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PATRICIA A BROOKS
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**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
NORTH WARRICK INDUSTRIAL PARK**

The Warrick County Redevelopment Commission of Warrick County, Indiana ("Commission") is the owner of all lots and real estate situated in Warrick County, Indiana, which includes real estate and Lots Seven (7) and Eight (8) in the North Warrick Industrial Park Subdivision Section 1, Document No. 2008R-004075 in the Office of the Recorder of Warrick County, Indiana and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Real Estate"). The Real Estate in November of 2002 was designated and declared by the Commission as the North Warrick County Industrial Park Economic Development Area and developed pursuant to an Economic Development Plan in order to establish the North Warrick Industrial Park. ✓

On June 21, 2007 the Commission entered into and executed Declaration of Protective Covenants North Warrick Industrial Park establishing minimum standards for use and construction upon the Real Estate, that was recorded as Document Number 2008R- ✓ 004076 in the Office of the Recorder of Warrick County, Indiana on May 8, 2008. The Commission as the sole owner of the Real Estate now desires to amend and restate in its entirety the Declaration of Protective Covenants North Warrick Industrial Park as follows:

ARTICLE I - DEFINITIONS

1.01 Definition of Terms

Unless otherwise specified herein to the contrary, each of the following defined terms or phrases shall have the following meanings when used in this Declaration:

1. "Architectural Review Committee" or "ARC" means the committee initially appointed and acting from time to time in accordance with the provisions of Article V below.
2. "Building" means any structure that is permanently affixed to the Real Estate, has one or more floors and a roof, and is bounded by either an open area or other lot lines of a Building Site.
3. "Building Site(s)" means (i) any contiguous parcel of land within the Real Estate, the dimensions of which are established by the legal description in the deed from Commission to the Owner; (ii) any parcel of land within the Real Estate designated as a building site by Commission in any instrument in writing executed, acknowledged and recorded by the Commission; (iii) two or more contiguous building sites under common ownership if the Owner elects, by written notice to the Commission, to treat them as a single building site during the time of such Owner's ownership; and (iv)

all of the Real Estate, with the exception of the common areas, owned at any point in time by the Commission.

4. "Common Areas" means those areas of or for the benefit of the Real Estate (including any portions subject to an easement or right of way) together with appurtenant Improvements, devoted to the common use and enjoyment of the Owners, including, but not limited to, originally platted lakes, retention ponds, legal drains, parks, sidewalks, median strips, park signage areas, traffic controls, park entrances, park traffic signals/signage and drainage areas. Upon sale of the last Building Site by Commission, there shall be no further responsibility of any kind by Commission for Common Areas nor shall Commission remain an Owner of any Common Area. Building Site Owners are responsible for payment of all taxes owed on property they own even if that property could be defined as "Common Area."
5. "Common Expense(s)" means administrative costs incurred by the Owner's Association in administering its duties hereunder, and any cost or expense incurred for the installation, repair, maintenance and replacement of Improvements to the Common Areas; any cost of expense of utilities and related expenses including but not limited to street lights, and signage associated with Improvements in the Common Areas; and all taxes and assessments thereon (not otherwise due from Building Site Owners); and any related costs included in the cost of required insurance coverage. Common Expenses shall further include any expenses assessed against the Commission by governmental authorities after assessment of all initial NWIP development costs as described in paragraph 10.01.
6. "Covenant(s)" means all the conditions, covenants, restrictions and reservations contained herein, or any one or more of them as the context may require.
7. "Declaration", "hereof", "herein", and words of similar import have reference to this Declaration as a whole and not to any particular section, subsection or clause hereof.
8. "Development Period" means that period of time during which the Commission owns any Building Site in NWIP.
9. "Foliage Easement" means foliage easements and berms as depicted on the recorded plat and subdivision of the Real Estate designated as the ("NWIP"). Foliage easements and berms are not common areas. Foliage easements may be grassy areas, tree or other shrubbery planting areas, or some combination of grass and plants, or other appropriate screening material.

10. "Improvements" means any building, parking areas, sidewalks, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs, traffic signals, structures of any type or kind, and the permanent result of any other action taken for the improvement of the Real Estate.
11. "Mortgage" means any bona fide mortgage, deed of trust or conveyance of a Building Site or any interest therein or portion thereof which secures the performance of an obligation which, upon completion of such performance, will be released, discharged or be conveyed. "Mortgagee" means the mortgagee, secured party or other beneficiary of a mortgage.
12. "Outlot" means areas designated on the recorded or amended plat of NWIP, which area may or may not be a Common Area.
13. "Owner(s)" means the fee owner or owners, as the context may require, of all or any part of the Real Estate, including a Building Site.
14. "Owner's Association" means the association that may hereafter be established by Commission for the purpose of exercising the rights and performing the duties and obligations of Commission under this Declaration.
15. "Railroad Easement" means an easement for railroad purposes as may appear upon the recorded or amended plat of NWIP.
16. "Real Estate" means all of the real property described on Exhibit "A" attached hereto.
17. "North Warrick Industrial Park" ["NWIP"] means all the Real Estate as well as the Lots on the presently recorded plat and subdivision of the Real Estate designated as North Warrick Industrial Park and recorded as Instrument No. 2008R-004075 in the office of the Recorder of Warrick County, Indiana.

ARTICLE II- PURPOSE

2.01 Establishment of Covenants

Commission does hereby declare that the Real Estate shall be held, sold, transferred, conveyed and occupied subject to the Covenants contained herein, which shall be binding upon the Owners, jointly and severally, and their successors and assigns, and shall run with the title to every Building Site and every portion of the Real Estate for the Term set forth in Article VIII. No portion of the Real Estate may be developed or operated, nor any construction of improvements commenced thereon, by any Owner except in accordance with the provisions of this Declaration; and any violation of the provisions hereof shall

subject the Owner of such portion of the Real Estate to the causes of action and remedies provided in this Declaration.

2.02 Purpose

The purpose of the Covenants contained herein is to promote the industrial development of the community by providing a location compatible for industrial uses that will: (i) protect Commission and each Owner through the proper development and use of the Real Estate; (ii) cause the erection on the Real Estate of Improvements which are constructed of suitable materials; (iii) insure compatibility of design of Improvements within the Real Estate; (iv) secure and maintain sufficient setbacks and space between Buildings to create an aesthetically pleasing environment (v) provide for proper landscaping and for the maintenance thereof; (vi) provide adequate off-street parking and loading facilities; and (vii) in general, encourage construction of attractive, high-quality, permanent improvements that will promote the general welfare of all Owners and occupants.

2.03 Acceptance of Covenants

The Covenants having been in place at purchase, are recognized by the Owners to be desirable and as such the Owners, by the acceptance of title to any Building Site or part thereof; accept these Covenants and agree that the Covenants shall be binding upon them and their respective Building Sites. Every owner who now holds or hereafter acquires any right, title or interest in or to any portion of the Real Estate shall be conclusively deemed to have consented and agreed to every Covenant, term and provision contained in this Declaration, whether or not any reference to this Declaration is contained in any instrument conveying to such person any interest in the Real Estate.

2.04 Owner Responsibility

Each Owner, notwithstanding any third party occupancy or possession of a Building Site, shall be responsible for the enforcement of and compliance with these Covenants.

ARTICLE III - PERMITTED USES

3.01 Permitted Uses

Building Sites may be used only for the uses set forth in the Warrick County Comprehensive Zoning Ordinance for a General Industrial District [M-2]; provided, however, that no residential uses [R-1 through R-MH], Neighborhood Commercial uses [C-1], Community Commercial uses [C-2], shall be permitted even if such uses are permissible under the M-2 zoning classification. An example of the permitted uses are the following: offices; office-showrooms; office-warehouses; manufacturing; assembling; processing; light manufacturing; wholesaling; research and development; warehousing; servicing and distribution; distribution centers; and other commercial uses compatible with the foregoing uses. Uses which are neither specifically prohibited nor specifically authorized by this Declaration may be permitted [as well as variances pursuant to 3.04] as

to certain Building Sites in a specific case if a proposed use plan describing such proposed use in detail is submitted to and approved in writing by the Owner's Association.

3.02 Prohibited Uses

No noxious or offensive trades, services or activities shall be conducted on any Building Site nor shall anything be done therein which may be or become unsightly or an annoyance or nuisance to any Owner, tenant or occupant of any Building Site including anything which results in an emission of fumes, odors, glare, vibration, gases, hazardous waste, pollutants, radiation, dust, liquid waste, smoke or noise, or in violation of any applicable law. Specifically, but not in limitation of the preceding, the following uses shall not be permitted on any portion of any Building Site: (i) dumping, disposal, incineration or reduction of garbage, trash, sewage, offal, dead animals or refuse; (ii) junk yards and recycling facilities; (iii) commercial excavation of building or construction materials (but not excluding excavation in connection with the construction of Improvements); (iv) extraction or refining of petroleum or of its products; (v) distillation of bones; (vi) smelting of iron, tin, zinc or other ores; (vii) fat rendering; (viii) stockyard or slaughter of animals; (ix) cemeteries; (x) labor camps and migrant worker camps; and (xi) jails or honor farms.

3.03 Zoning and Variance Restrictions

No Owner shall be permitted to obtain or make use of a zoning change or reclassification, subdivision waiver or variance, or a special, conditional or accessory use or use variance, with respect to a Building Site, without the prior written approval of the Commission and/or the Owner's Association.

3.04 Variances

To encourage good design, innovation and flexibility, the Owner's Association may, with or without request therefore, in writing waive or grant a variance from any of the Covenants, if, in the sole judgment of the Owner's Association, such waiver or variance would be consistent with the general intent and purposes expressed in this Declaration. Any Owner desiring a waiver or variance must first submit a written request to the Owner's Association providing all information and material requested by the Owner's Association. If the Owner's Association fails to approve or disapprove in writing any request for a waiver or variance within thirty (30) days after receiving all requested information relating to the waiver or variance, the requested waiver or variance shall be deemed denied. The granting of a variance shall not be deemed to be a precedent for the granting of any other variance request by an Owner. By acceptance of any deed to any Building Site, the Owners expressly waive any claims, causes of action or damages arising out of the granting or denial of any requested variance. The grant of a variance to any Owner shall not constitute a waiver of the Owner's Association's right to strictly enforce the Covenants contained in this Declaration against any other Owner.

ARTICLE IV - REGULATION OF IMPROVEMENTS

4.01 Improvements, Generally

No Improvement shall be constructed, erected, placed, altered, maintained or permitted on any Building Site unless it complies with the Covenants, terms and provisions contained in this Declaration, any regulations and guidelines promulgated by utility companies for activities surrounding utility lines, pipes, poles, and wires, and all applicable governmental requirements, and is approved by the Architectural Review Committee. If there shall be a conflict between the terms and provisions contained in this Declaration, applicable utility regulations, and the applicable governmental requirements, the more restrictive shall be deemed controlling.

4.02 Site and Building Development Standards

Standards governing Improvements, including appropriate building setbacks, greenspace requirements, parking, loading areas, storage, temporary improvements, landscaping, signs, utility connections, fencing, on-site lighting, roof-top construction and on-site drainage shall be subject to the review and approval by the ARC as set forth in Article V herein. Further, all Improvements and uses of Building Sites shall be subject to the sewer provider's pre-treatment ordinance.

4.03 Maintenance During Construction

During the period of any construction upon a Building Site, the Building Site (and all streets used by construction equipment or trucks) shall be kept in a clean and neat condition by Owner and all trash, rubbish, debris, mud and dirt shall be removed daily. The Owner shall also take all measures necessary or appropriate to control fugitive dust, blowing sand and erosion, whether by wind or water. Damage to roadways, utilities or any of the Common Areas caused by construction activity shall be repaired to the satisfaction of the Commission and/or Owner's Association at the sole pro-rata cost to the Owner(s) conducting construction activity. All construction and construction traffic shall be conducted so as not to interfere with free and ready access to existing Buildings and neighboring Building Sites and in accordance with the direction of the Commission and/or Owner's Association from time to time.

4.04 Fire Protection

Each Owner shall be responsible for all fire protection for the Buildings and Improvements located on their respective Building Sites.

4.05 Subdivision of Building Sites

No Building Site of record within the NWIP may be further subdivided for sale or used by more than one occupant without 1) written permission of the Commission, 2) written

permission of the Owner's Association, and 3) appropriate governmental review and approval pursuant to applicable statutes, ordinances and regulations.

4.06 Owner Maintenance

Each Owner, at its sole expense, shall keep, maintain, service and replace its Building, Improvements, and appurtenances, including landscaping, on its Building Site, in a safe, clean, maintained, neat, wholesome condition and with the same exterior finish originally approved by the ARC, and shall comply in all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements.

4.07 Owner's Association Maintenance

The Owner's Association shall be responsible for maintaining (as a Common Expense) all Common Areas in a clean, safe, and attractive condition and shall maintain, repair and replace all components thereof. Commission hereby reserves perpetual easements for reasonable access over and across all areas of the surface of each Building Site for the use of the Owner's Association for the purposes of installation, maintenance and repair of the Common Areas. The Owners Association shall indemnify and hold harmless the Owners and occupants of Building Sites from any damage to property or person resulting from the exercise of such reserved rights. Such access shall be during normal business hours with 24-hours' advance notice to the affected Owner of such access. Access during times of an emergency, as determined by the Owner's Association, may be at any time and shall not require advance notice.

4.08 Railroad Track

In the event any (of the) Owner(s) require(s) the construction of a railroad spur upon the area designated for such purpose on the recorded plat of NWIP, such Owner(s) utilizing the Railroad Easement shall bear all costs and expenses associated with the Railroad Easement and/or such railroad spur, and such costs and expenses shall be assessed against such Owner(s) in the same manner as provided in Article X herein. All Owner(s) utilizing the Railroad Easement and/or the railroad spur shall comprise a subcommittee of the Owner's Association which shall make recommendations to the Owner's Association regarding all aspects of the Railroad Easement and/or the railroad spur. The recommendations of such subcommittee shall be adopted by the Owner's Association unless overridden by a two-thirds vote of the Owner's Association.

4.09 On-Site Lighting

The site lighting will be maintained in a safe and attractive manner so as to preserve the aesthetic qualities established for NWIP. In the event site lighting is not maintained and becomes in need of repair, a notice of said disrepair will be delivered to the responsible Owner. If repair is not initiated within thirty (30) days, the Owner's Association may undertake repairs at Owner's expense.

ARTICLE V - APPROVAL OF PLANS

5.01 Architectural Review Committee

There is hereby established an Architectural Review Committee ("ARC") whose members shall initially be appointed by the Commission. The Architectural Review Committee shall consist of five (5) members, with one (1) member with landscape architect experience and another member with building construction experience, and three (3) members from the Commission and/or Owner's Association. The concurrence of three (3) members shall constitute the action of the Architectural Review Committee without the necessity of a formal meeting. Members shall serve and be appointed at the pleasure of the Commission until such time as the Commission, in writing, notifies the Owner's Association [Article IX] that the Commission irrevocably assigns this power of appointment for this Architectural Review Committee to the Owner's Association, however, upon Commission conveying the last available Building Site in NWIP to a third party, all rights and obligations of Commission to appoint members of the ARC shall automatically vest in the Owner's Association and the Owner's Association shall have the same rights and powers and be subjected to the same obligations and duties as are incumbent upon Commission and Commission shall be relieved of further responsibility hereunder.

5.02 ARC Approval

No Improvements may be constructed, erected, placed, altered, maintained or permitted on any Building Site until plans and specifications in content and form meeting the satisfactory to the ARC showing the proposed construction, plot layout and all exterior elevations, sample materials and colors, signs and landscaping, traffic engineering, number and size and layout of parking spaces, drainage, landscaping, grading, easements and utilities, proposed building use and number of employees and such other information as may be requested by ARC have been submitted over the signature of the Owner or its authorized representative to and approved in writing by ARC. In addition, no trees may be removed from any Building Site without the prior written approval of the Architectural Review Committee. The ARC has sole interpretation authority of the review and approval of Improvements.

5.03 Approval Procedures

Approval by ARC shall be based on, among other things, adequacy of Building Site size, conformity and harmony of external design with neighboring structures, effect of location and use of Improvements on neighboring Building Sites, operations and uses; relation to and enhancement of the topography, grade and finished ground elevation of the Building Site to that of neighboring Building Sites; proper facing of main elevation with respect to nearby streets; and conformity of the plans and specifications to the purpose to the purpose and general plan and intent of these Covenants. Approval by ARC of such plans and specifications shall not constitute a recommendation, certification or other verification by it of the worthiness, suitability or integrity of the plans and specifications.

5.04 Presumed Approval

If the ARC fails to make any kind of response either approving or disapproving such plans and specifications (including resubmission of disapproved plans and specifications which have been revised) within thirty (30) days after the same have been last submitted to it, it shall be conclusively presumed that said plans and specifications have been approved. The ARC shall make every reasonable effort to respond in a shorter period of time when so requested.

5.05 ARC's Nonliability

Neither the ARC nor their respective successors or assigns shall be liable in damages to anyone submitting plans or other data to them for approval, nor to any affected Owner by reason of mistake in judgment, negligence or nonfeasance by ARC or any of its members, arising out of or in connection with the approval or disapproval or failure to approve any plans, specifications, application or request; and each Owner, by its acceptance of title to a Building Site, releases the ARC from any liability to it, its successors and assigns, growing out of any loss or damage sustained as the result of the performance or nonperformance of ARC's duties hereunder, and agrees to indemnify ARC and its members both jointly and severally, without limit as to time or amount, against any such liability, regardless of by whom asserted, including all costs of defense and attorney's fees.

ARTICLE VI ENFORCEMENT

6.01 Abatement and Suit

The Covenants shall run with title to the Real Estate and be binding upon and inure to the benefit of the Commission, the Owners, the Owner's Association and their respective successors and assigns. These Covenants may be enforced by the Commission, the Owner's and the Owner's Association as provided herein; however the Commission's opportunity to enforce these Covenants shall cease, and shall no longer be available upon the Commission selling the last Building Site for which the Commission has ownership. Each Owner, by acquiring an interest in the Real Estate, appoints irrevocably, as a power coupled with an interest, the Commission and Owner's Association as its attorney-in-fact for such enforcement purposes; provided, however, that if an Owner notifies the Commission or Owner's Association of a claimed violation of these Covenants, and the Commission or Owner's Association fails to act within thirty (30) days after receipt of such notification, then and in that event only, an Owner may separately, at its sole cost and expense, bring suit to enforce the violated Covenant in like manner as permitted by the Commission or Owner's Association. In enforcing these Covenants, the Commission and/or the Owner's Association shall have all remedies available to it or the Owners at law or in equity, and, as may be appropriate under the circumstance, the Commission and/or the Owner's Association shall have the right to demand injunctive relief and

specific performance. In all instances, the Commission and/or the Owner's Association shall be entitled to recover all of its costs incurred in maintaining any such action regardless of the outcome thereof, including its attorney's fees.

6.02 Deemed to Constitute a Nuisance

Every violation of these Covenants or any part thereof is hereby declared to be and to constitute a nuisance and every public or private remedy allowed by law or in equity against an Owner, tenant or occupant, including injunctive relief and specific performance, shall be available to the Commission and/or the Owner's Association. The Commission and/or Owner's Association shall further have the right to impose monetary fines upon Owner for violation of these Covenants, which fines shall become liens upon the Building Sites and if not paid the Commission and/or Owner's Association shall have all the rights in Article X below in order to collect such fines. Amount of the fine shall be set by the Commission and/or Owner's Association, but shall in no event exceed One Thousand Dollars (\$1,000.00) per day. Commission and/or Owner's Association shall set the fine based on the impact the violation has on the development of the NMWIP, Owners and/or Owner's Association.

6.03 Owner's Association Right to Perform

In addition to the Commission and/or the Owner's Association's other rights to remedy defaults of an Owner, if the Commission and/or Owner's Association reasonably determines that an Owner has failed to comply with any of the obligations and responsibilities imposed upon it hereunder, the Commission and/or the Owner's Association may give such Owner written notice specifying the default and the action required of the Owner to correct the default. If the default is not corrected to the reasonable satisfaction of the Commission and/or the Owner's Association within a period of thirty (30) days from the date of such notice or, where the condition relating to the default is not susceptible of being corrected within such period of time, and the Owner has not, within such thirty (30) day period, commenced correcting the default with due diligence and dispatch, the Commission and/or the Owner's Association shall have the right, but not the obligation, to correct or cause to be corrected the default, and in connection therewith it and its agents and subcontractors shall have the right to enter upon the affected Building Site and any of its Improvement for the performance of all acts deemed necessary by the Owner's Association for the purpose of correcting or remedying the default.

6.04 Owner's Association's Performance

If the Commission and/or the Owner's Association elects to correct or remedy any default as permitted it by the provisions of Section 6.03 above, it will thereafter submit to the affected Owner a written statement of all costs incurred by the Commission and/or the Owner's Association in connection therewith. The Commission and/or the Owner's Association shall have a lien upon the Building Site for the purpose of securing such costs and all of the Commission and/or the Owner's Association's other related costs

incurred by it in connection with the collection thereof, including costs of litigation and attorney's fees. If the Commission and/or the Owner's Association's statement for its actual costs incurred in connection with the remedying of such default is not paid within a period of thirty (30) days from date of the statement, the Commission and/or the Owner's Association may collect the same and have all the rights in respect thereof as provided in Article X below.

6.05 Enforcement

The failure of the Commission and/or the Owner's Association to enforce any of these Covenants shall in no event be deemed to be a waiver of the right to do so for the current or subsequent violations or of the right to enforce any of the other Covenants, nor shall the Commission and/or the Owner's Association incur any liability to anyone whomsoever for any failure from time to time to enforce the Covenants.

ARTICLE VII- PERFORMANCE TIME

7.01 Repurchase Procedures

If, after the expiration of thirty-six (36) months from the date of execution of any deed to any Building Site in the NWIP, the Owner thereof shall not have begun in good faith, and with reasonably complete arrangements to carry through to prompt completion the construction of improvements thereon, approved by the ARC under these Covenants, then the Commission shall have an option to repurchase such Building Site as follows:

1. The price shall be the same amount as was paid to the Commission at its sale to said Owner and shall be paid in cash at the closing. The Commission may set off against the purchase price all amounts necessary to release each lien or other encumbrance against the Building Site and any other costs to insure that title is conveyed in accordance with the intent hereof.
2. The option shall be deemed exercised by a notice in writing to said Owner delivered within sixty (60) days of the end of the thirty-six (36) month period.
3. At the closing, which shall be within a reasonable time following the expiration of the sixty (60) days, such Owner shall deliver its deed to the Commission, reconveying title to the site free and clear of all encumbrances except those as originally conveyed with the property, warranting title therein against all acts done or conditions arising since the conveyance from the Commission and shall forthwith deliver possession thereof.
4. Commission may, at its election, file suit for specific performance or any other rights at law and equity, demanding the Court enforce the right to

purchase the Building Site, and in all events, Commission shall be entitled to its attorneys' fees and related costs whenever it is required to enforce the rights available to it under this Article VII. The Commission retains the exclusive right, however, to extend the foregoing thirty-six (36) month period for commencement of construction site by agreeing thereto in writing whenever it shall determine that valid reasons exist therefor. However, the sixty (60) day Option Period described in sub-paragraph "b" above shall attach at the end of any extended time granted for the commencement of construction site hereunder.

7.02 Third Party Purchase

For as long as there are no Buildings or other improvements on the Building Site, the Owner shall not hereafter sell the Building Site or any portion thereof to a third party without having first given the Commission a forty-five (45) days option to repurchase said property. The repurchase price shall be the price as was paid to the Commission at its sale to said Owner, with right of set off and costs for title insurance as set forth above.

ARTICLE VIII - TERM, TERMINATION, MODIFICATION AND ASSIGNMENTS

8.01 Term

This Declaration, and every provision hereof and every covenant, condition, restriction and reservation contained herein shall continue in full force and effect for a period of twenty (20) years from the date hereof, and shall thereafter be renewed automatically for successive ten (10) year periods unless and until terminated as provided in section 8.02 below.

8.02 Termination, Modification or Amendment by Owners

This Declaration or any provision hereof may be terminated, extended, modified or amended, as to the whole of the Real Estate or any portion thereof with written consent of the Owners of seventy-five percent (75%) in area of the Real Estate (other than Common Areas); provided, however, that no such termination, extension, modification or amendment shall be effective without also the written approval of Commission so long as the Commission owns any portion of the Real Estate. Such termination, extension, modification or amendment shall be immediately effective upon recording an appropriate written instrument in recordable form, executed by the requisite Owners (and by Commission if required) in the office of the Recorder of Warrick County, Indiana.

8.03 Modification or Amendment by Commission

For and so long as Commission owns any portion of the Real Estate, Commission reserves the right to amend, modify and supplement any of the Conditions or other terms

and provisions contained in this Declaration which shall be binding upon all Real Estate owned by Commission at the time of such amendment and/or modification.

8.04 Assignments of Commission's Right and Duties

Any and all, or any portion and part, of the rights, powers and reservations of Commission herein contained may be assigned by Commission to any one or more persons, corporations or associations, including, but not limited to the Owner's Association, on condition that the assignee(s) undertake in writing to assume all of the relevant duties of Commission hereunder. To the extent of such assignment, the assignee shall have the same rights and power and be subject to the same obligations and duties as are incumbent on Commission, and to the extent of those duties assumed by the assignee, Commission shall be relieved from all further responsibility. The Commission is responsible for all initial NWIP development costs, not otherwise paid for by governmental financing, including but not limited to the initial traffic signal requirements of the Indiana Department of Transportation ("INDOT"), which costs have been incorporated into the lot pricing within the NWIP. However, all obligations of Commission, if any, for any costs and expenses imposed after these initial development costs by any governmental entity for improvements to roadways, highways and additional traffic signals, signage, street lighting, and other facilities for the benefit of or necessitated as a result of the NWIP's growth shall automatically vest in the Owner's Association and the Owner's Association shall be responsible for any such obligation(s) imposed upon (or attempted to be imposed upon) Commission, and the Owner's Association shall be permitted to impose such costs as assessments for Common Expenses against the Owners. Notwithstanding the foregoing, however, upon Commission conveying the last available Building Site in NWIP to a third party, all rights and obligations of Commission contained in this Declaration shall automatically vest in the Owner's Association and the Owner's Association shall have the same rights and powers and be subjected to the same obligations and duties as are incumbent upon Commission and Commission shall be relieved of further responsibility hereunder. If at any time Commission for any reason fails to perform its duties hereunder, a successor Commission may be appointed by the Owners of seventy-five percent (75%) in area of the Building Sites by a written instrument in recordable form filed of record in the office of the Recorder of Warrick County, Indiana.

ARTICLE IX - OWNER'S ASSOCIATION

9.01 Membership

Every Owner, including the Commission, of all or any portion of the Real Estate, shall be a member of the Owner's Association. The membership of a person or entity in the Owner's Association shall commence upon becoming an Owner and shall terminate upon ceasing to be an Owner. Membership shall be appurtenant to the Building Site giving rise to such membership and shall not be assigned or transferred except as a part of and in connection with the conveyance of the Building Site to a new Owner.

9.02 Member's Rights and Duties

Each member of the Owner's Association shall have the rights, duties and obligations set forth in this Declaration, the Articles of Incorporation and By-Laws of the Owner's Association, and all amendments duly made hereto and thereto.

9.03 Votes of Members

With respect to each matter on which a member of the Owner's Association is entitled to vote, each member shall have the right to cast that number of votes equal to the number of acres of the Building Site(s) of which the member is then the Owner, rounded down to the nearest acre. Co-Owners shall have the right to cast in the aggregate only that number of votes to which a single Owner of the Co-Owner's Building Site would be entitled. The aggregate vote of Co-Owners of any Building Site may be cast by any one of them unless an objection or protest is made by one of the Co-Owners, in which case the aggregate vote of all Co-Owners of the Building Site in question shall not be counted.

9.04 Board of Directors

The number of directors of the Owner's Association shall be five (5). Until the sale of the last Building Site by Commission, the Commission shall be entitled to appoint three (3) of the directors, and the remaining two (2) directors shall be members (other than the Commission) of the Owner's Association. At the first annual meeting of the members of the Owner's Association held after the sale of the last Building Site by Commission, all directors appointed by the Commission shall resign, and all directors of the Owner's Association shall thereafter be elected by the members of the Owner's Association.

9.05 Powers and Duties of Directors

The Board of Directors of the Owner's Association shall have powers for the conduct of the affairs of the Owner's Association which are granted to the Owner's Association by law, this Declaration, or the Articles of Incorporation or By-Laws of the Owner's Association, with the sole exception of those powers specifically reserved by such documents to members of the Owner's Association, the Architectural Review Committee or the Commission. Without limiting the generality of the foregoing, the Board of Directors shall have the power:

To construct, or cause to be constructed, the Improvements to the Common Areas, including infrastructure, and to enter into such contracts as may be required from time to time in the exercise of such powers, duties and responsibilities;

1. To own the Common Areas and all its Improvement;
2. Have the right to grant easements and rights of way appurtenant to or for the benefit of the Real Estate and Improvements;

3. To manage and maintain the Common Areas;
4. To incur such debt as may be incident to its ownership of the Common Areas, and the preservation, maintenance, repair and restoration of any and all Improvements thereto, and make sure regular and special assessments permitted by this Declaration;
5. To have the right to mortgage or otherwise encumber the Common Areas to secure any debt incurred in the performance of its obligations hereunder;
6. To acquire, own, hold, improve, maintain, manage, convey, transfer or dedicate real or personal property for the benefit of members of the Owner's Association;
7. To employ, enter into contracts with and delegate authority to persons or entities for the purpose of managing, conducting and performing the duties and obligations of the Owner's Association;
8. To take such other action as reasonably necessary or appropriate to implement or enforce any of the provision of this Declaration or the Articles of Incorporation or By-Laws of the Owner's Association, including, but not limited to, the institution of legal action for collection of delinquent assessments by seeking a personal money judgment against the defaulting party or by foreclosing upon as assessment lien.

9.06 Enforcement

The Owner's Association shall be entitled to enforce the covenants, conditions, and restrictions imposed under or in accordance with this Declaration, and may pursue the rights and remedies provided in this Article and any other rights and remedies available to the Owner's Association under this Declaration or at law or in equity. The right and remedies of the Owner's Association shall be cumulative; no one right or remedy shall be construed as exclusive of any other; and the exercise of any one right or remedy by the Owner's Association shall not preclude it from exercising any other right or remedy at the same or any subsequent time.

9.07 Indemnity

Each Owner is required hereby to indemnify and hold the Owner's Association, its agents, directors, shareholders, employees and affiliates harmless, without limit as to time or amount, from all, losses, claims, damages or liabilities in any way arising out of any activity conducted on or from its Building Site, including all costs of defense and attorney's fees.

9.08 Attorney-in-Fact

The President and any Vice President of the Owner's Association (and of each successor in interest at any point in time) are each hereby, as a power coupled with an interest, irrevocably appointed by each of the Owners to manage, control and deal with their common interests in the Real Estate, whether joint or several, and where applicable with the Common Areas, in such manner and to such extent as may permit the Owner's Association to more fully perform and discharge its powers, duties and responsibilities hereunder. Each Owner's acceptance of title to a Building Site, or any portion thereof, shall be deemed to be its full designation and appointment as herein provided.

ARTICLE X - ASSESSMENTS

10.01 Assessment for Common Expenses

All Owners shall be obligated to pay the assessments imposed hereunder by the Owner's Association to pay the Common Expenses. The Owners shall not be assessed for the costs of initial construction of the Improvements to the Common Areas, which costs shall be borne by Commission. Subject to the provisions of this Declaration, the Owner's Association Board of Directors shall have the power and authority to determine all matters in connection with assessments, including power and authority to determine where, when and how assessments are paid to the Owner's Association.

10.02 Assessments Pro-Rata

All assessments against the Owners and Commission made by the Owner's Association for payment of the Common Expenses shall be prorated among the Owners as follows:

1. The total number of acres of all Building Sites of Owners and Commission at the date of the assessment shall be calculated (Assessment Acreage); and
2. The Assessment Ratio shall be in the ratio in which each Owner's total acreage in its Building Site bears to the Assessment Acreage, expressed as a percentage; and
3. The Assessment shall be an amount equal to the product obtained by multiplying the total of the Common Expenses by the Assessment Ratio.

All acreage computations shall be made to the nearest hundredth of an acre. No assessment will be made against the Commission after sale of the last Building Site.

10.03 Proposed Annual Budget

On or before the first day of November of each calendar year, the Board of Directors for the Owner's Association ("Board") shall cause to be prepared a proposed annual budget for the ensuing calendar year, estimating the total amount of the Common Expenses required during such year, together with a reasonable amount considered by the Board to be necessary for a replacement reserve fund for capital expenditures and replacement and repair of the Improvements to the Common Areas, and within a reasonable time thereafter furnish a copy of the proposed annual budget to each Owner. The proposed annual budget shall be submitted to the Owner's Association's voting shareholders at its annual meeting, and to the extent adopted by such shareholders, the proposed annual budget shall be the basis for assessment ("Regular Assessment"). The Regular Assessment shall be paid in such installments as may be determined from time to time by the Owner's Association, but not more frequently than monthly. All other matters pertaining to the Regular Assessment shall be determined by the Board.

10.04 Supplementary Assessments

If the amount received by the Owner's Association on account of the Regular Assessment is less than the amount required by the Owner's Association to pay the Common Expenses, whether as a result of defaults by some Owners in making payments or as a result of mistaken estimates in budgeting or otherwise, the Board may, at any time, levy supplementary assessments ("Supplementary Assessments") to cover the deficiency, including interest and costs of collection and attorney's fees.

10.05 Special Assessments

In addition to the Regular Assessments and Supplementary Assessments, the Owner's Association may levy special assessments ("Special Assessments"), payable over such Periods as the Owner's Association may determine, for the purpose of defraying, in whole or in part (to the extent the amounts in any capital reserve fund are insufficient therefor) the cost of any construction or reconstruction undertaken for repair or replacement of the Improvements to the Common Areas, or any part thereof, or for the other expenses incurred or to be incurred as provided in this Declaration for the benefit of the Owner's Association and the Owners. No Special Assessment shall be levied, however, until first approved by the Owner's owning seventy-five percent (75%) of the vote in the Owner's Associations.

Each Owner's share of Common Expenses shall from date of assessment be the personal and individual debt of such Owner. If there are multiple Owners of a Building Site, each is jointly and severally liable. Suit to recover a money judgment for unpaid assessments and all costs of suit (including attorney's fees) shall be maintainable by the Owner's Association without foreclosing or waiving any lien securing the same. No Owner may exempt itself from liability for assessments by waiver of the use or enjoyment of any of the Common Areas or by abandonment of its Building Site. Except for Mortgagees and Commission, each Owner of a Building Site shall be jointly and severally liable with each former Owner of the Building Site

for all amounts which had accrued and were payable at the time of the transfer of fee simple title to the Building Site, but without prejudice to the new Owner's right of recovery against the former Owner. Commission shall pay its share of all assessments, and if Commission defaults in such payments, no other Owner shall be assessed to pay any shortfall caused by Commission's default.

10.06 Lien for Assessments

The Owner's Association shall diligently attempt to collect all assessments and shall have a lien against each Building Site to secure payment by its Owner of any assessment charge, fine, penalty or other amount due and owing hereunder, plus interest at the rate of eighteen percent (18%) per annum from the due date of payment and all costs incident to collection, including attorney's fees and other costs of litigation. Whenever any amount due the Owner's Association remains unpaid for a period of thirty (30) days from due date, the Commission may at any time thereafter file a statement of its lien claim in the office of the Recorder of Warrick County, Indiana substantially in the form called for and with all rights and remedies provided by the mechanic's lien laws of the State of Indiana. Nevertheless any such lien shall be deemed to be junior to all recorded liens against or encumbrances of the Building Site of record as of the date of the filing of the lien claim. The lien may thereafter be foreclosed, and the Owner's Association shall have the same rights and Remedies as provided for by the mechanic's lien laws of the State of Indiana.

ARTICLE XI- MISCELLANEOUS

11.01 Owner's Liability Subsequent to Sale

Upon sale of a Building Site, its Owner shall have no further liability for assessments or other obligations hereunder becoming due subsequent to recordation of the transfer in the office of the Recorder of Warrick County, Indiana; provided, however, that nothing herein shall be construed to relieve an Owner from any preexisting liquidated liabilities or obligations. Furthermore, no such sale shall operate to enlarge or extend or modify any of the construction time constraints imposed in Section 7.01 above.

11.02 Benefits and Burdens

The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Commission, the Owners and their respective heirs, successors, personal representatives and assigns.

11.03 Notice

Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested, and shall be directed as follows: If intended for an Owner, (i) to the address of the Building Site if improved; or (ii) if the Building Site is not improved, to the Owner's last address known to the Commission. If

notice is to be given Commission, it shall be given to the Warrick County Redevelopment Commission, P.O. Box 875, Newburgh, Indiana 47629-0875.

11.04 Singular and Plural

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.


11.05 Severability

All the terms, conditions, covenants, restrictions and reservations contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said terms, conditions, covenants, restrictions and reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other terms, conditions, covenant, restrictions and reservations or any part thereof shall be thereby affected or impaired, but shall continue in full force and effect.

11.06 No Waiver

No waiver of, or failure to enforce, any of the conditions, covenants, restrictions or reservations contained within this Declaration shall be deemed to constitute a waiver of any right to enforce the same or other conditions, covenants, restrictions or reservations thereafter.

IN WITNESS WHEREOF, the Commission has executed this Amended and Restated Declaration of Protective Covenants the day and year first above written.

By: 

Printed Name: Jeffrey Mulze

Title: President

STATE OF INDIANA)

COUNTY OF Warrick)



ON THIS 25th day of January, 2011, before me, a Notary Public in and for said County and State, personally appeared Jeffrey Mulzer, the President of the Commission which executed the foregoing instrument, who having been duly sworn, acknowledged and affirmed that he did sign said instrument as such officer for and on behalf of said Commission, that the same is his free act and deed as said officer and the free and corporate act and deed of said Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as of the day and year aforesaid.

My Commission Expires:

02/02/2018

Matthew K. Zoccola

Signature of Notary Public

My County of Residence is:

Warrick

Matthew K. Zoccola

Printed Name of Notary

This instrument prepared by Thomas J. Kimpel, Attorney at Law, Bamberger, Foreman, Oswald and Hahn, LLP, 20 N. W. Fourth Street, P.O. Box 657, Evansville, Indiana 47704, at the request of the parties based solely on information provided by one or more of the parties and without examination of survey, title, or abstract. The drafter assumes no liability for any errors, inaccuracies or omissions in this instrument resulting from the information provided by one or more of the parties. The parties hereto signify their assent to this disclaimer by the execution and acceptance of this instrument.

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.

Roger E. Gannon

EXHIBIT A

Part of the South Half of Section 7, Township 4 South, Range 9 West and part of the North Half of Section 18, Township 4 South, Range 9 West, Greer Township, Warrick County, Indiana, being more particularly described as follows:

Beginning at the southwest corner of the Southeast Quarter of the Northwest Quarter of said Section 18, thence along the west line thereof North 00 degrees 58 minutes 19 seconds East 1341.43 feet to the southwest corner of the Northeast Quarter of the Northwest Quarter of said Section 18; thence along the west line thereof North 00 degrees 42 minutes 00 seconds East 307.56 feet to the northeast corner of a tract of land conveyed to Wayne and Bonnie Fehd in Deed File 3, Card 9190 in the Office of the Recorder of Warrick County, Indiana; thence along the north line of said Fehd tract South 89 degrees 51 minutes 33 seconds West 1163.86 feet to the southeast right-of-way line of State Road 57 as per deed recorded as Instrument No. 2005R-007960 in the office of said Recorder; thence along said right-of-way line North 20 degrees 58 minutes 02 seconds East 904.50 feet; thence continue along said right-of-way line North 10 degrees 12 minutes 04 seconds East 80.30 feet; thence continue along said right-of-way line North 20 degrees 58 minutes 02 seconds East 1345.18 feet to the north line of Lot 3 in the Exempt Division of the Mary J. Kuebler and Bonnie Loveless Property, recorded in Document Number 1995R-7429 in said Office of the Recorder; thence along the north line thereof, North 89 degrees 58 minutes 37 seconds East 365.39 feet to the northeast corner of said Lot 3 and the southeast corner of Lot 2 of said Exempt Division, said point being on the west line of the Southeast Quarter of the Southwest Quarter of said Section 7; thence along said west line and the east line of said Lot 2, North 00 degrees 24 minutes 55 seconds East 143.27 feet to the northwest corner of the Southeast Quarter of the Southwest Quarter of said Section 7; thence along the north line thereof South 89 degrees 44 minutes 22 seconds East 1534.05 feet to the northwest corner of the Southwest Quarter of the Southeast Quarter of said Section 7; thence along the north line thereof South 89 degrees 38 minutes 45 seconds East 659.82 feet to the northeast corner of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter of said Section 7; thence along the east line thereof South 00 degrees 04 minutes 53 seconds East 663.03 feet to the southeast corner thereof; thence along the north line of the Southeast Quarter of the Southwest Quarter of the Southeast Quarter of said Section 7, South 89 degrees 40 minutes 00 seconds East 655.49 feet to the northeast corner thereof; thence along the east line thereof South 00 degrees 17 minutes 35 seconds West 662.78 feet to the southeast corner thereof; thence along the east line of the West Half of the Northeast Quarter of said Section 18, South 00 degrees 22 minutes 09 seconds West 1145.12 feet; thence parallel to the south line of the Northwest Quarter of the Northeast Quarter of said Section 18, North 89 degrees 37 minutes 30 seconds West 1316.05 feet to the east line of the Northeast Quarter of the Northwest Quarter of said Section 18; thence parallel to the south line thereof North 88 degrees 56 minutes 22 seconds West 214.00 feet to a point on the west line of 13 acres of even width off the east side of the Northwest Quarter of said Section 18; thence along said west line South 01 degrees 03 minutes 28 seconds West 1504.79 feet to a point on the south line of the Southeast Quarter of the Northwest Quarter of said Section 18; thence along said south line North 89 degrees 37 minutes 40 seconds West 1330.05 feet to the Point of Beginning, containing 236.24 acres (10,290,736 sq. ft.).

Which includes Lots Seven (7) and Eight (8) in the North Warrick Industrial Park Subdivision Section 1, Document No. 2008R-004075 in the Office of the Recorder of Warrick County, Indiana.