

Declaration of Covenants, Conditions and Restrictions  
of  
Winslow Farm

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this 9<sup>TH</sup> day of September, 1992, by Winslow Development Company, Inc., an Indiana business corporation as Declarant.

R E C I T A L S

- (A) Declarant is the owner of the fee simple title to the Real Estate, located in Monroe County, Indiana; and,
- (B) Declarant intends to sell the Real Estate restricting it in accordance with a common plan designed to preserve the value and residential qualities of the Real Estate for the benefit of its future owners;
- (C) Declarant may subject additional real estate to this *Declaration* as title is acquired.

NOW, THEREFORE, Declarant declares that the Real Estate (including any additional Real Estate) shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the covenants and restrictions hereinafter set forth expressly and exclusively for the use and benefit of the Real Estate and of each and every person or entity who now or in the future owns any portion of the Real Estate. The provisions of this *Declaration* shall run with the land and shall be binding upon Declarant, and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Real Estate or portion of the Real Estate subject to this Declaration, and shall inure to the benefit of Declarant's successor in title to all or any portion of the Real Estate.

SECTION 1. DEFINITIONS. The following terms used in this Declaration shall have the following meanings:

- 1.1. Articles. "Articles" means the Articles of Incorporation of Winslow Farm Community Association, Inc., an Indiana not-for-profit corporation, a true copy of which is attached as Exhibit "A".
- 1.2. Buildings. "Buildings" means all structures erected on any portion of the Real Estate including residential dwellings, garages, accessory buildings, community buildings, outbuildings and all other permanent improvements consisting of a covered enclosed area.

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1.3. Commercial Vehicle. "Commercial Vehicle" means a truck, car, van, trailer or other wheeled object intended for roadway use which either has commercial advertising affixed to it or which exceeds 1/2 tons in gross weight.

1.4. Community Association. "Community Association" means the Winslow Farm Community Association, Inc., its successors and assigns, an Indiana not-for-profit corporation which is the incorporated association of Owners of Residences in Winslow Farm.

1.5. Community Board of Directors. "Community Board of Directors" means the governing body of the Community Association elected by the Owners in accordance with the Community By-laws.

1.6. Community By-Laws. "Community By-Laws" means the By-Laws of the Community Association, providing for the administration and management of the Community Association, a true copy of which is attached to this Declaration as Exhibit "B" and incorporated herein by this reference.

1.7. Community Maintenance Area. "Community Maintenance Area" means the Entrance Signage, the ponds and pumping equipment; and the pedestrian walkways to Winslow Woods Park located within Winslow Farm.

1.8. Community Expenses. "Community Expenses" means the expenses of administration of the Community Association, expenses for the upkeep, maintenance, repair, utilities, pesticide treatment and replacement of the Community Area and all other costs and expenses incurred by the Community Association for the common benefit of all Owners.

1.9. Community Plan. "Community Plan" means the plan of Winslow Farm attached hereto as Exhibit "C" and incorporated herein by this reference.

1.10. Declarant. "Declarant" means Winslow Development Company, Inc., an Indiana business corporation, developer of the Real Estate, and any successor or assignee of its interest in all or part of the Real Estate or in this Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Declarant for purposes of this Declaration.

10 days

1.11. Delinquency Date. "Delinquency Date" means the date which is ten (10) days after the due date of any Regular Assessment or Special Assessment.

1.12. Development Period. "Development Period" means the time from the execution of this Declaration until: (1) Declarant has turned over control of the

Community Association to the Owners; or (2) Declarant has sold all Residences within Winslow Farm; or (3) September 30, 1998, whichever is earlier.

1.13. Entrance Signage. "Entrance Signage" means the permanent Winslow Farm signage and attendant improvements and landscaping erected by Declarant located at the intersection of Winslow Road and Winslow Farm Drive and at the intersection of Winslow Farm Drive and Highland Avenue. It also includes the permanent neighborhood identification signage and attendant improvements and landscaping erected by Declarant which identifies each neighborhood within Winslow Farm.

1.14. Lot. "Lot" means the individual parcels of real property designated on a Plat for the construction of one attached or detached residence.

1.15. Mortgagee. "Mortgagee" means any holder, insurer or guarantor of any first mortgage lien on any Residence and related real or personal property.

1.16. Neighborhood. "Neighborhood" means any of the four (4) distinct developments identified as Moss Creek, Olde Mill, Bent Tree or Hickory Stick on the Community Plan.

1.17. Owner. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof, which owns the record fee simple title to a Residence; provided, that persons or entities owning a single Residence as tenants in common, joint tenants, tenants by the entirety or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Declaration.

1.18. Plat. "Plat" means the recorded subdivision plat for each Neighborhood as recorded in the Office of the Recorder of Monroe County, Indiana, as the same may hereafter be amended or supplemented. The Plat will describe the lot lines, public roadways, utility easements, drainage easements and sewer easements and in the case of property subject to the Indiana Horizontal Property Act, it includes the floor plans.

1.19. Real Estate. "Real Estate" means the real property located in Monroe County, Indiana, legally described in Exhibit "D" attached hereto and incorporated herein by this reference. As used in this Declaration, "Real Estate" includes the additional real estate described in Exhibit "E" presently owned by the Titleholder and which Declarant intends to subject to the terms of this Declaration in the future. If Declarant exercises its option to purchase any of the additional real estate in accordance with the terms of an *Option to Purchase Real Estate* dated December 2, 1991, or if Declarant otherwise acquires fee simple title to any of the additional real

estate, it may be subjected to the terms of this *Declaration* by a referring to this *Declaration* in any subsequent Deed or Plat.

1.20. Regular Assessments. "Regular Assessments" means the total annual budget for the Community Association based on the estimated cash requirement for the Community Expenses in the ensuing year as set forth in said budget, divided by the total number of Residences in Winslow Farms.

1.21. Residence. "Residence" means any attached or detached unit (including the Lot upon which it is built) constructed in any Neighborhood intended for independent use and occupancy by a single family which is occupied or completed and ready for occupancy.

1.22. Special Assessments. "Special Assessments" mean those Assessments levied by the Community Association as may be necessary for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto; and, (2) the expense of any other contingencies or events not provided for in the annual budget or the reserves of the Community Association; provided that no Special Assessments shall be levied without the assent of a majority of the Owners at a meeting duly called for this purpose. Each Owner shall pay the Association a Special Assessment based on the total sum approved to meet the costs and expenses as heretofore provided divided by the total number of Residences in Winslow Farm.

1.23. Titleholder. "Titleholder" means Rebecca Stuart, Robert L. Winslow, Rachel Rice and the Dana Frances Brown Trust who are currently the record titleholders to the real estate described in Exhibit "E".

1.24. Vehicle. "Vehicle" means motor homes, boats, trailers, campers, motorcycles, scooters, trucks, vans, tractors, tractor trailers, buses, automobiles and any other motorized wheeled object which is customarily used for transportation.

1.25. Winslow Farm. "Winslow Farm" means the Real Estate (including any Real Estate described in Exhibit "E" which is subsequently subjected to this *Declaration*) and appurtenant easements, and all other improvements of every kind and nature, whatsoever, now or hereafter located upon the Real Estate, and used in connection with the operation, use and enjoyment of the Neighborhoods under this common scheme.

SECTION 2. APPLICATION. This Declaration shall apply to all Neighborhoods and each Residence located within Winslow Farm. This Declaration shall apply with equal force to every Owner of a Residence within each Neighborhood.

SECTION 3. COMMUNITY ASSOCIATION.

3.1. Membership. The Community Association shall provide for the maintenance and repair, replacement, administration and operation of the Community Area, and will perform such other functions as may be designated to it. Each Owner of a Residence in Winslow Farm shall automatically be a member of the Community Association, but membership shall terminate when such person ceases to own a Residence, and will be transferred to the new Owner; provided, however, any person who holds the interest of an Owner in a Residence merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Community Association.

3.2 Classes of Members. The Community Association shall have three classes of members:

3.2.1. Class A. Class A members shall be all Owners except Declarant and shall be entitled to one vote for each Residence owned. All persons holding an interest in any Residence shall be members; however, each Residence represented shall have only one vote as the Owners of such Residence may determine.

3.2.2. Class B. The Class B member shall be Declarant and Declarant shall be entitled to ten (10) votes for each Residence owned. The Class B membership shall cease and terminate upon the first to occur of: (1) the date upon which the written resignation of the Class B member as such is delivered to the resident agent of the Community Association, provided, however, if Declarant, at such time still owns Residences, such membership shall be converted to a Class A membership; or, (2) the expiration of the Development Period.

3.2.3. Class C. Any and all natural persons who are officers, directors, partners, employees, or appointees of a Class A member or a Class B member may become a Class C member of the Community Association upon designation by a Class A member or a Class B member. A Class C member shall have no vote in matters of the Community Association, but may serve on the Board of Directors.

3.3. Initial Board of Directors. The initial Board of Directors shall be designated by the Declarant in the Community Articles shall be Class C members, and notwithstanding any provision in this Declaration or the Community Articles or the Community By-Laws to the contrary, shall continue as Directors until the expiration of the Development Period. If there is a vacancy or vacancies on the Board of Directors for any reason prior to the expiration of the Development Period

every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Community Board of Directors. Upon expiration of the Development Period, the Community Association shall elect a Community Board of Directors annually in accordance with and as prescribed by the Community By-Laws.

3.4. Duties of the Board of Directors. The members shall be entitled to vote for the election of the Community Board of Directors in accordance with the procedure outlined in the Community By-Laws. The Community Board of Directors shall be the governing body of the Community Association representing all of the members and being responsible for the functions and duties of the Community Association including but not limited to the management, maintenance, repair, replacement and upkeep of the Community Area. All of the Community Area shall be operated and managed by the Community Association.

3.5. Right of Community Board of Directors to Adopt Rules and Regulations. The Community Board of Directors may promulgate reasonable rules and regulations regarding the operation of the Community Association or the Community Area, as it may deem necessary from time to time. Such rules as are adopted may be amended by vote of a majority of the Community Board, and the Community Board shall cause copies of such rules to be delivered and mailed promptly to all Owners.

SECTION 4. ASSESSMENTS. Regular and Special Assessments shall be determined and collected as follows:

4.1. Annual Accounting. Annually after the close of each calendar year of the Community Association and prior to the date of the annual meeting of the Community Association, the Community Board of Directors shall cause to be prepared and furnished each Owner a financial statement which shows all receipts and expenses during the preceding calendar year. The annual accounting shall be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered.

4.2. Proposed Annual Budget. Annually on or before the date for notice of the annual meeting of the Community Association, the Community Board of Directors shall: prepare a proposed annual budget for the ensuing calendar year estimating the total amount of the Community Expenses for the ensuing year; and, furnish a copy of such proposed budget to each Owner at the same time as the notice of annual meeting is mailed or delivered. The proposed annual budget shall be submitted to the Owners at the annual meeting of the Community Association for adoption, and if so adopted shall be the basis for the Regular Assessments for the ensuing calendar year. At the annual meeting of the Owners, the proposed budget may be approved in whole or in part, or may be amended in whole or in part by a majority vote of the Owners present or represented at the meeting (provided a

quorum is present); provided, however, in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved.

The failure or delay of the Community Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owner shall not constitute a waiver or release of the Owner to pay the Community Expenses.

4.3. Regular Assessments. The Regular Assessment against each such Residence shall be paid in one (1) annual installment on the first day of January following adoption of the budget. Payment of the Regular Assessment shall be made to the Community Board of Directors as directed by the Community Board of Directors; provided, however, that any Owner may elect to pay Regular Assessments in advance. The Regular Assessment for each year shall become a lien on each separate Residence in Winslow Farm as of the date of the adoption of the annual budget. The initial Regular Assessment will equal Seventy-two Dollars and Sixty Cents (\$72.60) per year and Declarant agrees that the Regular Assessment will not increase by more than Ten Dollars (\$10.00) per year during the Development Period.

4.4. Special Assessments. No Special Assessments shall be levied without the assent of two-thirds (2/3) of the Owners at a meeting duly called for this purpose. Each Owner, subject to the Regular Assessment as described in Section 4.3 above, shall pay the Community Association a Special Assessment on or before the due date(s) established by the Community Board of Directors.

4.5. Adjustments. If the approved budget and Regular Assessments plus the reserves of the Community Association are insufficient to meet the Community Association's actual expenses in any year, such deficiencies may be corrected through one or more Special Assessments. If the approved Regular Assessments exceed actual expenses in any year, such surplus shall be retained and used to offset expenses in the next year(s).

4.6. Temporary Budget and Assessments. If for any reason an annual budget and the Regular Assessments for any year have not been determined as of January 1 of any year, the budget and Regular Assessments in effect during the preceding year shall continue in effect until such time as the annual budget and Regular Assessments are determined in accordance with this Declaration and the Community By-Laws; provided, however, that said preceding budget and Regular Assessments may be increased by up to fifteen percent (15%) as the Community Board of Directors, by majority vote, may deem necessary.

4.7. Reserve and Operating Funds. The Community Association shall be obligated to establish a reserve fund for the repair of the Community Area based upon good faith estimates of the useful life and replacement cost of such Community Area made or obtained by the Community Association. The reserve fund shall be

funded through the payments by the Owners subject to the Regular Assessment of Community Expenses and not by an extraordinary or Special Assessment. Extraordinary expenditures not originally included in the annual estimate that become necessary during the year shall be charged first against the reserve fund so established before any Special Assessment is made or levied therefor. In addition to the reserve fund, an operating fund shall be established and maintained by the Community Association. All amounts held by the Community Association pursuant to this Section 4.7 shall be maintained in a federally-insured, interest-bearing account in a bank or savings and loan association doing business in Monroe County, Indiana, and all interest thereon shall be added to and deemed a part of such fund.

4.8. Status of Funds Collected by Community Association. All funds collected pursuant to this Section 4 shall be held and expended by the Community Association solely for the purposes designated herein, and, except for such adjustments as may be required to reflect delinquent or prepaid Regular or Special Assessments, shall be deemed to be held for the use, benefit and account of the Owners for the payment of Community Expenses.

4.9. Accounting Practices of the Community Association. The annual budget, the Regular Assessment and all sums assessed by the Community Association shall be established by using generally accepted accounting principles. The annual budget and the Regular Assessment shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Community Area to the extent such capital expenditures and replacement and repair is the obligation of the Community Association, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Community Area. Such replacement reserve fund for capital expenditures and repair of the Community Area shall be maintained by the Community Association in a separate interest-bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Monroe County, Indiana, selected from time to time by the Community Board of Directors.

4.10. Collection of Assessments. Each Assessment shall be due and payable on the due date thereof as specified in this Declaration or in the Community By-Laws, or if not so specified, then on any due date(s) determined by the Community Board of Directors. Any Regular or Special Assessment which is not paid in full by the Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner, and shall bear interest on the unpaid balance thereof from the Delinquency Date until fully paid, at a rate of interest equal to eighteen percent (18%) per annum. If any costs or expenses, including attorney's fees, are incurred by or on behalf of the Community Association with respect to the recovery or collection of any delinquent Assessment, all such costs and fees shall be due and payable immediately by such delinquent Owner and shall bear interest from the date

incurred until paid in full, at a rate of interest equal to eighteen percent (18%) per annum. All interest and all costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Residence as of the date on which such delinquent Assessment first became a lien, to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana. The Owner and any occupant of the Residence shall be jointly and severally liable for the payment to the Community Association of reasonable rental for such Residence and the Community Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the Residence and to collect the rentals and other profits therefrom for the benefit of the Community Association to be applied to the unpaid Regular Assessments or Special Assessments. The Community Board of Directors may at its option, bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same.

4.11. Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Community Articles or the Community By-Laws, any sale or transfer of a Residence to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior Owner from personal liability therefor.

4.12. Notice of Assessments. Upon thirty (30) days written notice to the Community Association and the payment of a reasonable fee, the Community Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Residence, a written statement setting forth the amount of all unpaid Assessments, if any, with respect to the subject Residence, together with the amount of the current assessments for Community Expenses and the date(s) such Assessments become due and payable. Any such written statement shall be binding upon the Community Association in favor of any person relying thereon in good faith.

SECTION 5. INSURANCE. The Owners through the Community Association shall purchase a casualty policy affording fire and extended coverage in an amount consonant with the full replacement value of the improvements that in whole or in part comprise the Community Areas and facilities paid as part of the Community Expenses. The Owners through the Community Association shall also purchase a liability policy in an amount required by the Community Bylaws or this Declaration or revised from time to time by a decision of the Community Board of Directors of the Community Association, which policy shall cover the Community Association, all persons acting or who may come to act as agents

or employees of the Community Association, all Owners and all other persons entitled to occupy any Residence or the titleholders to any Community Area. Such other policies as may be required by this Declaration may be obtained by the Owners through the Community Association including, without limitation, worker's compensation insurance, liability insurance on motor vehicles owned by the Community Association, and specialized policies covering land of improvements on which the Community Association has or shares ownership or other rights and officers' and directors' liability policies. The premium for the insurance obtained by the Community Association shall be paid by the Community Association as part of the Community Expenses.

SECTION 6. SIGNS

- 6.1. Entrance Signs. The Entrance Signs will be maintained, insured and repaired by the Community Association. Each area will be landscaped as deemed appropriate by the Community Board of Directors. All of such expenses will be Community Expenses.
- 6.2. Construction Signs. Declarant expressly reserves the right, at Declarant's sole expense, to construct and place temporary signage upon the Real Estate until expiration of the Development Period.
- 6.3. Other Signage. No sign of any kind, including "For Sale" signs shall be placed along Winslow Farm Drive, Hickory Stick Drive or Bent Tree Drive or any portion of Highland Avenue or Winslow Road which adjoins the Real Estate. No sign shall be nailed to any tree or attached to any street sign within Winslow Farm. Except as provided in this Section 6, no sign of any kind shall be displayed to the public view upon or within any Neighborhood except:
  - 6.3.1. one family name sign of not more than 144 square inches in area; or,
  - 6.3.2. any signs utilized by the Declarant for directional, identification, traffic, sales or marketing purposes; or
  - 6.3.3. a sign limited in size to 20 inches by 30 inches containing the words "For Sale" or "For Rent" indicating the name of the seller, seller's agent or lessor and a phone number.

SECTION 7. UTILITIES. All utilities including but not limited to water, gas, electric, sewer and cable television must be installed underground.

SECTION 8. COMMUNITY AREAS.

8.1. Community Fencing. The stone stacked fence erected within the Neighborhoods by Declarant shall be insured, repaired, and maintained as a Community Area as a Community Expense.

8.2. Ponds and Pumping Equipment. The ponds and pumping equipment located within Winslow Farm are Community Areas. The Community Association shall insure, maintain, repair and replace the ponds and pumping equipment to keep the waterscapes in a first-class condition. The Community Association will apply pesticides to the ponds if necessary to eradicate undesirable insects and weeds using commercially accepted treatments. All costs incurred by the Community Association in discharging its duties under this Section will be a Community Expense.

8.3. Pathways. The pathways located within Winslow Farm to Winslow Woods Park are Community Areas and shall be insured, maintained and repaired by the Community Association as a Community Expense.

8.4. Landscaped Right-of-Way. The public right-of-ways within Winslow Farm which were originally landscaped by Declarant will be insured, maintained and repaired by the Community Association as a Community Expense.

SECTION 9. FENCES, WALLS AND SCREENING.

9.1. It is the goal of the Declarant to keep all fencing or screening as harmonious as possible with the architectural character of Winslow Farm. **Accordingly, no fence, screen or wall may be installed by an Owner anywhere on the Real Estate without first receiving prior written approval of the Community Association.** The Owner will submit a site plan to the Community Association for approval showing the location of the fence, wall or screen; the building materials; the color and maintenance plan; and, the name of the person or firm doing the installation. No fence or screen will be approved if its installation will obstruct necessary sight lines for vehicular traffic. Undue obstruction of view or other amenities from adjoining properties will be taken into consideration by the Community Association when reviewing fences for approval. (Fences shall not be nearer to the front of a structure than the rear foundation line of the structure, except for decorative fences. Front fences may be placed parallel to the front foundation of a structure only if they do not cause unreasonable visual barriers and they are of identical materials as the main structure. The Declarant discourages fencing of the entire back yard due to the effect that this fencing may have on the feeling of spaciousness desired by other Owners. Fences may be privately installed but must be constructed to professional levels of quality. Non-professionally installed fences will be inspected by the Community Association after completion in order to ensure that the final product is of a professional quality and final approval of the

fence shall be deemed withheld until successful completion of this final review. Any fence, screen or wall installed without prior written approval from the Community Association may be required to be removed at the Owner's expense.

9.2. Height Restriction. The Declarant is of the opinion that the environmental integrity of Winslow Farm will be materially lessened if the open nature of the community is damaged by a proliferation of fences of excessive height. The specific fence height restrictions are as follows:

9.2.1. Property fencing and walls above grade shall not exceed 4 feet above grade unless otherwise approved by the Community Association.

9.2.2. The Community Association will not ordinarily approve any proposed fence which exceeds 4 feet in height unless the rear line of that Lot abuts a major arterial roadway or offers some other circumstances clearly unique to that Lot.

9.2.3. Patio screens/privacy fences shall not exceed 6 feet in height, except for pools and recreational fences which shall only be constructed around small patio areas of a backyard or to enclose an in-ground pool area.

### 9.3. Materials and Finish.

9.3.1. Wood fencing or screening will be allowed if the design is in conformity with the architectural design of Winslow Farm.

9.3.2. The installation of a chain link or other galvanized metal fencing will not be permitted unless it is vinyl coated or covered with similar coated material. Black or dark green are pre-approved; all other colors must be approved prior to construction.

9.3.3. All fencing or screening should preferably have finished material on both sides. If only one (1) side has finished materials, that side must face the public side of adjoining property.

9.3.4. Walls above grade should be constructed of natural stone, masonry, or attractive timber.

SECTION 10. RESTRICTIONS ON USE OF THE REAL ESTATE. In order to preserve the character of Winslow Farm, and without intending to limit the generality of the foregoing provisions, the following protective covenants and restrictions are imposed as a common scheme upon the Real Estate and shall be applicable to each Neighborhood and to each Residence: