

FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, COMMITMENTS,
RESTRICTIONS, EASEMENTS AND ASSESSMENTS ("RESTRICTIVE COVENANTS") OF
CLEAR CREEK SUBDIVISION, SECTIONS I AND II
DANVILLE, INDIANA

WITNESSETH that the undersigned Cedar Run Limited, Inc. is the Owner and Developer (hereinafter the "Developer") of Clear Creek Subdivision, Sections I, II, and III;

WHEREAS, a Final Plat of Clear Creek, Section I, dated November 12, 1996, was recorded November 22, 1996 (hereinafter the "Plat Section I"), under Document No. 9600024660, Plat Cabinet 4, Slide 37, Pages 1 & 2 and Slide 38, Page 1, in the Office of Recorder, Hendricks County, Indiana;

WHEREAS, Restrictive Covenants of Clear Creek Subdivision, Section I, dated November 13, 1996, were recorded November 26, 1996, under Document No. 96-00024666 and amended on April 1, 1997, and were recorded on April 2, 1997, under Document No. 9700006026 (First Amendment), in the Office of Recorder, Hendricks County, Indiana (hereinafter the "Restrictive Covenants");

WHEREAS, the Plat Section I incorporates said Restrictive Covenants as applicable to all the platted lots of said Clear Creek Subdivision, Section I and subsequent Sections thereto;

WHEREAS, a Final Plat of Clear Creek, Section II, dated March 12, 2001 (hereinafter the "Plat Section II"), was recorded January 29, 2002 under Document No. 200200004059, Plat Cabinet 4, Slide 173, Page 1AB, in the Office of Recorder, Hendricks County, Indiana incorporated said Restrictive Covenants;

WHEREAS, a Final Plat of Clear Creek, Section III, dated October 7, 2002 (hereinafter the "Plat Section III"), was recorded October 31, 2002, under Document No. 200200037102, Plat Cabinet 5, Slide 36, Page 1AB, in the Office of Recorder, Hendricks County, Indiana incorporated said Restrictive Covenants;

WHEREAS, a Final Plat of Clear Creek, Section IV, dated May 29, 2003 (hereinafter the "Plat Section IV"), was recorded 7-9-03, under Document No. 2003-28327, Plat Cabinet 5, Slide 78, Page 2AB, in the Orrder of Recorder, Hendricks County, Indiana incorporated said Restrictive Covenants;

WHEREAS, the Developer has reserved the right per Article XI, B. to amend these Restrictive Covenants as long as the amendment "does not have a materially adverse effect on the rights of any Mortgagee, nor which will substantially impair the benefits of the Covenants to any Owner or substantially increase the obligations imposed by the Covenants on any Owner."

NOW THEREFORE, in consideration of the premises, the Developer hereby classifies specific Section IV Lots under Article III of the Restrictive Covenants to an R-3 classification:

