

**Second Amended Declaration of
Covenants, Conditions and Restrictions of
The Villa Glen at Brighton Point Homeowners' Association, Inc.**

This SECOND AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE VILLA GLEN AT BRIGHTON POINT (the "Second Amended Declaration") is made this 18th day of November, 2021, by the Villa Glen at Brighton Point Owners.

RECITALS

(A) The Members are the owners of fee simple title to the Lots in the Villa Glen at Brighton Point; and

(B) The Villa Glen at Brighton Point Real Estate was previously platted and subjected to the terms and conditions of the Declaration of Covenants, Conditions and Restrictions of the Villa Glen at Brighton Point Homeowners' Association as previously recorded on June 11, 2009, as instrument number 2009009925, in the Office of the Recorder of Monroe County, Indiana (the "Original Declaration").

(C) The Original Declaration provided that Class A and Class B Members could amend the Original Declaration by a vote of not less than Seventy-Five (75%) percent of the Members. A Special Amendment to the Original Declaration requires a vote of One Hundred (100%) percent of the Members.

(D) On August 17, 2015, One Hundred (100%) percent of Members approved the Amended Declaration at a meeting of the Villa Glen at Brighton Point Owners duly called and held, which Amended Declaration was duly recorded on the 18th day of August, 2015 in the Office of the Recorder of Monroe County as Instrument No. 2015011605.

(E) On November 18, 2021, more than 75% percent (75%) of the Members approved the Second Amended Declaration at a meeting of the Villa Glen at Brighton Point Owners duly called and held and;

(F) The Members wish to record the Second Amended Declaration and upon recording, the Second Amended Declaration shall become effective and shall supersede the Original Declaration and the Amended Declaration and apply to all Villa Glen at Brighton Point Real Estate and to each Villa Glen at Brighton Point Owner.

NOW, THEREFORE, the undersigned officers of the Villa Glen at Brighton Point Homeowners' Association, Inc., acting on behalf of the Villa Glen at Brighton Point Owners declare that the Villa Glen at Brighton Point Real Estate subjected to the terms of this Second Amended Declaration shall be held, transferred, encumbered, used, sold, conveyed and occupied subject to the covenants and restrictions hereinafter set forth expressly and exclusively

for the use and benefit of the Villa Glen at Brighton Point Owner and of each and every person or entity who now or in the future owns any Lot within the Villa Glen at Brighton Point Real Estate, a neighborhood developed within The Villa Glen at Brighton Point.

Section 1. Definitions. The following terms used in this Second Amended Declaration shall have the following meanings:

1.1. Association. "Association" means The Villa Glen at Brighton Point Homeowners' Association, Inc., its successors and assigns, an Indiana not-for-profit corporation.

1.2. Board of Directors. "Board of Directors" means the governing body of the Association elected by the Owners in accordance with the Bylaws.

1.3. Bylaws. "Bylaws" means the Bylaws of the Association, providing for the administration and management of the Association, as may be amended from time to time.

1.4. Declarant. "Declarant" means Brighton Point LLC, and any successor or assignee of its interest in all or part of The Villa Glen at Brighton Point or in this Second Amended Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Declarant for purposes of this Second Amended Declaration.

1.5. Delinquency Date. "Delinquency Date" means the date which is fifteen (15) days after the due date of any Regular or Special Assessment.

1.6. Easement Area. "Easement Area" means all the area in the Real Estate outside the boundaries of any Lot, including without limitation the Access, Landscape, Utility, Drainage and Signage Easement, and the Tree Preservation Easement.

1.7. Easement Expenses. "Easement Expenses" means the expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Easement Area and other costs and expenses incurred by the Association for the common benefit of all Owners or in fulfillment of the Association's responsibilities for maintaining any Villa(s) or Lot, as specifically set forth herein.

1.8. Lot. "Lot" means any plot of ground designated as such upon the recorded Plat of The Villa Glen at Brighton Point or any plat of the Annexed Real Estate upon which one (1) Villa is constructed, or has existed. Whenever used in the Second Amended Declaration, "Lot" will be deemed to include the Villa, if any, located thereon.

1.9. Mortgagee. "Mortgagee" means the holder of any recorded first mortgage lien on any Lot.

1.10. 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 Lot; provided that persons or entities owning a single Lot as tenants in common, joint tenants, tenants by the entireties or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Second Amended Declaration.

1.11. Party Wall. "Party Wall" means the wall which is built as part of the original construction of the Villas upon the Lot and placed on the dividing lines between the Villas.

1.12. Plat. "Plat" means the Plat prepared by Smith-Neubecker and Associates of Villa Glen, Phase I at Brighton Point, Phase II, Parcel C, being on record in the Office of the Recorder of Monroe County, Indiana, as instrument number 20030007831 in Plat Cabinet C, Envelope 327, together with any subsequent plat recorded in the Office of the Recorder of Monroe County, Indiana.

1.13. Property. "Property" means the Easement Area, Villas 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 Real Estate.

1.14. Real Estate. "Real Estate" means the real property described on Exhibit "A", which has been subjected to this Second Amended Declaration, and all of the Property located upon the Real Estate.

1.15. The Villa Glen at Brighton Point. "The Villa Glen at Brighton Point" means the attached single-family development known as The Villa Glen at Brighton Point.

1.16. Villa. "Villa" means one of the attached or unattached single-family residential living units constructed upon a Lot.

Section 2. Declaration. The Villa Glen at Brighton Point hereby expressly declares that the Real Estate shall be held, conveyed and transferred in accordance with the provisions of this Second Amended Declaration.

Section 3. Description of The Villa Glen at Brighton Point. The Villa Glen at Brighton Point consists of twenty (20) Lots numbered 1 through 19 and 21, inclusive, together with the Easement Area shown on the Plat. The sizes of the Lots are as designated on the Plat. The legal description for each Lot in The Villa Glen at Brighton Point is as follows:

Lot ____ in The Villa Glen, Phase I, at Brighton Point, Phase II, Parcel C, a subdivision in Monroe County, Indiana, as per Plat thereof recorded as instrument number 20030007831 in Plat Cabinet C, Envelope 327 in the Office of the Recorder of Monroe County, Indiana.

Section 4. Lots and Easements. The boundaries of each Lot in The Villa Glen at Brighton Point shall be as shown on the Plat; provided, however, in the event any vertical boundary line of any Villa does not coincide with the actual Lot line because of inexactness of initial construction, settling after construction or for any other reason, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such **line** as established hereunder to be outside the actual boundary line of the Lot.

Section 5. Ownership of Easement Area. The Easement Area is owned by the Association, and shall be held for the use and enjoyment of the Owners, all of whom shall have the right of enjoyment in and access to the Easement Area which right shall pass with title to every Lot, subject to the provisions of this Second Amended Declaration, including but not limited to the following:

(a) The right of the Association, upon approval by a written instrument signed by two-thirds (2/3) of all Members, to dedicate or transfer all or any part of the Easement Area to any public agency, authority or utility for such Easement Area purposes and subject to such conditions as may be agreed by the Association.

(b) The right of the Association to adopt such rules and regulations regarding the Easement Area as it deems necessary *as* provided in Section 11.

(c) The Easement Area shall be conveyed to or owned by the Association on or before the Applicable Date; provided, however, that expenses relating to the maintenance of the Easement Area are to be included within the Association budget from the time of conveyance of the first Lot.

Section 6. Delegation of Use of the Easement Area. Any Owner may delegate, in accordance with provisions of this Second Amended Declaration and the rules or regulations promulgated by the Association, the right of enjoyment, and the use of the Easement Area and facilities to family members or contract purchasers who reside in any Villa.

Section 7. Encroachments and Easements in Easement Area. If by reason of inexactness of construction, settling after construction or for any other reasons, any Easement Area encroaches upon any Lot, an easement shall be deemed to exist and run to the Association for the maintenance, use and enjoyment of such Easement Area.

Each Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in any other Villas or in the Easement Area and serving a Villa.

Section 8. Easement for Utilities and Public and Quasi-Public Vehicles. All public and quasi-public vehicles including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles shall have the right to enter upon the Easement Area in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining of such utilities, including but not limited to water, sewer, gas, telephone and electricity on the Property, provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines or other utilities, except as initially designed on the Plat or as thereafter may be approved by the Board of Directors. By virtue of this easement, the electrical and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electrical and telephone wires, circuits and conduits. All utility pipes, conduits, wires or circuits will be installed underground. In the event any utility furnishing service should request a specific easement by a separate recordable document, the Board of Directors shall have the right to grant such easement on such Property, without conflicting with the terms of this Second Amended Declaration. The easements granted herein shall in no way affect any other recorded easement on the Property. In addition, the Board of Directors may approve from time to time easements on the Property for purposes of Storm water drainage and/or detention.

security, at which time he/she/it shall automatically be and become an Owner/ Member of the Association.

10.1 Members. Members shall be all Owners and shall be entitled to one vote for each Lot owned. All persons holding an interest in any Lot shall be Members provided, however, each Lot represented shall have only one vote as the Owners of such Lot may determine.

10.2 Board of Directors. The Association shall elect a Board of Directors annually in accordance with and as prescribed by the Bylaws as amended from time-to-time. The Members shall be entitled to vote for the election of the Board of Directors in accordance with the procedure outlined in the Bylaws. The Board of Directors shall be the governing body of the Association representing all of the Members and shall be responsible for the functions and duties of the Association including but not limited to the management, maintenance, repair, replacement and upkeep of the Easement Area. The Easement Area shall be owned, operated and managed by the Association.

Section 11. Right of Board of Directors to Adopt Rules and Regulations. The Board of Directors may promulgate such additional rules and regulations regarding the operation of the Property, including but not limited to the use of the Easement 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 Board, and the Board shall cause copies of such rules to be delivered, mailed, or emailed promptly to all Owners.

Section 12. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot, but are assessed and taxed on the Real Estate as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Real Estate assessed as a whole, which shall be equal to the number one (1) divided by the total number of Lots which have been subjected to this Second Amended Declaration; and shall pay his proportionate share of the real estate taxes assessed on any improvements constructed on his Lot. Any real estate taxes or other assessments which are chargeable against the Easement Area shall be paid by the Association and treated as an Easement Expense.

Section 13. Utilities. Each Owner shall pay for his/her own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Easement Expense, unless otherwise determined by the Association.

Section 14. Maintenance, Repairs and Replacements. Each Owner shall, at his/her expense, be responsible for the maintenance, repairs, decoration and replacement within his/her own Villa unless otherwise provided herein. In addition, in accordance with standards established by the Board, each Owner shall at his/her expense be responsible for the maintenance, repair, decoration and replacement of the decks, screened porches and patios. All fixtures and equipment including appliances, interior doors, windows, and all other accessories installed within the Villa shall be maintained and kept in repair by the Owner thereof. Commencing at a point where the utility lines, wires, conduits or systems are no longer maintained by the utility and water and sewer lines, drainage pipes and related plumbing

systems are not maintained by the city, the Owner shall assume responsibility for all maintenance and repairs thereto required.

Owner shall promptly perform all maintenance and repair in his/her Villa and lot, which if neglected, might adversely affect any Villa, Easement Area or the value of the Property. Maintenance, repairs, replacements and upkeep of the Easement Area shall be furnished by the Association, as a part of the Easement Expense in accordance with this Section 14.

In addition to the maintenance of the Easement Area, as budgeted funds are available and on a schedule determined by the Board of Directors and the availability of the selected services providers, the Association shall provide exterior maintenance upon each Lot and Villa for the following: repair, replacement and care of all exterior doors (including garage doors, but excluding door openers and hardware), gutters, downspouts, exterior building surfaces, and other exterior improvements. "Other exterior improvement" shall not include decks, patios or screened porches, interior or exterior glass surfaces, screens, windows, or other hardware; all such maintenance shall be the sole responsibility of the Owner.

In addition the Association shall provide exterior maintenance upon each Lot and Villa for the repair and maintenance of the roofs that is not covered by the Owner's warranty; however, if the Board of Directors deems that the roof of a Villa needs to be replaced, the cost of replacement shall be borne entirely by the Owner of the Villa to the extent not covered by insurance. The Board of Directors shall have exclusive decision making regarding the roof replacement. This includes, but is not limited to when the roof is replaced, the type of shingles installed, the contractor used and the warranty provided.

The cost of maintaining, servicing and operating a sewer lateral that serves a Villa from the point where the sewer line exits a Villa to the point where the sewer lateral connects to the City of Bloomington sewer main shall be borne by the Owner of each Villa. The Owners shall indemnify and hold the City of Bloomington, Indiana harmless from any claim for injury or damage arising as a result of the Owner's failure to properly maintain, service or operate any single sewer lateral.

The Association shall also maintain any trees, shrubs, grass or walks which the Association or Declarant originally planted or installed upon any lot. Any trees, shrubs, or other landscaping planted or installed by an Owner upon the Owner's Lot shall be maintained by the Owner. Any annual flowers, perennial flowers, ground cover or plants shall be maintained by the Owner, regardless of whether the same was planted or installed by the Owner, the Association, or the Declarant. All plantings shall be subject to prior approval of the Board except for annual flowers. Owner shall not plant trees, shrubs, flowers or any other plant known to be invasive.

The Owner shall be responsible for watering the grass, planting beds and other landscaping located on Owner's Lot, whether planted by the Owner or by the Association.

If the need for maintenance and repair including landscape maintenance results from the neglect or willful or negligent act of the Owner, family, guests or invitees, and is not covered or paid for by insurance on such Lot, the cost of such maintenance or repair shall be borne by

the Owner, and shall be added to and become a part of the assessment to which his/her Lot is subject and be subject to the same method of collection as the Regular Assessment.

Each Owner grants the Association, its representatives, agents and employees an irrevocable right to enter the Owner's Lot for the purpose of discharging the Association's maintenance and repair responsibilities described in this Section 14.

The Board of Directors, or their designated agents, shall have the right at reasonable times to enter upon each individual Villa lot for purposes of inspection of the Easement Area appurtenant thereto, and replacement, repair and maintenance of the same.

Notwithstanding any provision in these Covenants to the contrary, the Board of Directors shall, in its sole discretion, determine the timing and priority of maintenance requests for which the Association is responsible that may come before the Board from time-to-time.

Section 15. Alterations, Additions and Improvements. Without the prior written approval of the Board of Directors, no Owner may make any alterations, additions, removals, improvements, repairs, change of colors, excavation, changes in grade or other work which in any way alters the exterior of any Lot or Villa located thereon from its natural or improved state existing on the date such Lot was first conveyed by Declarant to the Owner except as otherwise expressly provided in this Second Amended Declaration unless such alteration, addition or improvement is approved by Seventy-five percent (75%) of the members. No Owner shall be allowed to plant trees or landscape in the Easement Area, in the Lots, or otherwise on the Property except with express written permission from the Board of Directors. The owner may however plant annual flowers on the front, side or back of their lot without consent of the Board so long as such plants are not known to be invasive.

Section 16. Assessments. Regular and Special Assessments shall be determined and collected as follows:

16.1 **Annual Accounting.** Once annually, on or before April 1 of each calendar year, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement, which statement shall show all receipts and expenses received, incurred or paid during the preceding calendar year.

16.2 **Proposed Annual Budget.** Annually prior to the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar year estimating the total amount of the Easement Expenses for the ensuing year and furnish a copy of such proposed budget to each Owner before the annual meeting. The proposed annual budget shall be submitted to the Owners at the annual meeting of the Association for review and discussion, and, upon such discussion, if so adopted the budget 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 the Board of Directors; provided, however, in no event shall the annual meeting of the Owners be adjourned until an annual budget is adopted.

The failure or delay of the 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 Easement Expenses.

16.3 Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Easement Expenses in the ensuing year as set forth in said budget, contain a proposed assessment against each Lot based on the total amount of said budget divided by the total number of Lots (herein called the "Regular Assessment"). The Regular Assessment against each Villa shall be paid in twelve (12) monthly installments on the first day of each month beginning in January following adoption of the budget. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors as directed by the 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 Lot and Villa as of the date of the adoption of the annual budget.

16.4 Special Assessments. In addition to the Regular Assessments authorized above, the Board of Directors may levy such Special Assessments as may be necessary from time-to-time for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or maintenance of a structure or 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 and working capital of the Association. 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 Lots. The Board of Directors may, in connection with the levy of any Special Assessment, specify that the same shall be payable in installments and specify the due dates thereof.

16.5 Adjustments. In the event that the approved budget and Regular Assessments, plus the reserves and working capital of the Association, prove insufficient to meet the Association's actual expenses in any year, such deficiencies may be corrected through one or more Special Assessments. In the event the approved and Regular Assessments exceed actual expenses in any year, such surplus shall be retained and used to offset expenses in the next year(s) or deposited in the reserve fund.

16.6 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 such 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 the Second Amended Declaration and the By-Laws; provided, however, that said preceding budget and Regular Assessments may be increased by up to fifteen percent (15%) as the Board of Directors, by majority vote, may deem necessary in said temporary budget and Regular Assessments.

16.7 Reserve Funds. The Association shall be obligated to establish a reserve fund for the repair of the Easement Area and for the Association's maintenance responsibilities for the Villas as set forth in Section 14, based upon good faith estimates of the useful life and replacement cost made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Regular Assessments and not by an extraordinary or Special Assessment. All amounts held by the Association pursuant to this Section 16.7 shall be

maintained in a federally-insured, interest-bearing account and any interest thereon shall be added to and deemed a part of such fund. As determined by the Board of Directors, the reserve fund may be used for capital expenditures and replacement and repair of the Easement Area and of Villas (to the extent such capital expenditures, repair and replacement are the obligation of the Association), for maintaining streets, driveways, sidewalks, walkways from driveways to the front door and exterior doors, including garage, front and atrium doors, etc. and may be used for usual and ordinary repair expenses of the Easement Area or the Villas or expenses related to and necessary for the orderly administration of the Association in the event that annual budgeted funds are insufficient to meet such needs.

16.8 Status of Funds Collected by Association. All funds collected pursuant to this Section 16 shall be held and expended by the 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 Easement Expenses.

16.9 Accounting Practices of the Association. The recording and reporting of Association funds shall be in accordance with generally accepted accounting principles.

16.10 Collection of Assessments. Each Assessment shall be due and payable on the due date thereof as specified in this Second Amended Declaration or in the Bylaws, or if not so specified, then on any due date(s) determined by the 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 a late fee equal to ten percent (10%) of the amount due (or the maximum amount allowed under applicable law) shall be assessed for each thirty (30) day period in which such amount due remains unpaid. In the event that any costs or expenses, including attorney's fees, are incurred by or on behalf of the 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 ten percent (10%) 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 Lot and Villa as of the date on which such delinquent Assessment first became a lien. In the event that any Assessment is not fully paid on or before the Delinquency Date, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the calendar year in which such delinquency occurs, and 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 Villa shall be jointly and severally liable for the payment to the Association and the Board of Directors shall be entitled to the appointment of a receiver for the purpose of preserving the Villa and to collect funds therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The 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. Any costs paid by the Association for which an Owner is responsible that is not reimbursed to the Association within thirty (30) days of notice to Owner of the amount due shall be deemed delinquent without further notice and subject to the same costs, penalties, and liens provided

herein for delinquent assessments.

16.11 Subordination of Assessment Lien to Mortgagee. Notwithstanding anything contained in this Second Amended Declaration, the Articles of Incorporation of the Association or the Bylaws, any sale or transfer of a Lot or Villas 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.

Section 17. Casualty Insurance; Reconstruction or Repair of Casualty Damage

17.1 Casualty Insurance on Villas. The purpose of the provisions of Section 17 is to ensure that, in the event of casualty loss to a Villa in the Association, there shall be proceeds from insurance sufficient to repair or reconstruct the Villa at least to the standards of the original plans and specifications of the damaged unit.

17.2 Responsibility of Association for Insurance Coverage. The Board of Directors of the Association shall purchase casualty insurance on the supporting structure and exterior of the Villas in the Association. Such coverage shall include:

- (a) Footings
- (b) Foundation
- (c) Framing outside walls
- (d) Exterior siding and guttering
- (e) Brick
- (f) Windows
- (g) Concrete floors and sub-flooring
- (h) Exterior doors
- (i) Garage doors
- (j) Roofs
- (k) Porches, decks, patio slabs and patios (screened and glassed areas included)
- (l) Chimneys and fireplaces, not including inserts
- (m) Electrical service to the meter
- (n) Interior stud walls and framing except those located in the basement or lower level
- (o) Interior perimeter support walls and beams
- (p) Earthquake coverage for above

Such insurance shall at a minimum be in an amount equal to the full replacement value last determined (i.e. 100% of "replacement cost" exclusive of land) of the above aspects of Villas in the Association, a "Demolition Endorsement" or its equivalent, and, if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent, such insurance to protect against at least the following: loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, cost of demolition, vandalism, malicious mischief, windstorm,

and water damage.

The Board of Directors of the Association shall also purchase additional insurance as necessary to include, but not be limited to, coverage for directors and officers, the managing agent, and general liability. The cost of this additional insurance is to be divided equally among the Owners.

17.3 Responsibility of the Owner for Insurance Coverage. The individual Owner shall purchase and maintain condominium homeowner insurance or any equivalent to protect the Owner against personal liability and loss or casualty of personal property and improvements to the interior, including earthquake coverage, that will insure the reconstruction and repair of casualty damage to the interior of the Villa that is not the responsibility of the Association to insure under Section 17.2. Such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Board of Directors. If a casualty loss is sustained and there is a reduction in the amount of the proceeds otherwise payable on the insurance purchased by the Board of Directors due to proration of insurance purchased by the Owner, the Owner shall assign to the Association the proceeds of the insurance purchased by him to the extent of the reduction. All policies purchased by the Owner which give the carrier the right to elect to restore damage in lieu of a cash settlement shall provide that such option shall not be exercisable by the carrier without the approval the Board of Directors. Such insurance coverage by the Owner shall include, without limitation:

- (a) Utility lines, plumbing, water and sewer lines for which Owner is responsible
- (b) Duct work
- (c) Insulation
- (d) Drywall
- (e) Floor coverings
- (f) Light fixtures
- (g) Appliances
- (h) Interior doors and trim
- (i) Plumbing fixtures
- (j) Heating, cooling, filtering units, ceiling and exhaust fans
- (k) Window treatments
- (l) Drywall coverings such as painting, wallpaper, tile, decoration and trim
- (m) Cabinets, including but not limited to kitchen and bathroom cabinets, built-in bookcases, and TV enclosures.
- (n) Owner's furnishings and personal property
- (o) Earthquake coverage for above

17.4 Administration of Insurance Coverage for which Association is Responsible.

(a) Determination of Coverage: Payment of Premiums by Owner. The Board of Directors shall determine the amount of coverage on each Villa in the Association required to fulfill the Association's responsibility. Owners will be billed annually for the premiums attributable to their homes and their equal share of the premiums for any additional insurance purchased by the Board of Directors under Section 17.2.

(b) Deductibles. The Association shall be responsible for payments of the deductible on insurance carried by it when the damage is to property that is the Association's responsibility. However, in cases where the Board of Directors determines that the Owner was responsible for the loss, the Owner shall deposit with the Board as Insurance Trustee the amount of the deductible.

(c) Insurance Trustee. All proceeds payable as a result of casualty losses covered by insurance purchased by the Board of Directors shall be paid to the Association, and the Board of Directors shall act as the Insurance Trustee. The sole duty of the Insurance Trustee shall be to receive the proceeds as they are paid and to hold the proceeds in trust for the benefit of the Owners and their respective mortgagees and for the purposes stated in this Section 17.

(d) Right to Adjust Losses. Each Owner shall be deemed to have delegated to the Board of Directors the right to adjust with the insurance company the proceeds payable under policies purchased by the Board of Directors.

(e) Proceeds to Mortgagee. In no event shall any distribution of proceeds be made by the Board of Directors to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any distribution of proceeds shall be to the Owner and the mortgagee jointly. This is a covenant for the benefit of any mortgagee of a Villa in the Association and may be enforced by the mortgagee.

17.5 Insurance Coverage for Which the Owner is Responsible.

(a) Amount of Coverage. Each Owner shall carry insurance to meet the Owner's responsibility under Section 17.3, which shall not be less than 100% of the replacement value necessary to restore the Villa to the standards of the original plans and specifications of the Villa.

(b) Choice of Insurance Carrier. Owners may choose the Insurance carrier for the coverage that is their responsibility.

(c) Deductibles. Owners may determine the amount of their deductibles, except deductibles for casualty losses on repair or reconstruction of Villas may not be more than five thousand dollars without permission of the Board of Directors. (This provision does not apply to earthquake coverage.)

17.6 Reconstruction or Repair of Casualty Damage to Villas. It is the purpose of this section that, in the event of damage, Villas be promptly reconstructed or repaired to maintain the integrity and appearance of homes in the Association.

(a) Responsibility of the Board of Directors and of Owners. The Board of Directors and affected Owners shall proceed promptly to reconstruct or repair those aspects of Villas on which they were responsible for carrying insurance under Sections 17.2 and 17.3. Such restoration shall be in accordance with the standards of the original

plans and specifications of the Villa, except at the election of the affected Owner, the Villa may be restored to the condition, as it existed immediately prior to the damage.

(b) Application of Insurance to Restoration; Funding Restoration if Insurance Is Inadequate. The proceeds of insurance carried by the Association and by Owners for the repair and reconstruction or repair of Villas shall be applied to the cost of such restoration. If the insurance proceeds from the insurance carried by affected Owners are inadequate to cover the costs of restoration or if there are no proceeds, the Owners directly affected by the damage shall pay the cost of restoring the Villa. If any Owner fails or refuses to restore a home when required, the Board of Directors may pursue whatever legal means are available to cause such restoration, including but not limited to the Board of Directors completing the restoration and paying the cost thereof, with the cost attributable to the Owner who refuses or fails to make the restoration when required becoming a lien on such defaulting Owner's Villa and subject to foreclosure in the same manner as provided for Regular Assessments.

(c) Choice of Contractor Estimates and Specifications. In the event of damage to Villas where the structure and exterior of the Villa is affected, affected Owners may choose a contractor for restoration of the Villa, subject to approval by the Board of Directors. The contractor shall submit estimates and specifications for the Board of Directors' approval. If damage is only to those aspects of a Villa for which the Owner is responsible, the affected Owner may proceed with restoration without approval of the Board of Directors, so long as that restoration complies with Section 17.3.

(d) Option of Board of Directors to Proceed With Restoration of Structure and Exterior of Villa. At its option, the Board of Directors may proceed with repair and reconstruction of those aspects of a damaged Villa for which the Association is responsible without waiting for settlement of an affected Owner's insurance claim or for the submission of a contractor, estimates, and specifications. Owners are deemed to have given the Board of Directors permission to enter an Owner's property for this purpose.

(e) Encroachments. Encroachments upon the real property of an Owner or in favor of the real property of an Owner which may be created as a result of repair or reconstruction of any Villa shall not constitute a claim or basis of a proceeding or action by the Owner upon whose real property such encroachment exists; provided, however, that such repair or reconstruction was either substantially in accordance with the original plans and specifications for the Villas in Association or substantially in accordance with the Villa as originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Villa stands. Each Owner hereby conveys to the Board of Directors an easement to permit the Association, its agents, employees or designates to enter upon and across the Lot of the Owner for the purpose of repairing or reconstructing the Lot.

(f) Surplus. In the event there is a surplus in the construction fund for which the Board of Directors is Insurance Trustee after the repair or reconstruction of the damage, such surplus may be retained by the Association as a reserve or may be used in the maintenance and operation of the Association. In the discretion of the Board of Directors,

any surplus may, in the alternative, be distributed to the Owners and mortgagees directly affected by the damage.

Section 18. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Villas, Easement Area and Property are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, by the Association, its successors or assigns. Owners and the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation:

18.1 **Additional Buildings.** Except for the initial construction of Villas, no additional buildings shall be erected or located on the Real Estate other than on the Lots or as otherwise shown on the Plat except as originally constructed by Declarant or as approved in writing by the Board of Directors.

18.2 **Material Storage and Use.** Nothing shall be done or kept in any Villa or in the Easement Area which will cause an increase in the rate of insurance on any other Villa or the contents thereof. No Owner shall permit anything to be done or kept in his Villa or in the Easement Area which will result in the cancellation of insurance on any other Villa or contents thereof, or which would be in violation of any law or ordinance.

18.3 **Exterior Alterations.** No Owner shall cause or permit anything to be hung or displayed on the outside of the windows, or placed on the outside walls of his Villa and no sign, awning, canopy, shutter or radio or television antennae, or other attachment or things shall be affixed to or placed upon the exterior walls or roofs, or on any parts of any Villa without the prior written consent of the Board of Directors.

18.4 **Rubbish and Debris.** All Lots and the Easement Area shall be kept free and clear of rubbish, debris, and other unsightly materials, except in those areas designated for the temporary storage thereof.

18.5 **Easement Area Enjoyment.** All Owners and members of their families, guests or invitees, and all occupants of any Villa or any other persons entitled to use the same and to use and enjoy the Easement Area or any part thereof shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board of Directors governing the operation, use and enjoyment of the Easement Area.

18.6 **Recreational Equipment.** No Owner shall erect or permit the erection of any outdoor basketball goal, recreational equipment or other structure, whether permanently installed or on a portable base, anywhere in the Easement Area or on Owner's Lot.

18.7 **Satellite Dishes and Antennas.** Outdoor satellite dishes, radio or television antennas or other electronic receivers may be installed upon consultation with the Board of Directors as to the location, screening and landscaping for such components.

18.8 **Lots and Easement Area Use.** No advertising signs (except one "for sale" sign per Lot of not more than five square feet), unsightly objects or nuisances shall be erected, placed

or permitted to remain on any Lot, or Easement Area, nor shall any Lot or Easement Area be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any other Villa or any resident thereof, including, without limiting the generality of the foregoing noise by the use of any musical instruments, radio, television, loudspeakers, electrical equipment, amplifiers or other equipment or machines.

18.9 Clothes Lines. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed from any Villa or any Lot where they are visible to other Owners or the public, nor shall any such items be hung out or exposed on any part of the Easement Area.

18.10 Residential Use. All Villas shall be used exclusively for residential purposes. No industry, trade or any commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property. Notwithstanding the foregoing, home occupations permissible under applicable zoning regulations shall be permitted so long as parking for all vehicles related to such home occupation are confined to the driveway for such Villa.

18.11 Vehicles. No boats, campers, trailers of any kind, buses, mobile homes, motor homes, trucks (except pick-up trucks) or any other unconventional vehicles of any description shall be permitted, parked, or stored anywhere within the Property except as expressly designated by the Board of Directors in each instance. Owners shall be responsible for assuring their guest's vehicles parked on the street do not obstruct other vehicles from safely passing.

18.12 Animals. No animals of any kind shall be raised, bred, or kept in any Villa or any portion of the Easement Area except that pet dogs, cats, or customary household pets may be kept in a Villa, provided that such pet is not kept, bred or maintained for a commercial purpose, and does not create a nuisance. Pets shall be permitted outdoors only under leash and accompanied by an Owner or other person and an Owner shall be fully liable for any injury or damage to any person caused by the Owner's pet, and shall be responsible for removing from such areas the pet's waste materials. The Board of Directors may adopt such other rules and regulations regarding pets as it may deem appropriate and in the event that in the judgment of the Board of Directors any pet is causing or creating a nuisance or unreasonable disturbance or noise, such pet shall permanently be removed from the Property upon written notice of such determination by a majority of the Board of Directors.

18.13 Single-Family Neighborhood. Villa Glen at Brighton Point is intended to be a single-family residential neighborhood. It is the policy of the Villa Glen Homeowners' Association that homes shall not be used as rental property.

18.14 Orientation. New Owners shall be provided with documents and information by a Board member, or other existing Owners that will assist them in integrating into the community.

Section 19. Amendment of Declaration. Except as otherwise provided in this Second Amended Declaration, amendments to this Second Amended Declaration shall be proposed and

adopted in the following manner:

19.1 Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.

19.2 Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or by a majority of the votes cast by the Owners.

19.3 Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.

19.4 Adoption. Any proposed amendment to this Second Amended Declaration must be approved by not less than seventy-five percent (75%) of the Member votes cast at a duly called meeting (provided a quorum is present).

19.5 Special Amendment. No amendment to this Second Amended Declaration shall be adopted which changes: (1) the applicable share of an Owner's liability for the Easement Expenses or the method of determining the same; or (2) the provisions of Section 17 of this Second Amended Declaration with respect to casualty insurance to be maintained by the Association; or (3) provisions of Section 17 of this Second Amended Declaration with respect to reconstruction or repair in the event of fire or casualty, or (4) any of the provisions of Section 16 of this Second Amended Declaration with respect to the assessments on any Lot, by not less than seventy-five percent (75%) of the Member votes cast at a duly called meeting.

19.6 Recording. Each amendment to the Second Amended Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Monroe County, Indiana, and such amendment shall not become effective until so recorded.

Section 20. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions this Second Amended Declaration, the Articles of Incorporation, and the Bylaws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Second Amended Declaration, the Articles of Incorporation, the Bylaws, and rules and regulations, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Lot or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trust, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Property in any manner shall be subject to this Second Amended Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations applicable thereto as each may be amended from time to time.

Section 21. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his/her negligence or by that of any member of his/her family or their guests, employees, agents or lessees to the extent that such expense is

not covered by the proceeds of the insurance. An Owner shall pay the amount of any increase in insurance premiums occasioned by his/her use, misuse, occupancy or abandonment of the Lot or its appurtenances or of the Easement Area.

Section 22. Non-Waiver. No Owner may exempt himself from liability for his contribution toward the Easement Expenses by waiver of the use or enjoyment of any of the Easement Area or by abandonment of his/her Lot. Further, the failure of the Association or any Owner to enforce the terms and conditions of these Covenants shall not operate as a waiver of the rights of each or either to do so in the future or be construed as consent to any deviation of the covenants, conditions and restrictions.

Section 23. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Second Amended Declaration, the Articles or the Bylaws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Second Amended Declaration, the Articles, or the Bylaws, and each shall be enforced to the greatest extent permitted by law. Owners and Association agree unresolved disputes will be submitted to mediation for resolution.

Section 24. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. The singular shall include and refer to the plural and vice versa as appropriate. It shall refer to any corporate or other entity acquiring a direct or indirect interest in Villa Glen property.

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

Section 26. The Plat. The plat of The Villa Glen, Phase I, at Brighton Point, Phase II, Parcel C is incorporated into this Second Amended Declaration by reference and has been filed in the Office of the Recorder of Monroe County, Indiana, as of the 26th day of March, 2003, as instrument number 20030007831 in Plat Cabinet C, Envelope 327, together with any subsequent plat recorded in the Office of the Recorder of Monroe County, Indiana.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Angela F. Parker

This Instrument Prepared By
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EXHIBIT A

LEGAL DESCRIPTION FOR VILLA GLENN

OVERALL AND PLATS

LEGAL DESCRIPTION FOR
VILLA GLENN OVERALL
JOB NO. 3136

A Part of Parcel "C" in Brighton Point, Phase II as recorded in Plat Cabinet C, Envelope 304 as found in the Office of the Recorder, Monroe County, Indiana.

BEGINNING at the Northeast corner of Parcel C; thence on the West boundary of said Parcel C the following two (2) courses; 1) SOUTH 04 degrees 43 minutes 12 seconds West 59.78 feet; 2) South 15 degrees 35 minutes 05 seconds West 370.30 feet; thence leaving said west boundary SOUTH 75 degrees 43 minutes 09 seconds West 211.45 feet to a point on the Western boundary of an access, landscape, drainage, signage easement known as Baldwin Drive; thence on said Western boundary the following two 2) courses: 1) NORTH 00 degrees 23 minutes 14 seconds East 47.83 feet; 2) NORTH 00 degrees 23 minutes 14 seconds East 47.89 feet; thence 7.13 feet along a 213.00 foot radius tangent curve to the right whose chord bears NORTH 01 degrees 20 minutes 49 seconds East 7.13 feet; thence NORTH 89 degrees 57 minutes 10 seconds West 179.11 feet; thence NORTH 54 degrees 06 minutes 05 seconds West 49.91 feet; thence SOUTH 58 degrees 55 minutes 37 seconds West 68.59 feet; thence NORTH 86 degrees 09 minutes 28 seconds West 153.30 feet to the West Line of said Parcel "C"; thence along said West Line the following (4) courses: 1) NORTH 03 degrees 17 minutes 45 seconds West 24.75 feet; thence 2) NORTH 11 degrees 48 minutes 02 seconds East 193.34 feet; thence 3) NORTH 46 degrees 39 minutes 45 seconds East 68.75 feet; thence 4) NORTH 00 degrees 59 minutes 37 seconds West 104.06 feet; thence SOUTH 88 degrees 38 minutes 13 seconds East 527.65 feet; thence NORTH 53 degrees 39 minutes 50 seconds East 76.98 feet; thence NORTH 00 degrees 59 minutes 37 seconds West 16.60 feet to the Southeast Corner of a dedicated Right-of-Way (P.C. "C", Env 304); thence on the South Boundary of a said Right-of-Way SOUTH 85 degrees 16 minutes 48 seconds 64.85 feet to the POINT OF BEGINNING, containing 5.59 acres, more or less.

PLATS

VILLA GLEN, PHASE I AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2003007831, REC. 03/26/2003, PLAT CABINET C, ENVELOPE 327

VILLA GLEN, PHASE II AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2004002247, REC. 02/04/2004, PLAT CABINET C, ENVELOPE 358

VILLA GLEN, PHASE III AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2004015943, REC. 07/20/2004, PLAT CABINET C, ENVELOPE 373

VILLA GLEN, PHASE IV AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2005009087, REC. 05/19/2005, PLAT CABINET D, ENVELOPE 5

VILLA GLEN, PHASE V AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2005021407, REC. 10/21/2005, PLAT CABINET D, ENVELOPE 18

UNABLE TO LOCATE A PLAT FOR GLEN, PHASE VI AT BRIGHTON POINT, PHASE II, PARCEL C

VILLA GLEN, PHASE VII AT BRIGHTON POINT, PHASE II, PARCEL C
INST. 2006021106, REC. 10/27/2006, PLAT CABINET D, ENVELOPE 52