

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR VILLAGES OF SAND CREEK OWNERS ASSOCIATION, INC.**

This First Amendment to the Declaration of Covenants and Restrictions for Villages of Sand Creek Owners Association ("Amendment") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2004 by the Villages of Sand Creek Owners Association, Inc., ("Association") an Indiana not-for-profit corporation, pursuant to the approval of the owners.

**I. RECITALS**

- A. On December 15, 1993, S-W Corporation, an Indiana Corporation, ("Declarant"), recorded as Declaration of Covenants and Restrictions for Villages of Sand Creek Owners Association, which document was recorded as Document No. 93-35332 and recorded in the Office of Recorder of Porter County, Indiana. Said Declaration of Covenants and Restrictions are applicable to lands contained in the area described on Exhibit A, which is attached hereto and made a part hereof.
- B. On February 7, 2002, Declarant transferred control of the Association to the Owners of the Units.
- C. Article XIV of the Declaration provides that the Declaration may be changed or modified by an instrument in writing setting forth such change or modification, approved by vote of those persons who are then the Owners of a majority of the Numbered Lots, Double Lettered Lots or fractional interests in said Lots.
- D. The Association, as authorized by a majority of the Owners, desires to amend Article XI of the Declaration to allow the Association to recover costs and attorney's fees related to enforcement of the restrictions and covenants contained in the Declaration.
- E. The Association, as authorized by a majority of the Owners, desires to amend Article XIV of the Declaration to restrict the voting rights of Owners who are in violation of the terms and restrictive covenants of the Declaration.
- F. In all other respects, all of the terms and conditions of the Declaration shall remain in full force and effect.

**II. AMENDMENT OF ARTICLE XI**

Pursuant to the Declaration, the Association hereby declares that Article XI of the Declaration of Covenants and Restrictions for the Villages of Sand Creek, dated December 15, 1993 and recorded in the Office of the Recorder of Porter County on December 15, 1993 as Document Number 93-35332, is hereby amended to read as follows, to-wit:

## ARTICLE XI

### REMEDIES

- A. In General: The Association or any party to whose benefit these Restrictions inure, including the Developer and/or Owners, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Developer nor the Association shall be liable for damages of any kind to any person for enforcing these Restrictions or for failing to abide by, enforce or carry out any of these Restrictions.
- B. Delay or failure to Enforce: No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by the party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation of these Restrictions.
- C. Cost of Enforcement: Any owner who is in violation of the Declaration of Covenants and Restrictions shall be responsible for paying to the Association any and all expenses and costs, including attorney's fees and court costs, incurred by the Association in enforcing the provisions of architectural control and any other restrictions contained in the Declaration of Covenants and Restrictions.

### III. AMENDMENT OF ARTICLE XIV

Pursuant to the Declaration, the Association hereby declares that Article XIV of the Declaration of Covenants and Restrictions for the Villages of Sand Creek, dated December 15, 1993 and recorded in the Office of the Recorder of Porter County on December 15, 1993 as Document Number 93-35332, is hereby amended to read as follows, to-wit:

### ARTICLE XIV

#### DURATION

The foregoing Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2013, at which time said Covenants and Restrictions shall be automatically extended for a successive period of ten (10) years, unless a majority of all owners (whose voting rights have not been suspended by the Association) of Numbered Lots, Double Lettered Lots, or fractional interests in said Lots approve an amendment revoking, altering, or otherwise changing said covenants in whole or in part.

IN WITNESS WHEREOF, the Association, by and through its President, hereby certifies that a majority of lot owners in The Villages of Sand Creek have approved and ratified this Amendment on the date first set forth above.

VILLAGES OF SAND CREEK OWNERS  
ASSOCIATION, INC.,  
an Indiana not-for-profit corporation

By: \_\_\_\_\_  
Michael Utterback, President

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF PORTER     )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this date personally appeared VILLAGES OF SAND CREEK OWNERS ASSOCIATION, INC., by and through Michael Utterback, its President, and acknowledged execution of the foregoing Declaration.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name

County of Residence: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_