owner of such Lot shall keep such Lot maintained in the same manner as such Lot would be maintained if a Dwelling Unit existed thereon.

As provided in the Master Declaration, each Owner shall also maintain, to the extent applicable, (i) the dusk-to-dawn lights installed on his Lot in good working condition, including but not limited to, replacement of photo cells and all dusk to dawn lights and any replacement thereof shall be as shown in the Master Declaration; (ii) the mailbox and post installed on his Lot in good working condition; (iii) any trees originally planted on his Lot and also the area adjacent to the sidewalk (individually a "Tree" and collectively, the "Trees"); and (iv) any drainage areas, swales and structures by keeping such free of leaves and debris. Any repair or replacement of mailboxes and/or posts shall be of the same design and quality as originally installed by Declarant and as shown in the Master Declaration. Each Owner shall be responsible for the maintenance of the landscaping originally installed when the house was built on his Lot. In the event any Tree dies, the Owner Of such Lot shall be responsible for replacing, at Owner's expense, the Tree with a substantially similar tree as shown in the Master Declaration. Such tree replacement must be approved by the Master Architectural Review Board.

Each Owner shall also comply with the Maintenance Guidelines defined in Section 8(f)(v) which Maintenance Guidelines may be amended by the Villas Corporation from time to time. Copies of the Maintenance Guidelines are available upon request by an Owner from the Villas Corporation.

(c) Owner's Failure to Maintain. If any Owner shall fail (i) maintain and keep his Lot, Dwelling Unit and other structural improvements located on his Lot in a good, clean and sanitary condition as determined by the Villas Board of Directors or (ii) comply with the terms of this Section 12, Villas Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment. Such cost shall be immediately due and shall be secured by Villas Corporation's lien on the Owner's Lot.

(d) Villas Corporation's Easement over Lots. So long as the Real Estate is subject to this Villas Declaration, each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Declarant for so long as Declarant owns a Lot or any part of the Real Estate and to Villas Corporation, its agents and employees, the right, in the form of a permanent easement, to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

(e) Party Walls and Roofs.

(i) General Rules of Law to Apply. Each wall which is built as a part of the original construction of any Duplex Unit and which connects two Duplex Units

shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section 12(e), the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

(ii) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall. The term “party wall” shall include the roof connecting the two (2) attached Duplex Units. The cost of reasonable repair and replacement of the roof is the responsibility of the Villas Corporation, except as otherwise provided herein, including, but not limited to Section 16(b)(ii).

(iii) Destruction by Fire or Other Casualty. If any party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by Villas Corporation under Section 16(b)(ii), and repaired out of the proceeds of same, any Owner who has used the party wall may restore it, and any other Owners who make use of the party wall, shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a disproportionate contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions. If any roof is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance maintained by Villas Corporation under Section 16(b)(ii), and repaired out of the proceeds of same, any Owner who has used the roof may restore it, and any other Owners who make use of the roof, shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a disproportionate contribution from the others under any rule of law regarding liability for negligent, intentional or willful acts or omissions. Villas Corporation’s insurance as provided in Section 16(b)(ii) shall cover the roof and party wall.

(iv) Weatherproofing. Notwithstanding any other provision of this Villas Declaration, to the extent that such damage is not covered and paid by insurance proceeds, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(v) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section 12 shall be appurtenant to the land and shall be binding upon and inure to such Owner’s successors in title.

(vi) Arbitration. In the event of any dispute arising concerning a party wall or roof, or under the provisions of this Section 12(e), each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor from another party, the Villas Board of Directors shall select an arbitrator for the refusing party. The cost of the arbitrators shall be borne equally by the parties.

(vii) Easements for Inexactness of Construction. The boundary lines separating each Lot shall be as shown on the Plats, and it is intended that the center of the party wall separating each Duplex Unit from the adjoining Duplex Unit shall be physically located exactly on the center of the boundary line separating the two adjoining Lots upon which such Duplex Units are constructed. However, in the event that, because of inexactness of staking or construction, settling or shifting during or after construction or any other reason, the center of any such party wall shall not coincide with the center of the associated boundary line, then a permanent easement shall exist on the Lot onto which the encroaching Duplex Unit encroaches for the exclusive benefit of the Owner of the encroaching Duplex Unit for purposes of occupancy, possession, maintenance, use and enjoyment, and such easement shall run with the land and be binding upon, and inure to the benefit of, any person or entity then or thereafter acquiring or having any right, title or interest in or to the benefited or encumbered Lot or any party thereof, including, without limitation, mortgagees. The portion of the encumbered Lot subjected to such an easement shall be limited to exact area onto which the encroaching Duplex Unit encroaches upon such Lot.

(viii) Exterior Changes. No exterior changes, including but not limited to, color, style, or material, shall be made to a Duplex Unit without the prior approval of the Master Architectural Review Board. The Master Architectural Review Board shall prescribe regulations and guidelines regarding permitted colors and materials for the exterior of Duplex Units. Changes which do not comply with such regulations and guidelines shall not be approved or permitted.

13. Architectural Control. No improvements, alterations, excavation or changes in grade or other work which in any way alters any Lot or the exterior of any Dwelling Unit or other improvement thereon shall be made or done without the prior written approval of the Architectural Review Board under the Master Declaration (the "Master Architectural Review Board"). No building, fence, wall, pool, spa, hot tub, fire pit, pergola or other structure or improvement shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the plans by the Master Architectural Review Board. Additional restrictions and prohibitions regarding pools, fences, spas, decks, playground equipment, basketball goals, flag poles, storage sheds, mini-barns, fire pits and exterior painting are set forth in the Master Declaration. Plans must comply with the requirements of the Master Declaration, any rules and regulations adopted by the Master Architectural Review Board, and all applicable municipal rules, regulations and ordinances. Notwithstanding the foregoing, Master Architectural Review Board approval is not required for the initial construction of a Dwelling Unit by Declarant or any work by Declarant to comply with Declarant's obligations under this Villas Declaration.

14. Villas Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of Villas Corporation, the Villas Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accountant approved by the Villas Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget. Annually, before the date of the annual meeting of Villas Corporation, the Villas Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of Villas Corporation for adoption and, if so adopted, shall be the basis for Villas Regular Assessments, as that term is defined in Section 14(c) below, for the next fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of those Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, Villas Regular Assessments and all sums assessed by Villas Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Villas Regular Assessments shall, in addition, be established to include (1) Villas Regular Assessments; and (2) the establishment and maintenance of a Villas replacement reserve fund for capital expenditures and replacement and repair of the roofs and exterior of Duplex Units that must be repaired and replaced on a periodic basis ("Villas Replacement Reserve Fund"). The Villas Replacement Reserve Fund shall be used for these purposes and not for usual and ordinary maintenance expenses. Usual and ordinary expenses which will not be paid out of the Villas Replacement Reserve Fund include but are not limited to, snow removal, fertilization, annual plantings, mulch, and preventive maintenance contracts. Such Villas Replacement Reserve Funds for capital expenditures and replacement and repair of the roofs and exteriors of Duplex Units shall be maintained by the Villas Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton or Marion County, Indiana as selected from time to time by the Villas Board.

The failure or delay of the Villas Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses. If an annual budget is not approved by the Owners as herein provided for the then current fiscal year, the Owners shall continue to pay Villas Regular Assessments based upon the last approved budget or, at the option of the Villas Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Villas Regular Assessments. The annual budget, as adopted by the Owners, shall contain a proposed assessment against each Lot equal to Villas Common Expenses multiplied by a percentage equal to one divided by the total number of Lots in the Real Estate. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Villas Regular Assessment"). In the event Villas Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Villas Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted

by the Owners. The aggregate amount of Villas Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds. Villas Regular Assessment against each Lot shall be paid in advance in equal annual installments, with payments due on the first day of January. Payment of the annual installments of Villas Regular Assessment shall be made to the Villas Board of Directors or the Managing Agent, as directed by the Villas Board of Directors. An Owner may elect to pay Villas Regular Assessments annually, in advance. Semi-annual installments of Villas Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Villas Board or Villas Corporation, and neither the Villas Board nor Villas Corporation shall be responsible for providing any notice or statements to Owners for the same. In the event Villas Regular Assessment for a particular fiscal year of Villas Corporation was initially based upon a temporary budget:

(i) if Villas Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of Villas Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of Villas Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that Villas Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(ii) If Villas Regular Assessment based upon the temporary budget exceeds Villas Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of Villas Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Villas Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of Villas Regular Assessment based upon the annual budget finally adopted by the Owners.

Villas Regular Assessment for the current fiscal year of Villas Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of Villas Corporation, even though the final determination of the amount of such Villas Regular Assessment may not have been made by that date. The fact that an Owner has paid his Villas Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Villas Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of Villas Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for Villas Regular Assessment as finally determined. Any statement of unpaid Villas Assessments furnished by Villas Corporation pursuant to Section 15 hereof prior to the final determination and adoption of the annual budget and Villas

Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Villas Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations.

Payment of Villas Regular Assessment prior to the Applicable Date with respect to each Lot shall commence on the date of conveyance of such Lot by Declarant or current owner to a new owner ("Commencement Date"). The first payment shall be payable on the Commencement Date prorated to the first day of the month when the next payment is due. Thereafter, payment of Villas Regular Assessment shall be paid semi-annually.

(d) Villas Special Assessments. From time to time Villas Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Villas Declaration, the Villas Board of Directors shall have the full right, power and authority to make Villas Special Assessments which, upon resolution of the Villas Board, shall become a lien on each Lot, prorated in equal shares (herein called "Villas Special Assessment"). Without limiting the generality of the foregoing provisions, Villas Special Assessments may be made by the Villas Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefore under the circumstances described in this Villas Declaration.

(e) Intentionally omitted.

(f) Villas Replacement Reserve Fund. Prior to the Applicable Date, ten percent (10%) of the Capital Contribution (as defined in Section 14(h) below) shall be deposited into the Villas Replacement Reserve Fund (as established by Section 14(b)) until the balance of such Villas Replacement Reserve Fund is Twenty-Five Thousand Dollars (\$25,000.00). Thereafter, deposits into the Villas Replacement Reserve Fund will cease unless and until expenditures are made from such fund, at which time fifty percent (50%) of the Capital Contribution will again be deposited into such fund until the balance of such fund again reaches Twenty-Five Thousand Dollars (\$25,000.00). After the Applicable Date, one hundred percent (100%) of the Capital Contribution will be deposited into the Villas Replacement Reserve Fund regardless of the balance of such fund.

That portion of the Villas Regular Assessment collected by Declarant prior to the applicable Date applicable to the Villas Replacement Reserve Fund shall be held by the Initial Board and used for those expenses described in Section 14(b). To the extent that such Villas Replacement Reserve Fund is not so applied, the balance thereof shall be retained by the Villas Corporation at the Applicable Date.

(g) Payment of Villas Assessments by Declarant. The Declarant shall not be assessed any portion of any Villas Regular, Villas Special or Villas Additional Assessment. Prior to the Applicable Date, Declarant hereby covenants and agrees to pay to Villas Corporation an amount equal to the difference, if any, between the expenditures of Villas

Corporation made pursuant to this Villas Declaration and the aggregate amount of all Villas Regular, Villas Special and Villas Additional Assessments collected by Villas Corporation. Any such payment by the Declarant shall not establish any precedent for further or additional payments. Further, Declarant may advance funds to offset deficits on terms and conditions acceptable to the Villas Board of Directors and Declarant.

(h) Capital Contribution. At the first closing of the purchase of a Lot containing a Dwelling Unit from Declarant or the original third-party builder, the purchaser is required to pay an amount equal to fifty percent (50%) of Villas Regular Assessment due on such Lot as purchaser's initial contribution to the working capital fund of Villas Corporation. This sum is not an advance payment of Villas Regular Assessments) but is allocated to the working capital fund to meet unforeseen expenditures and operating expenses and to purchase additional equipment and services. After the Applicable Date, the balance of the working capital fund shall be transferred to Villas Corporation. At such times as the balance of the working capital fund is Five Hundred and 00/100 Dollars (\$500.00), Declarant may reimburse itself from such capital contributions for any subsidies paid or advances made to offset deficits. Once Declarant is reimbursed, such amounts shall be deposited into the working capital fund, regardless of the balance of such working capital fund.

(i) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Villas Regular Assessments, Villas Additional Assessments and Villas Special Assessments or from contributing toward Villas Common Expenses or Master Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Villas Regular, Villas Additional and Villas Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Villas Regular Assessment, Villas Additional Assessment or Villas Special Assessment when due, the lien for such assessment on the Owner's Lot may be filed and foreclosed by the Villas Board of Directors for, and on behalf of Villas Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Villas Regular Assessment, Villas Additional Assessment or Villas Special Assessment, the Villas Board may, in its discretion, accelerate the entire balance of unpaid Villas Assessments and declare the same immediately due and payable. The Villas Board may, at its option, bring suit to recover a money judgment for any unpaid Villas Regular Assessment, Villas Additional Assessment or Villas Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover an Villas Regular Villas Assessment, Villas Special Assessment or Villas Additional Assessment, whether by foreclosure or otherwise, Villas Corporation shall be entitled to recover from such Owner the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Villas Assessments were due until paid at the rate equal to the prime interest rate as announced by Chase Bank, Indianapolis, NA, from time to time by (or if said bank is no longer in existence then such rate charged by a national bank in Hamilton County, Indiana, selected by the Villas Board of Directors) during the unpaid period plus twelve percent (12%).

(j) Subordination of Villas Assessment Lien to Mortgage. Notwithstanding anything contained in this Villas Declaration, the Articles or the Bylaws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Villas Regular Assessment, Villas Additional Assessment or Villas Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien will not relieve the prior owner from personal liability therefore. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Villas Regular Assessments, Villas Additional Assessments or Villas Special Assessments thereafter becoming due or from the lien therefore. Any such unpaid Villas Regular Assessments, Villas Additional Assessments or Villas Special Assessments shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

(k) Collection by Villas Corporation. Villas Corporation shall include as part of Villas Regular Assessment, the Regular Assessment applicable to each Lot pursuant to the Master Declaration. Upon collection of Villas Regular Assessment, Villas Corporation shall remit the amount applicable to the Regular Assessment pursuant to the Master Declaration to the Master Corporation. Villas Corporation shall be obligated to remit such amount to the Master Corporation even if such amount is not paid by an Owner. The Master Corporation shall have the right to exercise directly against an Owner any and all remedies available under this Villas Declaration or the Master Declaration in the event an Owner fails to make such payment.

15. Mortgages and Unpaid Villas Assessments.

(a) Notice to Villas Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify Villas Corporation thereof and provide the name and address Of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Villas Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of the Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee, as may be otherwise required by this Villas Declaration, the Bylaws or otherwise, shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Villas Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

Villas Corporation shall, upon request of a Mortgagee who has furnished Villas Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Villas Declaration or the Bylaws which is not cured within sixty (60) days.

(b) Notice of Unpaid Villas Assessments. Villas Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Villas Regular Assessments, Villas Additional Assessments or Villas Special Assessments or other charges against the Lot, which statement shall be binding upon Villas Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid Villas Assessments or charges in excess of the amounts set forth in such statement or as such Villas Assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 18 hereof.

16. Insurance.

(a) Public Liability Insurance. Villas Corporation shall purchase a master comprehensive public liability insurance policy in such amount or amounts as the Villas Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover Villas Corporation, the Villas Board of Directors, any committee or organ of Villas Corporation or the Villas Board, any Managing Agent appointed or employed by Villas Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate. Such public liability insurance policy shall contain a “severability of interest” clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of Villas Corporation or other Owners.

(b) Other Insurance.

(i) Officers’ and Directors’ Liability Insurance. Villas Corporation shall purchase officers’ and directors’ liability insurance in such amounts as the Villas Board of Directors shall deem appropriate. Villas Corporation shall also obtain any other insurance required by law to be maintained and such other insurance as the Villas Board of Directors shall from time to time deem necessary, advisable or appropriate, for example, liability insurance on vehicles owned or leased by Villas Corporation and workman’s compensation insurance. Such insurance shall inure to the benefit of each Owner, Villas Corporation, the Villas Board of Directors and any Managing Agent acting on behalf of Villas Corporation. Each Owner shall be deemed to have delegated to the Villas Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Villas Board of Directors the proceeds of which are payable to the Villas Board of Directors or Villas Corporation.

(ii) Casualty Insurance. Notwithstanding Section 19(e) of the Master Declaration, Villas Corporation shall purchase and maintain a casualty policy affording fire and extended coverage insurance insuring each Lot and any structures constructed thereupon including, but not limited to, the Dwelling Unit in an amount equal to the full replacement value of the improvements which in whole or in part, comprise the Dwelling Unit, including, without limitation, any party walls. Notwithstanding the foregoing, the Villas Corporation shall not insure any

additions, alterations, fixtures or improvements, including, but not limited to the appliances, carpet, wall coverings, flooring and cabinets within and about the Dwelling Units (the "Excluded Improvements"). Villas Corporation shall, in addition, also procure endorsements naming the Lot Owner(s) of a Lot as additional insureds under such insurance policies and requiring each such insurer to provide (i) immediate written notice to the Owner(s) of a Lot of any cancellation of such policy, and (ii) at least thirty (30) days written notice to the Owner(s) of a Lot prior to any termination or material modification of such policy. Villas Corporation will furnish to the purchaser of each Lot, at or prior to the closing of the acquisition of that Lot, a certificate of insurance and endorsement evidencing the insurance coverage described herein. Owners shall not do or permit any act or thing to be done in or to Lot or Dwelling Unit which is contrary to law or which invalidates or is in conflict with Villas Corporation's policy of insurance. An Owner who fails to comply with the provisions of this paragraph shall pay all costs, expenses, liens, penalties, or damages which may be imposed upon the Owner, Declarant, the Corporation or the Villas Corporation by reason thereof.

(c) General Provisions. The premiums for all insurance hereinabove described shall be paid by Villas Corporation as part of Villas Common Expenses.

(d) Owners to Maintain Insurance. Notwithstanding subsection b above, each Owner of a Lot shall be responsible for the purchase and maintenance of its own insurance policies covering liability, loss and/or damage with respect to the Excluded Improvements and the contents and other personal property and fixtures located within and about each Dwelling Unit and Villas Corporation shall have no liability to the Owner for such loss or damage. Each Owner of a Lot, other than Declarant, shall notify the Villas Corporation in writing of any Excluded Improvements added within or about the Owner's Dwelling Unit and such Owner shall be responsible for any deficiency in any insurance loss recovery resulting from such Owner's failure to notify the Villas Corporation. The Villas Corporation shall not be obligated to apply insurance proceeds from policies purchased and maintained by the Villas Corporation to restore the Excluded Improvements or the other contents, fixtures and other personal property of the Owner of a Lot. The insurance policies required pursuant to this subsection (d) of Section 16 shall contain standard mortgagee clause endorsements in favor of the mortgagee of each Dwelling Unit and shall provide that such policies shall not be terminated, canceled, or substantially modified without at least thirty (30) days' prior written notice to the mortgagee of each Dwelling Unit.

(e) Insurance Guidelines. Notwithstanding any other provisions in this Villas Declaration, the Villas Corporation and each Owner shall maintain insurance as set out in the Insurance Guidelines defined in Section 8(f)(iv), which Insurance Guidelines may be amended from time to time by the Villas Corporation. Copies of the Insurance Guidelines are available upon request by an Owner from the Villas Corporation.

17. Covenants and Restrictions. The covenants and restrictions on the use and enjoyment of the Real Estate are set forth in the Master Declaration and are applicable against an Owner as if fully set forth herein. Any other covenants or restrictions contained in the Master

Declaration, this Villas Declaration or any Plat are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by Villas Corporation. Present or future Owners or Villas Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the Articles or Bylaws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have until the conveyance of the last Lot owned by Declarant in Villas at Tamarack, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in their sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as they desire.

18. Amendment of Villas Declaration.

(a) Generally. Except as otherwise provided in this Villas Declaration, amendments to this Villas Declaration shall be proposed and adopted in the following manner:

(i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting of the Members of Villas Corporation at which the, proposed amendment is to be considered.

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Villas Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting of the Members of Villas Corporation duly called and held in accordance with the provisions of the Bylaws.

(iv) Adoptions. Any proposed amendment to this Villas Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes” of all Owners, provided however, that prior to the Applicable Date all proposed amendments shall require the written consent of the Declarant. In the event, any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Villas Board of Directors in accordance with the provisions hereof.

(v) Special Amendments. No amendment to this Villas Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for Villas Common Expenses, or the method of determining the same; or (2) the provisions of Section 13 of this Villas Declaration establishing the Architectural Review and providing for its functions; or (3) the provisions of Section 14 of this Villas Declaration with respect to the commencement of Villas Assessments on any Lot, or (4) the provisions of Section 18(b) of this Villas Declaration with respect to amendments solely by Declarant without, in each and any of such circumstances, the unanimous approval of all Owners, including Declarant so long as Declarant owns any Lot, and of all Mortgagees whose mortgage interests have been made known to the Villas Board of Directors in accordance with the provisions of this Villas Declaration.

(vi) Recording. Each amendment to Villas Declaration shall be executed by the President and Secretary of Villas Corporation and by Declarant if required herein. Each amendment shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

(b) Amendment. Prior to the conveyance of the first Lot to an Owner, Declarant may unilaterally amend this Villas Declaration. After such conveyance, Declarant may unilaterally amend this Villas Declaration at any time and from time to time if such amendment is: (a) necessary to bring any provision thereof into compliance with any applicable governmental statutes, rules or regulations, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots and the Dwelling Units; (c) required by an institutional or governmental agency or lender, or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Villas Corporation, to enable such lender or purchaser to acquire or purchase mortgage loans on the Lots and the Dwelling Units; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; (e) to annex additional real estate to the Development; or (f) to correct clerical or typographical errors in this Villas Declaration or any exhibit hereto, or any supplement or amendment thereto; provided, however, that any amendment permitted under subsections (a) through (f) above shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. Additionally, prior to the Applicable Date, Declarant may unilaterally amend this Villas Declaration for any purpose, provided the amendment has no material adverse effect upon any right of the Owner.

19. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be Subject to and shall comply with the provisions of this Villas Declaration, the Articles, and the Bylaws incorporated herein by reference, and the rules and regulations as adopted by the Villas Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Villas Declaration, the Articles, the Bylaws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the

Real Estate as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Real Estate in any manner shall be subject to the Villas Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

20. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by Villas Corporation.

21. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Villas Declaration, the Articles of Incorporation, the Bylaws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, Villas Corporation shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

22. Waiver. No Owner exempt himself from liability for his contribution toward the Master Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

23. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Villas Declaration, the Articles or the Bylaws, shall-not impair or affect in any manner the validity, enforceability or effect of the rest of this Villas Declaration, the Articles, or the Bylaws, and each shall be enforced to the greatest extent permitted by law.

24. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.

25. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Villas Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Villas Declaration or any provision hereof.

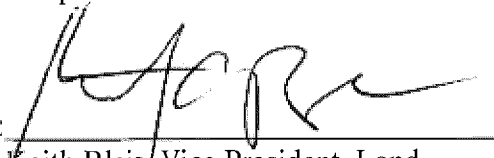
26. Controlling Document. In the event there is a conflict between the provisions of this Villas Declaration and the Plats, the terms of this Villas Declaration shall be controlling. Conflict, as used herein, shall mean a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned has caused this Villas Declaration to be executed the day and year first above written.

M/I Homes of Indiana, L.P., an Indiana limited partnership

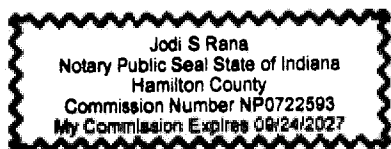
By: M/I Homes of First Indiana, LLC its general partner

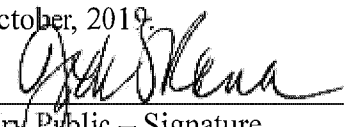
By: 
Keith Blais, Vice President, Land

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Keith Blais, by me known and by me known to be the Vice President, Land of M/I Homes of First Indiana, LLC, the general partner of M/I Homes of Indiana, L.P., an Indiana limited partnership, who acknowledged the execution of the foregoing "Amended and Restated Declaration of Covenants and Restrictions of Villas at Tamarack" on behalf of said entity.

Witness my hand and Notarial Seal this 19th day of October, 2019.




Notary Public – Signature

Jodi S. Rana
Notary Public – Printed

My Commission Expired: 9/24/2027

My County of Residence: Hamilton

This instrument prepared by Tammy K. Haney, Attorney-at-Law, Krieg DeVault LLP, 12800 North Meridian Street, Suite 300, Carmel, Indiana 46032.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each and every Social Security number from this document, unless it is required by law. Tammy K. Haney.

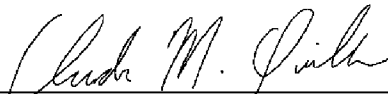
EXHIBIT "A"

LAND DESCRIPTION - DUPLEX LOTS TAMARACK, SECTIONS 1 AND 2

A part of the East Half of the Northeast Quarter of Section 2, Township 19 North, Range 4 East, in Jackson Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of the East Half of the Northeast Quarter of said Section 2; thence North 01 degree 27 minutes 14 seconds East (assumed bearing) a distance of 2,260.25 feet along the West line of said East Half; thence South 88 degrees 32 minutes 46 seconds East a distance of 105.00 feet to the POINT OF BEGINNING of this description; thence North 01 degree 27 minutes 14 seconds East a distance of 318.71 feet; thence North 36 degrees 56 minutes 41 seconds East a distance of 150.33 feet; thence South 88 degrees 32 minutes 46 seconds East a distance of 359.13 feet; thence South 01 degree 27 minutes 14 seconds West a distance of 129.38 feet; thence South 03 degrees 18 minutes 01 second West a distance of 74.66 feet; thence South 01 degree 27 minutes 14 seconds West a distance of 420.24 feet; thence South 01 degree 15 minutes 06 seconds West a distance of 92.95 feet to a point on a non-tangent curve concave easterly, the radius point of which bears North 88 degrees 22 minutes 29 seconds East a distance of 227.00 feet from said point; thence southerly along said curve an arc length of 116.34 feet to a point on said curve, said point being South 59 degrees 00 minutes 33 seconds West a distance of 227.00 feet from the radius point of said curve; thence South 89 degrees 51 minutes 57 seconds West a distance of 356.22 feet; thence North 52 degrees 18 minutes 46 seconds West a distance of 25.41 feet; thence North 26 degrees 17 minutes 53 seconds East a distance of 133.62 feet to a point on a non-tangent curve concave northeasterly, the radius point of which bears North 26 degrees 17 minutes 53 seconds East a distance of 50.00 feet from said point; thence northwesterly along said curve an arc length of 16.51 feet to a point on said curve, said point being South 45 degrees 13 minutes 22 seconds West a distance of 50.00 feet from the radius point of said curve; thence South 45 degrees 13 minutes 22 seconds West a distance of 131.57 feet; thence North 52 degrees 18 minutes 46 seconds West a distance of 28.73 feet; thence North 19 degrees 46 minutes 05 seconds West a distance of 86.26 feet; thence North 01 degree 27 minutes 14 seconds East a distance of 247.64 feet to the Point of Beginning, Containing 8.151 acres, more or less.

S:\77345MI\SURVEY\DUPEX LAND DESCRIPTION.doc

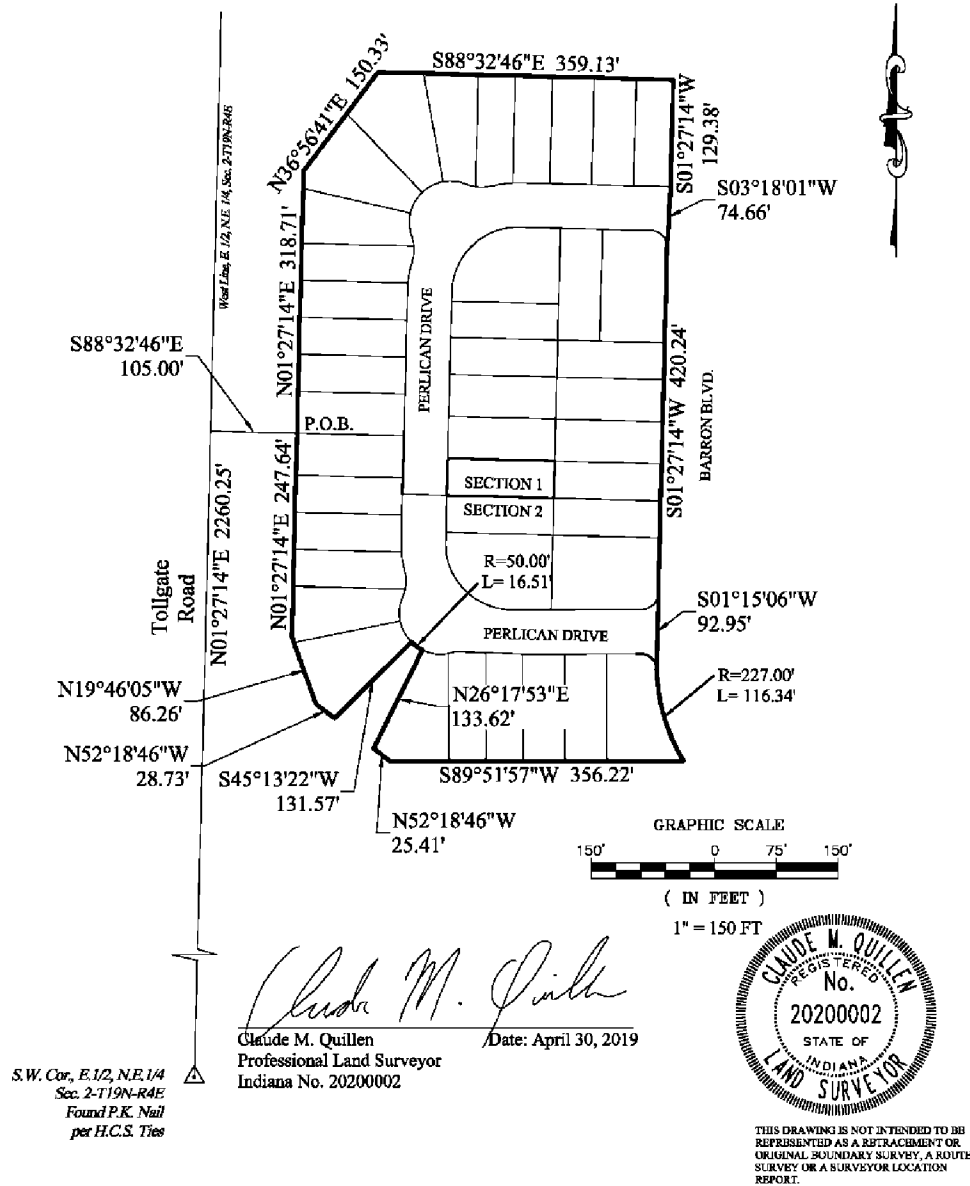

Claude M. Quillen
Registered Land Surveyor
Indiana No. 20200002

Date: April 30, 2019



 STOEPPELWERTH ALWAYS ON 7965 East 106th Street, Fishers, IN 46038-2505 phone: 317.849.5935 fax: 317.849.5942	JOB NO. 77345MI	PAGE 1 OF 2 SHEETS
	DRAWN BY: CMQ	
	CHECKED BY: BES	
	DATE DRAWN: 04/26/2019	
	FIELDWORK DATE:	

EXHIBIT "B"



 STOEPPELWERTH ALWAYS ON 7965 East 106th Street, Fishers, IN 46038-2505 phone: 317.849.5935 fax: 317.849.5942	JOB NO. 77345MI	PAGE 2 OF 2 SHEETS
	DRAWN BY: CMQ	
	CHECKED BY: BES	
	DATE DRAWN: 04/26/2019	
	FIELDWORK DATE:	