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SUPPLEMENTARY DECLARATION IX-A

TO THE

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

TIPTON LAKES COMMUNITY ASSOCIATION, INC.

(Cluster #9, Commonly Known as Shadow Bay Cluster)

THIS DECLARATION made this 21st day of May, 1985 by Tipton Lakes Company, an Indiana Corporation (hereinafter referred to as the "Developer")

Preamble

WITNESSETH:

WHEREAS, Developer is the owner of the land contained in Shadow Bay as recorded in Plat Book M, Page 125 of the Bartholomew County Recorder's Office which may in whole or in part be subjected to the provisions of the Declaration of Covenants, Conditions, and Restrictions of Tipton Lakes Community Association, Inc., hereinafter the "Declaration," recorded in the Office of the Recorder of Bartholomew County, Indiana in Record 59, Page 992.

NOW THEREFORE, the Developer hereby declares that Lots 1 through 8 as shown in Shadow Bay together with the parcel serving as a Cluster Common Area shown and designated Block A thereon and with such other parcels, if any, serving as Common Areas and Limited Common Areas, and such additions thereto as may hereafter be made pursuant to Article III hereof, shall be annexed to Tipton Lakes Community Association, Inc., and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens of the aforesaid Declaration and of this Supplementary Declaration hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner thereof.

Article I

Definitions

The definitions as set forth in the Declaration and Bylaws of Tipton Lakes Community Association, Inc. are hereby incorporated in full by reference.

Article II

Cluster and Neighborhood Designation

Section 1. Cluster Designation. Lots 1 through 8 and Block A as shown on the plat are hereby designated as a Cluster or portion thereof of Tipton Lakes Community Association, Inc. which is designated as Cluster #9.

Section 2. Neighborhood Service District Designation. The aforesaid Cluster or any portion thereof may be incorporated into a Neighborhood Service District in accordance with the Declaration, at which time the Neighborhood Service District shall be established and designated by Supplementary Declaration.

### Article III

#### Property Subject to this Supplementary Declaration

Section 1. Existing Property. Lots 1 through 8 of Shadow Box together with the parcel designated as Block A serving as a Cluster Common Area, as shown on the plat, are hereby subjected to the Declaration and this Supplementary Declaration.

Section 2. Common Areas. The Common Areas hereby subjected to the Declaration by this Supplementary Declaration shall include the aforementioned Cluster Common Area designated as Block A on the aforesaid plat of Shadow Bay, which shall be owned by the Association and maintained, replaced, and repaired out of Cluster Assessments as provided in the Declaration. No Common Areas to be owned by the Association and for general Association use and enjoyment, nor Limited Common Areas are currently planned for this Cluster. Other Common Areas may exist in Cluster #9 as defined and provided for in the Governing Documents. The foregoing listing of Common Areas within this Cluster may be changed from time to time in accordance with the Governing Documents.

Section 3. Additions to Existing Property. All or any part of the land described in the Development Plan, or land which is contiguous thereto, may be added to this Cluster by the Developer, without the consent of the Owners, within five years of the date of this instrument, by the filing of record a Supplementary Declaration with respect to such land which designates it as part of this Cluster and by filing with the Association the plat plans for such addition. For this purpose, "contiguous" land shall also mean land which is separated from land already described in the Development Plan by an area dedicated to public use.

### Article IV

#### Cluster Assessments

Section 1. Purpose of Assessments. The Board of Directors may establish an Annual Cluster Assessment as provided for in the Declaration and impose such upon the Assessable Units subjected to this Supplementary Declaration which may be used to defray the costs of construction, maintenance, repair or replacement of Cluster Common Areas and facilities and to provide for differentials in services and benefits unique to this Cluster which may include but shall not be limited to the following, and which may be changed from time to time in accordance with the Governing Documents:

- A. Operation, maintenance, repair and replacement of Cluster Common Area Block A.
- B. Taxes and Insurance allocable to this Cluster as provided for in the Governing Documents.
- C. Special Cluster signage, entryway landscaping, and perimeter and related landscaping and improvements serving primarily this Cluster, if any, and not otherwise the responsibility of the Association generally, any specific Owner or Owners, or any other entity.

D. Benefit differential based on proximity to lakes.

E. Others as provided for in the Governing Documents.

Section 2. Method of Assessment. The method of assessment shall be in accordance with that established in Section 5.01(d) of the Declaration.

Section 3. Maximum Cluster Assessment. The initial maximum allowable Annual Cluster Assessment is hereby established in the amount of \$240.00 per assessment year per Lot or Living Unit situated within this Cluster, which shall be effective until the first day of the fiscal year following the establishment of this Cluster.

Section 4. Change in Maximum. Changes in the maximum allowable Annual Cluster Assessment for this Cluster shall be effected in accordance with Section 5.04 (iv) of the Declaration.

## Article V

### Protective Covenants

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No structure shall be erected, altered, placed, or permitted to remain on any Lot other than one Single-Family dwelling not to exceed one and one-half stories in height, as determined from the street side, a private garage for not more than 3 cars, and other outbuildings incidental to residential use of the premises.

#### Section 2. Design.

- A. Materials. For each home no more than 3 basic exterior materials, in addition to glass, will be used, unless this is specifically waived by the Design Review Committee. Materials shall be subject to the Design Review Committee review.
- B. Color. External color schemes are subject to review and Approval by the Design Review Committee. Use of a wide range of secondary colors for doors, windows, window shutters, architectural trim, or other details is permissible but also subject to Approval.
- C. Driveways. All driveways must be paved with asphalt or concrete, unless otherwise Approved by the Design Review Committee. It is preferable to have driveways organized in group patterns to allow longer green areas between them.
- D. Fences. Fences may only be of materials and design Approved by the Design Review Committee. Exposed metal fences are not acceptable. No fences shall be placed between the principal residence and the street right-of-way, without the Approval of the Design Review Committee.

- E. Out Buildings. Storage sheds and other buildings or structures, such as gazebos, greenhouses, kennels, swimming pools and their accompanying facilities must be of a design and location Approved by the Design Review Committee. No wholly above-ground pools will be allowed without the Approval of the Design Review Committee.
- F. Dwelling Size. No Lot shall contain a primary residential dwelling unit having a total finished area exclusive of open porches, breezeway or garage, of less than 1,300 square feet.
- G. Building Coverage. Building coverage shall not exceed 50% of the Lot's land area. Driveways and parking areas are not included in this ratio. All buildings, garages, storage sheds and similar facilities are included.
- H. Signs. No sign of any kind shall be displayed to the public view on any Lot or the Common Areas without the prior Approval of the Design Review Committee except ordinary For Sale signs.
- I. Exterior Lighting. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent property. Ornamental post lights shall be designed to be in harmony with the lighting fixtures at the street or road corners. Exterior lighting must be Approved by the Design Review Committee.
- J. Mechanical and Electrical Equipment. Objects, such as water towers, storage tanks, stand fans, skylights, cooling towers, communications towers, vents or any other structures or equipment shall be architecturally compatible with the building or screened from public view and must be Approved by the Design Review Committee.
- K. Building Location. No building shall be constructed within 25 feet of a street right-of-way line or access easement line (when the access easement line is between the building and the street) nor within 15 feet of the water line (elevation 667) unless specifically approved by the Design Review Committee.

Section 3. Construction Regulations. Trailers, field offices, etc. shall be parked in Approved locations and removed upon completion of construction. Contractors are permitted to store construction materials on their site, but all materials shall be neatly stacked and any such storing shall be at the contractor's risk.

No tracked vehicle shall be permitted on any paved road. Contractors shall clean up all debris on their construction sites on a regular basis. Loose paper, cardboard, etc. shall be covered or weighted down to prevent its blowing across the site. No trash shall be dumped, burned, or buried, except in Approved areas. All dirt, mud, or debris shall be promptly removed from public and private streets. Upon completion the contractor shall remove any unused materials, equipment, and debris and shall clean all streets and repair all property damaged by him including, but not limited to, restoration of grades, grass, trees, repair to all streets, pathways, curbs, drains, signs lighting and fencing.

Section 9. Maintenance by Owner.

- A. Lot Maintenance. As further provided herein, every Owner shall promptly perform all maintenance and repair within his own Lot, which, if neglected, would affect the value of the Property, or any Lot or Living Unit thereon, and which is the responsibility of the Owner to perform personally. Each Lot shall be maintained neat and clean and free of paper, trash, uncut weeds or unsightly growth or other debris. No Owner or Occupant shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of any building, and no sign, awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any building without the prior Approval of the Design Review Committee. No permanent clotheslines, equipment, service yards, or storage piles shall be permitted upon any Lot, Living Unit or Common Area.
- B. Maintenance of Common Areas and Other Areas. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas. The Owners and Occupants shall endeavor to keep the Common Areas free and clear of rubbish, debris and other unsightly materials. The Owner of each Lot shall be responsible for the maintenance of the unpaved right-of-way adjacent to his Lot.
- C. Shoreline Maintenance. Each Owner of a Lot which abuts a lake or canal or other body of water within Tipton Lakes shall maintain the shoreline and water's edge adjacent to the Lot neat and clean and free of paper, trash, uncut weeds or unsightly growth or other debris.

Section 10. Utilities. All utilities along the internal roads and serving individual Lots shall be placed underground.

Section 11. Sewage Disposal. No Living Unit shall be erected unless it contains inside flush toilets connected with sewage disposal services provided by the City of Columbus, or other systems Approved by the City of Columbus and by the Design Review Committee.

Section 12. Water Supply. No individual primary water supply system shall be permitted on any Lot. Primary water shall be obtained from the City of Columbus.

Section 13. Oil and Mining Operations. No gas, oil, mineral, quarry, or gravel operations shall be engaged in on any Lot except as provided in the Declaration.

Section 14. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or in the Common Areas, except that dogs, cats, or customary household pets may be kept on a Lot, provided that such pets are not kept, bred or maintained for any commercial purpose, and do not create a nuisance. An Owner shall be fully liable for any damage to the Common Areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it deems necessary from time to time. Any pet which, in the judgment of the Board based on a decision of the Covenants Committee following procedures ensuring due process, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon three (3) day's written Notice from the Board to the respective Owner.

Section 15. Antennas. Exterior antennas are discouraged, particularly in areas served by Cable TV. All such antennas must be specifically approved by the Design Review Committee. Such Approvals, if given, will be limited to antennas not exceeding thirty square feet of grid area and not extending more than ten (10) feet above the highest point of the roof, unless unusual circumstances prevail.

Topsoil shall be separated from subsoil and be stockpiled in a mound and will be replaced where needed after construction is complete. Temporary berms shall be constructed around the topsoil to prevent erosion. The contractor shall establish erosion control measures which will prevent sedimentation of materials off site. A minimal amount of existing vegetation shall be disturbed during excavation and grading. Dikes, benches, berms, checkdams, level spreaders, straw bale barriers or other common erosion control measures shall be used where necessary and appropriate.

Section 4. Trees. Generally, no trees more than 4 inches in caliper and beyond 10 feet of any planned physical improvement shall be removed without the express written Approval of the Design Review Committee. The Design Review Committee may require that these clearing limits be staked with continuous tape and that significant trees be protected by snow fence barriers. The Design Review Committee may require replacement of any excessive loss of trees due to carelessness or accident by an equal number of 3-1/2 to 4 inch trees. These must be of a species recommended by the Design Review Committee.

Section 5. Parking. The parking of junk or disabled vehicles or vehicles which are not properly registered or licensed on the Lots or Common Areas is expressly prohibited unless such vehicles are kept from public view in private garages, if any. The Board may issue additional regulations pertaining to parking.

Section 6. Damage or Destruction. In the event of damage to or destruction of a Living Unit or other improvements situated on a Lot by fire or other means, any repair or replacement of such Living Unit or improvement shall be done in accordance with the original approved plans and specifications therefor unless otherwise Approved by the Design Review Committee.

Section 7. Temporary Structures. No house trailer or mobile home, either with or without wheels, shall be permitted to remain on any Lot other than for, and during such reasonable period of, construction of the Living Units, or for bonafide visits by guests of the Occupants of the main house and then only one such vehicle at a time.

After the construction period, such vehicles may not be present on any Lot for more than such reasonable period of time as the Board by resolution may establish. Any use of house trailers and mobile homes must be in accordance with local zoning ordinances. No trailer, basement, tent, shack, garage, barn, or other outbuilding shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. Recreational vehicles, motor boats, house boats and similar water borne vehicles may be maintained, stored, or kept on any Lot only if housed completely within a permanent structure. No Lot shall at any time be used for the parking of semi-trailer trucks.

Section 8. Garbage and Refuse Disposal. Trash, garbage or other waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be located in areas concealed from view from outside the Lot. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All Living Units must be equipped with garbage disposals. Trash, leaves and other similar material shall not be burned without the written Approval of the Association, and any such burning shall be in accordance with all local, state or federal laws. The Board may promulgate additional regulations for waste disposal procedures.

Section 16. Nuisances. No noxious or offensive activity shall be carried on or permitted upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 17. Applicable Laws. All applicable Federal, State and Local codes, regulations, ordinances, and laws shall be complied with.

Section 18. Hazardous Use. Nothing shall be done or kept on or in any Lot or in the Common Areas which will create a hazard, threat thereof, or actual damage to other Lots, Living Units or the Common Areas.

Section 19. Structural Soundness. Nothing shall be done or permitted on any Lot or in any Living Unit which will impair the structural integrity of any building, structurally change any building or impair any easement or hereditament, except as otherwise provided in the Declaration, the Bylaws, or this Supplementary Declaration.

Section 20. Garage Doors. Garage doors on Lots or Living Units shall be maintained closed at all times except when in actual use.

Section 21. Access Limitations. Lots 1, 2, 3, and 8 shall have no direct access onto Coles Drive.

Section 22. Setbacks, Easements and Fences. Lots 1 through 8 shall have no side yard setbacks. There shall be a minimum of ten (10) feet between walls of all free-standing buildings. Front yard setbacks shall be as specified in Article V, Section 2.K. No fences shall be permitted within the setback, unless they do not conflict with the visibility requirements of the Columbus Subdivision Control Ordinance and they are specifically approved by the Design Review Committee.

Section 23. Mailboxes and Newspaper Tubes. Only mailboxes and newspaper tubes Approved by the Design Review Committee shall be permitted, except for mail deposit-ries placed by the United States Postal Service.

Section 24. Damage to Common Areas by Owners. In the event that the need for maintenance or repair of Common Areas is caused through the willful or negligent act of the Owner, Occupant, his family or guests, or invitees, as determined by the Board or Covenants Committee, and not covered or paid for by insurance on such Common Areas, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which the applicable Lot or Living Unit is subject.

Section 25. Exceptions. The Board of Directors may issue temporary permits to except any prohibitions expressed or implied by this Supplementary Declaration, provided the Board can show good cause and acts in accordance with adopted guidelines and procedures.

So long as the Developer is engaged in developing or improving any portion of the Properties, it shall be exempted from the provisions of this Supplementary Declaration affecting movement and storage of building materials and equipment, erection and maintenance of directional and promotional signs and conduct of sales activities, including maintenance of model Living Units. Such exemption shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness and the general appearance of the Properties.

Section 26. Lake Use - Regulations and User Fees. The Association may assign any or all of the rights it may have in the use of the Lakes and Lake Property to the Members of the Association, their families and guests. Such use of the Lakes and Lake Property may be subject to rules and regulations promulgated by the Board and to user fees for such activities as constructing boat docks or boat houses along the Lakes,

placing boats upon the Lakes, and fishing upon the Lakes, among others. Such rules and regulations may include limitations on the types and sizes of boats permitted on the lakes and specifications for the type, size and location of boat docks and boat houses, if permitted as further provided herein.

Section 27. Boat Docks and Boat Houses. Those owners in Cluster 9 whose Lots directly abut the lakes and canals of Tipton Lakes may be entitled to construct docks and boat houses for the purpose of mooring boats Approved by the Association and similar Approved uses. The design and location of such docks and boat houses must be Approved by the Design Review Committee. The construction and use of such docks and boat houses shall be in accordance with rules and regulations which may be imposed by the Association and may be subject to user fees so imposed.

Section 28. Lake Pollution Control. The Board may adopt regulations prohibiting or restricting activities in Clusters in reasonably close proximity to the lake system which may, in the Board's judgment, pose a threat of pollution to the lake system. Among other activities, the Board may so regulate car washing, landscape fertilization, bug spraying other activities which may result in the contamination of the lake system and activities which may result in the flow of sediments into the lake system.

Section 29. Insurance.

- A. Insurance Responsibilities of Board. The Board of Directors of the Association shall purchase insurance in accordance with Section 3.04 (ii)(b)(4)(d) of the Declaration.
- B. Insurance Responsibilities of Owner. Each Owner shall purchase insurance to cover all his improvements and personal property in or on his Living Unit or Lot.

Article VI

Easements

Section 1. General. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat or plats. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of natural drainage channels in the easements. The easement area of each Lot and all improvements within it shall be maintained continuously and kept free of debris by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Water and sewer transmission lines through Lots 1-8 will be sized, located (near the Eastlake shoreline), stubbed, and approved in such a way as to permit their proper dedication to the City and the hook on and direct extension of these lines into the unplatted ground known as Eastlake Peninsula ("Eastlake Peninsula") directly to the west of Lot 1. Furthermore, if necessary, the Owners of Lots and Living Units in Lots 1-8 of Shadow Bay agree to grant to the Owners in Eastlake Peninsula easements, as reasonable and necessary, over and across said Lots 1-8 for the installation and maintenance of utilities serving Eastlake Peninsula including, but not limited to, the connection of water and sewer services in Eastlake Peninsula to the city water and sewer lines.

Section 2. Pedestrian Easements. There are hereby created easements for pedestrian rights-of-way over and across Lots as shown on the plat.



Section 3. Vegetation. Vegetation easements, if any, are shown on the aforementioned plat or plats. The Association may enter said areas to maintain, alter or replace vegetation within the easement. No Lot Owner may alter, remove or replace any shrub or tree within the easement without the express written Approval of the Design Review Committee.

Section 4. Construction and Drainage Easements. If any portion of an exterior wall or roof of a residence is situated within three feet of any adjoining Lot line, a valid easement shall and does exist, three feet in width along the adjoining Lot and adjacent to the said Lot line which easement may be used for the purpose of drainage or construction, reconstruction and maintenance of said exterior wall of a residence that is situated within three feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of said easement.

Section 5. Encroachment Easements. Each Lot shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings, fences and walls. A valid easement for said encroachments and for the maintenance for same, so long as such encroachments stand, shall and does exist. In the event any structure or fence is partially or totally destroyed and then rebuilt, the Owners so affected agree that minor encroachments due to construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 6. Private Utility Easements. Certain Lots may be subject to private utility easements. These easements, if any, are shown on the face of the plat. Said easements are appurtenant to the land and shall pass to such Owner's successors in title. The Owners of Lots subject to a private utility easement shall be responsible for maintaining the water and sewage utility facilities which benefit their Lots. The cost of repair and maintenance of said utility facilities shall be shared in an equitable manner. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land. In the event of any dispute arising from or concerning the repair and maintenance of these private utility facilities, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision of a majority of all the Arbitrators shall be binding on the Owners of said Lots.

Section 7. Driveway Easements. Lots 1 and 2 are to be serviced by common driveways and the Owners thereof shall share equally in the use, construction, repair and maintenance of their common drives. These Lots shall only have access from their respective common drives. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute arising from or concerning the repair and maintenance of a common driveway, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision of a majority of all the Arbitrators shall be binding on the Owners of said Lots. Each common driveway shall be a minimum of 18 feet wide and no Owner or his guests may block access to any other Owner sharing the common driveway. In addition, there shall be an easement over Lot 3 for the driveway serving Lots 1 and 2, however the owner of Lot 3 shall have no maintenance responsibility with respect thereto.

## Article VII

### Party Walls and Fences

Section 1. General Rules of Law to Apply. Each wall and fence which is built as part of the original construction of the Living Units upon the Lots and placed on the dividing line between the two Lots shall constitute a party wall; and, to the extent not inconsistent with the provisions of this section, the general rules of law

regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall (or fence) shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire and Other Casualty. If a party wall or fence is destroyed or damaged by fire or other casualty, not covered by any Association insurance policy, any Owner who has used the wall may restore it and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Negligence. Notwithstanding any other provisions of this section, an Owner who by his willful or negligent act causes the party wall or fence to be damaged shall bear the whole cost of remedying such damage.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or fence, or under a provision of this section, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision shall be by a majority of all the Arbitrators.

## Article VIII

### General Provisions

Section 1. Duration. The foregoing Supplementary Declaration is to run with the land and shall be binding on all parties and all persons claiming under it until January 1, 2030, at which time said Declaration shall be automatically extended for successive periods of ten years unless changed in whole or in part by an instrument signed by at least two-thirds of the Owners in this Cluster, Approved by the City of Columbus and recorded.

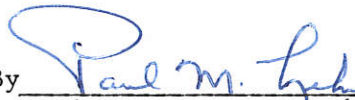
Section 2. Amendment. This Supplementary Declaration may be amended by an instrument signed by the Developer so long as the Developer continues to hold Developer's rights as provided in the Declaration and not less than two-thirds of the remaining Owners of Lots or Living Units in this Cluster. Any amendment must be recorded in the Office of the Recorder of Bartholomew County, Indiana. No such agreement to amend, in whole or in part, shall be effective unless written Notice of the proposed agreement is sent to every Owner of a Lot or Living Unit in the Cluster at least thirty (30) days in advance of any action taken and no such agreement shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Area, Cluster Common Area, Limited Common Area, or Lake Property created in the Declaration or this Supplementary Declaration. However, because development and recordation of this Supplementary Declaration preceded final results of marketing and budget analysis and final Approval by the Federal Mortgage Agencies, for a period of two years from the date of Recordation of this Supplementary Declaration the Developer reserves the right to amend the provisions of this Supplementary Declaration including but not limited to modifying the stated maximum Annual

Cluster Assessments or other changes in response to changes in requirements of government agencies and financial institutions: Such amendments shall be effected by: (1) giving Notice to the Association and Cluster Owners other than Developer of proposed changes; (2) securing the Approval of appropriate local governmental bodies; and (3) securing Approval of the Federal Mortgage Agencies.

Section 3. Severability. Invalidation of any one of the provisions of this Supplementary Declaration by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, witness the signature of Developer this 21st day of May, 1985.

TIPTON LAKES COMPANY

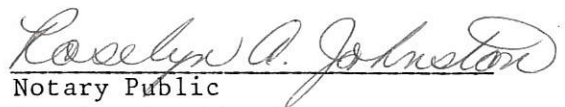
By   
Paul M. Lehner, President

ATTEST:   
W. D. Chambers, Secretary

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF BARTHOLOMEW )

Before me, a Notary Public in and for said County and State, personally appeared Paul M. Lehner and W. D. Chambers, President and Secretary respectively, for Tipton Lakes Company, who, for and in behalf of said corporation, acknowledged the execution of the foregoing Supplementary Declaration IX-A of the Covenants, Conditions, and Restrictions of Tipton Lakes Community Association, Inc.

Subscribed and sworn to before me this 21st day of May, 1985.

  
Notary Public  
Roselyn A. Johnston

County of Residence: Bartholomew

My Commission Expires: November 17, 1985

This instrument prepared by Robert L. Elwood, Attorney-at-Law, 235 Washington Street, Columbus, Indiana.

ADDENDUM 1 TO SUPPLEMENTARY DECLARATION IX-A

TO THE

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

TIPTON LAKES COMMUNITY ASSOCIATION, INC.

(Cluster #9, Commonly Known as Shadow Bay Cluster)

Addendum for Annexing Lots 9 through 13 and Block B

RECEIVED FOR RECORD  
BETTY JEAN BESHEAR  
RECORDER, BARTH. CO.  
BK 72 PG FEE 6.50

85 NOV 21 PM 2 57

The undersigned Developer, who is also the owner of Lots 9, 10, 11, 12, 13, and Block B of Shadow Bay, as recorded in Plat Book M, Page 125 of the Bartholomew County Recorder's Office hereby voluntarily subjects the said Lots and Block B to the Covenants, Conditions, and Restrictions as set forth in the aforesaid Supplementary Declaration IX-A to the Declaration of Covenants, Conditions, and Restrictions of Tipton Lakes Community Association, Inc., as recorded in Record 65, Page 286 in the Office of the Recorder of Bartholomew County, Indiana, as duly amended, further subject to the following special covenants:

1. Block B of Shadow Bay shall be added as a Cluster Common Area to be maintained by Shadow Bay Cluster.
2. Each lakefront Lot Owner must, in his Design Review Application, submit a proposal for his shoreline treatment. The proposal might suggest that no such treatment is necessary. The Design Review Committee shall make the final decision as to the need for and acceptable design for the shoreline treatment. In cases where a shoreline treatment is deemed necessary, it must be installed no later than one (1) year after the initial occupancy of the Lot, although it is recommended that it be installed as soon as is reasonably possible, and before construction and landscaping are completed.
3. Water and sewer transmission lines through Lots 9-13 and Block B of Shadow Bay are or will be and are always to be sized, located, stubbed, and approved in such a way as to permit their proper dedication to the City of Columbus and the hook-on and direct extension of these lines into the unplatted ground known as Eastlake Peninsula ("Eastlake Peninsula") directly to the west of Lot 1. Furthermore, if necessary, the Owners of Lots and Living Units in Lots 9-13 and Block B of Shadow Bay agree to grant to the Owners in Eastlake Peninsula easements, as reasonable and necessary, over and across said Lots 9-13 and Block B for the installation and maintenance of utilities serving Eastlake Peninsula including, but not limited to, the connection of water and sewer services in Eastlake Peninsula to the City water and sewer lines.
4. In the event that any Lots are to be serviced by common driveways, the Owners thereof shall share equally in the use, construction, repair and maintenance of their common drives. These Lots shall only have access from their respective common drives. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute arising from or concerning the repair and maintenance of a common driveway, each party shall choose one Arbitrator, and such Arbitrators shall

choose one additional Arbitrator, and the decision of a majority of all the Arbitrators shall be binding on the Owners of said Lots. Each common driveway shall be a minimum of 18 feet wide and no Owner or his guests may block access to any other Owner sharing the common driveway. In addition, there shall be easements over Lots as necessary for the common driveways serving any Lots.

- 5. All other covenants of Supplementary Declaration IX-A not inconsistent with the above shall apply to Lots 9-13 and Block B.

Agreed and accepted this 21st day of November, 1985.

DEVELOPER AND OWNER

TIPTON LAKES COMPANY, INC.

By Paul M. Lehner  
Paul M. Lehner, President

ATTEST:

Robert L. Williamson  
Robert L. Williamson, Controller

STATE OF INDIANA )  
 ) SS:  
COUNTY OF BARTHOLOMEW )

Before me, a Notary Public in and for said County and State, personally appeared Paul M. Lehner, President, and Robert L. Williamson, Controller, of Tipton Lakes Company, Inc., who, for and in behalf of said corporation, acknowledged the execution of the foregoing Addendum 1 to Supplementary Declaration IX-A to the Declaration of Covenants, Conditions and Restrictions of Tipton Lakes Community Association, Inc.

Subscribed and sworn to before me this 21st day of November, 1985.

Roselyn A. Johnston  
Roselyn A. Johnston, Notary Public

My Commission Expires: November 19, 1989

County of Residence: Bartholomew

This instrument prepared by Robert L. Elwood, Attorney at Law, 235 Washington Street, Columbus, Indiana 47201.

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SUPPLEMENTARY DECLARATION IX-A

TO THE

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

OF

TIPTON LAKES COMMUNITY ASSOCIATION, INC.

(Cluster #9, Commonly Known as Shadow Bay Cluster)

THIS DECLARATION made this 21st day of May, 1985 by Tipton Lakes Company, an Indiana Corporation (hereinafter referred to as the "Developer")

Preamble

WITNESSETH:

WHEREAS, Developer is the owner of the land contained in Shadow Bay as recorded in Plat Book M, Page 125 of the Bartholomew County Recorder's Office which may in whole or in part be subjected to the provisions of the Declaration of Covenants, Conditions, and Restrictions of Tipton Lakes Community Association, Inc., hereinafter the "Declaration," recorded in the Office of the Recorder of Bartholomew County, Indiana in Record 59, Page 992.

NOW THEREFORE, the Developer hereby declares that Lots 1 through 8 as shown in Shadow Bay together with the parcel serving as a Cluster Common Area shown and designated Block A thereon and with such other parcels, if any, serving as Common Areas and Limited Common Areas, and such additions thereto as may hereafter be made pursuant to Article III hereof, shall be annexed to Tipton Lakes Community Association, Inc., and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens of the aforesaid Declaration and of this Supplementary Declaration hereinafter set forth, each and all of which is and are for the benefit of said Property and each Owner thereof.

Article I

Definitions

The definitions as set forth in the Declaration and Bylaws of Tipton Lakes Community Association, Inc. are hereby incorporated in full by reference.

Article II

Cluster and Neighborhood Designation

Section 1. Cluster Designation. Lots 1 through 8 and Block A as shown on the plat are hereby designated as a Cluster or portion thereof of Tipton Lakes Community Association, Inc. which is designated as Cluster #9.

BOOK 71 PAGE 903

Section 2. Neighborhood Service District Designation. The aforesaid Cluster or any portion thereof may be incorporated into a Neighborhood Service District in accordance with the Declaration, at which time the Neighborhood Service District shall be established and designated by Supplementary Declaration.

### Article III

#### Property Subject to this Supplementary Declaration

Section 1. Existing Property. Lots 1 through 8 of Shadow Box together with the parcel designated as Block A serving as a Cluster Common Area, as shown on the plat, are hereby subjected to the Declaration and this Supplementary Declaration.

Section 2. Common Areas. The Common Areas hereby subjected to the Declaration by this Supplementary Declaration shall include the aforementioned Cluster Common Area designated as Block A on the aforesaid plat of Shadow Bay, which shall be owned by the Association and maintained, replaced, and repaired out of Cluster Assessments as provided in the Declaration. No Common Areas to be owned by the Association and for general Association use and enjoyment, nor Limited Common Areas are currently planned for this Cluster. Other Common Areas may exist in Cluster #9 as defined and provided for in the Governing Documents. The foregoing listing of Common Areas within this Cluster may be changed from time to time in accordance with the Governing Documents.

Section 3. Additions to Existing Property. All or any part of the land described in the Development Plan, or land which is contiguous thereto, may be added to this Cluster by the Developer, without the consent of the Owners, within five years of the date of this instrument, by the filing of record a Supplementary Declaration with respect to such land which designates it as part of this Cluster and by filing with the Association the plat plans for such addition. For this purpose, "contiguous" land shall also mean land which is separated from land already described in the Development Plan by an area dedicated to public use.

### Article IV

#### Cluster Assessments

Section 1. Purpose of Assessments. The Board of Directors may establish an Annual Cluster Assessment as provided for in the Declaration and impose such upon the Assessable Units subjected to this Supplementary Declaration which may be used to defray the costs of construction, maintenance, repair or replacement of Cluster Common Areas and facilities and to provide for differentials in services and benefits unique to this Cluster which may include but shall not be limited to the following, and which may be changed from time to time in accordance with the Governing Documents:

- A. Operation, maintenance, repair and replacement of Cluster Common Area Block A.
- B. Taxes and Insurance allocable to this Cluster as provided for in the Governing Documents.
- C. Special Cluster signage, entryway landscaping, and perimeter and related landscaping and improvements serving primarily this Cluster, if any, and not otherwise the responsibility of the Association generally, any specific Owner or Owners, or any other entity.

D. Benefit differential based on proximity to lakes.

E. Others as provided for in the Governing Documents.

Section 2. Method of Assessment. The method of assessment shall be in accordance with that established in Section 5.01(d) of the Declaration.

Section 3. Maximum Cluster Assessment. The initial maximum allowable Annual Cluster Assessment is hereby established in the amount of \$240.00 per assessment year per Lot or Living Unit situated within this Cluster, which shall be effective until the first day of the fiscal year following the establishment of this Cluster.

Section 4. Change in Maximum. Changes in the maximum allowable Annual Cluster Assessment for this Cluster shall be effected in accordance with Section 5.04 (iv) of the Declaration.

## Article V

### Protective Covenants

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes. No structure shall be erected, altered, placed, or permitted to remain on any Lot other than one Single-Family dwelling not to exceed one and one-half stories in height, as determined from the street side, a private garage for not more than 3 cars, and other outbuildings incidental to residential use of the premises.

### Section 2. Design.

- A. Materials. For each home no more than 3 basic exterior materials, in addition to glass, will be used, unless this is specifically waived by the Design Review Committee. Materials shall be subject to the Design Review Committee review.
- B. Color. External color schemes are subject to review and Approval by the Design Review Committee. Use of a wide range of secondary colors for doors, windows, window shutters, architectural trim, or other details is permissible but also subject to Approval.
- C. Driveways. All driveways must be paved with asphalt or concrete, unless otherwise Approved by the Design Review Committee. It is preferable to have driveways organized in group patterns to allow longer green areas between them.
- D. Fences. Fences may only be of materials and design Approved by the Design Review Committee. Exposed metal fences are not acceptable. No fences shall be placed between the principal residence and the street right-of-way, without the Approval of the Design Review Committee.



- E. Out Buildings. Storage sheds and other buildings or structures, such as gazebos, greenhouses, kennels, swimming pools and their accompanying facilities must be of a design and location Approved by the Design Review Committee. No wholly above-ground pools will be allowed without the Approval of the Design Review Committee.
- F. Dwelling Size. No Lot shall contain a primary residential dwelling unit having a total finished area exclusive of open porches, breezeway or garage, of less than 1,300 square feet.
- G. Building Coverage. Building coverage shall not exceed 50% of the Lot's land area. Driveways and parking areas are not included in this ratio. All buildings, garages, storage sheds and similar facilities are included.
- H. Signs. No sign of any kind shall be displayed to the public view on any Lot or the Common Areas without the prior Approval of the Design Review Committee except ordinary For Sale signs.
- I. Exterior Lighting. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents of the adjacent property. Ornamental post lights shall be designed to be in harmony with the lighting fixtures at the street or road corners. Exterior lighting must be Approved by the Design Review Committee.
- J. Mechanical and Electrical Equipment. Objects, such as water towers, storage tanks, stand fans, skylights, cooling towers, communications towers, vents or any other structures or equipment shall be architecturally compatible with the building or screened from public view and must be Approved by the Design Review Committee.
- K. Building Location. No building shall be constructed within 25 feet of a street right-of-way line or access easement line (when the access easement line is between the building and the street) nor within 15 feet of the water line (elevation 667) unless specifically approved by the Design Review Committee.

Section 3. Construction Regulations. Trailers, field offices, etc. shall be parked in Approved locations and removed upon completion of construction. Contractors are permitted to store construction materials on their site, but all materials shall be neatly stacked and any such storing shall be at the contractor's risk.

No tracked vehicle shall be permitted on any paved road. Contractors shall clean up all debris on their construction sites on a regular basis. Loose paper, cardboard, etc. shall be covered or weighted down to prevent its blowing across the site. No trash shall be dumped, burned, or buried, except in Approved areas. All dirt, mud, or debris shall be promptly removed from public and private streets. Upon completion the contractor shall remove any unused materials, equipment, and debris and shall clean all streets and repair all property damaged by him including, but not limited to, restoration of grades, grass, trees, repair to all streets, pathways, curbs, drains, signs lighting and fencing.

Topsoil shall be separated from subsoil and be stockpiled in a mound and will be replaced where needed after construction is complete. Temporary berms shall be constructed around the topsoil to prevent erosion. The contractor shall establish erosion control measures which will prevent sedimentation of materials off site. A minimal amount of existing vegetation shall be disturbed during excavation and grading. Dikes, benches, berms, checkdams, level spreaders, straw bale barriers or other common erosion control measures shall be used where necessary and appropriate.

Section 4. Trees. Generally, no trees more than 4 inches in caliper and beyond 10 feet of any planned physical improvement shall be removed without the express written Approval of the Design Review Committee. The Design Review Committee may require that these clearing limits be staked with continuous tape and that significant trees be protected by snow fence barriers. The Design Review Committee may require replacement of any excessive loss of trees due to carelessness or accident by an equal number of 3-1/2 to 4 inch trees. These must be of a species recommended by the Design Review Committee.

Section 5. Parking. The parking of junk or disabled vehicles or vehicles which are not properly registered or licensed on the Lots or Common Areas is expressly prohibited unless such vehicles are kept from public view in private garages, if any. The Board may issue additional regulations pertaining to parking.

Section 6. Damage or Destruction. In the event of damage to or destruction of a Living Unit or other improvements situated on a Lot by fire or other means, any repair or replacement of such Living Unit or improvement shall be done in accordance with the original approved plans and specifications therefor unless otherwise Approved by the Design Review Committee.

Section 7. Temporary Structures. No house trailer or mobile home, either with or without wheels, shall be permitted to remain on any Lot other than for, and during such reasonable period of, construction of the Living Units, or for bonafide visits by guests of the Occupants of the main house and then only one such vehicle at a time.

After the construction period, such vehicles may not be present on any Lot for more than such reasonable period of time as the Board by resolution may establish. Any use of house trailers and mobile homes must be in accordance with local zoning ordinances. No trailer, basement, tent, shack, garage, barn, or other outbuilding shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. Recreational vehicles, motor boats, house boats and similar water borne vehicles may be maintained, stored, or kept on any Lot only if housed completely within a permanent structure. No Lot shall at any time be used for the parking of semi-trailer trucks.

Section 8. Garbage and Refuse Disposal. Trash, garbage or other waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall be located in areas concealed from view from outside the Lot. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All Living Units must be equipped with garbage disposals. Trash, leaves and other similar material shall not be burned without the written Approval of the Association, and any such burning shall be in accordance with all local, state or federal laws. The Board may promulgate additional regulations for waste disposal procedures.

Section 9. Maintenance by Owner.

- A. Lot Maintenance. As further provided herein, every Owner shall promptly perform all maintenance and repair within his own Lot, which, if neglected, would affect the value of the Property, or any Lot or Living Unit thereon, and which is the responsibility of the Owner to perform personally. Each Lot shall be maintained neat and clean and free of paper, trash, uncut weeds or unsightly growth or other debris. No Owner or Occupant shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls of any building, and no sign, awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any building without the prior Approval of the Design Review Committee. No permanent clotheslines, equipment, service yards, or storage piles shall be permitted upon any Lot, Living Unit or Common Area.
- B. Maintenance of Common Areas and Other Areas. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas. The Owners and Occupants shall endeavor to keep the Common Areas free and clear of rubbish, debris and other unsightly materials. The Owner of each Lot shall be responsible for the maintenance of the unpaved right-of-way adjacent to his Lot.
- C. Shoreline Maintenance. Each Owner of a Lot which abuts a lake or canal or other body of water within Tipton Lakes shall maintain the shoreline and water's edge adjacent to the Lot neat and clean and free of paper, trash, uncut weeds or unsightly growth or other debris.

Section 10. Utilities. All utilities along the internal roads and serving individual Lots shall be placed underground.

Section 11. Sewage Disposal. No Living Unit shall be erected unless it contains inside flush toilets connected with sewage disposal services provided by the City of Columbus, or other systems Approved by the City of Columbus and by the Design Review Committee.

Section 12. Water Supply. No individual primary water supply system shall be permitted on any Lot. Primary water shall be obtained from the City of Columbus.

Section 13. Oil and Mining Operations. No gas, oil, mineral, quarry, or gravel operations shall be engaged in on any Lot except as provided in the Declaration.

Section 14. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or in the Common Areas, except that dogs, cats, or customary household pets may be kept on a Lot, provided that such pets are not kept, bred or maintained for any commercial purpose, and do not create a nuisance. An Owner shall be fully liable for any damage to the Common Areas caused by his pet. The Board may adopt such other rules and regulations regarding pets as it deems necessary from time to time. Any pet which, in the judgment of the Board based on a decision of the Covenants Committee following procedures ensuring due process, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Property upon three (3) day's written Notice from the Board to the respective Owner.

Section 15. Antennas. Exterior antennas are discouraged, particularly in areas served by Cable TV. All such antennas must be specifically approved by the Design Review Committee. Such Approvals, if given, will be limited to antennas not exceeding thirty square feet of grid area and not extending more than ten (10) feet above the highest point of the roof, unless unusual circumstances prevail.

Section 16. Nuisances. No noxious or offensive activity shall be carried on or permitted upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 17. Applicable Laws. All applicable Federal, State and Local codes, regulations, ordinances, and laws shall be complied with.

Section 18. Hazardous Use. Nothing shall be done or kept on or in any Lot or in the Common Areas which will create a hazard, threat thereof, or actual damage to other Lots, Living Units or the Common Areas.

Section 19. Structural Soundness. Nothing shall be done or permitted on any Lot or in any Living Unit which will impair the structural integrity of any building, structurally change any building or impair any easement or hereditament, except as otherwise provided in the Declaration, the Bylaws, or this Supplementary Declaration.

Section 20. Garage Doors. Garage doors on Lots or Living Units shall be maintained closed at all times except when in actual use.

Section 21. Access Limitations. Lots 1, 2, 3, and 8 shall have no direct access onto Coles Drive.

Section 22. Setbacks, Easements and Fences. Lots 1 through 8 shall have no side yard setbacks. There shall be a minimum of ten (10) feet between walls of all free-standing buildings. Front yard setbacks shall be as specified in Article V, Section 2.K. No fences shall be permitted within the setback, unless they do not conflict with the visibility requirements of the Columbus Subdivision Control Ordinance and they are specifically approved by the Design Review Committee.

Section 23. Mailboxes and Newspaper Tubes. Only mailboxes and newspaper tubes Approved by the Design Review Committee shall be permitted, except for mail deposit-ries placed by the United States Postal Service.

Section 24. Damage to Common Areas by Owners. In the event that the need for maintenance or repair of Common Areas is caused through the willful or negligent act of the Owner, Occupant, his family or guests, or invitees, as determined by the Board or Covenants Committee, and not covered or paid for by insurance on such Common Areas, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which the applicable Lot or Living Unit is subject.

Section 25. Exceptions. The Board of Directors may issue temporary permits to except any prohibitions expressed or implied by this Supplementary Declaration, provided the Board can show good cause and acts in accordance with adopted guidelines and procedures.

So long as the Developer is engaged in developing or improving any portion of the Properties, it shall be exempted from the provisions of this Supplementary Declaration affecting movement and storage of building materials and equipment, erection and maintenance of directional and promotional signs and conduct of sales activities, including maintenance of model Living Units. Such exemption shall be subject to such rules as may be established by the Developer to maintain reasonable standards of safety, cleanliness and the general appearance of the Properties.

Section 26. Lake Use - Regulations and User Fees. The Association may assign any or all of the rights it may have in the use of the Lakes and Lake Property to the Members of the Association, their families and guests. Such use of the Lakes and Lake Property may be subject to rules and regulations promulgated by the Board and to user fees for such activities as constructing boat docks or boat houses along the Lakes,

placing boats upon the Lakes, and fishing upon the Lakes, among others. Such rules and regulations may include limitations on the types and sizes of boats permitted on the lakes and specifications for the type, size and location of boat docks and boat houses, if permitted as further provided herein.

Section 27. Boat Docks and Boat Houses. Those owners in Cluster 9 whose Lots directly abut the lakes and canals of Tipton Lakes may be entitled to construct docks and boat houses for the purpose of mooring boats Approved by the Association and similar Approved uses. The design and location of such docks and boat houses must be Approved by the Design Review Committee. The construction and use of such docks and boat houses shall be in accordance with rules and regulations which may be imposed by the Association and may be subject to user fees so imposed.

Section 28. Lake Pollution Control. The Board may adopt regulations prohibiting or restricting activities in Clusters in reasonably close proximity to the lake system which may, in the Board's judgment, pose a threat of pollution to the lake system. Among other activities, the Board may so regulate car washing, landscape fertilization, bug spraying other activities which may result in the contamination of the lake system and activities which may result in the flow of sediments into the lake system.

Section 29. Insurance.

- A. Insurance Responsibilities of Board. The Board of Directors of the Association shall purchase insurance in accordance with Section 3.04 (ii)(b)(4)(d) of the Declaration.
- B. Insurance Responsibilities of Owner. Each Owner shall purchase insurance to cover all his improvements and personal property in or on his Living Unit or Lot.

Article VI

Easements

Section 1. General. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat or plats. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of natural drainage channels in the easements. The easement area of each Lot and all improvements within it shall be maintained continuously and kept free of debris by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Water and sewer transmission lines through Lots 1-8 will be sized, located (near the Eastlake shoreline), stubbed, and approved in such a way as to permit their proper dedication to the City and the hook on and direct extension of these lines into the unplatted ground known as Eastlake Peninsula ("Eastlake Peninsula") directly to the west of Lot 1. Furthermore, if necessary, the Owners of Lots and Living Units in Lots 1-8 of Shadow Bay agree to grant to the Owners in Eastlake Peninsula easements, as reasonable and necessary, over and across said Lots 1-8 for the installation and maintenance of utilities serving Eastlake Peninsula including, but not limited to, the connection of water and sewer services in Eastlake Peninsula to the city water and sewer lines.

Section 2. Pedestrian Easements. There are hereby created easements for pedestrian rights-of-way over and across Lots as shown on the plat.

Section 3. Vegetation. Vegetation easements, if any, are shown on the aforementioned plat or plats. The Association may enter said areas to maintain, alter or replace vegetation within the easement. No Lot Owner may alter, remove or replace any shrub or tree within the easement without the express written Approval of the Design Review Committee.

Section 4. Construction and Drainage Easements. If any portion of an exterior wall or roof of a residence is situated within three feet of any adjoining Lot line, a valid easement shall and does exist, three feet in width along the adjoining Lot and adjacent to the said Lot line which easement may be used for the purpose of drainage or construction, reconstruction and maintenance of said exterior wall of a residence that is situated within three feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will interfere with the purposes of said easement.

Section 5. Encroachment Easements. Each Lot shall be subject to an easement for encroachments created by construction, settling and overhangs for all buildings, fences and walls. A valid easement for said encroachments and for the maintenance for same, so long as such encroachments stand, shall and does exist. In the event any structure or fence is partially or totally destroyed and then rebuilt, the Owners so affected agree that minor encroachments due to construction shall be permitted, and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 6. Private Utility Easements. Certain Lots may be subject to private utility easements. These easements, if any, are shown on the face of the plat. Said easements are appurtenant to the land and shall pass to such Owner's successors in title. The Owners of Lots subject to a private utility easement shall be responsible for maintaining the water and sewage utility facilities which benefit their Lots. The cost of repair and maintenance of said utility facilities shall be shared in an equitable manner. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land. In the event of any dispute arising from or concerning the repair and maintenance of these private utility facilities, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision of a majority of all the Arbitrators shall be binding on the Owners of said Lots.

Section 7. Driveway Easements. Lots 1 and 2 are to be serviced by common driveways and the Owners thereof shall share equally in the use, construction, repair and maintenance of their common drives. These Lots shall only have access from their respective common drives. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. In the event of any dispute arising from or concerning the repair and maintenance of a common driveway, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision of a majority of all the Arbitrators shall be binding on the Owners of said Lots. Each common driveway shall be a minimum of 18 feet wide and no Owner or his guests may block access to any other Owner sharing the common driveway. In addition, there shall be an easement over Lot 3 for the driveway serving Lots 1 and 2, however the owner of Lot 3 shall have no maintenance responsibility with respect thereto.

## Article VII

### Party Walls and Fences

Section 1. General Rules of Law to Apply. Each wall and fence which is built as part of the original construction of the Living Units upon the Lots and placed on the dividing line between the two Lots shall constitute a party wall; and, to the extent not inconsistent with the provisions of this section, the general rules of law

regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall (or fence) shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire and Other Casualty. If a party wall or fence is destroyed or damaged by fire or other casualty, not covered by any Association insurance policy, any Owner who has used the wall may restore it and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Negligence. Notwithstanding any other provisions of this section, an Owner who by his willful or negligent act causes the party wall or fence to be damaged shall bear the whole cost of remedying such damage.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or fence, or under a provision of this section, each party shall choose one Arbitrator, and such Arbitrators shall choose one additional Arbitrator, and the decision shall be by a majority of all the Arbitrators.

## Article VIII

### General Provisions

Section 1. Duration. The foregoing Supplementary Declaration is to run with the land and shall be binding on all parties and all persons claiming under it until January 1, 2030, at which time said Declaration shall be automatically extended for successive periods of ten years unless changed in whole or in part by an instrument signed by at least two-thirds of the Owners in this Cluster, Approved by the City of Columbus and recorded.

Section 2. Amendment. This Supplementary Declaration may be amended by an instrument signed by the Developer so long as the Developer continues to hold Developer's rights as provided in the Declaration and not less than two-thirds of the remaining Owners of Lots or Living Units in this Cluster. Any amendment must be recorded in the Office of the Recorder of Bartholomew County, Indiana. No such agreement to amend, in whole or in part, shall be effective unless written Notice of the proposed agreement is sent to every Owner of a Lot or Living Unit in the Cluster at least thirty (30) days in advance of any action taken and no such agreement shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Area, Cluster Common Area, Limited Common Area, or Lake Property created in the Declaration or this Supplementary Declaration. However, because development and recordation of this Supplementary Declaration preceded final results of marketing and budget analysis and final Approval by the Federal Mortgage Agencies, for a period of two years from the date of Recordation of this Supplementary Declaration the Developer reserves the right to amend the provisions of this Supplementary Declaration including but not limited to modifying the stated maximum Annual

Cluster Assessments or other changes in response to changes in requirements of government agencies and financial institutions: Such amendments shall be effected by: (1) giving Notice to the Association and Cluster Owners other than Developer of proposed changes; (2) securing the Approval of appropriate local governmental bodies; and (3) securing Approval of the Federal Mortgage Agencies.

Section 3. Severability. Invalidation of any one of the provisions of this Supplementary Declaration by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, witness the signature of Developer this 21st day of May \_\_\_\_\_, 1985.

TIPTON LAKES COMPANY

By *Paul M. Lehner*  
Paul M. Lehner, President

ATTEST:  
*W. D. Chambers*  
W. D. Chambers, Secretary

STATE OF INDIANA             )  
   ) SS:  
COUNTY OF BARTHOLOMEW )

Before me, a Notary Public in and for said County and State, personally appeared Paul M. Lehner and W. D. Chambers, President and Secretary respectively, for Tipton Lakes Company, who, for and in behalf of said corporation, acknowledged the execution of the foregoing Supplementary Declaration IX-A of the Covenants, Conditions, and Restrictions of Tipton Lakes Community Association, Inc.

Subscribed and sworn to before me this 21st day of May \_\_\_\_\_

*Roselyn A. Johnston*  
Notary Public  
Roselyn A. Johnston



County of Residence: Bartholomew

My Commission Expires: November 17, 1985

This instrument prepared by Robert L. Elwood, Attorney-at-Law, 235 Washington Street, Columbus, Indiana.