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DECLARATION OF COVENANTS FOR CERTAIN
LOTS IN ARLINGTON PARK, SECTION XIII. *John J. Douglas*
ALLEN COUNTY

THIS DECLARATION, made on the date hereinafter set forth,
by AMPED SERVICE CORPORATION, an Indiana Corporation, hereinafter referred to as "Declarant",

W I T N E S S E T H :

WHEREAS, Declarant is the owner of Lots Seven Hundred Forty-Nine (749) through Seven Hundred Sixty-Two (762), inclusive, in Arlington Park, Section XIII, a Subdivision in Allen County, Indiana, according to the plat thereof, recorded in Plat Record 43, pages 17-21, and desires to impose upon said real estate the covenants hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the aforesaid real estate, to-wit: Lots Numbered Seven Hundred Forty-Nine (749) through Seven Hundred Sixty-Two (762), inclusive, in Arlington Park, Section XIII, is impressed with and shall be held, sold and conveyed subject to all of the following covenants which shall run with said real property and be binding on all parties now having or hereafter acquiring any right, title, or interest in the said real estate or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of and be enforceable by each owner thereof.

ARTICLE I

INSTRUMENT # 4095

DEFINITIONS

Section 1. "Association" shall mean and refer to the Section XIII Homeowners Association, Inc., an Indiana Not-for-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the aforesaid Lots Numbered Seven Hundred Forty-Nine (749) through Seven

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Hundred Sixty-Two (762), inclusive, in Arlington Park, Section XIII and such other lots in said Subdivision the owners of which shall elect, as hereinafter provided, to adopt this Declaration of Covenants.

Section 4. "Plat" shall mean and refer to the aforesaid recorded Plat of Arlington Park, Section XIII, recorded in the Office of the Recorder of Allen County, Indiana.

Section 5. "Lot" shall mean and refer to any numbered parcel of land shown upon the recorded Plat of Arlington Park, Section XIII, specifically excluding therefrom all parcels of land identified on said Plat as "Blocks". With respect to any such numbered parcel upon which there has been or is hereafter constructed two living units, each portion of said parcel containing an area of not less than 3600 square feet conveyed in connection with either such living unit thereon shall be considered a separate "lot".

Section 6. "Living Unit" shall mean and refer to the portion of a building erected on any of the numbered parcels of land shown on the Plat which is designed and intended for use and occupancy as a residence by a single family which portion of said building is divided by a common wall from another like portion of said building. "Living Unit" shall also mean and refer to each of two buildings erected upon the same numbered parcel of land shown on the Plat with each building being designed and intended for use and occupancy as a residence by a single family which buildings do not share a common wall but are attached to each other by a common roof.

Section 7. "Declarant" shall mean and refer to Amfed Service Corporation, its successors and assigns as a declarant.

Section 8. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

ARTICLE II

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership.

Section 1 (a). Mandatory Membership.

Declarant and every owner to whom it conveys fee simple title to a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any lot. Membership in the Association is in addition to the required membership in the Arlington Park Association.

Section 1 (b). Optional Membership.

Any owner of a lot, other than the aforesaid lots now owned by Declarant may, subject to the requirements of this Section 1 (b), elect to become a member of the Association and thereafter such membership shall be mandatory for said owner, his grantees, successors, and assigns which membership shall be appurtenant to and not separable from ownership of such member's lot. Any said owners who give written notice to the Association of their election to become members thereof shall be entitled to membership in the Association upon satisfaction of each of the following conditions:

(i) They shall furnish Association such documentation and other information respecting the living units situated upon their respective lots, or to be constructed thereon, as Association may request, and also permit inspection of the living units by Association's representatives;

(ii) They shall pay in cash to Association such initiation fee as Association's Board of Directors in its discretion may from time to time determine in respect of each such electing owner. Among the factors which will be considered by said Board of Directors in determining the amount of such fee are the age of the living units on said electing owner's lot, the present condition and state of repair of such units, the cost and extent of reasonably foreseeable repairs to and maintenance of such units, and the amount of anticipated fire and extended coverage insurance premiums attributable to such units. Said initiation fee is in addition to the monthly and special assessments which are payable by all members of the Association;

(iii) They shall also each pay in cash to Association an amount determined by Association to be equal to thirteen (13) times the estimated monthly insurance assessment hereinafter provided for in Article V hereof;

(iv) Such electing owner, and also any other owner of a living unit which shares a common wall or common roof with said electing owner's living unit, shall execute, cause to be recorded in the Allen County, Indiana Recorder's Office, and deliver to Association their written declaration by which they exercise their option to become members of the Association and accept, agree to abide by, and impose upon their respective lots without qualification or condition all of the covenants contained in this Declaration, including the obligation to pay all monthly and special assessments, which covenants shall run with the land and be binding on their grantees, heirs, and successors of said lots. Such declaration of said owners shall be approved in writing by the holders of all mortgages on their lots;

(v) No owner of a lot for which Association membership is not required under Section 1 (a) above may become a member of the Association unless concurrently with his satisfaction of all the foregoing conditions for membership the owner of any living unit which shares a common wall or common roof with his living unit shall concurrently satisfy all of said conditions and also become a member of the Association.

Section 2. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all members of the Association with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member shall be the Declarant and it shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on January 1, 1987.

Section 3. Board of Directors. The Owners shall elect a Board of Directors of the Association as prescribed by the Asso-

ciation's By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 4. Professional Management. No contract or agreement for professional management of the Association nor any other contract with Declarant shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of not more than ninety (90) days.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) monthly assessments or charges; and (b) special assessments for improvements and operating deficits; and (c) special assessments, as provided in Articles IV and V; such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. The said monthly and special assessments provided herein are in addition to any dues or assessments which may be payable by owners to the Arlington Park Association.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the

improvement and maintenance of the properties and the living units situated thereon, payment of insurance premiums, and for other purposes as specifically provided herein.

Section 3. Maximum Monthly Assessments.

(a) Until January 1, 1985, the maximum monthly assessment on any lot conveyed by Declarant and on any lots of other Association members shall be \$ 45.00 per lot.

(b) From and after January 1, 1985, the maximum monthly assessment may be increased each calendar year not more than twelve percent (12%) above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1, 1985, the maximum monthly assessment may be increased above twelve percent (12%) by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Association's Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

(e) A portion of such monthly assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and maintenance of the properties and the living units thereon.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessment provided for herein and the insurance assessment provided for in Article V shall commence as to each lot for which Association membership is mandatory on the first day of the first month following the conveyance of such lot by Declarant. In respect of other lots, such assessments shall commence on the first day of the first month following the owner's election to become a member of Association and his satisfaction of all conditions for such membership. The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. No special assessments shall be made against any lot prior to the aforesaid date on which monthly assessments against it first commence. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent

to every owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such lot assessed, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the lot, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first lien mortgage and any purchase money mortgage. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any lot pursuant to the foreclosure of any said mortgage on such lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

ARTICLE IV

MAINTENANCE

Section 1. Maintenance by Owners. The owner of each lot shall furnish and be responsible for, at his own expense, all the maintenance, repairs, decorating and replacements within his living unit, including the heating and air-conditioning system and any partitions and interior walls. Each owner shall repair any defect occurring within his living unit which, if not repaired, might adversely affect the adjoining living unit. He shall also be responsible for the maintenance, repair and replacement of all windows in his residence and also the doors leading into the residence, including garage doors, and any and all other maintenance, repair and replacements of the improvements on his lot which the Association is not required to perform; provided, that any change in the color of exterior doors and garage doors, window frames and other exterior of a living unit which is the owner's obligation to maintain must be first approved in writing by the Association's Board of Directors. No owner shall make any alterations or additions to the exterior of his living unit nor perform exterior maintenance thereof required to be performed by

the Association without the prior written approval of the Association's Board of Directors. Further, no owner shall make any alterations to and within his respective living unit which would affect the safety or structural integrity of the building in which the living unit is situated or to which it is attached.

To the extent that equipment, facilities and fixtures within any lot shall be connected to similar equipment, facilities or fixtures affecting or serving other lots, then the use thereof by the owner of such lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association shall be entitled to reasonable access to any lot as may be required in connection with maintenance, repairs or replacements of or to any equipment, facilities or fixtures affecting or serving other lots.

Section 2. Maintenance of Driveways. The Association shall be responsible for the maintenance, repair and repaving of all driveways and service walks within the boundaries of each lot subject to assessments hereunder.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots.

In addition to maintenance upon the driveways and service walks provided in Section 2 above, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior improvements, maintaining lawns, snow removal from the paved portions of said driveways and service walks. Such exterior maintenance shall include painting of front doors and garage doors on painting cycle years, but shall not include glass surfaces, including skylights, other doors, windows, window frames, pointing up stonework or chimneys, windows, window frames, decks, patios and screened porches - with the exception of the roofs covering porches or patios that are continuous with the original roof.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, guests, or invitees, the cost of such maintenance or

repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE V

INSURANCE

Section 1. Casualty Insurance. The Association shall purchase and continuously maintain a master casualty insurance policy or policies affording fire and extended coverage insurance insuring the properties, and all living units thereon, in an amount equal to the full replacement cost of the improvements excluding, as to any lot and the improvements thereon, all fixtures, betterments and improvements installed by any owner and excluding any personal property owned by any owner whether located on a lot or elsewhere. If the Association can obtain such coverage for reasonable amounts, it shall also obtain "all risk" coverage. The Association shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Association, it may cause such full replacement value to be determined by a qualified appraiser and the cost of any such appraisal shall be included in the monthly maintenance assessment for each lot on a pro rata basis. Such insurance coverage shall be for the benefit of each owner in accordance with the replacement costs established for each respective living unit, each owner's mortgagee, if any, and the Association. The proceeds shall be payable to the Association, or its Board of Directors, which shall hold such proceeds as trustee for the individual owners and their mortgagees.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and

providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual owners as hereinafter permitted.

Section 2. Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association, all owners and all other persons entitled to occupy any lot.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 3. Fidelity Bond. The Association shall further purchase and continuously maintain a fidelity bond, containing errors and omission coverage, for the benefit of all owners and their mortgagees protecting them against any and all damages, costs and expenses, including reasonable attorneys' fees, which they or any of them may suffer or incur by reason of:

(a) The defalcation, misapplication or conversion of monies paid by owners to Association or its Board of Directors or of monies received by Association, its Board of Directors, or any officers, employee or agent thereof to be held in trust for owners and/or their mortgagees; and

(b) the failure of Association, its Board of Directors, any officer, employee or agent to faithfully perform all of Association's duties and responsibilities hereunder, including, but not limited to, failure to maintain casualty insurance as herein required on any living unit.

Section 4. Monthly Assessment for Insurance. The premiums for all such insurance and bonds hereinabove described shall be paid by the Association and the pro rata cost thereof shall become a separate monthly assessment to which each lot owned by Association members shall be subject under the terms and provisions of Article III. Each owner of a lot conveyed to him by Declarant shall prepay to the Association at the time his lot is conveyed to him an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. As heretofore required in Article II hereof, any owner of a lot voluntarily electing to become a member of the Association shall prepay said monthly insurance assessments at the time of becoming a member and shall also thereafter maintain such prepayment account. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided or shall use such funds to prepay the premiums of the required insurance. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each owner and mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

Section 5. Distribution to Mortgagee. In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any remittances shall be to the owner and his mortgagee jointly.

Section 6. Additional Insurance. Each owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property and the contents of his living unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him), and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each owner may obtain casualty insurance at his own expense upon his lot but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an owner under this paragraph, the owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

Section 7. Casualty and Restoration. Damage to or destruction of any living unit, lot or other improvements due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association under no lien construction contracts and the proceeds of insurance, if any, shall be applied for that purpose.

Section 8. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any

such fire or any other casualty are not adequate to cover the costs of repair and reconstruction of any living unit suffering casualty damage, or in the event there are no proceeds, the cost of restoring the damage and repairing and reconstructing any living unit so damaged or destroyed shall be borne by the respective owner or owners of such living unit to the full extent of the additional costs and expenses of such restoration, repair or reconstruction over and above the insurance proceeds allocable to said living unit. If any owner refuses or fails to make the required repairs necessary to restore any casualty damage, and shall leave his living unit in a state of disrepair, the Association shall complete the restoration and pay the cost thereof through an assessment against the other owners which assessment shall be considered a special assessment constituting a lien on the living units of those owner or owners who refuse or fail to make such repairs or restoration at the time required by the Association's Board of Directors and the Association may, in the same manner as provided for the collection of other assessments, foreclose such lien or otherwise proceed to collect the amount thereof from said defaulting owners for the benefit of and on behalf of the other owners who have paid such additional costs of restoration or repair.

For purposes of Section 7 above, repair, reconstruction and restoration of any living unit shall mean construction or rebuilding of such living unit to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same or similar type of architecture.

Section 9. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance of the properties, or, in the discretion of the Board of Directors, may be distributed to the owners of the living units affected and their

mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a living unit upon the properties and placed on or abutting upon the dividing line between the lots, as such dividing line was created by the conveyance of said unit, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, 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 shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. Subject to the provisions of Article IV hereof, if a party wall is destroyed or damaged by fire or other casualty, 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. Weatherproofing. Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

ARTICLE VII

ENCROACHMENTS AND EASEMENTS

Section 1. Encroachment. If, by reason of the location, construction, settling or shifting of a building, any part of a building consisting of a living unit appurtenant to a lot (hereinafter in this Article VII referred to as the "encroaching lot") now encroaches or shall hereafter encroach upon any minor portion of any other adjacent lot, then in such event, an exclusive easement shall be deemed to exist and run to the owner of the encroaching lot for the maintenance, use and enjoyment of the encroaching lot and all appurtenances thereto.

Each owner shall have an easement in common with each other owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in or on any other lot and serving his lot.

Section 2. Easement for Maintenance. The Association shall have the irrevocable right to have access to each living unit (servient unit) from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any wall, roof or other structural component of an adjacent living unit (dominant unit) which shares a common roof or common wall with the servient unit and is accessible from or through such servient unit.

The Association shall also have such irrevocable right of access to each living unit for the purpose of making emergency repairs therein necessary to prevent damage to an adjacent living unit. In the event that the Association is not required under the terms of these covenants to perform the necessary repair, maintenance or replacement of the wall or other structural component of a dominant unit or it fails to commence the work

of such repair, maintenance or replacement within a reasonable time after demand therefor by the owner of the dominant unit, then the owner of said dominant unit shall have for the purposes of performing such work the same irrevocable right of access to the servient unit as is granted herein to Association.

Section 3. Ingress-Egress Easements. The respective owners of each living unit located upon Lots Numbered 751, 752 and 753 of Arlington Park, Section XIII, shall each have, and there is hereby established, an irrevocable nonexclusive easement over, upon and across such parts of each of said Lots 751, 752, and 753 as is reasonably necessary for the use of and ingress and egress to and from the "access easement" dedicated in the plat over a portion of Lots 752 and 753, which dedicated "access easement" is the only means of ingress and egress to and from said lots and Arlington Parkway South permitted by the plat's restrictive covenants.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants herein enumerated, Declarant, any persons in ownership from time to time of the lots and all parties claiming under them shall have the right to enforce the covenants contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time by an instrument recorded in the Office of the Recorder of Allen County, Indiana, signed by the then owners of at least fifty-five percent (55%) of the lots; provided, however, none of the rights of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior

written approval. This Declaration may also be amended by Declarant, if it then has any ownership interest in the properties, at any time within two (2) years after the recordation hereof, except that Declarant shall not effect any of the following changes without the approval of fifty-five percent (55%) of the first mortgagees of the lots (based upon one (1) vote for each mortgage) or fifty-five percent (55%) of the owners of lots (excluding Declarant):

(a) change in the method of determining the obligations, assessments, dues or other charges which may be levied against an owner;

(b) change the provisions herein governing the exterior maintenance of living units, walks, lawns, etc.;

(c) allow the Association to maintain fire and extended insurance coverage on living units in an amount less than the full insurable value thereof (based on current replacement cost).

This Declaration shall be effective and binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Allen County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Mortgagee Rights. Any lender or lenders holding a first mortgage or purchase money mortgage upon any lot or lots may, jointly or singly, pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any living units mortgaged to them. Any such lender or lenders making payments in accordance with this section shall

be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 4. Notice to Mortgagees. The Association, upon request, shall provide written notification to any lender holding a first mortgage or purchase money mortgage upon any lot specifying the defaults of the owner of such lot, if any, in the performance of such owner's obligations under this Declaration, which default has not been cured within sixty (60) days.

IN WITNESS WHEREOF, the undersigned has caused this Declaration of Covenants to be executed, on this 27th day of July, 1983.

AMFED SERVICE CORPORATION

By: Roger A. Steup
Roger A. Steup, President

By: Sharon Kem
Sharon Kem, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Roger A. Steup, President, and Sharon Kem, Secretary, of AMFED SERVICE CORPORATION, to me known to be such Officers of said Corporation, and acknowledged their execution of the foregoing Declaration of Covenants for and on behalf of said Corporation and by its authority.

WITNESS my hand and notarial seal, this 27th day of July, 1983.

Kimberly J. ...
Kimberly J. ... Notary Public
Resident of ALLEN County

My Commission Expires:

Dec 26, 1986

This instrument was prepared by Donald M. Aikman, Attorney at Law.