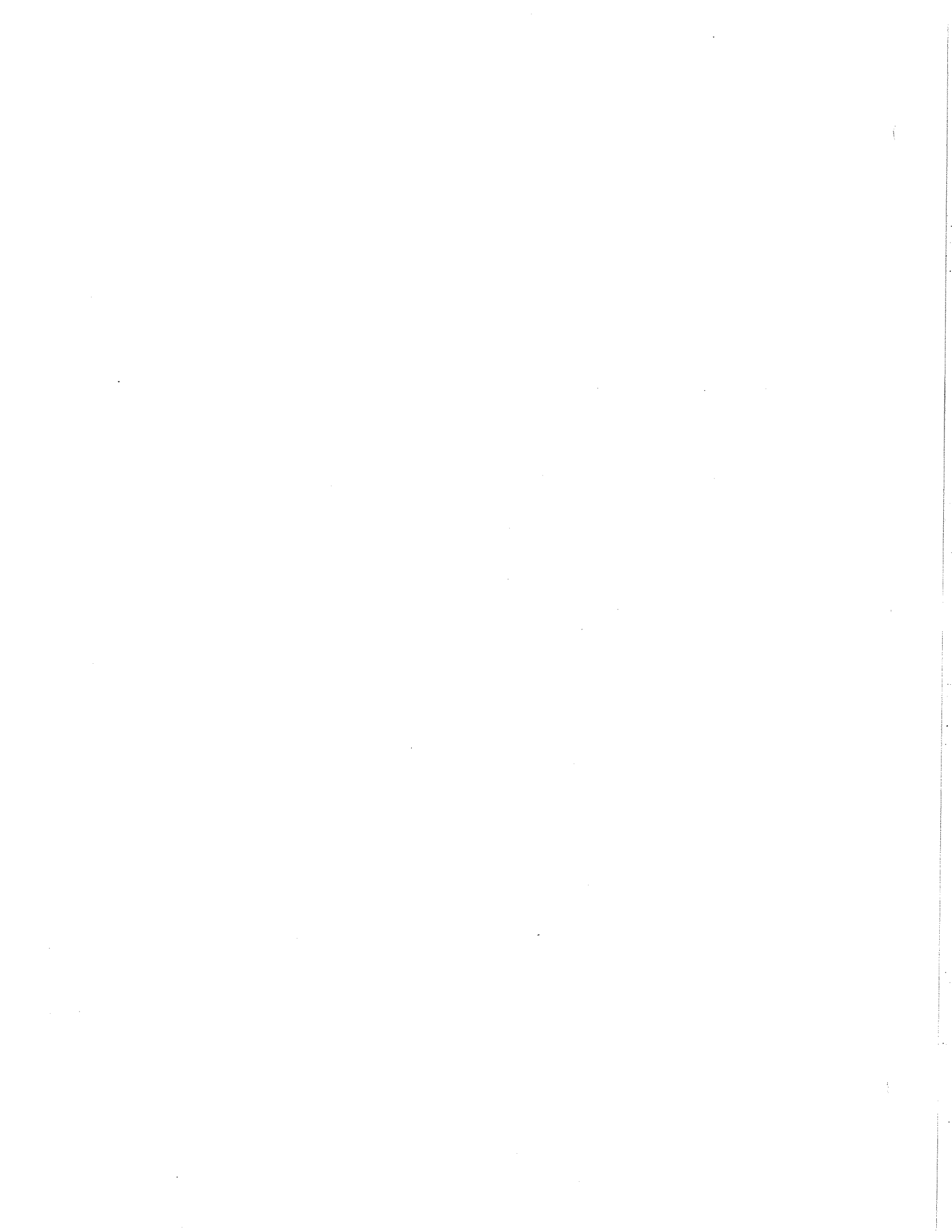


**SUPPLEMENTAL  
DECLARATION  
OF COVENANTS AND  
RESTRICTIONS  
FOR  
THE PRESERVE  
AT  
ABERDEEN**



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**SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
THE PRESERVE AT ABERDEEN**

THIS SUPPLEMENTAL DECLARATION is made on this 8 day of April, 1998, by Aberdeen Limited Partnership, an Indiana Limited Partnership, (hereinafter referred to as either "Developer" or "Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real estate located in Porter County, Indiana, more particularly described as:

Lot P-1A thru P-33A inclusively, in the Sixth RePlat at Aberdeen, being a RePlat of Lots W-1 thru W-12 and P-1 thru P-13 of Aberdeen Phase "C", as per plat thereof, recorded in Plat File 25-A-4J, in the Office of the Recorder of Porter County, Indiana.

WHEREAS, Declarant has heretofore executed and caused to be recorded a Declaration of Covenants, Easements and Restrictions for Aberdeen, dated May 1, 1995 and recorded on May 2, 1995 as Instrument No. 95-08289, at Miscellaneous Record Book 150, Page 57, in the Office of the Recorder of Porter County, Indiana as subsequently amended on September 22, 1995 and recorded on September 22, 1995 in the Office of the Recorder of Porter County, Indiana as Instrument 95-1924S at Miscellaneous Book 152, Page 34 (hereinafter referred to as the "Master Declaration"), pursuant to which mutual and beneficial restrictions, easements, covenants, conditions and charges were imposed upon the real estate hereinabove described as the Property; and

WHEREAS, Declarant intends to record this Supplemental Declaration to set forth specific and particular covenants and restrictions affecting The Preserve which are in addition to those imposed by the Master Declaration, for the purposes, among other things, of specifying architectural design standards for improvements to be constructed in The Preserve, the services to be provided for Owners in The Preserve by the Umbrella Association, The Preserve Assessments, if any, for such services (which are in addition to the assessments levied and collected by the Umbrella Association pursuant to the Master Declaration), and such other matters as may be peculiar to The Preserve in relation to the other properties subject to the Master Declaration; and

**WHEREAS**, Declarant intends to sell and convey the land situated within the platted areas of The Preserve and before doing so desires to subject and impose upon all real estate within the platted areas of The Preserve mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions") which shall be in addition to those imposed by the Master Declaration, under a general plan or scheme of improvement for the benefit and complement of the lands in The Preserve and future property owners thereof.

**NOW THEREFORE**, Declarant hereby declares that all of the lands located within The Preserve shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lands in The Preserve, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of The Preserve as a whole. All of the Restrictions 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 property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Declarant's successors in title to any real estate in The Preserve.

## **ARTICLE I DEFINITIONS**

The following terms or words, when used in this Supplemental Declaration, shall have the meanings attributed below:

**1.01. Approvals, determinations, permissions or consents:** "Approvals", "determinations", "permissions" or "consents" required herein shall be deemed given if they are given in writing, signed by the Declarant or on behalf of the Umbrella Association by the authorized officers of the Umbrella Association, and with respect to the Architectural Control Committee, by a majority of its members.

**1.02. Architectural Control Committee or Committee:** "Architectural Control Committee" or "Committee" shall mean the Architectural Control Committee as created by the Master Declaration and shall have the authority and duties as provided for therein.

**1.03. Board:** "Board" or "Board of Directors" shall mean the Board of Directors of the Umbrella Association.

**1.04. Common Areas:** "Common Areas" shall mean the open space area designated on the final plat of Aberdeen, the private streets constructed in The Preserve and the area over which the Declarant reserves to the Umbrella Association an easement.

**1.05. Declarant or Developer:** "Declarant or Developer" shall mean Aberdeen Limited Partnership, an Indiana Limited Partnership, its successors and assigns, if any such successor or assignee acquires the undeveloped portion of Aberdeen from the Declarant for the purpose of completing the Development.

**1.06. Development:** "Development" shall mean the properties as described in the Master Declaration which shall be known as "Aberdeen."

**1.07. Golf Course:** "Golf Course" shall mean any parcel of land adjacent to, or within, the Development which is privately owned and which is operated as a Golf Course, and all related and supporting facilities and improvements, including but not limited to golf cart paths, operated in connection with such Golf Course.

**1.08. Master Declaration:** "Master Declaration" shall mean the Declaration of Covenants, Easements and Restrictions for Aberdeen, and amendments thereto.

**1.09. Open Space:** "Open Space" shall mean any parcel of real estate shown on the recorded final plat to which an open space number has been assigned and which is to be dedicated to the Umbrella Association as Common Area.

**1.10. Owner:** "Owner" shall mean the record owner, whether one or more persons, of a fee simple title to any Unit in The Preserve, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation, and all Persons claiming an interest by or through them. If the Owner is a Land Trust, the beneficiaries of the Trust shall be deemed to be the Owner.

**1.11. Person(s):** "Person(s)" shall mean an individual, firm, partnership, corporation, limited liability company, limited liability partnership, association, trust or other legal entity or any combination thereof capable of holding title to real property.

**1.12. Plat:** "Plat" shall mean the plat recorded in Plat File 25-A-4J in the Office of the Recorder of Porter County, Indiana for the Sixth RePlat of Aberdeen .

**1.13. Preservation Easement:** "Preservation Easement" shall mean that area designated on the Plat as a Preservation Easement. The nature and extent of the Preservation Easement is set out in Section 4.02 of the Supplemental Declaration.

**1.14. Preserve or The Preserve:** "Preserve or the Preserve" shall mean The Preserve subject to these Supplemental Declarations.

**1.15. Property:** "Property" shall mean all the real estate subjected to this Supplemental Declaration, hereinabove described as the Property. The Property shall be known as "The Preserve".

**1.16. Public Areas:** "Public Areas" shall mean that part of the Property, if any, which the Declarant has or proposes to dedicate to Porter County, the City of Valparaiso or any other governmental bodies and/or the public utilities that may serve the general public and/or their respective assigns and/or successors in interest, for the public use and benefit.

**1.17. Supplemental Declaration:** "Supplemental Declaration" shall mean this instrument, and shall include such amendments, if any, to this instrument as from time to time may be adopted.

**1.18. Umbrella Association:** "Umbrella Association" shall mean Aberdeen Property Owners Association, Inc., an Indiana nonprofit corporation.

**1.19. Unit:** "Unit" shall mean a portion of The Preserve, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy for a detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include within its meaning single-family attached houses on separately platted lots as well as vacant lots or other tracts of land intended for development as such, but shall not include Common Areas, common property of any neighborhood property owners association or property dedicated to the public.

## **ARTICLE II PROPERTY SUBJECT TO THIS SUPPLEMENTAL DECLARATION; ADDITIONS THERETO, DELETIONS THEREFROM**

**2.01. Property Subject to Supplemental Declaration:** The real property which is and shall be held, transferred, sold, conveyed and occupied, subject to this Supplemental Declaration, is located in Porter County, Indiana, and comprises all of the property more particularly described previously in this Supplemental Declaration and referred to as the "Property".



**2.02. Platting and Retractable Real Estate:** The Declarant shall be entitled at any time, and from time to time, to plat, replat or vacate existing plattage of all or any part of the Property subject to this Supplemental Declaration. In addition, at the sole discretion of Declarant, any of the Property specifically described and made subject to this Supplemental Declaration, to the extent that any such portions of the Property are replatted, may be deleted from the Property subject to this Supplemental Declaration depending on the new use of the areas of the Property which have been replatted. All Owners, mortgagees and the Umbrella Association and all other persons claiming an interest in the Property are hereby deemed to consent to the replat and/or the deletion of portions of the Property subject to this Supplemental Declaration and waive all right to remonstrate against said replat or deletion.

### **ARTICLE III THE PRESERVE NEIGHBORHOOD COMMITTEE**

**3.01. Purpose and Powers:** The Owners of Units in The Preserve, shall establish The Preserve Neighborhood Committee. The general purpose of The Preserve Neighborhood Committee is to determine the nature and extent of services to be provided to The Preserve by the Umbrella Association in addition to those services provided to all members of the Umbrella Association in accordance with the Master Declaration. The Preserve Neighborhood Committee may advise the Board of Directors of the Umbrella Association on any other issue, but shall not have the authority to bind the Board of Directors. The Preserve Neighborhood Committee shall have all of the powers set forth in the Bylaws of the Umbrella Association and the Master Declaration.

**3.02. Election of Committee:** Initially The Preserve Neighborhood Committee shall consist of the Developer. After fifty-one percent (51%) of the Units have been sold, the Preserve Neighborhood Committee shall consist of three (3) Owners of Units in the Preserve. The Preserve Neighborhood Committee members shall be elected for a term of three (3) years, except that for the initial election, one (1) committee member shall be elected for three (3) years, one (1) committee member shall be elected for two (2) years, and one (1) committee member shall be elected for one (1) year. Each year thereafter, the committee members shall be elected for full three (3) year terms to fill the anticipated vacancies. Any Owner of a Unit in The Preserve who is elected to the Board of Directors of the Umbrella Association shall be an *ex officio* member of The Preserve Neighborhood Committee. A chairperson of The Preserve Neighborhood Committee shall be selected by the committee members and shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board of Directors of the

Umbrella Association. In the conduct of its duties and responsibilities, The Preserve Neighborhood Committee shall abide by the notice and quorum requirements applicable to the Board of Directors of the Umbrella Association.

**3.03. The Preserve Assessment:** In accordance with Article VI and Article VIII of the Master Declaration, The Preserve Neighborhood Committee may request that additional services or a higher level of services be provided to The Preserve by the Umbrella Association. These services will include, but shall not be limited to: (1) repair, maintenance and replacement of Braemar Drive (the private street in The Preserve) and the gate to be installed by Declarant at the entrance of Fentree Drive, and (ii) upkeep, maintenance, landscaping and related services within an Open Space or a Common Area. If such services are provided, any additional costs shall be considered a Neighborhood Expense (as set forth in the Master Declaration) and shall be assessed equally among all Units in The Preserve pursuant to the provisions of the Master Declaration. Such assessment shall hereinafter be referred to as The Preserve Assessment. The Preserve Assessment shall be paid directly to the Umbrella Association and will be initially set at Forty-Five Dollars (\$45.00) per month.

#### **ARTICLE IV ARCHITECTURAL AND NEIGHBORHOOD DESIGN STANDARDS AND BUILDING REQUIREMENTS**

**4.01. In General:** The Preserve is a neighborhood defined by the unique combination of native timber, dramatic topographical deviations, wetland vegetation, a spring fed pond, and bordered by either the meandering banks of Clark's Ditch or the fairways of The Course at Aberdeen. The architecture standards for The Preserve have been developed to enhance the natural beauty of the area. The intent is for the architectural standards to incorporate the simplicity and artistry of nature itself by insuring that all design plans are a harmonious blend of function and aesthetics. The homes should blend into not stand apart from the natural setting in which they are constructed. The following Architectural and Neighborhood design standards and building requirements shall be the minimum requirements for any structure built in The Preserve. Acceptable design styles shall include Arts and Crafts, Prairie, Shingle, New England Cottage, English Country Estate, French Country Estate, Classical Revival, Mission, or Colonial Revival.

**4.02. Preservation Easement:** Because of the natural beauty of the neighborhood, an area has been delineated as a Preservation Easement to preserve to the greatest extent possible the natural terrain,

the existing trees and in general to insure that the area will retain its inherent character and beauty. No structures, fences or permanent improvements may be placed in the Preservation Easement. No trees the size of which are 2" caliper or more shall be cut or removed from the Preservation Easement without prior approval of the Architectural Control Committee. Lawns in the Preservation Easement areas shall be discouraged. Lawns may extend into the Preservation Easement areas only to the extent that the design is approved by the Architectural Control Committee. The Preservation Easement area must be protected from construction traffic and debris by fencing off the entire area during construction so that vehicles may not enter the Preservation Easement, no fill may be placed in the Preservation Area and in general the Preservation Easement area shall be protected from any and all disturbances during construction. Routine maintenance of the area, such as the removal of dead materials and general clean up will be permitted. Selective tree clearing to enhance views may be permitted only with the prior written approval of the Architectural Control Committee, which will be evidenced by its stamp on the plans. No utility lines or services may be installed in the Preservation Easement. The Preservation Easement shall also serve as a floodway and ditch maintenance easement over lots P-11A through P-19A, inclusive.

**4.03. Plans:** All design plans for the construction of a home in The Preserve must be detailed and must be prepared by a licensed architect. The plans must include a location survey prepared by a licensed surveyor or engineer and must indicate a landscaping plan which must be prepared by a licensed landscape architect, a licensed land use planner or a licensed architect and which satisfies the Landscaping Requirements. The plans must comply with Section 4.09 regarding Tree Cutting. All plans must be approved by the Architectural Control Committee before any work is commenced. The plans must include, in part, provisions for a protective fence at the Preservation Easement, erosion control, a temporary driveway and all other requirements imposed by the Architectural Control Committee.

**4.04. Builder Approval:** No builder shall be permitted to build in The Preserve without first being approved by the Architectural Control Committee. If approved, the builder must prior to commencing any construction activity, arrange for a meeting with the builder, the builder's excavating contractor and the Developer for a pre-construction plan review and site review meeting. Construction may not begin until the builder has installed the required protective fencing along the Preservation Easement area, has installed the required erosion control devices and has installed a temporary driveway.

The builder must post a security deposit in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) for each home under construction.

**4.05. Landscape Requirements:** In order to preserve the trees in, and the natural beauty of, The Preserve, all landscaping plans for The Preserve must substantially comply with these guidelines:

- (a) The amount of lawn area (grass and/or sod) must be minimized.
- (b) The natural setting must be maintained.
- (c) The use of groundcover, consisting of shrub beds, wildflower plantings, groundcover bed, ornamental grass and/or flowering perennials, is encouraged.
- (d) New tree plantings shall be indigenous to Indiana with a minimum diameter of 2 ½" and a minimum of 8'0" in height.

All decisions of the Architectural Control Committee with respect to the landscaping plans shall be final.

**4.06. Excavators:** No excavating subcontractor may perform work unless and until the excavator has been approved by the Architectural Control Committee.

**4.07. Utilities:** The service lines for all utilities to the home shall be placed in conduit and shall be placed in a single trench so long as the minimum separation of lines as required by law can be maintained.

**4.08. Driveways:** Driveways shall be designed for minimum public exposure. All driveways must be a hard surface and the street cut at the curb must be cut with a curb cutting machine. No driveway shall be installed in such a manner so as to wedge the curb with asphalt or similar material. The gutter line shall not be filled with any material. Circular driveways will be discouraged. The edge of driveways must be at least 4'0" from the property line.

**4.09. Tree Cutting:** No existing tree outside of the Preservation Easement the size of which is six inches (6") caliper or more shall be removed or cut down without the prior approval of the Architectural Control Committee. All tree removals shall be shown on the design plans submitted for approval.

**4.10. Mailbox:** Each lot shall have the same design of mailbox. All mailboxes shall be provided by the Developer.

**4.11. Street Lights:** The neighborhood shall have uniform street lights installed by the Developer and maintained by the Umbrella Association.

**4.12. Post Lights:** Post lights may not be installed within ten feet (10') of the street right-of-way line. If a lot owner desires to install a post light, then the light must be delineated on the design plans submitted for approval to the Architectural Control Committee.

**4.13. Water Service:** Each lot shall be served by the Department of Water Works for the City of Valparaiso and each lot owner shall be responsible for all connection charges and service fees charged by the Department of Water Works.

**4.14. Sanitary Service:** Each lot shall be served by the Nature Works Conservancy District. Each lot owner shall be responsible for any and all tap on or connection fees and any and all service charges related to the utility service provided.

**4.15. Setbacks:** The following setback requirements shall be applicable:

Front Yard - 20 feet  
Rear Yard - 0 feet  
Side Yard - 4 feet.

**4.16. Side Yards:** Any use of a side yard must be approved by the Architectural Control Committee.

**4.17. Rear Yards:** Any use of a rear yard must be approved by the Architectural Control Committee. Above-ground pools are prohibited. In-ground pools and hot tubs must be submitted to the Architectural Control Committee and should blend into their surroundings.

**4.18. Front Yards:** Any use of a front yard must be approved by the Architectural Control Committee.

**4.19. Garages:** It is the intent of the Architectural Control Committee to minimize the visual impact of the garage as a part of the front exterior of the house. Roof overhangs and such other architectural detail as may be appropriate should be utilized to minimize the impact of the garage on the front elevation of the home.

**4.20. Color:** All roofing materials and external color shall be specified on the design plans submitted to the Architectural Control Committee for approval.

**4.21. Fence:** Fences in The Preserve will be discouraged. All chain link, barbed wire, unfinished wood and/or woven or welded wire fences shall be prohibited. To the extent a fence is permitted, it must be submitted to the Architectural Control Committee for approval prior to installation.

**4.22. Exterior Materials:** All siding materials shall be natural wood products, such as cedar, redwood, cypress or equivalent, stone approved by the Architectural Control Committee, stucco or similar premium siding material. Brick exteriors shall be discouraged. Brick may be utilized as an accent for exterior detailing. Masonry veneer on the front facade only shall be prohibited. Vinyl or aluminum finishes, synthetic stucco finishes and/or metal or vinyl shutters are all prohibited. Cedar roofs are encouraged. In the alternative, architectural grade asphalt shingles or better shall be required. In each instance, the Architectural Control Committee must approve the material used for the roof.

**4.23. Roof Pitch:** The minimum pitch on the primary roof shall be 6/12. Shed roofs (lean-to) on rear yard projections are discouraged.

**4.24. Garbage Pick-up:** Garbage pick-up and recycling, if available, will be provided by the Umbrella Association and each owner is obligated to abide by the rules and regulations established by the Umbrella Association. Individual lot or Unit owners may not contract individually for such service.

**4.25. Chimneys:** All exterior chimneys shall be masonry. All flues and vent pipes which extend through the roof shall be at the rear of the house and shall be painted to match the roof shingles. All fireplaces shall have a chase.

**4.26. Lot Delivery:** All lots shall be delivered to the purchaser in a natural state.

**4.27. Tree Disclaimer:** Nothing contained herein, the lot sale or transfer documents, and/or the Declarations of Covenants, Easements and Restrictions for Aberdeen shall be construed as a guarantee of the survival of any landscape material and/or trees. The Developer shall not be obligated to remove and/or replace any destroyed landscape material or dead trees.

**4.28. Drainage Easement:** The Umbrella Association and/or The Course At Aberdeen LLC, shall be responsible for maintaining all storm water drainage systems, ponds and creeks, and adjacent lot owners may maintain a lawn that encroaches into the easement area so long as the lot owner does not do anything to obstruct or interfere with the storm water drainage system.

**4.29. Outbuildings:** It is the intent of the overall design standards to discourage any temporary or permanent outbuildings on any lot but in any event no such structure shall be built on any lot without the prior approval of the Architectural Control Committee. Any detached outbuilding to be constructed on any lot shall be built in conformity with the primary residence, and shall be constructed in the same or similar manner and with the same or similar exterior materials.

**4.30. Yard Art:** No yard art objects (either temporary or permanent) shall be permitted without the prior approval of the Architectural Control Committee.

**4.31. Sump Pump:** The sump pump shall not be connected to the sanitary sewer. A washing machine may not be connected to the sump pump discharge. The sump pump discharge may not discharge into the street.

**4.32. Satellite Dishes:** Large satellite dishes are prohibited. An 18 inch dish may be installed, but only if appropriate landscaping and placement removes it from view on the public right-of-way.

**4.33. Compliance With Soil Erosion Control Plan:**

(a) The Declarant has established and implemented an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 relating to Storm Water Run-off Associated with Construction Activity. All Unit Owners and their builders agree to take all erosion control measures contained in the plan as the plan applies to "land disturbing activity" undertaken by builder or builder's subcontractors and to comply with the Declarant's general permit under Rule 5 as well as all other applicable state, county or local erosion control authorities. All erosion control measures shall be performed by personnel trained in erosion control practices and shall meet the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas from the Division of Soil Conservation, Indiana Department of Natural Resources.

(b) Unit Owners and their builders shall indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by builder, builder's employees, agents or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.

**ALL PERSONS INCLUDING ALL OWNERS, ARE HEREBY ADVISED THAT NO REPRESENTATIONS OR WARRANTIES, EITHER WRITTEN OR ORAL, HAVE BEEN OR ARE MADE BY THE DECLARANT OR ANY OTHER PERSON WITH REGARD TO ANY WORK PERFORMED BY ANY PARTICIPATING BUILDER. NEITHER THE DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS RESULTING FROM THE CONSTRUCTION, CONDUCT, OR ANY OTHER ACT OF A PARTICIPATING BUILDER.**

**ARTICLE V GENERAL PROVISIONS AS TO COMMON AREAS**

**5.01. Use of the Common Areas:** Each Owner shall have the right to use the Common Areas in conjunction with all other Owners, as may be required for the purpose of ingress and egress to, and use, occupancy and enjoyment of, the respective land owned by each Owner. Such rights shall extend to the Owners, tenants, guests, and other occupants and visitors. The use of the Common Areas and the rights of the Owners with respect thereto shall be subject to and governed by the provisions of this Supplemental Declaration, the Master Declaration, and the rules and regulations of the Umbrella Association.

**5.02. Maintenance of Common Areas:** Except as otherwise provided herein, management, repair, alteration and improvement of Common Areas located within The Preserve shall be the responsibility of the Umbrella Association. Each Owner shall pay to the Umbrella Association that Owner's share of the expenses of maintenance, repair, replacement, administration and operation of Common Areas as set forth in the Master Declaration.

**ARTICLE VI REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS**

**6.01. Abatement and Enjoyment:** The violation of any rule, restriction, condition or regulation adopted by the Board, or the breach or default of any covenant, bylaw or provision contained herein, shall give the Board the right, in addition to the rights set forth in Section 6.02 below:



(a) To enter upon the property of a Unit (but not into any building located thereon) upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Declarant, or their successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; and,

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

(c) To pursue all rights and remedies as set forth in the Master Declaration.

The Board shall be entitled to recover from a defaulting Owner, other than the Declarant, reasonable attorney fees and costs incurred in pursuing any of the remedies set forth in this Article.

**6.02. Rights of Action:** The Board and/or any aggrieved Owner shall have the right to pursue an action against another Owner or Owners who fail to comply with the provisions of the Supplemental Declaration and/or the rules and regulations adopted by the Board. In addition, Owners shall have a right of action against the Umbrella Association for the enforcement of the Supplemental Declaration and/or rules or regulations adopted by the Board.

## **ARTICLE VII CONSTRUCTION OF SUPPLEMENTAL DECLARATION AND GENERAL PROVISIONS**

**7.01. Severability:** The provisions of this Supplemental Declaration shall be severable and no provisions shall be affected by the invalidity of any other provision to the extent that such invalidity does not also render such other provisions invalid. In the event of the invalidity of any provision, this Supplemental Declaration shall be interpreted and enforced as if all invalid provisions were not contained therein.

**7.02. Number and Gender:** The use of any particular gender or the plural or singular number is intended to include the other gender or number as the text of this Supplemental Declaration may require for interpretation and enforcement.

**7.03. Waiver of Damages:** Neither the Declarant, nor their partners, representatives or designees, shall be liable for any claim whatsoever arising out of or by reason of any actions performed

pursuant to this Supplemental Declaration, or in the Declarant's (or their partners' or their respective representatives' or designees') capacity as developer, contractor, Owner, manager or seller of the Property, whether or not such claim (a) shall be asserted by any Owner, occupant or the Board, or by any person or entity claiming through any of them; or (b) shall be on account of injury to person or damage to or loss of property wherever located and however caused; or (c) shall arise from contract or negligence. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Property, or any part thereof, being or becoming out of repair or containing any patent or latent defects, or by reason of any act or neglect of any Owner, occupant, the Board, and their respective agents, employees, guests and invitees, or by reason of any neighboring property or personal property located on or about the Property, or by reason of the failure to function, or disrepair of, any utility services (heat, air conditioning, electricity, gas, water, sewage, and the like); provided, however, the terms of any written warranty of the Declarant (or their partners or their respective representatives or designees) given in connection with the sale by the Declarant of any land shall prevail over the terms and conditions of this paragraph.

**7.04. Amendments to Supplemental Declaration:** Except for Section 7.03 and Section 7.08, the provisions of this Supplemental Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the Board, and approved by at least three-fourths (3/4) of the Owners of Units in The Preserve. Any change, modification, amendment or rescission shall take effect upon the recordation of an instrument in the Office of the Recorder of Porter County, Indiana.

**7.05. Special Amendments by the Declarant:** The Declarant reserves the right, and is hereby granted the consent of each Owner, to execute and record special amendments to this Supplemental Declaration.

**7.06. Interpretation of Supplemental Declaration:** The provisions of this Supplemental Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a fine quality development.

**7.07. Indemnity to Board and Committee Members:** The members of the Board of Directors and The Preserve Neighborhood Committee, and the officers thereof, shall not be liable to the Owners for any mistake of judgment or any acts or omissions made in good faith as such members or officers. The Umbrella Association shall indemnify and hold harmless each such member or officer against all

contractual liability to others arising out of contracts made by such members or officers on behalf of the Umbrella Association or The Preserve Neighborhood Committee, unless any such contract shall have been made in bad faith or contrary to the provisions of the Master Declaration, this Supplemental Declaration, or in violation of any resolution adopted by the Owners or Board of Directors. Such members or officers shall have no personal liability with respect to any contract made by them on behalf of the Umbrella Association or The Preserve. Each agreement made by such members or officers on behalf of the Umbrella Association or The Preserve Neighborhood Committee shall be executed by such members or officers on behalf of the Umbrella Association or The Preserve Neighborhood Committee as agents.

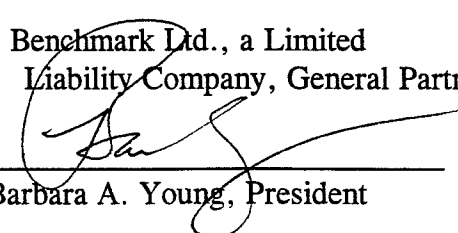
**7.08. Electric Utility Underground Installation:** Developer will install underground electrical service through Kankakee Valley Rural Electric Membership Cooperative (KVREMC). It is understood by Developer and KVREMC that underground installation of electrical service will be underneath paved roads and other improvements in the development. Developer and the Umbrella Association agree to make no claim against KVREMC and further Developer, until its has turned over control of, and responsibility for, the Development to the Umbrella Association, and then the Umbrella Association, hereby indemnifies and holds harmless KVREMC for any damage done or reconstruction or materials necessitated as a result of installation, reinstallation, maintenance or repairs of KVREMC's underground electrical facilities, except to the extent such damage or reconstruction is caused by, or results from, KVREMC's negligence or misconduct.

Developer and the Umbrella Association and KVREMC agree KVREMC shall not be responsible for any costs in repairing any of Developer's improvements effected by KVREMC's installation, reinstallation, maintenance or repair of KVREMC's underground facilities, except to the extent such damage or cost is caused by, or results from, KVREMC's negligence or misconduct.

IN WITNESS WHEREOF, the Declarant has caused this Supplemental Declaration to be executed this 8<sup>th</sup> day of April, 1998.

ABERDEEN LIMITED PARTNERSHIP,  
an Indiana Limited Partnership

BY: Benchmark Ltd., a Limited  
Liability Company, General Partner

BY:   
Barbara A. Young, President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF PORTER )

Before me, the undersigned, a Notary Public for Porter County, State of Indiana, personally appeared Barbara A. Young, the President, of Benchmark Ltd., a Limited Liability Company, the General Partner of Aberdeen Limited Partnership, an Indiana Limited Partnership, who acknowledged the execution of the foregoing instrument to be her free and authorized act. Signed and sealed this 8 day of April, 1998.

My Commission Expires:

Sept 28, 2001

(SEAL)



The Instrument Prepared by:

James W. Jorgensen  
HOEPPNER, WAGNER & EVANS  
103 East ~~Lincoln~~  
P.O. Box 2357  
Valparaiso, Indiana 46384  
Telephone: (219) 464-4961

Susan M. Farrell

Notary Public

Printed: Susan M. Farrell

County of Residence: Porter