



**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR**  
**MONASTERY WOODS MASTER HOMEOWNERS ASSOCIATION**

October 3, 2006

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**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR**  
**MONASTERY WOODS MASTER HOMEOWNERS ASSOCIATION**

This Declaration is made this \_\_\_\_ day of \_\_\_\_\_, 2006 by V3 CEDAR LAKE, L.L.C., a Delaware limited liability company (hereinafter referred to as "Covenantor").

**W I T N E S E T H:**

WHEREAS, the Covenantor, is the owner of the real property commonly known as MONASTERY WOODS and legally described in **Exhibit A** of this Declaration, which exhibit is attached hereto and incorporated herein by reference (hereinafter referred to as "Development Tract"), and

WHEREAS, MONASTERY WOODS will be developed as a mixed use community consisting of single-family detached dwellings, open space areas and parks; and

WHEREAS, the Covenantor desires to promote the orderly development of the Development Tract and to provide for the maintenance of common open spaces, parks, and other common facilities by subjecting the property owned by it and described herein to the covenants, restrictions, conditions, reservations, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property; and

WHEREAS, the Covenantor has deemed it desirable, for the efficient preservation of the values and amenities in the Development Tract, to create an agency to which should be delegated and assigned the powers of administering and enforcing the covenants, restrictions, conditions, reservations, easements, charges, and liens as delineated in this Declaration; and

WHEREAS, the Covenantor desires to subject MONASTERY WOODS to the covenants, restrictions, conditions, reservations, easements, charges, and liens set forth in this Declaration; and

NOW, THEREFORE, V3 CEDAR LAKE, L.L.C. declares that the real property described in Exhibit A is and shall be held, sold, conveyed, transferred, mortgaged, used and encumbered subject to the terms, provisions, covenants, restrictions, conditions, reservations, easements, charges, and liens hereinafter set forth, all of which are declared to be for the purpose of enhancing and protecting the value, desirability, attractiveness, and harmonious and proper use of and administration of the Development Tract. These easements, covenants, restrictions, provisions, conditions, reservations, charges, and liens set forth in this Declaration shall run with the property and shall be binding upon all the parties having or acquiring any right, title, or interest in the Development Tract described in Exhibit A, or any part thereof, their heirs, successors, successors-in-title, and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I**  
**DEFINITIONS**

Section 1. "Association" or "Home Owners Association" shall mean and refer to MONASTERY WOODS Master Homeowners Association, an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Board" shall mean and refer to the Board of Directors of the MONASTERY WOODS Master Homeowners Association.

Section 3. "Common Area" shall mean and refer to all the real property and improvements thereon, owned by the Association for the common use, enjoyment, and convenience of the Members of the Association.

Section 4. “Covenantor” shall mean and refer to V3 CEDAR LAKE, L.L.C., its successors or assigns (other than the purchaser of a Lot or Dwelling Unit).

Section 5. “Covenants and Restrictions” shall mean and refer to the covenants, restrictions, conditions, reservations, easements, charges, and liens specified in this Declaration.

Section 6. “Development Tract” shall mean and refer to the property herein referred to and legally described in Exhibit A which by this Declaration may be subjected to the covenants, restrictions, conditions, reservations, easements, charges, and liens herein described.

Section 7. “Dwelling” or “Dwelling Unit “ shall mean and refer to either a single-family detached residence or a residential housing unit designed and constructed for the use and occupancy by a single-family which is a part of a multi-unit building, but specifically not including hotels, motels, rooming houses, nursing homes, mobile homes or any form of camping vehicles.

Section 8. “Final Plat” shall mean and refer to the Final Plat of Subdivision for MONASTERY WOODS.

Section 9. “Landscape Easements” shall mean and refer to those easements for landscaping purposes which are so designated on the Final Subdivision Plat of MONASTERY WOODS Subdivision or which are subsequently accepted by the Association.

Section 10. “Lot” shall mean and refer to each parcel of land as designated on the Final Plat, which is under common fee ownership and on which one detached single-family residence is intended to be constructed and maintained.

Section 11. “Member” shall mean and refer to a person(s) or entity which holds membership in the Home Owners Association due to ownership of a Lot or Dwelling Unit within the Development Tract.

Section 12. “Occupant” shall mean and refer to a person or persons, other than an Owner, in lawful possession of one or more Dwellings or Dwelling Units.

Section 13. “Owner” shall mean and refer to the person or persons or entity whose estates or interests, individually or collectively, aggregate fee simple ownership of a Lot or Dwelling Unit within the Development Tract, and their successors and assigns. For the purpose of this Declaration, unless otherwise specifically provided herein, the word “Owner” shall include (i) any trust and beneficiary of a trust, shareholder of a corporation, or partner of a partnership holding legal title to a Lot or a Dwelling Unit and (ii) the Covenantor as to all unsold Lots which are or will be developed in the Development Tract or Dwelling Units which are or will be constructed on the Development Tract.

Section 14. “Person” shall mean and refer to a natural individual, corporation, partnership, or other entity capable of holding title to, or any lesser interest in, real property.

Section 15. “Record” or “place of record” shall mean to record a document in the Office of the Recorder of Lake County, Indiana.

Section 16. “Story” shall mean that portion of a building included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story where one or more sides is a part of the exterior elevation. A cellar shall not be counted as a story.

Section 17. “Structure” shall mean anything other than a building erected or constructed on a Lot, the use of which requires more or less permanent location on or in the ground. Ornamental masonry walls and fences shall be construed to be structures.

## **ARTICLE II** **PROPERTY SUBJECT TO THIS DECLARATION**

Section 1. Development Tract. The real property legally described in Exhibit A is and shall be held, sold, conveyed, transferred, occupied, mortgaged, and encumbered subject to this Declaration. All real property which constitutes the Development Tract shall be subject to this Declaration.

Section 2. Additional Property. The Covenantor reserves the right for itself and its successors and assigns to subject any other property to this Declaration. The Covenantor may take such action at any time and shall be solely at its discretion.

All real property which constitutes the Development Tract shall be subject to this Declaration.

In order to subject additional property to this Declaration, the Covenantor shall execute and record a supplementary declaration which shall indicate the action being taken and which shall contain a legal description of the property which is the subject of the supplementary declaration.

Upon execution and recordation of a supplementary declaration, the property covered therein shall be subject to the covenants, restrictions, conditions, reservations, easements, charges, and liens set forth in this Declaration. Said covenants, restrictions, conditions, reservations, easements, charges, and liens shall run with and bind the property covered by the supplementary declaration and shall inure to the benefit of and be the personal obligation of the Owner of said property in the same manner and to the same extent and with the same force and effect as they apply to the property described in Exhibit A and as if said property were subjected to this Declaration on the date of its recordation. Every person or entity who is a record Owner of, or a beneficiary of a land trust holding title to said property shall be a Member of the MONASTERY WOODS Master Homeowners Association on the same terms and subject to the same qualifications and limitations as those Members under the provisions of this Declaration. In all respects, all of the provisions of this Declaration shall apply to the property covered in any supplementary declaration and to the Owners thereof with equal meaning and of like force and effect.

In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Covenantor, and its successors and assigns, as attorney in fact, to increase the number of Members in the Home Owners Association as set forth in each such supplementary declaration. Each deed, mortgage, or other instrument with respect to any portion of the Development Tract and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to said attorney in fact, and its successors and assigns, and shall be deemed to reserve to it, and its successors and assigns, the power to increase the number of Members of the Home Owners Association from time to time as aforesaid.

No supplementary declaration shall be deemed or shall constitute a divestment of any Owner of his interest in the Home Owners Association as hereinabove provided. Each and all of the provisions of this Declaration and the exhibits attached hereto, as amended by each successive supplementary declaration, shall be deemed to apply to each and every Owner.

The recording of a supplementary declaration shall not alter or affect the amounts of any liens or common expenses due from any existing Owner prior to such recording, nor the respective amounts theretofore assessed to or due from any existing Owner for common expenses or other assessments.

Each and every Owner of property in the Development Tract, and their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors and assigns, purchasers, and lessees by their acceptance of any deed or mortgage or other interest in or with respect to any such property shall be deemed to have expressly agreed, assented, and consented to each and all of the provisions of this Declaration with respect to the recording of any and all supplementary declarations, as aforesaid, which may amend, adjust, or reallocate from time to time their respective interests in the Home Owners Association as hereinabove provided, and hereby further agree to each and all of the provisions of each and all of said supplementary declarations which may hereafter be recorded in accordance with the foregoing provisions of this Declaration.

Each and every Owner of property described in Exhibit A and of all property added hereafter, their respective mortgagees, grantees, heirs, administrators, executors, legal representatives, successors and assigns, purchasers, and lessees by their acceptance of any deed or mortgage or other interest in or with respect to any property in the Development Tract further acknowledges, consents and agrees as to each such supplementary declaration that is recorded as follows:

- a. all of the property described in Exhibit A, except as exempted herein, shall be governed in all respects by the provisions of this Declaration;
- b. the Covenantor reserves the right for itself and its successors and assigns to amend this Declaration in such manner, and each Owner agrees to execute and deliver such documents as may be necessary or desirable to cause the provisions of this Article II to be carried out in full.

Section 3. Burden Upon the Property. The Covenantor declares that this Declaration and the covenants, restrictions, conditions, reservations, easements, charges, and liens established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and shall be binding upon each and every Owner and his or her respective mortgagees, heirs, administrators, executors, legal representatives, successors and assigns, purchasers, and lessees. By the recording or acceptance of the conveyance of property or any interest therein, the person or entity to whom such interest is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

Section 4. Rights of Owners. Upon the recording of any supplementary declaration as set forth above, all rights, obligations, easements, restrictions, and liabilities of the Owner shall apply to the entire property as then constituted (including the Additional Property) in the same manner as if the entire property was originally subjected to the terms of this Declaration on the date of its recordation.

Section 5. Application of Declaration. In the event that any Additional Property is subjected to this Declaration pursuant to Section 2 or Section 3 of this Article, then the following provisions shall apply and shall be deemed to be a binding amendment to this Declaration:

- a. the number of Class A members of the Association shall be increased by the number of Units included in the Additional Property and the number of votes shall likewise be increased.
- b. the assessment for annual maintenance and special assessments for maintenance expenses and capital improvements shall be allocated equally against all Units within MONASTERY WOODS Subdivision and the Additional Property.
- c. all provisions of this Declaration shall apply to said Additional Property.

Section 6. Non-Severability of Rights. The rights, liabilities, and obligations set forth herein shall attach to and run with the ownership of a Lot or a Dwelling Unit as more specifically set forth below, and may not be severed or alienated from such ownership.

Section 7. Excluded Property. Any real property designated as park sites and which will be donated and/or sold to the appropriate governmental authority shall be specifically excluded from the covenants, restrictions, conditions, reservations, easements, charges, and liens established by this Declaration and shall not be subjected to this Declaration at the time of the recording of this Declaration. This exemption shall also apply to any other properties which are subsequently acquired as park or school sites by a governmental authority. This exemption shall not apply to any Lots or Dwelling Units within the Development Tract which are owned by a governmental authority and are used for residential purposes.

These properties shall remain excluded from the provisions of the Declaration provided that they are not used for residential purposes. If any property is used for residential purposes, it shall become subject to the provisions of the Declaration and the covenants, restrictions, conditions, reservations, easements, charges, and liens established by the Declaration without any further action by the owners of said properties, the Association, and/or the Covenantor.

### **ARTICLE III** **GENERAL PURPOSE**

The purpose of this Declaration is to provide for high standards of maintenance in the Development Tract so as to ensure a residential community of the highest quality and character for the benefit and convenience of all Owners of Lots and Dwelling Units in MONASTERY WOODS and all residents of MONASTERY WOODS.

### **ARTICLE IV** **HOME OWNERS ASSOCIATION**

Section 1. Creation. The Covenantor shall cause to be incorporated under the laws of the State of Indiana a not-for-profit corporation to be named the MONASTERY WOODS Master Homeowners Association.

Section 2. Membership. Every person or entity who is a record Owner of a Lot or a Dwelling Unit in MONASTERY WOODS or who is the beneficiary of a land trust holding title to a Lot or Dwelling Unit in MONASTERY WOODS shall be a Member of the Home Owners Association irrespective of the inclusion, exclusion, incorporation by reference, or any specific expression or lack thereof to the effect in the deed or other documents of conveyance. Membership is appurtenant to and shall not be separated from ownership of a Lot or a Dwelling Unit in the Development Tract. Thus, membership shall automatically terminate upon the sale, transfer, or other disposition by a Member of its ownership of a Lot or a Dwelling Unit in MONASTERY WOODS at which time the new Owner shall automatically become a Member of the MONASTERY WOODS Master Homeowners Association.

Such membership may not be sold or transferred other than in conjunction with the sale or transfer of the title interest in the Lot or Dwelling Unit to which it is appurtenant.

If more than one person or entity is the record Owner of or a beneficiary of a land trust holding title to a Lot or Dwelling Unit in MONASTERY WOODS, all such persons or entities shall be considered collectively as one Member.

Each Member of the Home Owners Association shall be bound by and shall observe the terms and provisions of this Declaration, the Articles of Incorporation, the By-Laws of the Home Owners

Association, and the rules and regulations promulgated from time to time by the Home Owners Association or its Board of Directors.

Any person or entity who holds an interest in a Lot or a Dwelling Unit in MONASTERY WOODS merely as a security for the performance of an obligation or any person in possession of a Lot or a Dwelling Unit under a contract to purchase such Lot or Dwelling Unit shall not be a Member of the Home Owners Association.

No Member shall have any right or power to disclaim, terminate, or withdraw from its membership in the Home Owners Association or from any of its obligations as such Member by abandonment of its Dwelling or for any other reason.

Ownership of a Lot or a Dwelling Unit in the Development Tract shall be the sole qualification for membership and there shall be one membership for each Lot on which a detached single-family residence is or will be located and for each Dwelling Unit in a multi-unit building.

Section 3. Voting Rights. The Home Owners Association shall have two classes of voting members:

Class A: Class A Members shall be all record Owners of Lots and Dwelling Units in MONASTERY WOODS and all beneficiaries of land trusts holding title to Lots and Dwelling Units in MONASTERY WOODS with the exception of the Covenantor.

Class B: Class B Member shall be the Covenantor.

The Class A Members shall be entitled to one vote for each Lot owned on which a detached single-family residence is or will be located and for each Dwelling Unit owned, constructed or proposed to be constructed in a multi-unit building. If more than one person or entity is the record Owner or beneficiary of the title-holding land trust of a Lot or Dwelling Unit in MONASTERY WOODS, then the vote for that Lot or Dwelling Unit shall be exercised as those persons or entities amongst themselves determine. No more than one vote shall be cast with respect to any such Lot on which a detached single-family residence is or will be located or any such Dwelling Unit constructed or proposed to be constructed in a multi-unit building.

The Class B Member shall be entitled to five votes for each Lot owned on which a detached single-family residence is or will be located or each Dwelling Unit owned, constructed or proposed to be constructed in a multi-unit building and for each Lot proposed to be developed on which a detached single-family residence is or will be located and for each Dwelling Unit in a multi-unit building proposed to be built by the Covenantor in the Development Tract.

The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first: (i) upon conveyance of the title of a Lot or a Dwelling Unit in MONASTERY WOODS or (ii) whenever the Class B Member elects to do so.

The Home Owners Association shall have the right to suspend the voting rights of any Member for any period during which an assessment levied by the Home Owners Association against the Member's Lot or Dwelling Unit remains unpaid.

Section 4. Powers, Duties and Responsibility. The Home Owners Association is created to carry out the purpose of this Declaration of Covenants and Restrictions. In order to carry out that purpose, the Home Owners Association shall be the governing body for all of the Owners and beneficiaries of title-

holding land trusts of Lots and Dwelling Units in MONASTERY WOODS. It shall exercise the following powers and shall assume the following duties and responsibilities:

- a. to provide for highest standards of maintenance of the Development Tract and to make and promote the desired quality and character of MONASTERY WOODS;
- b. to receive property of every kind, whether real or personal, and to administer and apply such property and the income therefrom exclusively for the purposes of the Home Owners Association;
- c. to receive any gift, bequest, or devise of any property for any purpose specified by the donor or testator or for any of the purposes of the Home Owners Association;
- d. to maintain, repair, and replace the following in MONASTERY WOODS:
  - i. all entrance monuments and accompanying landscaping, vegetation, and grass within the sign easement areas designated on the Final Plat;
  - ii. the park/open space/entrance areas designated on the Final Plat as being conveyed to the Homeowner's Association including the walkway paths, other structures and improvements, landscaping, vegetation and grass;
  - iii. any property owned or leased by or dedicated to the Home Owners Association;
- e. to provide for a general fund to enable the Home Owners Association to exercise its powers, duties, and responsibilities as delineated in this Declaration, its Articles of Incorporation, and its By-Laws by levying an annual assessment or special assessment;
- f. to enforce any lien for non-payment of any assessment;
- g. to take any action necessary to effectuate the purposes of this Declaration.

Section 5. Board of Directors. The affairs in the Home Owners Association shall be managed by a Board of Directors.

The initial control and management of the Home Owners Association shall be entrusted to an initial Board of Directors which shall consist of three directors. Said Initial Board of Directors shall be selected by the Covenantor and the members need not be Owners of Lots or Dwelling Units in MONASTERY WOODS. The Initial Board of Directors shall hold office until a membership meeting to be held on Monday in October of the year following the completion and occupancy of the Dwellings on one hundred percent of the total number of Lots and one hundred percent of the total number of Dwelling Units in the entire Development Tract of MONASTERY WOODS. Said meeting, hereinafter being known as the Annual Membership Meeting, may be held at such other reasonable time or date not more than thirty days before or after said date as may be designated by written notice of the Board of Directors delivered to the membership not less than ten days prior to the date fixed for said new meeting. Prior to the completion and occupancy of the Dwellings on one hundred percent of the total number of Lots and prior to the completion and occupancy of one hundred percent of the total number of Dwelling Units in all of the multi-unit buildings in the entire Development Tract of MONASTERY WOODS, the Initial Board of Directors reserves the right to transfer control and management of the Home Owners Association to the second Board of Directors at any time it so decides irrespective of the criteria set forth in this paragraph.

When the Initial Board of Directors of three directors shall cease to hold office as specified herein, there shall be a meeting of the Members of the Home Owners Association for the purpose of electing a second Board of Directors. Said Board of Directors shall consist of five directors who shall hold office for two-year terms. However, in said Initial Member-elected Board of Directors, three of the five directors receiving the highest number of votes shall hold office for two years and the remaining directors shall hold office for one year only.

The By-Laws of the Home Owners Association shall set forth the general powers of the Board, the number, tenure and qualifications of directors, their term of office, manner of election and removal, and method of operation of the Board.

There shall be an annual election to fill the offices of the directors whose terms are expiring. Said election shall occur at the Annual Membership Meeting to be held on the first Monday of October of each year or at such other reasonable time or date not more than thirty days before or after said dates as may be designated by written notice of the Board of Directors delivered to the membership no less than ten days prior to the date fixed for said rescheduled meeting. Cumulative voting shall not apply in the election of the directors. Each Lot or Dwelling Unit shall have the number of votes as specified in Article IV, Section 3 herein.

The Board of Directors shall have the power to fill any vacancy that may occur in their own number or in any office of the Home Owners Association. The directors or officers so appointed shall serve for the unexpired term of the director replaced.

If any director fails to attend a majority of the number of meetings of the Board in any fiscal year, the Board may in its sole discretion declare his office vacant.

The regular meeting of the Board of Directors shall be held immediately after and at the same place as each Annual Membership Meeting. The Board of Directors shall establish a regular schedule and same shall be made available to the membership as the Board of Directors deems appropriate. Special meetings may be called on the order of the president or on the motion in writing of a majority of the directors. At least two days notice of such special meeting, specifying its purpose, shall be given by mail or personal service to each director.

A majority of the Board of Directors shall constitute a quorum for the transaction of business and the action of a majority of such quorum shall be the action of the Board of Directors. If a quorum is not present, a lesser number may adjourn the meeting to another date.

The officers of the Home Owners Association shall be president, vice president, secretary, and treasurer. They shall all be directors and elected by the directors at the regular meeting of the Board of Directors subsequent to the annual election of directors and shall hold their respective office for one year and/or until their successors are elected and qualified. The officers shall be subject to the control of the Board of Directors and may be removed by the majority of the directors at any regular meeting or any special meeting called for that purpose. The Board of Directors may elect such other officers as it deems necessary. The officers shall exercise their functions according to the By-Laws of the Home Owners Association.

In all other respects, the Association, its directors, officers and Members shall be governed by the State of Indiana General Not-For-Profit Corporation Act.

The members of the Board (including the Initial Board of Directors and the subsequent Member-elected Board of Directors) and the officers of the Home Owners Association shall not be liable to the Home Owners Association for any mistake of judgment or acts or omissions made in good faith while acting in their capacity as directors or officers. The Home Owners Association shall indemnify and hold

harmless the members of the Board and the officers thereof against all contractual liability to others arising out of contracts made by them, unless such contracts shall have been made in bad faith or with knowledge that same was contrary to the provisions of this Declaration. The liability of any Owner shall be limited to an amount determined by dividing the total liability by the total number of Owners subject to the terms of this Declaration. All contracts and agreements entered into by the Board or officers shall be deemed executed by said parties as the case may be as agent for the Owners or the Home Owners Association.

In the event of any disagreement between any Member of the Home Owners Association (i) relating to the responsibilities of the Home Owners Association as set forth in Sections 4 and 6 of this Article or (ii) any questions or interpretation or application of the provisions of this Declaration or the By-Laws of the Home Owners Association, the determination thereof by the Board shall be final and binding on each and all such Members of the Home Owners Association.

Section 6. Meetings. The initial meeting of the voting Members of the Home Owners Association shall be held as specified in Article IV, Section 5 herein. The Covenantor or the Initial Board of Directors shall notify the Members of said initial meeting at least ten days prior to the date of the meeting. Thereafter, there shall be an Annual Membership Meeting of the voting Members on the first Monday in October or at such other reasonable time or date no more than thirty days before or after said date as may be designated by written notice of the Board of Directors delivered to the membership not less than ten days prior to the date fixed for said meeting. The purpose of the initial Annual Membership Meeting and all subsequent Annual Membership Meetings shall be to elect directors and to conduct Association business. Special meetings of the voting Members may be called at any time for the purpose of considering matters which by the terms of this Declaration require the approval of all or some of the voting Members, or for any other reasonable purpose. Said meetings may be called by the President, the Board of Directors, or the voting Members having, in the aggregate, not less than ten percent of the total votes of the Home Owners Association. Special meetings shall be held as provided in the Home Owners Association By-Laws.

The presence in person or by written proxy at any meeting of the voting Members having thirty percent of the total votes of the Home Owners Association shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein or required by the Indiana Not-For-Profit Corporation Act or the Articles of Incorporation of the Home Owners Association, any action may be taken at any meeting of the voting Members at which a quorum is present upon the affirmative vote of the voting Members having a majority of the total votes present at such meeting.

Section 7. Loan and Encumbrances. The Home Owners Association through the Board of Directors may not obtain a loan, whether secured or unsecured, or encumber the assets of the Association without approval by the majority of the total votes of the Home Owners Association present in person or by written proxy at a membership meeting called for this purpose. The presence in person or by proxy at said meeting of not less than thirty percent of the total membership shall constitute a quorum. However, said loan or encumbrance must be approved by not less than fifty percent of the total membership of the Home Owners Association. This provision shall not restrict the power of the Board or the Home Owners Association to contract for goods or services in the ordinary course of the Association's operations.

This provision may not be amended except by approval of not less than fifty percent of the total membership of the Home Owners Association present either in person or by written proxy at a meeting called for this purpose, all in accordance with Article X of this Declaration.

Section 8. Mechanic's Liens. The Association, through the Board of Directors, may cause to be discharged any mechanic's lien or other encumbrances which in the opinion of the Board may constitute a lien against the Common Area. Where less than all of the owners are responsible for the existence of said lien, the owners responsible shall be jointly and severally liable for the amount necessary to discharge the

same, and for all costs and expenses including attorney's fees and court costs incurred by reason of the lien.

Section 9. Rules and Regulations. The Board of Directors shall have the authority from time to time to adopt rules and regulations governing the administration and operation of the Development Tract, subject to the terms of this Declaration.

Section 10. Management. The Board of Directors may retain a professional management company, professional manager, or full time employee to (i) collect assessments and (ii) manage the Common Area and supervise the maintenance and operation thereof. The Association may itself subsequently elect to assume management responsibility for the Association and the Common Area and terminate any professional management.

The Board shall enter into management contracts only if such contracts shall (i) permit the termination thereof for cause by the Association upon sixty days prior written notice and (ii) be for a period of not more than two years. Such contracts may permit renewals thereof for periods not to exceed one year at a time by mutual consent.

## **ARTICLE V** **MAINTENANCE ASSESSMENTS FOR MONASTERY WOODS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot or a Dwelling Unit in MONASTERY WOODS by acceptance of a deed or other document of conveyance therefore, whether or not it shall be so expressed in any deed or other document or conveyance, shall be deemed to covenant and agree to pay to the Home Owners Association regular assessments and special assessments for capital improvements and maintenance expenses as provided herein. Such assessments shall be fixed, established, and collected from time to time as hereafter provided. The regular and special assessments together with such interest thereon and costs of collection thereof as hereinafter provided shall be a charge against and a continuing lien upon the Lot or Dwelling Unit against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the owner of such Lot or Dwelling Unit at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Home Owners Association shall be used for the purpose of promoting the health, safety, and welfare of the residents in the Development Tract and for any purpose of the Home Owners Association as specified in this Declaration or the Articles of Incorporation. All funds collected (except for such special assessment as may be levied against less than all of the Members and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use, and account of each of the Members in the ratio that the number of Lots or Dwelling Units owned by him bears to the total number of Lots and Dwelling Units in the Development Tract as the same is constituted from time to time.

Section 3. Regular Assessments. The Home Owners Association, through the Board of Directors, shall levy for each assessment year an assessment, applicable to that year only, for the purpose of enabling the Home Owners Association to exercise its powers and duties and to fulfill its responsibilities as delineated herein.

Section 4. Procedure. The Board of Directors of the Home Owners Association shall determine the amount of the assessment against each Lot and Dwelling Unit for each assessment year. The assessment shall be allocated equally against all Lots on which a detached single-family residence is or will be located and all Dwelling Units owned or constructed in a multi-unit building in MONASTERY WOODS, except for those Lots and Dwelling Units owned by the Class B Member; the Class B Member shall be obligated to pay any such annual assessments only as set forth in Section 8 hereof. The Board of Directors shall notify in writing each Member of the Home Owners Association of the amount of the assessment against the Member's Lot or Dwelling Unit no later than December 15 of each year. On or before February 1 of the ensuing calendar year, or otherwise as provided by the Board of Directors, each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Home Owners Association the annual assessment.

On or before April 1 of each calendar year, the Board shall supply all Members an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus allocations to reserves. Any amount accumulated in excess of the amount of required expenses and allocations to reserves shall be either: (i) deposited in the reserve fund or (ii) refunded to each Owner according to each Owner's share of the total assessment or (iii) remain in the operating account or (iv) distributed in a combination of (i), (ii) and/or (iii); the Board of Directors in its sole discretion shall make said election. If there is a net shortage in excess of five percent of the actual expenses plus budgeted allocations to reserves for the prior year, then said net shortage shall be billed to each Owner according to each Owner's share of the total assessments and same shall be payable within thirty days of billing. If there is a net shortage of less than five percent of the actual expenses plus budgeted allocations to reserves for the prior year, then said net shortage shall be included in the budget for the next fiscal year. The Board of Directors shall prepare a roster of the Lots and Dwelling Units and assessments applicable thereto which shall be kept in the office of the Home Owners Association and shall be open to inspection by any Owner. The Home Owners Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer or managing agent of the Home Owners Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 5. Change in Basis of Regular Assessments. The Board of Directors of the Home Owners Association may change the amount of the regular assessment during any assessment year provided that any increase in the assessment shall be approved by a majority of the Board of Directors at a meeting duly called for this purpose with appropriate notice and information provided to the membership prior to said meeting.

Section 6. Special Assessment for Maintenance Expenses. In addition to the regular assessments authorized by Section 3 hereof, the Home Owners Association, through the Board of Directors, may levy in any assessment year a special assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes or unexpected repair or replacement of any of the vegetation or improvements which are the responsibility of the Homeowners Association as specified herein or any liability or expense which in the reasonable judgment of the Board of Directors cannot be met without a special assessment; provided that any such assessments shall be approved by a majority of the Board of Directors, at a meeting duly called for this purpose with appropriate notice and information provided to the membership prior to said meeting.

The special assessment shall be allocated equally against all Lots on which a detached single-family residence is or will be located and all Dwelling Units constructed or proposed to be constructed in a multi-unit building in MONASTERY WOODS, except for those lots owned by the Class B Member; the Class B Member shall not be obligated to pay any such special assessments.

Section 7. Special Assessment for Capital Improvements. In addition to the regular assessments authorized by Section 3 hereof, the Home Owners Association, through the Board of Directors, may levy in any assessment year a special assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction of any improvements which are the responsibility of the Homeowners Association as specified herein, provided that any such assessment shall be approved by a majority of the total votes of the Home Owners Association present in person or by written proxy at a membership meeting called for this purpose.

The presence in person or by written proxy at said meeting of thirty percent of the total membership shall constitute a quorum. However, said assessment must be approved by a majority vote of Members in attendance either in person or by written proxy but by not less than thirty percent of the total membership of the Home Owners Association.

This provision may not be amended unless fifty percent of the total membership of the Home Owners Association, present either in person or by written proxy, approves such amendment at a meeting called for this purpose, all in accordance with Article XI of this Declaration.

The special assessment shall be allocated equally against all Lots on which a detached single-family residence is or will be located and all Dwelling Units constructed or proposed to be constructed in a multi-unit building in MONASTERY WOODS, except for those Lots or Dwelling Units owned by the Class B Member; the Class B Member shall be obligated to pay any such special assessments, only as set forth in Section 8 hereof.

Section 8. Assessments To Be Paid by Class B Member. With regard to (i) any Lots which are vacant or (ii) any Dwelling Units which are proposed and not yet under construction or (iii) any Lots on which Dwellings are being constructed or (iv) any Dwelling Units which are being constructed, the Class B Member shall not be obligated to pay any annual or special assessments for those Lots or Dwelling Units owned by it. For those Lots owned by the Covenantor on which there is a completed Dwelling but title has not been conveyed and Class B Member is not utilizing the Dwelling, and for those Dwelling Units owned by the Covenantor which are completed but title has not been conveyed and Class B Member is not utilizing the Dwelling, the assessment respecting any such Dwelling be limited to the aggregate amount of actual operating expenses from time to time required to be paid with respect to such Lot or Dwelling Unit. For those Lots owned by the Covenantor on which there is a completed Dwelling but title has not been conveyed and Class B Member is utilizing the Dwelling or the Class B enters into a lease or installment contract for the Lot, and for those Dwelling Units which are completed but title has not been conveyed and the Class B Member is utilizing the Dwelling or the Class B member enters into a lease or installment contract for the Dwelling, then the Class B Member shall be responsible for any payment of any annual or special assessments on those Lots and Dwelling Units on the same basis as any other Owner as provided herein. Actual operating expenses shall mean those ordinary expenses attributable only to the period in question covering the maintenance and operations of the Development Tract and shall not include capital expenditures, amounts set aside as a reserve for contingencies or replacements, prepaid items or inventory items to the extent attributable to subsequent periods. Until such time as title to seventy-five percent of the Lots or Dwelling Units have been conveyed to the purchasers thereof, the assessments covering the Lots and Dwelling Units which have not been sold by the Class B Member may be paid on a monthly basis or, at its option, paid to the Association at the close of each calendar year without interest.

Section 9. Reserve and Contingency Fund. The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Upon the conveyance of title to a Lot on which a detached single-family residence is or will be located or Dwelling Unit constructed or proposed to be constructed in a multi-unit building to the first purchaser of a Lot on which a detached single-family residence is or will be located or a Dwelling Unit constructed or proposed to be constructed in a multi-unit building, the grantee thereof shall pay to the Home Owners Association the sum of \$200.00 which shall be deposited in

the reserve and contingency fund; said payment is not in lieu of any annual assessment and is not refundable to the purchaser upon sale of its Lot or Dwelling Unit. The Board shall have the right to annually budget an amount to be allocated to the reserve and contingency fund; said amount to be determined at the sole discretion of the Board. The Board may also transfer excess annual operating funds to the reserve and contingency fund.

Section 10. Effect of Non-Payment of an Assessment. If any regular or special assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and costs of collection including reasonable attorneys' fees, thereupon become a continuing lien on the property and an equitable charge running with the land touching and concerning it, which shall bind upon property in the hands of the then Owner, his grantees, heirs, administrators, executors, legal representatives, assigns and successors, and the limitation thereof shall coincide with the statutory limitation of the State of Indiana for the enforcement of oral agreements. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass as a personal obligation to his successors in title unless (i) expressly assumed by them or (ii) said successors in title fail to require the then Owner to provide an assessment letter from the Association at the time of conveyance. If title to a Lot or Dwelling Unit is held by an Indiana Land Trust, the trustee shall not have any personal liability for the assessment, but all beneficiaries of the trust shall be jointly and severally so liable. In the event title to a Lot or Dwelling Unit is held by more than one Owner, all Owners shall be jointly and severally liable. The lien shall attach to rents due from parties in possession to the record Owners provided that it shall be subordinate to an assignment of rent held by a mortgagee delivered in connection with a first mortgage loan to purchase the Lot or Dwelling Unit.

If the assessment is not paid when due, a delinquency fee/late fee shall be charged to defray the costs and expenses of processing and attempting to collect said assessment. The delinquency fee/late fee shall be calculated at ten percent of the total cost of the assessment and shall be charged for each thirty day period, or any fraction thereof, that said assessment remains unpaid. The assessment and the delinquency fee shall bear interest from the date of delinquency at the maximum rate of interest per annum permitted by the usury laws of the State of Indiana and the Home Owners Association may bring an action at law against the Owner personally obligated to pay same or to foreclose the lien against the property and there shall be added to the amount of such assessment all reasonable costs of preparing and filing the complaint and maintaining and concluding such action, including the reasonable cost of title reports, and in the event a personal judgment or decree of foreclosure is obtained, such judgment or decree shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with all reasonable costs of the action. The venue for all legal action shall be in Lake County, Indiana. The persons in possession shall be authorized to accept the summons for the Owners of the Lot or Dwelling Unit.

In the event that title to any Lot and Dwelling Unit is conveyed to a land trustee, upon the demand of the Home Owners Association, the trustee shall furnish the Home Owners Association with a certified copy of the trust agreement so that the Home Owners Association shall be advised of the beneficiaries entitled to vote and who will be personally liable for the regular and special assessment.

Section 11. Continuing Obligation. The failure or delay of the Board of Directors to prepare or serve notice of the annual or adjusted assessment on the Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the assessments herein described including the maintenance costs and necessary allocations to reserves for the Home Owners Association as herein provided whenever the same shall be determined, and in the absence of notice of the annual or adjusted assessment each Owner shall continue to pay the assessment at the then existing rate established for the previous period until such annual or adjusted assessment shall have been mailed or delivered.

Section 12. Accounting. The Board shall keep full and correct books of account of receipts and expenditures specifying and itemizing the maintenance and repair expenses of the Development Tract and any other expenses incurred. Such records and the vouchers authorizing the payment therefor shall be available for inspection by any Owner or any representative of any Owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten days' notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or any other charges due and owing from such Owner.

Section 13. Non-Escape from Obligation. No Owner may waive or otherwise escape liability for the assessments provided for herein for any reason.

Section 14. Subordination of the Lien to the Mortgage. The lien for the assessments provided for herein shall be subordinated by the Home Owners Association by written document executed by its duly authorized officers and shall without any writing be subordinated to the lien of any mortgage placed upon the Lots or Dwelling Units subject to assessments for the purpose of purchasing the subject Lot or Dwelling Unit provided, however, that such automatic subordination shall apply only to the assessments which arise subsequent to the lien of the mortgage or mortgages; and provided further such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such property pursuant to the decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. The Owners agree upon accepting title that the lien of the assessments shall be prior to the homestead right of the Owners since it runs with the land and is in existence before commencement of ownership interests.

## **ARTICLE VI** **MAINTENANCE AND REPAIR**

Section 1. Responsibility of Owners. Each Owner of a Lot in the Development Tract shall provide at his own expense, all of the maintenance, decorating, repairs, and replacement on his own Lot and adjoining parkways, and each Owner of a Dwelling Unit in the Development Tract shall provide at his own expense, all of the maintenance, decorating, repairs, and replacement in his own Dwelling Unit, except for those items which are to be maintained by the Home Owners Association in accordance with Section 2 below, and shall keep same in good condition. Said maintenance on Lots shall include snow removal on sidewalks, lawn maintenance and weed control. Notwithstanding the foregoing, any portion of the Development Tract which is submitted to the Indiana Condominium Act (I.C. 32-25-1-1 et seq.) may be maintained by a condominium association designated for that purpose.

If a Lot is vacant or a Dwelling Unit is under construction, it shall be the responsibility of the Owner of each Lot or Dwelling Unit to have the Lot or the area around each Dwelling Unit graded level and mowed so that the weeds and grass do not exceed a height of six inches. The Lot or the area around each Dwelling Unit shall be kept clean and free of all debris and garbage.

All landscaping shall be installed in compliance with . final Landscape Plans for Monastery Woods as approved by the Town of Cedar Lake and the Design Review Guidelines as established pursuant to Article VII, Section 1 herein.

Section 2. Responsibility of Home Owners Association. The Home Owners Association shall be responsible for the maintenance, repair, and replacement of the property as specified in Article IV, Section 4d of this Declaration.

Section 3. Liability for Damage to Property. Each Owner in MONASTERY WOODS shall be liable for the expense of any maintenance, repair, or replacement of any of the property the Home Owners

Association is responsible to maintain in the Development Tract rendered necessary by his act, neglect, or carelessness or by that of any member of his family or his guests, employees, agents, or lessees. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights or subrogation.

Section 4. Maintenance of Common Areas. If the Home Owners Association fails to maintain the Common Areas, as shown on the Final Plat, the Town of Cedar Lake shall have the right, but not the obligation, to put into effect the previously established special service area which shall pay for the maintenance, repair, construction and/or reconstruction necessary to maintain said Lots and the facilities located thereon. The Owners of the Lots created by the Final Plat shall be jointly and severally liable for all costs, plus an additional ten percent, incurred by the Town of Cedar Lake in performing said work and any reasonable attorney's fees, including the costs of in-house counsel, connected with such costs.

Section 5. Maintenance of Landscape Easements. The Owners of Lots on which exist Landscape Easements shall permit the Home Owners Association, through its designated Members, employees, or agents, to come upon their Lots within said easements or any public utility and drainage easements. Further, said Owners may not prune, remove, or otherwise alter the vegetation, grass or grading within said Landscape Easements without written approval of the Home Owners Association. No fence shall be erected, installed or maintained nor shall any landscaping materials be planted, installed or maintained in any Landscape Easement without the written approval of the Home Owners Association. No signs of any type whatsoever, including "For Sale" signs, shall be permitted in said easements, except those erected and maintained by the Covenantor. No residential driveways shall be located within the Landscape Easements.

## **ARTICLE VII** **COMMON AREA**

Section 1. Members' Easement of Enjoyment. Every Member, as specified and limited in Article IV, Section 2 hereof, who is the Owner of a Dwelling Unit in MONASTERY WOODS Subdivision shall have a right and easement of enjoyment in and to the Common Area which right and easement shall include but not be limited to easements for pedestrian ingress and egress and the use of the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every Dwelling Unit subject to the following provisions:

- a. the right of the Association to pass reasonable rules including rules pertaining to use of the Common Area;
- b. the right of the Home Owners Association, in accordance with this Declaration and its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said property;
- c. the right of the Home Owners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members;
- d. as part of the overall development of the Development Tract into a residential community and to encourage the marketing thereof, the Covenantor shall for sales purposes only, have the right of use of the Common Area, during the sales and construction period on the Development Tract to aid in its marketing. Further, during the period of construction or sales, the Covenantor, its successors and assigns, shall have an easement over, across,

and through the Common Area for the purpose of marketing and/or the development of any portion of the Development Tract.

Section 2. Delegation of Use. Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area (other than the right to vote) to the Members of his family who reside in the Dwelling Unit.

Section 3. General Uses. The Common Area is restricted to ancillary uses of the Dwelling Units all for the benefit of the Owners of Dwelling Units in MONASTERY WOODS Subdivision. No alterations may be made to the Common Area except as may be authorized by the Board of Directors or made by the Covenantor.

Section 4. Ownership. The Home Owners Association shall own the Common Area. The Home Owners Association shall be responsible for the maintenance, repair, and replacement of the Common Area as specified in this Declaration.

At any time after the recording of this Declaration, the Covenantor may, but in any event, no later than six months after the completion, sale and occupancy of the last residence in the entire Development Tract, the Covenantor shall convey the Common Area to the Home Owners Association.

Section 5. Improvements. Until the Covenantor has completed its development, the Covenantor shall have the right to improve the Common Area as the Covenantor, in its discretion, deems appropriate; provided, however, that all costs and expenses thereof shall be borne by the Covenantor, except for maintenance assessments to be borne by Owners in accordance with the provisions herein.

Section 6. The Association's Rights. The Association shall have the right to build, construct, reconstruct, plant and replant, repair and maintain the Common Area as it deems appropriate.

Section 7. Damage, Destruction, or Condemnation. In the event any portion of the Common Area is taken by eminent domain proceedings or conveyed in lieu thereof or in the event any of the improvements located on the Common Area or any portion thereof shall suffer damage or destruction from any cause including condemnation, the proceeds of any policy or policies insuring against any such loss or damage and payable by reason thereof, or any condemnation awarded received shall be applied in the following order:

- a. in accordance with the terms and conditions of any instrument or agreement constituting a lien or other security interest in the Common Area or any improvements located thereon;
- b. if the balance of such insurance proceeds or award is sufficient to do so, then so much of the balance then remaining of such proceedings or award as is necessary shall be applied to the repair, restoration, or reconstruction of such improvements and the acquisition if possible of an equal amount of land, in order to restore the improvements and the integrity of the parcel of land comprising the Common Area to substantially the same condition existing prior to the damage, destruction, or taking; and
- c. any funds then remaining shall be distributed to the Members of the Association in the same proportion as their share of the assessments of the Association and any such distribution to the Members shall be first applied to any delinquent assessments. In the event the balance of such proceeds or award is insufficient to complete restoration or repair as aforesaid, then the use or disposition of such funds or the levying of a special assessment to raise additional funds shall be determined by Members of the Association

at a meeting duly called in accordance with the terms of this Declaration and the By-Laws of the Association.

Section 8. No Dedication to Public Use. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, expressed or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

Section 9. Storage. There shall be no storage of anything in the Common Area without the prior consent of the Association; provided, however, that Covenantor may store construction material on the Common Area when necessary in connection with the development of the Development Tract.

Section 10. Landscaping. No Owner shall cut, trim, spray, change, move, alter, work on, add or harm any landscaping, vegetation, grass, monuments or lights located in the Common Area, except upon the written consent of the Board

Section 11. Additional Uses. The Common Area shall not be obstructed in any manner whatsoever by any Owner; and no other use shall be made of the Common Area without the prior written consent of the Board

## **ARTICLE VIII** **ARCHITECTURAL STANDARDS AND USE RESTRICTIONS**

A. The following covenants, restrictions, reservations, equitable servitudes, grants, easements and set back lines shall be considered as running with the land and shall be binding upon respective Owners of said Lots, their heirs, executors, administrators, successors, mortgagers, grantees, leasees, and assigns:

Section 1. Garage Requirements As appurtenant to the residential building permitted by Paragraph (1) hereof and to be used exclusively in connection with such residential building, a private garage of sufficient size to house not less than two (2) standard size American made automobiles shall be constructed or erected, which garage must be attached to such residential building as an integral part thereof. Such garage shall not be used at any time as a residence, whether temporary or permanent. Such garage shall in architectural design and in proportionate construction cost conform to said residential building.

### Section 2. Permitted Construction Materials and Design

#### Section 2.1 Single Family Homes

The following is a list of items that will be considered by the ARC in its review:

- (a) Building materials and color shall be complimentary with the style and design of community.
- (b) Colors shall be chosen for compatibility with neighboring area; appropriate colors shall be subdued colors such as beige, brown, gray, etc. and should be selected to blend with the natural landscape.
- (c) Masonry and brick exterior accents are options and are encouraged.
- (d) The use of front porches is encouraged.
- (e) All driveways to be constructed shall have compacted gravel/crushed stone base per code with a

wearing surface of asphalt or concrete.

- (f) All roofs shall be designed with or a combination of gables, hips, sheds, etc. (no flat roofs are allowed). Minimum roof pitch shall be 4:12.
- (g) All retaining walls shall be built from pre-engineered concrete block, stone or brick.

Section 3. Anti-Monotony The purpose of an anti-monotony code is to preserve the visually pleasing character planned for MONASTERY WOODS. In so doing, it promotes individuality of homes and enhances property values.

Therefore, the following standards shall be adhered to:

- (a) No new single family detached dwelling of the same plan and appearance (defined as exterior colors and/or elevation) shall be built on either side of the dwelling or across the street facing it.
- (b) A dwelling on a corner Lot may be considered dissimilar to another if the two dwellings face different streets.

Section 4. Minimum Building Area And Setbacks In addition to all other requirements in this Declaration, the following shall be the minimum sizes for the homes in the Subdivision.

- (a) A one story residence shall contain at least twelve hundred (1,100) square feet.
- (b) A one and one-half story residence shall contain at least fourteen hundred (1,400) square feet (for all purposes of this Declaration, a one and one-half story residence shall be defined as a residence with a second floor above the first floor, which second floor is smaller in living area than the first floor but not to include those buildings commonly described as multi-level, split-level, bi-level or tri-level).
- (c) A two story residence shall contain at least sixteen hundred (1,600) square feet.
- (d) Residences which are commonly referred to as multi-level, bi-level, tri-level or split-level shall be discouraged in said Subdivision.
- (e) Setback Requirements: All structures shall meet the minimum setback requirements as shown on the Final Recorded Plat of Monastery Woods Subdivision.

Section 5. No Temporary Buildings, Out Buildings, Campers, Trailers, Etc. No temporary house, campers, habitable motor vehicles, boats, pet enclosures, batting cages, sheds, trailers, tents, stands, recreational appurtenances, shacks, basements or other structure or building of a temporary character shall be constructed, placed, allowed to exist or used on any Lot at any time as a residence. No vehicles shall be repaired except inside a garage.

Section 6. Signs Owners of a Lot may indicate that the Lot and/or residence thereon is for sale or for rent by posting a sign on the property. No other signs, banners or other manner of advertisement shall be permitted in the Subdivision without the express written consent of the Developer, or his successor or assigns. This provision shall not apply to any sign the Developer may erect identifying or advertising the Subdivision. This provision shall not prohibit a home builder from advertising a model home or sales office in this Subdivision.

Section 7. Lot Owner's Responsibility For Sidewalks And Damage To Sidewalks & Curbs In the event the Town of Cedar Lake shall within two (2) years after the issuance of an occupancy permit for home on a Lot Owner's property require the replacement or repair of curbing or sidewalks in front of the Lot Owner's Lot, the Lot Owner shall at his own expense repair or replace such sidewalk or curb in accordance with the requirements of the Town of Cedar Lake. It shall be the responsibility of the Lot Owner to prevent such damage from occurring by adequately protecting the curb and sidewalk during the construction of his home. In the event of the failure of the Lot Owner to make such repairs, Developer shall have the right to make such repairs and to file a lien for any costs of repairs he incurs. In the event it becomes necessary for Developer to sue to collect the amount of said repairs, Owner shall be responsible for the payment of Developer's court costs and legal fees.

Each Lot Owner shall, at his expense, install a sidewalk in accordance with engineering plans approved by the Town of Cedar Lake specifications across the full frontage of Lot Owner's Lot prior to the Town of Cedar Lake issuing an occupancy permit for any residence built upon said Lot. In the event Lot Owner fails to install said sidewalk, Developer may install said sidewalk and lien Lot Owner's Lot for the cost of materials and labor expended by Developer, including legal fees necessary to enforce said lien.

Each lot owner is responsible for the maintenance of any erosion control measures initially installed by Developer, and shall repair or replace such erosion control measures when requested by the Developer or the Town of Cedar Lake. Prior to the start of construction of any Lot, the Lot owner shall install and maintain such erosion control measures as are required by the Developer or the Town of Cedar Lake to prevent siltation of storm drainage systems, roadways, ponds and off-site properties.

Section 8. No Trucks, Campers, Etc. To Be Kept On Any Lot Or On Any Street No commercial trucks, buses, or commercial vehicles shall be permitted upon any Lot except when such truck or commercial vehicle is actually delivering or unloading personal property to and from the Lot and except any truck or commercial vehicle which is restricted to the interior confines of the private garage. However, an Owner shall be permitted to park their one (1) work vehicle (Pickup truck or Van) on the driveway if said work vehicle is used on a regular basis and is not "stored" or parked for any extended periods of time.

No private vehicles shall be continuously parked on the streets or roadways, but shall be kept in the driveway of the Lot or in the private garage, it being the intention to prevent obstruction of the street by continuous parking thereon.

Trucks, truck-mounted campers, motor homes, trailers, house trailers, boats, boat trailers, and campers may be stored on a paved surface on a Lot during the season in which such equipment is used. No junk automobiles, unsightly, dilapidated or disabled vehicles of any kind shall be maintained, stored or parked on any of the Lots in the Subdivision unless housed or garaged completely in a structure which complies with this Declaration.

Anything contained herein to the contrary notwithstanding, the provisions of this Section shall not apply to initial construction by Developer.

Section 9. Junk, Machinery, Storage Tanks And Materials No implements, machinery, lumber or building materials shall be permitted to remain exposed upon any Lot so they are visible from the streets or any neighboring Lot, except as necessary during the period of construction of a building thereon. No Lot in the Subdivision shall be used for storage of unsightly materials. Storage tanks, either elevated or at grade, are prohibited.

Section 10. Fences No fence shall be constructed on any Lot in the Subdivision except as herein provided.

- (A) No fence shall be constructed without the prior written approval of the ARC.
- (B) No fences shall be installed or maintained upon the Property unless such fence or fences are constructed of cedar, board on board, natural in color. In no event shall any fence exceed (5) feet in height, except a perimeter fence as described below.
- (C) A subdivision perimeter fence along major transportation arteries or community boundary, shall be cedar, board on board, natural in color, six (6) feet in height. There shall be no exceptions.
- (D) Fences used as an enclosure of a swimming pool (if permitted by governing municipality) within close proximity to the pool, may be constructed of maintenance free aluminum, steel or PVC. This fence shall be defined as a swimming pool enclosure fence only, not a lot or property line fence.
- (E) The construction of chain link fences within the Property is prohibited, with the exception of dog runs, which must be attached to the house.
- (F) All fences in the community as described above must not only comply as described above, but also in accordance with the laws and ordinances of the governing municipality.
- (G) All fences shall be maintained by the Lot Owner in a condition that is comparable to the condition when new and shall not be permitted to deteriorate or become unsightly due to weathering or neglect.

Section 11. Driveway Requirements No residence or building erected or placed on any Lot in the Subdivision shall be occupied in any manner at any time prior to the installation and construction thereon by the Owner thereof (at the Owner's sole expense), of a concrete, brick, or asphalt paved driveway from the street to the garage, provided, however, that this requirement may be extended for a period not to exceed one hundred eighty (180) days in the event such building shall be ready for occupancy during a time when inclement weather or labor strike shall prevent the construction and installation of such driveway.

Section 12. Exterior Color Plan The ARC shall have final approval of all exterior color plans and each Owner must submit to the ARC a color plan showing the color of the roof, exterior walls, shutters, trim, etc. The ARC shall consider the extent to which the color plan is consistent with the homes in the surrounding areas and the extent to which the color plan conforms with the natural color scheme of and for MONASTERY WOODS.

Section 13. Roofs Flat roofs shall not be permitted. No built-up roofs shall be permitted.

Section 14. Curbside Mailboxes In the event curbside mailboxes (boxes not attached to the residence) are required for delivery of the U.S. Mail in the Development, the Owner of each Lot upon which a residence shall be constructed shall install, erect or place on such Lot or within any other Lot or any right-of-way in the Development only such a mailbox or receptacle as the ARC shall approve.

Section 15. Artificial Vegetation No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ARC.

Section 16. Clothes Drying Area No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the building to be constructed on the Lot.

Section 17. Rubbish, Trash And Garbage No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot, except in enclosed containers located in appropriate areas concealed from public view and trash receptacles shall not be placed at curbside for pickup for more than 12 hours prior to pickup.

Section 18. Lawn & Landscaping All landscaping shall be substantially installed within sixty (60) days of substantial home completion or the issuance of an occupancy permit, whichever occurs first. Parkway, front and side yards shall be sodded or seeded. "Substantially installed" includes the installation of all specified turfgrass, trees, shrubs, etc. The required sodding, seeding, and landscaping of homes completed or occupied between November 1<sup>st</sup> and April 15<sup>th</sup> may not be possible due to unseasonable weather conditions. Landscaping in such situations must be substantially completed by the following May 30<sup>th</sup>. However, in situations where landscaping is delayed due to unseasonable weather conditions, erosion control methods shall be exercised to prevent siltation of roadways, ponds, storm sewers and off-site properties until such a time as permanent vegetative erosion control (turf grass, landscaping) is established.

Street trees with a diameter of 2" to 3" shall be planted in the parkway for each lot per the Final Landscaping Street Tree Plan provided by the Developer. All trees shall be of a type identified by a list established by the approved plans.

No landscaping shall commence until a complete landscape plan has been submitted to and approved by the Developer in writing.

Homes should seek to preserve and incorporate existing trees and other natural features into their landscape plan.

Lot grading shall follow and adhere to the final engineered grades. Any proposed modifications to final engineered grades shall be approved by the Developer in advance. Areas of cut and fill should be minimized and blended into the existing terrain.

Special attention should be given to the use of retaining walls. No walls over four feet shall be permitted. If required, walls should be terraced.

Erosion control fence or other approved method shall be placed on each lot during construction at the downslope sides, and all areas that abut open spaces and water features. Builders shall be solely responsible for street cleaning and erosion control during home construction. Erosion control shall be in accordance with all local, state and federal requirements.

Section 19. Ninety Days To Complete Shell And Six Months To Complete Finished Exterior The work of constructing, altering or remodeling any building on any said Lot shall be prosecuted diligently from its commencement and until the completion thereof. The complete exterior structure or shell, not including finished exterior wall materials (e.g. brick, stone or other approved material), must be completed and erected and constructed within ninety (90) days after the date construction of any residence shall have been commenced. The completion (including the roof and all exterior walls) on every building or residence commenced to be constructed in the Subdivision shall be completed within six (6) months after the date of commencement of such building. The effect of this provision shall be to require that on the exterior and from neighboring Lots each such residence shall appear completed within said six (6) months.

Section 20. Weed Cutting And Clean Up Each Lot shall at all times be kept in a clean and slightly condition. No trash, litter, junk, boxes, containers, bottles, or cans shall be permitted to collect or remain exposed on any Lot, except as necessary during the period of construction and in approved

containers. The Owner of each Lot shall be responsible for the cutting or removal of weeds periodically on such Lot so as to conform with the requirements, ordinances and regulations of the Town of Cedar Lake, Indiana.

Section 21. Antennae, Satellite Dishes. Above-Ground Pools No antennae, towers or satellite dishes are allowed, except that a television satellite dish of maximum of 24" in diameter shall be permitted, subject to review and approval of the ARC, if screened in such a manner that it is not visible from the street. Above-ground pools are allowed but must be fenced or screened with a locking gate in accordance with Town of Cedar Lake ordinances.

Section 21.1. Air Conditioning Equipment All central air conditioning equipment shall be located in the side or rear yards of the house and are prohibited from being located in the front of the house.

Section 21.2. Outdoor Furniture, Play Facilities Outdoor furniture and outdoor play equipment, toys or facilities shall be maintained in good 'like-new' condition and shall not be stored or maintained so as to create an eyesore or nuisance to neighboring houses or residents.

Section 21.3. Exterior Lighting Exterior lighting shall be subject to the approval of the ARC in conjunction with the approvals by the ARC in Paragraph 23 below, and shall in any event be placed or constructed in such a manner that such light shall not "spill" onto adjacent lots and shall not be a nuisance to other houses or residents.

## Section 22. Architectural Control To Preserve The Beauty, Quality And Value Of The Development

Section 22.1. Necessity of Architectural Review and Approval. No improvement or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, tennis court, screen enclosure, decorative building, deck, gazebo, play structure, lighted recreational area, landscaping, landscape device or object, exterior lighting, structure or other improvement shall be commenced, erected, placed or maintained upon in any Lot, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specification and location of the same shall have been submitted to, and approved in writing by the Architectural Review Committee (ARC). All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. No foundation shall be poured nor shall construction commence in any manner or respect until the layout for the structure is approved by the ARC.

Section 22.2. Architectural Review Committee. The Architectural Review Committee shall consist of three (3) or more members, who need not be members of the association, appointed by the Developer. The Developer shall have the right to appoint all of the members of the ARC, or such lesser number as the Developer may choose, as long as the Developer owns at least one lot in MONASTERY WOODS. In the event the Developer shall relinquish its authority to appoint the members of the ARC, after the Developer no longer owns at least one lot in MONASTERY WOODS, the members of the ARC shall be appointed by a majority of the Owners of Lots in MONASTERY WOODS at a meeting called for such purpose.

Section 22.3. Powers and duties of the ARC. The ARC shall have the following powers and duties:

- A. To require submission to the ARC of two (2) complete sets of all plans and specifications for any improvement or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, tennis court, screen enclosure, decorative building, deck, gazebo, play structure, lighted recreational area, landscaping, landscape device or object,

exterior lighting, structure or other improvement, the construction or placement of which is proposed upon any Lot in MONASTERY WOODS. The ARC may review and pre-approve preliminary plans of a proposed Owner prior to the submission of plans and specifications from an architect with the final review and approval contingent upon submission of plans and specifications from a licensed architect provided for herein. The ARC may require submission of samples of building and construction materials proposed for use on any Lot and such additional information as reasonably may be necessary for the ARC to completely evaluate the proposed structure or improvement in accordance with this Declaration including but not limited to, a site plan showing location of the buildings, landscape plan, fences, gas or electric yard light and other structures upon the Lot. The ARC shall encourage the use of natural siding materials, such as brick, stone, wood, fibre siding, or vinyl.

- B. The ARC shall have the unrestricted right to prevent the building of and to disapprove of any construction plans submitted to it as aforesaid if, in the sole opinion of the ARC:
- (1) Such site plans and/or construction plans are not in accordance with all of the provisions of this Declaration; or
  - (2) If the design, exterior and interior size, exterior shape, exterior construction materials or color scheme of the proposed building or other structure is not in harmony with the adjacent buildings, structures, or of the character of the Development; or
  - (3) If such site plans and/or construction plans as submitted are incomplete; or
  - (4) If the ARC deems the construction plans or any part thereof or any material used on the exterior of the building to be contrary to the spirit or intent of these conditions and restrictions, or contrary to the interest, welfare, or rights of all or any part of the real property, subject hereto, or the Owners thereof, or the adjacent property Owners, all in the sole and uncontrolled discretion of the ARC; or
  - (5) If the ARC shall, within its sole and unlimited opinion and discretion, deem the site plans and/or construction plans or any part thereof or the building or structure to be unacceptable or of such design or proportions, or to be constructed of such unsuitable materials or exterior color schemes as shall depreciate or adversely affect the values of other sites or buildings in the Development, or

The decisions of the ARC shall be final. Neither the Developer nor any agent of the Developer nor any member of the ARC shall be responsible in any way for any defects in any construction plans submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such construction plans. The ARC may require the deposit of a reasonable fee from the Lot Owner prior to review and approval of the plans or specifications. The ARC shall respond to submissions by Lot Owners within 45 days of receipt of submission, and shall in such response either approve, approve subject to modification being completed for resubmission, reject the submission or inform Lot Owner that submission is incomplete. In the event of rejection, the ARC shall indicate the reasons for such rejection.

Section 23. Acceptance By Grantees Each grantee of a Lot in this Subdivision, by the acceptance of a deed conveying any Lot in this Subdivision, shall accept title thereto upon and subject to

each and all of the covenants, conditions, restrictions, reservations, equitable servitudes, grants and easements herein contained, and by such acceptance shall for himself, his heirs, personal representatives, successors, assigns, grantees and lessees, covenant and agree to and with the grantees subsequent Owners of each said other Lots, to keep, observe, comply with and perform said covenants, conditions, restrictions, reservations, equitable servitudes, and grants.

The covenants, conditions, restrictions, reservations, equitable servitudes, grants, easements and set back lines herein contained and created in Paragraph A (all of which may hereafter be referred to as "restrictions") shall be considered as appurtenant to and running with the land and shall operate for the benefit of the Developer, its successors and assigns and all of the Lots in the Subdivision and may be enforced by the Owner or Owners of any Lot in said Subdivision, Town of Cedar Lake or by the Developer, its successors and assigns. A violation of the restrictions herein contained shall warrant the Developer, its successor and assigns or any other Lot Owner(s) benefiting thereby to apply to any court of law or equity having jurisdiction for an injunction to prevent such violation or for damages or other proper relief, and if such relief be granted, the Owner shall pay all court costs and reasonable attorneys' fees of the Developer, Town of Cedar Lake or other Lot Owner seeking relief. No delay or omission on the part of the Developer or their successors or assigns in interest, or the Owner or Owners of any other Lots in said Subdivision, or Town of Cedar Lake in exercising any right, power or remedy, herein provided for in the event of any breach of the restrictions herein contained, shall be construed as a waiver thereof of any acquiescence therein; and no right of action shall accrue nor shall any action be brought or maintained by or on account of the failure or neglect of the Developer, its successors or assigns, to exercise any right, power or remedy herein provided for in the event of any such breach, or for imposing any of the restrictions herein. In the event any lawsuit is filed by an Owner against the Developer, the person so filing the lawsuit shall be liable for all costs and attorneys' fees and other expenses of said case incurred by the Developer including the expense of expert witnesses. The restrictions herein shall continue for ten (10) years from the date of recording, at which time they shall continue for successive periods often (10) years unless by two-thirds (2/3) vote of the Owners of the Lots in said Subdivision at the beginning of each successive ten (10) years period they are amended or revoked.

At any time, and from time to time, while these restrictions are in effect, they may be amended or revoked by the recording (in the office of the Recorder of Lake County, Indiana) of an instrument declaring such amendment or revocation, which instrument shall be signed either by the Developer (or its successors and assigns) or by the then Owners of not less than two-thirds (2/3) of the Lots in said Subdivision, which declaration shall set forth such amendment or revocation and shall be effective from and after the date of its recording; provided, however, that if the Developer or its successors and assigns shall hold legal title to any Lot or Lots in the Subdivision, then an amendment or revocation signed by not less than two-thirds (2/3) of the Owners of such Lots must also be signed by Developer or such amendment or revocation shall not be valid. A certificate signed and acknowledged by the Recorder of Lake County or by an abstractor or title company doing business in Lake County that any such instrument of amendment or revocation has been signed by the then Owners of not less than two-thirds (2/3) of such Lots shall be deemed prima facie evidence that such instrument has been signed by the Owners of the required number of Lots. No certificate of any sort shall be required if such amendment or revocation shall be signed by the Developer or its successors and assigns. In the voting provided for herein and in making amendments and revocations to this Declaration, each of said originally platted Lots shall be deemed a unit and the Owner or Owners thereof shall be entitled to one (1) vote and shall count as one Owner in determining the number of votes and Owners.

Section 24. Easements And Street Rights Of Way Easements for installation and maintenance of utilities, detention areas, drainage ways, entrance way treatments, lighting, ingress and egress easements and rights of way running to the Town of Cedar Lake and various Utility Companies and drainage facilities are shown on the recorded subdivision and as are separately recorded against the title to the property and those included on the Plat of Subdivision. Within these easements, no structure,

planting, or other object or material shall be placed or permitted to remain which may damage or interfere with the purpose and use of such easement.

Section 24.1. Obligation To Maintain Common Areas And Rights Of The Town The entrance ways, detention ponds shall be maintained by Developer until such time as the Association is established and assigned the duty to maintain, and thereafter by the Association, in good condition and in substantial conformance with the initial plan approved by the Town. In the event the Developer or the Association fails to maintain the entranceways as hereinabove required, the Town shall have the right, but not the duty, to enter and perform such maintenance. The Town's maintenance rights may be exercised thirty (30) days after written notice is received by the Developer or the Association of the failure to perform the maintenance work and the Developer or the Association has not commenced such maintenance within fifteen (15) days of such notice receipt; provided however, in the event the failure to perform the maintenance work constitutes an emergency substantially threatening injury to persons or property, the Town shall be required only to give such notice as is practical under the circumstances before the exercise of its rights under this Article.

Section 24.2. Town of Cedar Lake Common Areas Lien Rights In the event the Association or an owner does not comply with the terms of these covenants, or any of the obligations set forth in any paragraph herein, (including, but not limited to, those provisions affecting the common areas) upon thirty (30) days notice, the Town of Cedar Lake shall have the right, but not the obligation, to enforce these covenants. Any actual funds that the Town expends or costs that the Town incurs in enforcing or complying with the terms of these covenants, including but not limited to reasonable attorney's fees, shall be reimbursed by the non-complying party. The Town shall have the right to lien the property of the non-complying party and enforce said lien to the full extent allowed by law, including but not limited to foreclosure of the same.

## **ARTICLE IX** **COVENANTOR'S RESERVED RIGHTS**

Section 1. Easements. Notwithstanding any provisions contained herein to the contrary, all covenants, restrictions, conditions, reservations, easements, charges, and liens created under this Declaration shall be subject to easements of record on the date hereof and any easements which may hereafter be granted by the Covenantor.

Section 2. General Rights. The Covenantor shall have the right to execute all documents or undertake any actions affecting the Development Tract which in its sole opinion are either desirable or necessary to fulfill or implement, either directly or indirectly, any of the rights granted or reserved to it in this Declaration.

The Covenantor shall have the right to maintain its sales facilities on the Development Tract without payment of any rent or other fee or charge therefor during the construction and sales period for MONASTERY WOODS.

The Covenantor shall have the right to amend this Declaration in whole or in part without complying with Article XI of this Declaration. This right shall cease upon the election of the Initial Member-elected Board of Directors.

Section 3. Individual Homeowner or Condominium Associations. The Covenantor reserves the right to review and approve the Articles of Incorporation, Declaration of Covenants and Restrictions, Declaration of Condominium Ownership, By-Laws, and rules and regulations of any homeowners association or condominium association created for any portion of the Development Tract. Said

documents must be in furtherance of the purpose of MONASTERY WOODS and be consistent with the duties, responsibilities, obligations, and procedures of the MONASTERY WOODS Master Homeowners Association. No articles of incorporation shall be filed with the Secretary of State, no declaration of covenants and restrictions or declaration of condominium ownership shall be recorded, and no by-laws or rules and regulations shall be effective unless and until the Covenantor approves said documents in writing.

## **ARTICLE X** **EASEMENTS**

Section 1. Easements for Utilities. Easements for the installation, construction, reconstruction, maintenance, repair, operation, and inspection of sewer, water, gas, drainage, electric, telephone, or other public utility services shall be granted as shown any the Final Plat of the Development Tract. Further, any additional easements for such purposes may be granted by the Covenantor and/or the Board of Directors at any time for the purpose of obtaining such utility services.

The provisions of this Declaration concerning rights, violations, enforcement, and severability are hereby made a part of the foregoing provisions relating to perpetual sewer, water, gas, drainage, and other easements, and notwithstanding any amendment to any other provisions of this Declaration, the aforesaid easement rights contained herein shall be perpetual and run with and bind the land forever.

### Section 2. Landscape Easements.

Easements for the planting and maintenance of landscaping shall be granted as shown on the Final Plat. Said easements are granted to the Home Owners Association. The provisions of this Declaration concerning rights, violations, enforcement and severability are hereby made a part of the foregoing provisions relating to perpetual Landscape Easements, and notwithstanding any amendment to any other provisions of this Declaration, the aforesaid easement rights contained herein shall be perpetual and run with and bind the land forever.

Section 3. Obstructions in Easements. No Utility Easement or Landscape Easements referred to above may be obstructed in any manner.

## **ARTICLE XI** **AMENDMENTS**

Section 1. Amendments. The provisions of this Declaration may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification, or rescission, certified by the Secretary of the Board of Directors. Said change, modification, or rescission shall be approved by not less than thirty percent of the total membership of the Association present in person or by written proxy at a membership meeting called for this purpose unless a higher percentage is required as specified in this Declaration.

Section 2. Notice of Amendment. The change, modification, or rescission, accomplished under the provisions of the preceding paragraph, shall be effective upon recordation of such instrument in the Office of the Recorder of Deeds of LakeCounty, Indiana.

Section 3. Rights of Covenantor. No amendment which shall adversely affect the rights of the Covenantor (including, but not limited to, the right to maintain sales facilities, signs, and access for construction set forth in this Declaration) shall be effective without the Covenantor's express written consent thereto.

## **ARTICLE XII** **GENERAL PROVISIONS**

Section 1. Duration. The covenants, restrictions, conditions, reservation, easements, charges, and liens as delineated in this Declaration shall run with and bind the land so as to insure the Owners of Lots and Dwelling Units and beneficiaries or trusts holding title to Lots and Dwelling Units in MONASTERY WOODS full enjoyment and benefit of their property. They shall inure to the benefit of and be enforceable by the Home Owners Association, or the Owner of any Lot or Dwelling Unit subject to this Declaration, their respective grantees, heirs, administrators, executors, legal representatives, successors and assigns, for a term of thirty years from the date this Declaration is recorded, after which time these covenants, restrictions, conditions, reservations, easements, charges, and liens shall be automatically extended for successive periods of ten years unless an instrument signed by the then owners of sixty-six percent of the Lots and Dwelling Units in MONASTERY WOODS has been recorded agreeing to change said covenants, restrictions, conditions, reservations, easements, charges, and liens in whole or in part. No such agreement to change shall be effective unless made and recorded three years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least ninety days in advance of any action taken.

Section 2. Notices. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly given if said notice was either (i) sent by mail with postage prepaid to the last known address of the person or entity who appears as the Owner on the records of the Home Owners Association at the time of such mailing or (ii) personally delivered to the last known address of the person or entity who appears as the Owner on the records of the Home Owners Association at the time of such delivery..

Section 3. Leasing of Residence. The leasing or rental of any dwelling unit shall be strictly prohibited under these provisions.

Section 4. Rights and Obligations. Each grantee by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed or other conveyance, accepts the same subject to (i) all covenants, restrictions, conditions, reservations, easements, charges, and liens, and the jurisdiction, rights, and powers created by this Declaration, and (ii) all rights, benefits, and privileges of every character hereby granted, created, reserved, or declared. All impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall inure to the benefit of such person in like manner as if he had been the original grantee under the deed of conveyance or any mortgage or trust deed or other evidence of obligation, to the rights described in this Declaration, and shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, and trustees of such Owners as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 5. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a residential community of the highest quality and character.

Section 6. Covenant to Abide by this Declaration.

The Covenantor covenants to abide by each and every covenant, restriction, condition, reservation, easement, charge, and lien set forth herein and agrees that all conveyances shall be subject to this Declaration as though each and every provision herein was set forth in each and every deed or document affecting title to the property.

Section 7. Covenant in Event of Dissolution of the Home Owners Association.

In the event the Home Owners Association is dissolved, the owners of Lots and Dwelling Units in MONASTERY WOODS agree that all provisions contained herein regarding maintenance, repair, and replacement in the Development Tract shall still apply and that those provisions of this Declaration shall be in full force and effect. Prior to the dissolution of the Home Owners Association, provisions shall be made as to how the responsibilities and obligations of the Association shall be handled by the Owners in MONASTERY WOODS.

Section 8. Property Ownership in Trust. In the event title to any Lot or Dwelling Unit is conveyed to a title-holding trust, under the terms of which all powers of management, operation, and control of the property remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens, or indebtedness and for the performance of all agreements, covenants, and undertakings chargeable or created under this Declaration against such Lot ownership or Dwelling Unit ownership. No claim shall be made against any such title holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or a lien upon the property ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such property ownership.

Section 9. Termination of Restriction. No action by the Home Owners Association or an Owner, whether by amendment or otherwise, shall be effective to remove the Development Tract (once subjected by recording to the terms hereof) from the terms and conditions of this Declaration, without the express written consent of a majority of all of the institutional holders of the mortgage liens records against the Lots or Dwelling Units, which consent shall not be unreasonably withheld.

Section 10. Fines. The Board of Directors of the Association shall have the right to establish and levy fines against an Owner for an infraction of any (i) rule or regulation promulgated by the Association or Board, (ii) requirement set forth in this Declaration, or (iii) provisions set forth in the By-Laws of the Association.

Section 11. Enforcement. Enforcement of these covenants, restrictions, conditions, reservations, easements, charges, and liens shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, restriction, condition, reservation, easement, charge, or lien, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants and restrictions. All reasonable costs of enforcement, including litigation expenses, title reports, and attorney's fees, shall be paid by the person violating or attempting to violate any covenant and restriction and any judgment or decree shall so provide for payment of these costs. Failure by the Covenantor, the Home Owners Association, the Town of Cedar Lake or any owner of a Lot or Dwelling Unit in MONASTERY WOODS to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration or the By-Laws shall be deemed to be abrogated or waived by reason of any failure to enforce same irrespective of the number of violations or breaches which may have occurred.

The Covenantor reserves the right to enforce these covenants, restrictions, conditions, reservations, easements, charges, and liens for so long as they shall exist. Further, the Town of Cedar Lake has the right, but not the obligation, to enforce these covenants, restrictions, conditions, reservations, easements, charges, and liens for so long as they shall exist. If an Owner of a Lot or Dwelling Unit in MONASTERY WOODS fails to pay any fee, charge or fine imposed by the Board of Directors or the Association, then same may be considered as an additional assessment applicable to said Lot or Dwelling Unit and enforced against said Lot or Dwelling Unit as provided in Article V herein.

Section 12. Severability. Invalidation of any one of these covenants, restrictions, conditions, reservations, easements, charges, or liens by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.



EXHIBIT A: LEGAL DESCRIPTION OF DEVELOPMENT TRACT

EXHIBIT B: FINAL PLAT