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**Declaration of
Covenants, Conditions, and Restrictions
of
Belle Terra of Tippecanoe County Subdivision**

This Declaration of Covenants, Conditions, and Restrictions of Belle Terra Subdivision (this "Declaration") is made on or as of this 11 day of May, 2021, by Whiskir, LLC, an Indiana limited liability company, ("Declarant").

Background

1. Declarant is the owner in fee simple of the following real estate (the "Subject Property"):

Situated in the State of Indiana, County of Tippecanoe, and described as follows:

A part of the southwest quarter of the southeast quarter of Section Twenty (20), Township Twenty-four (24) North, Range Four (4) West, in Tippecanoe Township, Tippecanoe County, Indiana, being part of the CB2, LLC property as described in Document Number 201818002753 in the Office of the Recorder of Tippecanoe County, being more completely described as follows:

Beginning at the southwest corner of the southeast quarter of said Section 20-24-4, thence along the south line of said southeast quarter, South 88°51'21" East, 1342.36 feet to the southeast corner of the west half of said southeast quarter; thence; along the east line of said west half, North 00°33'19" West, 868.13 feet; thence North 89°30'14" West, 813.52 feet; thence North 68°38'00" West, 554.22 feet to the west line of said southeast quarter; thence along said west line, South 00°13'19" West, 1050.26 feet to the point of beginning, containing 27.57 acres.

2. The Subject Property is being developed and built as a residential subdivision of lots for single-family homes known as Belle Terra Subdivision (the "Community") and may include amenities, landscaped areas, entranceway, and community border features, reserves, open or green spaces, and storm water drainage facilities.
3. Declarant desires hereby to restrict the use and occupancy of the Subject Property and provide for the preservation of values of and amenities in the Community for the benefit of the present and future Owners of the Lots and the Improvements constructed on them.

FULLY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

JUN 03 2021 *RF*

Robert A. Hartman

AUDITOR OF TIPPECANOE CO.

4. Declarant hereby declares that all of the Subject Property shall be encumbered with the following covenants, easements, restrictions and conditions which shall run with the land and be binding on all parties having any right, title or interest in the Subject Property, or any part thereof, their heirs, successors and assigns, including the future Owners of any Lot, the Declarant, and the Declarant's successors and assigns.
5. Declarant deems it desirable for the accomplishment of these objectives to create an association to which is delegated and assigned the non-exclusive right and obligation to administer and enforce the provisions hereof, to own and/or maintain certain property, to administer such property, and to collect and disburse funds necessary to accomplish these objectives. Accordingly, Declarant shall cause to be incorporated a homeowners' association as a nonprofit corporation under and pursuant to the laws of Indiana, whose Members are and will be all Owners of a Lot or Lots in the Community.

COVENANTS, EASEMENTS, RESTRICTIONS, ASSESSMENTS AND ASSESSMENT LIENS

NOW THEREFORE, Declarant, with respect to the Subject Property, hereby declares that all of the Subject Property shall be held, sold, conveyed and occupied subject to the following covenants, easements, and restrictions, which are for the purpose of protecting the values and desirability of, and which shall run with the title to, each part of the Community, and be binding on all parties having any right, title of interest therein, and each part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of and be enforceable by Declarant, each owner of property in the Community, the Association, and the respective personal representatives, heirs, successors and assigns of each.

1. DEFINITIONS

The following terms used in this Declaration shall have these meanings, unless the context requires otherwise:

"Additional Property" means property that may in the future be subjected to the plan for the Community, and consists of such other property as Declarant, in its sole discretion, may from time to time determine and designate as Additional Property.

"Articles" means the Articles of Incorporation when filed with the Secretary of State of Indiana, incorporating Belle Terra of Tippecanoe County Homeowners' Association, Inc. as a non-profit corporation under the laws of the State of Indiana.

"Assessments" means charges levied by the Association on Lots and their Owners consisting of Operating Assessments, Special Assessments, and Individual Lot Assessments.

“Association” means an association of all of the Owners of Lots in the Community, at any time, except Owners of Exempt Property with respect to that property. The Association is being incorporated as an Indiana non-profit corporation named “Belle Terra of Tippecanoe County Homeowners’ Association, Inc.”

“Board” means those persons, who as a group, serve as Board of Directors of the Association.

“Code of Regulations” means the Code of Regulations of the Association (sometimes referred to as “bylaws”) created under and pursuant to the laws of the State of Indiana, providing certain operating rules and procedures for the Association.

“Common Elements” shall have the meaning given to said term in Article 5 below.

“Common Expense” means costs and expenses incurred by the Association in fulfilling its functions pursuant to the provisions of the Governing Documents.

“Community” or “Belle Terra” means all property that at any time has been subjected to the provisions of this Declaration (which includes all of the Subject Property) and the Common Elements and any subsequent additions thereto.

“Declarant” means Whiskir, LLC, an Indiana limited liability company, and any successor or assignee to which it specifically assigns any of its rights and which assumes its obligations hereunder by a written instrument.

“Declaration” means this instrument, by which the Subject Property is hereby submitted to the provisions hereof.

“Design Review Committee” means the person(s) having the power and authority to establish and enforce architectural standards governing the construction of Improvements in the Community.

“Dwelling Unit” means any structure used a single-family residential living unit located upon a Lot, including the garage and any improvements.

“Exempt Property” means the portion of the real property comprising the Community (a) now or hereafter dedicated to common public use or owned by the United States, the State of Indiana, Tippecanoe County, any school board, or similar governmental body, of any instrumentality or agency shall be the owner thereof, or (b) owned by the Association; provided in either such case, the same is not utilized as a residence.

“Governing Documents” means the Association’s Articles, Code of Regulations, Rules, and all amendments thereto, all architectural standards adopted from time to time by the Design Review Committee, this Declaration and all amendments there to, applicable building and zoning laws and ordinances, and any recorded plats.

"Improvements" means all single-family homes, dwellings, buildings, outbuildings, sheds, garages and other structures; overhead, aboveground and underground installations, including without limitation, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools, hot tubs, and spas; sport and recreational courts, fixtures and facilities, including basketball hoops, and lacrosse and soccer goals; children's recreational equipment or structures, including playground equipment, swing-sets, playhouses, tree houses and forts; pet houses, runs, and enclosures; changing of colors or materials; exterior ornamentations; exterior lighting; slope and drainage alterations; roads, driveways, uncovered parking areas and other such areas; fences, mailboxes, trellises, walls, retaining walls, exterior stairs, decks, patios and porches and walkways; planted trees, hedges, shrubs and other forms of landscaping; and all other structures or improvements of every type.

"Individual Lot Assessment" means an Assessment that the Board may levy upon a Lot and its Owners to reimburse the Association for costs incurred solely on behalf of that Lot, or the Owners thereof, including without limitation, costs associated with making repairs that are the responsibility of the Owner of that Lot; costs of additional insurance premiums reasonably allocable to an Owner because of use of Improvements on that Lot; costs of any utility expenses chargeable to an Owner but not separately billed by the utility company; administrative charges for violations of the Governing Documents, late charges, and interest on delinquent Assessments, and costs of collection of delinquent obligations to the Association, including attorneys' fees and court costs, and all other charges reasonably determined to be chargeable solely to a lot and its Owners.

"Lot" means a separate parcel of real property now or hereinafter identified upon a recorded subdivision plat of property in the Community and identified as a lot thereon, or any portion thereof, or recorded re-subdivision thereof, and any other separate parcel of real property designated as a Lot by Declarant, and subjected to the provisions of this Declaration, excluding the Common Elements and any portion of the Community dedicated for public use.

"Managing Agent" means the Person retained by the Board to assist in the management of the Association.

"Member" means any Person who is a member of the Association.

"Occupant" means a person residing in a Dwelling Unit on a Lot, regardless of whether that person is an Owner.

"Operating Assessment" means an Assessment that the Board may levy from time to time upon all Lots, other than Exempt Property, and their Owners, pursuant to the terms of this Declaration, to provide funds to pay Common Expenses, that is, funds needed to meet cash requirements of the Association for its operations and reasonable reserves.

"Owner" and "Lot Owner" means the record Owner, whether one or more Persons, of fee simple title to a Lot, excluding vendors under recorded land installment contracts, but including the vendees and excluding all others having an interest merely as security for performance of an obligation.

“Person” means a natural individual, trustee, corporation partnership, limited liability company, or other legal entity capable of holding title to real property.

“Rules” means the rules and regulations governing use of property in the Community as may be established by the Board from time to time; and the architectural standards adopted by the Design Review Committee from time to time.

“Special Assessment” means an Assessment that the Board may levy upon all Lots, except Exempt Property, to pay for unanticipated operation deficiencies, or to pay for capital expenditures not regularly budgeted and not to be paid out of monetary reserves, such as costs for major capital improvement replacements and for major new capital improvements, or any other similar purpose determined appropriate by the Board in furtherance of its functions hereunder.

“Subject Property” means all property that at any time has been subjected to the provisions of this Declaration, and initially includes all of the property described in Paragraph 1 of the Background Section of this Declaration.

“Turnover Date” means the date on which Declarant relinquishes its exclusive right to appoint all of the members of the Board and vote all of the interests of the Members as the Declarant determines, in its sole discretion, which relinquishment shall take place no later than the earlier to occur of (a) the Community (Belle Terra), including all Additional Property, has been developed to its fullest extent, all improvements have been completed, and all Lots have been sold and conveyed to bona fide residential home purchasers, or (b) Declarant, in its sole and unfettered discretion, elects to turn over control of the Association to the Members.

2. GOALS

The covenants, easements, conditions and restrictions contained in this Declaration are declared to be in furtherance of the following purposes: the promotion of the health, safety and welfare of all Owners and Occupants of property in the Community; ownership, administration, preservation, beautification and maintenance of the Common Elements and all Improvements thereon; enforcement of architectural controls and restrictions applicable to the Community; compliance with all zoning and similar governmental regulations applicable to the Community; and provide for mandatory membership of Lot Owners in the Community, as it may be constituted, from time to time, in the Association, and the assessment and collection of funds to fulfill its objectives.

3. THE PROPERTY; NO VEHICULAR ACCESS RESTRICTION; OUTLOTS

3.1 Property Subject. The property that shall be held, transferred, sold, conveyed and occupied subject to the terms of this Declaration shall initially consist of the Community, including all of the Lots which are a part of the Subject Property, and any and all rights appurtenant thereto.

3.2 Additional Property. The right is reserved to Declarant to cause Additional Property to become subject to the provisions of this Declaration. An amendment of this Declaration made by Declarant or its successor or assignee to

subject Additional Property to the provisions of this Declaration shall not require the joinder or signature of the Association, the Board, other Lot Owners, mortgagees, or any other Person. Upon the addition of Additional Property to the Community, the Additional Property and the Owners of that property shall be subject to and benefited by the provisions of this Declaration applicable to Lots and Owners thereof.

3.3 No Vehicular Access. With the exception of the approved entrance to the Community and as otherwise shown on the final plat for Belle Terra Subdivision, there shall be no vehicular access to the Community along County Road (CR 75 E) right-of-way, which vehicular access shall be enforceable by the Tippecanoe County Area Plan Commission and irrevocable by the Association.

3.4 Outlots. Outlot A Outlot B of Belle Terra Subdivision shall be used as a drainage easement as shown on the final plat for said subdivision. Outlot C of the Belle Terra Subdivision shall be used as a clubhouse and outdoor swimming pool as shown on the final plat of said subdivision. All Outlots are a part of the Common Elements which are to be conveyed to the Association on the Turnover Date or on such later date as the Declarant, in its sole discretion, shall determine. Upon such conveyance, the Association shall be responsible for the maintenance of the Outlots and the Improvements located or constructed thereon.

4. THE ASSOCIATION

4.1 Purposes. The Association shall apply all funds received by it to the provisions hereof, and all other funds and property received by it from any source, to the fulfillment of the purposes of the Association. Among other things, the purposes of the Association are to:

- a. own, repair, maintain, pay indebtedness (if any) and regulate the use of, and to have easements with respect to various facilities, amenities, and property in the Community that benefit more than one Lot or their Owners and/or the Community and its Owners and Occupants, including, without limiting the generality of the foregoing, the Common Elements and such other Improvements and amenities as designated to be Common Elements by Declarant, and after the Turnover Date, by the Board;
- b. administer and enforce the provisions of the Governing Documents; and
- c. assess, collect and disburse funds necessary to fulfill these purposes

4.2 Membership. Every Lot Owner shall be a Member of the Association. In the case of a Lot that is the subject of a recorded land installment contract, the vendee or vendees under that installment contract and not the vendor shall, while holding such interest, be a Member of the Association. There shall only be one membership per Lot. In the event the fee simple interest in a Lot, or ownership of the vendee interest in a lot if applicable, is held by more than one Person, the co-interest holders of such interests while holding such interests collectively shall have only one membership in the Association as tenants-in-common, with respect to that Lot. Such membership is appurtenant to

and inseparable from such interests. Status as a Member shall automatically transfer to the transferee of that interest at the time the fee simple interest is transferred of record. Initially those Lots to which these membership provisions apply shall be those Lots that are subjected hereby to the provisions of this Declaration. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation and the giving of a security interest of mortgage shall not terminate the membership of any Owner, provided further, there shall not be a membership appurtenant to a Lot dedicated to common public use of owned by any governmental body, instrumentality or agency for so long as such body, instrumentality or agency owns that Lot and so long as it is not utilized as a residence, nor for a Lot, if any, that becomes a Common Element, for so long as it remains a Common Element.

4.3 Powers; Authority; Duties. The Association shall have all the rights, powers, and duties established, invested, or imposed in it pursuant to the Governing Documents and the applicable laws of the State of Indiana. Among other things, the Association, through its Board, shall have the power to acquire, own and convey real estate, hold easements with respect to, and maintain the Common Elements, enforce and administer the Declaration, Rules, restrictions and covenants applicable to the Community, sue and be sued, levy and collect Assessments, collect and maintain reserves for replacements or anticipated expenditures, enter into contracts, mortgage and pledge all revenue received and to be received and/or to assign and pledge all revenues received or to be received by it under any provisions of these covenants, including, but not limited to, the proceeds of the Assessments payable hereunder, and take such other actions that it deems appropriate to its purposes. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward as surplus, any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.4 Other Agreements. The Association shall have the power and authority to contract with any Person for the exercise of anyone or more of the various powers and authority granted to and duties to be performed by the Association hereunder, and to delegate such powers and authority to any agent or employee of the Association, and the exercise of those powers and authority by such Person, agent, or employee shall be deemed the exercise of those powers and authority by the Association, except that no independent contractor shall be deemed by virtue of these provisions to be the agent of the Association. There shall be no requirement of any bond or surety for the Association, its agents, employees, or others assuring the exercise of the powers and authority granted hereunder, except as the Board shall in its sole discretion deem necessary or desirable for the safeguarding of any funds received by the Association.

4.5 Rules and Regulations. The Association may make and enforce Rules governing the use, operation and/or maintenance of all property which is a part of the Community (including, without limitation, the Common Elements), which shall be consistent with the other provisions of the Governing Documents. The Association shall have the power to impose sanctions on Members and Owners for any infraction of the Governing Documents which such sanctions may include without limitation: (i) reasonable monetary administrative charges which shall be considered Individual Lot Assessments; (ii) suspension of the right to vote as a Member of the Association; and (iii) suspension of the

right of the Owner and that Owner's Occupants, licensees, and invitees, to use the Common Elements or any part thereof. In addition, the Board shall have the power to seek relief, including but not limited to, injunctive relief, in any court for violations or to abate violations of the provisions of the Governing Documents, and the amount so expended shall be due and payable by the Owner of the Lot whose Owner, Occupant, licensee or invitee violated the provisions of the Governing Documents and the same shall be an Individual Lot Assessment against such Owner's Lot.

4.6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by the laws of the State of Indiana or any provision of the Governing Documents, and every other right or privilege reasonably implied from the existence of any right or privilege granted thereby, or reasonably necessary to effect any such right or privilege.

4.7. Managing Agent. The Board may retain and employ on behalf of the Association a Managing Agent and may delegate to the Managing Agent such duties as the Board might otherwise be authorized or obligated to perform. The Declarant may be the Managing Agent. The compensation of the Managing Agent shall be a Common Expense.

4.8. Insurance.

- a. Fire and Extended (Special Form) Coverage. The Association shall, with respect to insurable property or interests owned by the Association, obtain and maintain insurance for all buildings, structures, fixtures and equipment and common personal property, now or at any time hereafter constituting a part of the Common Elements owned by the Association, against loss or damage by fire, lightning, and other such perils as are ordinarily insured by standard coverage endorsements, with such limits, deductibles, and coverage as is deemed appropriate by the Board.
- b. Liability Coverage. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board, any committee of the Association or Board, and all persons acting or who may come to act as agents, or employees of any of the foregoing with respect to the Association. It shall also cover all Common Elements owned by the Association, public ways and any other areas under the Association's control or supervision. The premiums for all such liability policies shall be a Common Expense.
- c. Directors' and Officers' Liability Insurance. The Board shall obtain, or cause to be obtained, directors' and officers' liability insurance.
- d. Other. The Association may, in the Board's discretion, obtain and maintain the following insurance: (i) fidelity bond coverage for all officers, directors, Board members and employees of the Association and all other persons handling or responsible for handling funds of the Association, (ii) workers' compensation insurance, (iii)

additional insurance against such other hazards and casualties as is required by law, and (iv) any other insurance the Board deems necessary.

- e. Use of Proceeds. In the event of damage or destruction of any portion of the Common Elements owned by the Association, the Association shall promptly repair or replace the same, to the extent that insurance proceeds are available. Each Member hereby appoints the Association as its attorney-in-fact for such purpose. If such proceeds are insufficient to cover the cost of the repair or replacement, then the Board may levy a Special Assessment pursuant to the provisions hereof to cover the additional costs.
- f. Owner Insurance. The Owner or Owners of each Lot shall obtain and maintain an insurance policy for the Dwelling Unit and all other Improvements located on that Owner's or Owners' Lot which provides insurance against loss or damage by fire, lightning and such other perils as are ordinarily insured against by standard extended coverage endorsements, and all other perils which are customarily covered with respect to dwellings and homes similar in construction, including all perils normally covered by the standard "all risks" endorsement, a policy that includes the 'broad form' covered causes of loss, in an amount not less than one-hundred percent (100%) of the current insurable replacement cost of the Dwelling Unit and Improvements.

4.10 Books; Records. Upon reasonable request of any Member, the Association shall be required to make reasonably available for inspection by any Member all books, records and financial statements of the Association, except for those items deemed privileged, protected, or confidential in accordance with applicable law, rules or regulations. The Association may charge a reasonable fee to cover the administrative costs of handling, copying, delivering, etc., the requested documents.

5. **THE COMMON ELEMENTS**

The Common Elements, as said term is used herein, shall consist of (a) those parcels of real estate that have been or that are hereafter created by subdivision or other plat and specified thereon to be conveyed to the Association, (b) easements shown or noted on any plat to be held by the Association, (c) all real and personal property now or hereafter acquired by the Association for the common use and enjoyment of the Owners or for the operation of the Association, (d) all property, real and personal benefiting the Owners and Occupants of the Lots that Declarant determines to be Common Elements and so designates, (e) the entryways, entry signage and features leading to and from the Community, (f) the real or personal property which the Association is responsible for maintaining under this Declaration, applicable zoning regulations, approved plat(s), and/or under any agreement entered into by the Declarant or by the Association, the terms of which are binding on the Association, and (g) such property, real and personal, and/or property rights that the Board deems desirable and acquires to fulfill the goals of the Association.

In addition, the Declarant may obligate the Association to maintain as Common Elements real or personal property not owned or to be owned by the Association.

5.1 Vesting of Interests. Fee simple title to the real property to be owned by the Association as Common Elements shall, as soon as possible, be conveyed to the Association free and clear of all encumbrances (as of the Turnover Date) except real estate taxes and assessments, if any, not presently due and payable, zoning and building laws, ordinances and regulations, legal highways, and restrictions, conditions and easements of record, including, but not limited to, those contained herein. From time-to-time property in the Community or interests therein determined by Declarant as benefiting the Community, whether fee simple, or as easement rights to the Association set forth herein shall be vested in the Association upon the recording hereof and easement rights in subdivision or other plats shall become Common Elements and vested in the Association upon the recording of those documents. Likewise, property owned by Declarant or its successors and assigns, so designated in a subdivision or other plat to be owned by the Association shall be conveyed to the Association by Declarant, as appropriate. All such conveyances of fee interests shall be by limited warranty deed. In addition, the Declarant may also grant such easements to the Association as the Declarant, in its sole and unfettered discretion, determines to be of benefit to the Community, as it may be constituted from time to time.

5.2 Disposition or Mortgaging of Common Elements. No Common Elements owned by the Association shall be disposed of except as otherwise provided or permitted in the Governing Documents; provided that, in any event, no Common Elements owned by the Association may be mortgaged or conveyed without the consent of the Declarant prior to the Turnover Date or the Members exercising not less than seventy-five percent (75%) of the voting power of Members after the Turnover Date.

5.3 Design Review. Subject to the other provisions of the Governing Documents requiring Members' approvals, the construction, replacement, or modification (which shall include staking, clearing, excavating, grading, and other site work) of the Common Elements or Improvements thereon shall be determined by Declarant until the Turnover Date and thereafter by the Design Review Committee.

6. **ASSESSMENTS**

6.1 Types of Assessments. Subject to the provisions of this Article 6, each Lot Owner shall be subject to the following Assessments, which by acceptance of a deed to a Lot (whether or not it shall be so expressed in such deed) each such Lot Owner covenants and agrees to pay to the Association: (a) Operating Assessments, (b) Special Assessments, (c) Individual Lot Assessments, and (d) Capital Assessment all of which are to be established and collected as hereinafter provided. No Owner may gain exemption from liability for any Assessment by waiving or foregoing the use or enjoyment of any of the Common Elements or by abandoning that Owner's Lot, not shall any such liability be subject to any set-off or reduction for any reason.

6.2. Operating Assessments. The Board shall establish, levy and collect Operating Assessments against each Lot, other than Exempt Property, and the Owners of the Lots, on a pro rata basis, to provide funds to pay Common Expenses including, without limitation, the following costs, expenses, and reserves:

- a. the cost of the maintenance, repair, replacement, and other services to be provided by the Association;

- b. the costs for insurance and bond premiums to be provided and paid for by the Association;
- c. the cost for utility services, if any, charged to or otherwise properly payable by the Association;
- d. the costs for construction of new capital improvements on Common Elements;
- e. the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board;
- f. an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements; and
- g. the costs for the operation, management, and administration of the Association, including, but not limited to, fees for property management, landscaping, mowing, planting, lighting, pavement maintenance, snow and ice removal, trash pick up, and mitigation for the Common Elements and other Improvements as set forth herein, real estate taxes and assessments for the Common Elements (but not individual Lots), irrigation costs, if any, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and the salaries, wages, payroll charges and other costs to perform these services and any other costs of operations of the Association not otherwise specifically excluded;

Commencing on the first day of the first full month after a Lot with or without a Dwelling Unit constructed thereon has been conveyed by Declarant to a home purchaser, such Lot Owner shall be subject to and pay to the Association an Operating Assessment for the remainder of the calendar year, as determined by the Board, prorated in the proportion that the number of full calendar months remaining in the calendar year from the date of the closing of the conveyance of the Lot is to twelve (12). This amount may have been prepaid by the Declarant and if so, a credit back to the Declarant will be collected at the closing on the Lot.

For each full year following the year in which a Lot with or without a Dwelling Unit constructed thereon is first conveyed by the Declarant to a home purchaser, the Lot Owner(s) of such Lot shall be obligated to pay the Association the full Operating Assessment for each such year. The Operating Assessment amount shall be determined by dividing among all Lots in the Community that have been conveyed to a home purchaser (regardless of whether a Dwelling Unit has been constructed thereon), the projected gross expenses anticipated to be incurred by the Association to operate the Association at the completion of development of the Community (including the payment of all costs to be incurred in maintaining all Common Elements and appropriate reserve funds). For each year during which the Declarant continues to own Lots, the Declarant may pay, in the exercise of its discretion, either (i) an amount equal to the per Lot Operating Assessment multiplied by the number of Lots owned by Declarant as of the first day of such year; or (ii) an amount necessary to fund the actual difference between the Association's actual cost of operations for such year and the amount of Operating Assessments assessed to Lot Owners for the year. If and to the extent the Declarant funds the Association any amount in excess of the minimum it is required to fund pursuant to this provision, such excess amount shall be

characterized as an 'advance' or 'loan' by the Declarant to the Association, which the Association shall be obligated to repay to the Declarant upon demand, or which may be credited to the Declarant's payment of deficit(s) in any future year(s).

The Operating Assessments issued to Lot Owners shall be payable in full within thirty (30) days of the date on which such Operating Assessment is issued, provided however that the Board may determine to allow payment in monthly, quarterly, or semi-annual installments. If payable in installments, the Operating Assessment shall include a statement of the dates on which installments are due, and notice of the Operating Assessment shall be given to a Lot Owner not less than thirty (30) days prior to the date the first installment thereof is due. Unless the Operating Assessment states that it is payable in installments, payment in full within thirty (30) days shall be required.

6.3. Special Assessments. The Board may levy against all Lots subject to Operating Assessments, and their Owners, Special Assessments to pay for capital expenditures and not to be paid out of reserves, unanticipated operating deficiencies or any other purpose determined appropriate by the Board in furtherance of its functions hereunder. Those Special Assessments shall be allocated among Lots on the same basis as Operating Assessments are to be allocated, and shall be due and payable on such basis and at such times as the Board directs, provided that no such Special Assessment shall be due and payable on fewer than thirty (30) days written notice.

6.4. Individual Lot Assessments. The Board may levy an Individual Lot Assessment against any Lot Owner to reimburse the Association for costs incurred on behalf of that Lot, or as a consequence of any act or omission by any Owner, Occupant, or invitee thereof, including without limitation, costs associated with making repairs or maintenance items that are the responsibility of the Owner; costs incurred by the Association as a result of the failure of an Owner to maintain insurance in accordance with the provisions hereof; costs of additional insurance premiums specifically allocable to an Owner, costs of any utility expenses chargeable to an Owner but not separately billed by the utility company; and all other administrative and enforcement charges, including but not limited to, attorneys' fees, incurred by the Association reasonably determined to be an Individual Lot Assessment by the Board. By way of illustration, and not of limitation, the Board may levy an Individual Lot Assessment in the nature of an administrative charge reasonably determined by the Board against any Lot Owner who violates any provision of the Governing Documents, or who suffers or permits the Members, guests, invitees or tenants of that Owner's Lot to violate the same or any provision of the Governing Documents, including the restrictions contained herein and in the Rules.

6.5. Capital Assessment. The Board shall establish, levy and collect a Capital Assessment from each Lot Owner upon acceptance of a deed to a Lot. The Capital Assessment shall be a one-time charge to pay for additional capital expenditures. The initial Capital Assessment is established at Five Hundred Dollars (\$500.^{00/100}).

Except in the case of Individual Lot Assessments for utility charges, interest, late charges, returned check charges, court costs, arbitration costs, and/or attorney fees, prior to levying an Individual Lot Assessment, the Board shall give the Owner or Owners written notice of the proposed Individual Lot Assessment that includes a description of the property, damaged, or the violation, of the restriction, rule, or regulation allegedly violated, the amount of the proposed Individual

Lot Assessment, a statement that the Owner has a right to a hearing before the Board to contest the proposed Individual Lot Assessment by delivering to the Board a written notice of the proposed Individual Lot Assessment, and in the case of a charge for violation of a restriction, rule, or regulation, a reasonable date by which the Owner must cure the alleged violation to avoid the proposed Individual Lot Assessment. The notice by the Board given pursuant to the foregoing may be delivered personally to the Owner to whom an Individual Lot Assessment is proposed to be charged, personally to an Occupant of a Dwelling Unit on that Owner's Lot, by certified mail, return receipt requested, or by regular mail. In the event after such hearing the Board determines to levy the Individual Lot Assessment proposed, the Board shall deliver to the Owner written notice thereof within thirty (30) days of the date of that hearing.

6.5 Remedies.

- a. If any installment of an Assessment, or portion thereof, is not paid within ten (10) days after the same has become due, the Board, at its option, without demand or notice may call the entire balance of the Assessment due.
- b. If any portion of any Assessment remains unpaid for ten (10) days after all or any part thereof shall become due and payable, the Board may charge interest on the entire unpaid balance from and after that date at a rate equal to the lesser of (i) twelve percent (12%) or (ii) the highest rate permitted by law.
- c. A reasonable administrative collection charge may also be assessed for any payment remaining unpaid for ten (10) days after it is due, which charge may be payable to the Association or its Managing Agent, as determined by the Board.

6.6 Application of Payments. Payments made by an Owner for Assessments shall be applied in the following priority: (i) to interest accrued on any delinquent Assessment(s), or installments or portions of installments thereof, if any; (ii) to administrative late fees charged with respect to any delinquency, if any; (iii) to reimburse the Association for enforcement charges and collection costs, including, but not limited to, attorney fees and paralegal fees incurred by the Association in connection with a delinquency, if any; (iv) to any delinquent Assessment, or installment or portion thereof, applying to the oldest principal amounts first, and (v) to principal.

6.7 Liability for Unpaid Assessments. Each Assessment or installment of an Assessment, together with interest and late fees, thereon, and any and all costs of collection, including reasonable attorneys' fees, shall become the joint and several personal obligations of the Owners of the Lot charged with the same, beginning on the date the Assessment or installment thereof becomes due and payable. The Board may authorize the Association to institute and prosecute to completion an action at law on behalf of the Association against the Owner or Owners personally obligated to pay any delinquent Assessment, and/or an action to foreclose the Association's lien or liens against a Lot or Lots for unpaid Assessments owed by that Lot and the Owner or Owners thereof. In any such action, interests and costs of such action, including reasonable attorneys' fees, shall be added to the amounts owed by the Owner or Owners and the Lot to the extent permitted by Indiana law. An Owner's personal obligation for a Lot's delinquent Assessments (including accrued interest, late fees, attorney's fees, and costs of collection) shall also be the personal obligation of the Owner's

successors in title who acquires an interest after any Assessment becomes due and payable, and both such Owner and the Owner's successor in title shall be jointly and severally liable therefor. Except as otherwise provided herein, the transfer of an interest in a Lot shall neither impair the Association's lien against that Lot for any delinquent Assessment nor prohibit the Association from foreclosing that lien.

6.8 Liens. All unpaid Assessments, or portions thereof, together with any interest and charges thereon or costs of collection, including but not limited to attorneys' fees, shall constitute a continuing charge in favor of the Association and a lien on the Lot against which the Assessment was levied. If any Assessment, or portion thereof, remains unpaid for ten (10) days after it is due, then the Board may authorize any officer or appointed agent of the Association to file a certificate of lien for all of any part of the unpaid balance of that Assessment, together with interest and collection costs, including attorneys' fees, with the appropriate governmental office. The certificate may be signed by the president of the Association, the Association's designated representative, or such other person authorized by law. Upon the filing of the certificate, the subject Lot shall be encumbered by a continuing lien in favor of the Association.

6.9 Subordination of Lien. The lien of the Assessments provided for herein shall be subject to and subordinate to the lien of any duly executed first mortgage on a Lot recorded prior to the date on which such lien of the Association is perfected by the recording of a certificate of lien.

6.10 Contested Lien. Any Owner or Owners who believe that an Assessment chargeable to that Owner or the Owner's Lot, and for which a certificate of lien has been filed by the Association has been improperly charged against that Lot, may bring an action in Tippecanoe County, Indiana, for the discharge of that lien and/or for a declaratory judgment that such Assessment was unlawful. The filing of such action shall not be grounds for an offset or to withhold payment. In any such action, if it is finally determined that all or a portion of the Assessment has been improperly charged to that Lot, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien and a refund of an Assessment or portion thereof determined to be unlawful.

6.11 Estoppel Certificate. The Board shall, within a reasonable time following receipt of a written demand and for a reasonable charge, furnish a certificate signed by the President or other designated representative of the Association, setting forth whether the Assessments on a specified Lot have been paid. This certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

6.12 Suspension of Vote and Use of Common Elements. If any Assessment remains unpaid for thirty (30) days after it becomes due, then the delinquent Owner's voting rights upon Association matters and privileges to use the Common Elements, shall be suspended until such Assessment is paid. In any case, suspension of any such rights shall be subject to the right of an Owner, Occupant, or their licensees or invitees, to necessary ingress and egress to and from that Owner's Lot.

7. USE OF FUNDS

7.1 Application of Assessments. The Association shall supply all funds received by it pursuant to this Declaration and all other funds and property received by it from any source, to the fulfillment of the purposes of the Association provided for herein.

7.2 Authority to Borrow Funds. In order to secure the repayment of any and all sums borrowed by it, loaned to it, or owed by it, from time to time, the Association is hereby granted the right and power to mortgage and pledge all revenue received and to be received and/or to assign and pledge all revenues received or to be received by it under any provisions of these covenants, including, but not limited to, the proceeds of the Assessments payable hereunder. The accounts, terms and rates of all borrowing and the provisions of all agreements with holders or Owners of any such debt obligation shall be subject solely to the decision of the Board acting in its absolute discretion.

7.3 Authority to Maintain a Surplus. The Association shall not be obligated to spend in any particular time period all the sums collected or received by it in such time period or in any other time period and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Assessment in any year, but may carry forward from year to year and time to time such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

7.4 Authority to Enter into Contracts. The Association shall have the right to enter into such contracts with third parties as the Board deems advisable, including but not limited to (i) a contract with a Managing Agent to oversee and administer the day-to-day affairs of the Association; (ii) contracts for the performance of maintenance services in the Common Elements for which the Association is obligated; (iii) contracts with providers of utilities and other services deemed necessary or desirable by the Board for the performance of the Association's obligations in the Common Elements, or to the Community. As part of a contract with a Managing Agent, the Board may authorize said Managing Agent to contract with third party maintenance and service providers on behalf of the Association.

8. MAINTENANCE

8.1 Maintenance by the Association. Except as otherwise specifically provided herein, and then subject only to budgetary limitations and the right of the Board to exercise reasonable business judgment, the Association shall maintain, repair and replace all Improvements constituting a part of the Common Elements owned by the Association in good, clean, attractive, and sanitary condition, order and repair. The Association shall maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Improvements to be maintained by the Association as determined in the sole judgment of the Board. In the event of damage or destruction of any portion of the Common Elements owned by the Association, the Association shall promptly repair or replace the same, to the extent that insurance proceeds are available. Each Member hereby appoints the Association as its attorney-in-fact for such purpose. If such

proceeds are insufficient to cover the cost of the repair or replacement, then the Board may levy a Special Assessment to cover the additional costs.

8.2 Maintenance by the Owner. Each Owner shall repair, replace, and maintain in good order and condition, at that Owner's expense, all portions of the Dwelling Unit located upon that Owner's Lot. The Owner's maintenance responsibility includes, without limitation, promptly furnishing all necessary materials and performing or causing to be performed at that Owner's expense all maintenance, repairs and replacements of the Dwelling Unit on the Owner's Lot. Each Owner shall maintain that Owner's Lot in accordance with the requirements set forth herein or the Rules.

8.3. Right of Association to Repair Lot and Home Structure. If any Owner fails to maintain that Owner's Lot and the Improvements located thereon, and the same remains in disrepair for a period of thirty (30) days after notification by Declarant or the Association to said Owner, and if the Board or Declarant determines that any maintenance of that Lot or Improvements thereon, is necessary to ensure public safety, to prevent damage to or destruction of any other part of the Common Elements, or to comply with the Rules or the terms of this Declaration, then the Board or Declarant may authorize its employees or agents to enter the Lot at any reasonable time to complete the necessary maintenance and the Board may levy an individual Lot Assessment for all reasonable expenses incurred, or if performed by Declarant, those expenses shall be reimbursed by the Owner to Declarant upon demand.

8.4. Damage to Common Elements by Owner or Occupant. If a Common Element is damaged by any Owner or Occupant, that Person's licensees, or invitees, then the Board may levy an Individual Lot Assessment against such Owner for the cost of repairing or replacing the damaged property. The Association shall be entitled to enter a Lot to repair or maintain any Common Elements adjacent to such Lot.

9. **ARCHITECTURAL STANDARDS**

All property at any time subject to the provisions of this Declaration shall be governed and controlled by the following:

9.1. Design Review Committee. The Design Review Committee shall be a committee consisting of three (3) persons, Ronald H. Whistler, Ryan Kennedy and Robert C. Hockema except that prior to the Turnover Date, Declarant shall have the sole and exclusive right to (i) appoint and remove all three (3) members of the Design Review Committee, at will; (ii) serve itself, as the Design Review Committee; or (iii) delegate to the Association's Managing Agent the responsibility to act as the Design Review Committee. After the Turnover Date, the Board shall have the right to appoint all three (3) members to the Design Review Committee, or to delegate to the Association's Managing Agent (if applicable) the responsibility to act as the Design Review Committee. The Design Review Committee shall have the exclusive authority to determine the architectural standards which shall govern the construction of Improvements on a Lot, including Dwelling Units. Each Owner covenants and agrees by acceptance of a deed to a Lot, to comply with, and to cause that Owner's Lot and any Occupant thereof to comply with the standards adopted by the Design Review Committee. No Improvement, including a Dwelling Unit, shall be placed, erected or installed on a Lot, and no

construction (which term shall include in its definition staking, clearing, excavation, grading and other site work) shall be commenced or continued until and unless the Owner first obtains the written approval thereof by the Design Review Committee and otherwise complies with any zoning regulations and all provisions hereof. If the Design Review Committee consists of three (3) appointed individuals, the committee shall act in accordance with the concurrence of two (2) or more of its members.

9.2. Modifications. Except as otherwise provided herein, the Design Review Committee shall have jurisdiction over all construction, modifications, additions or alterations of Improvements, including Dwelling Units, on or to a Lot. No person without first obtaining the written consent of the Design Review Committee shall alter any surfaces of existing Improvements, change paint colors or roofing materials, change exterior front doors of a Dwelling Unit, construct or modify fencing, install any permanent recreational device, swing-set, playground, basketball hoop, or other similar Improvement, change the grade or contour of any Lot, change the material of any driveway, modify the exterior lighting, change the mailbox or address marker, construct an porch, deck, patio, gazebo, or pool, modify any landscaping, or install any sign(s) not otherwise prohibited herein or by applicable law. Owners shall submit to the Design Review Committee for its approval, written plans and specifications showing the nature, kind, shape, color, size, materials and location of proposed Improvements and alterations, together with any other reasonable information the Design Review Committee may request to assist it in reviewing such application. The Design Review Committee (or a Managing Agent acting as the Design Review Committee by designation, if applicable) may charge a reasonable fee in connection with the review of plans for a proposed Improvement. Nothing contained herein shall be construed to limit the right of an Owner to remodel or decorate interior Improvements without such approval, provided however that interior modifications, the purpose of which is to be visible outside of the home, shall require approval (i.e. signage mounted on the inside of a window).

9.3. Variances. To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of this Declaration, the Design Review Committee shall have the authority to grant reasonable variances from this Declaration, provided that the activity or condition is not prohibited by applicable law; and provided further that, in the judgment of the Design Review Committee, the variance is in the best interests of the Community and is within the spirit of the standards of the Design Review Committee and this Declaration. No variance granted pursuant hereto shall constitute a waiver of any provision hereof as applied to any other person or any other part of the Community.

9.4. Improvements by or through Declarant. Notwithstanding the foregoing to the contrary, all Improvements, including Dwelling Units and landscaping constructed by the Declarant or its respective agents, or designated assignees, or constructed by builders approved by Declarant, shall not require approval of the Association, the Board, the Owners, or the Design Review Committee so long as such Improvements comply with the provisions of this Declaration and the required architectural standards for the Community adopted by the Declarant.

9.5. Liability Relating to Approvals. Neither Declarant, the Association, the Board, the Design Review Committee, nor any members thereof, nor any of their respective heirs, personal representatives, successors and assigns, shall be liable to anyone submitting plans and specifications for approval by reason of mistakes of judgment, negligence,

or nonfeasance arising out of, or in connection with the approval or disapproval or failure to approve the same. Every Person and Lot Owner who submits plans and/or specifications or otherwise requests approval from the Design Review Committee agrees, by submission thereof, that they will not bring any action or suit, seek damages, or otherwise attempt to compel the approval of the same. Each Lot Owner shall be responsible for ensuring that any Improvements constructed on their Lot comply with any zoning ordinances and any easements, covenants and conditions of record.

10. **USE RESTRICTIONS**

The following restrictions and covenants concerning the use of each Lot and occupancy of a Dwelling Unit thereon shall run with the land and be binding upon the Declarant, and every Owner or Occupant, their respective heirs, successors and assigns, as well as their family members, guests, licensees and invitees:

10.1 Use of Lots. Except as otherwise specifically provided in this Declaration, no Dwelling Unit on a Lot, nor any portion of any Lot, shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto. Specifically, no Dwelling Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care or treatment facility. Each of the Lots in the Community is designed and planned to have constructed on it one single-family residence. In addition, no Dwelling Unit shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family residence not to exceed two and one-half stories in height, and each such Dwelling Unit shall have an attached garage for at least two (2) cars. No bi-level homes shall be permitted. As used herein, "bi-level home" shall mean a home having two (2) levels with an integral garage on the lower level. No Dwelling Unit shall be constructed on any Lot having a garage with a lower elevation than the street elevation such that the garage and/or driveway are depressed below the finished grade of the Lot. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently; provided, however, that nothing herein shall prevent the use of trailers or temporary buildings by Declarant or by builders approved by Declarant for sales and construction management and related uses during the construction and sale of Dwelling Units in the Community. All Dwelling Units shall comply with material standards as approved by the local governmental authority for this Community and by the Design Review Committee.

10.2 Minimum Square Footages. No Dwelling Unit shall be permitted on any Lot on which the floor area of the main structure is less than 1,418 square feet.

10.3 Use of Common Elements. The Common Elements may be used only in accordance with the purposes for which intended and for any reasonable purposes incidental to the residential use of Lots. All uses of the Common Elements shall benefit or promote the health, safety, welfare, convenience, comfort, recreation, and/or enjoyment of the Owners and/or Occupants, and shall comply with the provisions of this Declaration and all other Governing Documents, and applicable laws.

10.4 Hazardous Actions or Materials. Nothing shall be done or kept in or on any Lot or in or on any portion of the Common Elements that is unlawful or hazardous, that might reasonably be expected to increase the cost of casualty or public liability insurance covering the Common Elements, or that might or that does unreasonable disturb the quiet occupancy of any Person residing on any other Lot. These provisions shall not be construed so as to prohibit Declarant or any other builder in the Community from construction activities consistent with reasonable or customary residential construction practices.

10.5 Signs. No signs of any character shall be erected, posted or displayed upon property in the Community, except (i) marketing signs installed by Declarant while marketing Lots and residences for sale or rent; (ii) marketing signs installed by builders approved by Declarant while marketing Lots and residences for sale or rent; (iii) street and identification signs installed by the Association, Declarant, or any governmental agency; (iv) on the Common Elements, signs regarding and regulating the use of the Common Elements; provided that they are approved by the Board; (v) on any Lot, one temporary real estate sign not to exceed six (6) square feet in area advertising that such Lot is for sale or rent; and (vi) except to the extent preempted by federal law, up to three (3) temporary political signs of not more than six (6) square feet each, expressing support for or opposition to an individual candidate or issue which is the subject of a current election, provided that the same comply with any local ordinances and any Rules established by the Board. Political signs containing information or expressing opinions other than simple support for or opposition against a specific candidate or issue may be removed by the Association, and not more than one (1) sign for or against any specific candidate or issue may be posted or displayed on any one Lot. All political signs must be removed within three (3) days after the election relative to which such sign(s) was/were erected. Except as provided in subpart (v) above, no signs shall be placed in the Common Elements.

10.6 Animals. Except as hereinafter provided, no animals, reptiles, livestock or poultry of any kind shall be raised, bred or kept on any Lot, or in or upon any part of the Common Elements. Notwithstanding the foregoing, household domestic pets, not to exceed two (2) pets, not bred or maintained for commercial purposes, may be maintained in a Dwelling Unit on a Lot, provided that: (i) the maintaining of animals shall be subject to such rules and regulations as the Board may from time to time promulgate, including, without limitation, the right to place limitations on the size, number and type of such pets, and the right to levy administrative and enforcement charges against persons who do not clean up after their pets; and (ii) the right of an Owner or Occupant to maintain an animal in a Dwelling Unit on a Lot shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance, creates a detrimental effect on the Community or other Lots or Occupants, or that the animal is defined as "vicious" or "dangerous" pursuant to the laws of the State of Indiana. Outdoor doghouses, animal cages or runs are prohibited without the express prior, written approval of the Design Review Committee.

10.7 Nuisances. No noxious or offensive trade, activity or noise shall be permitted on any property in the Community or within any Dwelling Unit located on any Lot. No soil shall be removed for any commercial purpose.

10.8 Business. No industry, business, trade, occupation or profession of any kind may be conducted, operated or established on any Lot, without the prior written approval of the Board. Notwithstanding the foregoing, (i) a "home

office” use is permitted, provided such use does not require the presence in or about a Dwelling Unit of employees that are not residents of the Dwelling Unit, generate any traffic or additional parking, require any signage, and is operated in compliance with all laws including any Rules established by the Board; (ii) an Owner or Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business, making professional telephone calls or corresponding in or from a residence is engaging in an use expressly declared customarily incidental to residential use and is not in violation of these restrictions; and (iii) during the construction and initial sales period, Lots, including Dwelling Units and other Improvements constructed thereon, and Common Elements may be used for construction and sales purposes, including the construction and operation of sales models and/or trailers by Declarant and by builders as approved by Declarant, in its sole discretion, until Dwelling Units have been constructed on all Lots and all Lots with Dwelling Units have been conveyed to bona fide residential home purchasers.

10.9 Storage. No storage buildings, barns or sheds of any kind are permitted on any Lot. This section shall not apply to any storage as may be necessary during the construction of Dwelling Units on the Lots.

10.10 Hotel/Transient Uses. No Lot, Dwelling Unit or other Improvement may be used for hotel, bed breakfast, Airbnb, or other similar or transient uses, including without limitation, uses in which an Occupant is provided customary hotel services such as room service for food and beverage, maid service, furnishing laundry and linin, or similar services, or leases to roomers or boarders.

10.11 Vehicles. The Board is granted the power and the authority to create and enforce reasonable Rules concerning placement and the parking of any vehicle on or in the Community. In addition to its authority to levy Individual Lot Assessments as administrative charges for the violation of the Rules, the Board shall be authorized to cause the removal of any vehicle violating this Declaration or such Rules. Except as specified below, no trucks, prohibited commercial vehicles, boats, or trailers shall be parked or stored on any street on any Lot in the Community (except in the attached garage) for a total of more than forty-eight (48) hours in any thirty (30) day period, provided, however, that nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of a Dwelling Unit on a Lot.

For the purpose of this Section 10.11, the terms “truck” and “prohibited commercial vehicles” shall include all vehicles that have a length of more than 21 feet and all vehicles that include any visible exterior storage of tools or materials; provided, however, that up to two (2) ladders may be visible. Dump trucks, tow trucks, flat bed car hauling trucks, panel trucks and vans larger than one-ton capacity, pickup trucks larger than one-ton capacity, and semi type tractors and trailers, shall in every instance be considered to be a truck and/or a prohibited commercial vehicle. For the purposes of this Section, the word “trailer” shall include landscaping trailer, open bed trailer, trailer coach, house trailer, mobile home, automobile trailer, camp car, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit use and occupancy thereof, or for storage or the conveyance of personal property, whether resting on wheels, jacks, tires or other foundation.

Furthermore, no automobile, truck, or other motor-driven vehicle, or trailer, in a condition where it is unlicensed, unregistered, apparently inoperable, extensively damaged, disabled, dismantled, or otherwise not in a condition to be lawfully operated upon the public highway, or any vehicle component or part, shall be placed, parked or stored in any visible location on or in front of a Lot or Dwelling Unit for a period of time longer than ten (10) days. After such time the vehicle, trailer, or part shall be deemed to be a nuisance, and may be removed by the Association, at the Lot Owner's expense.

10.12 Trash. Except for the reasonably necessary activities of Declarant and by builders and developers approved by Declarant during the active development of the Community, no burning or storage of trash of any kind shall be permitted in the Community. All trash shall be deposited in covered, sanitary containers, and these containers shall at all times be screened from view from any other Lot or street, except when temporarily placed outside for trash collection. No emptied trash containers shall be allowed to remain visible for more than eight (8) hours following the trash pick-up.

10.13 Antennae, Satellite Dishes and Surveillance Equipment. No outside television or radio aerial or antenna or other aerial or antenna, including satellite receiving dishes, for reception or transmission, shall be installed or maintained in the Community except for one (1) satellite receiving dish one (1) meter in diameter or smaller, positioned so as to minimize visibility from any street.

10.14 Utility Lines. All utility lines in the Community shall be underground, subject only to exceptions for governmental authorities having jurisdiction, utility companies, Declarant, and the Board.

10.15 Tanks. No tanks for the storage of propane gas, fuel oil or any other combustible substance shall be permitted to be located above or beneath the ground of any Lot except that up to two (2) propane tanks, of the size customarily used in residential propane gas grills are permitted for use with a propane gas grill. This Section shall not apply during the construction of any Dwelling Unit on the Lots or to any Lot containing the Declarant's sales trailer.

10.16 Mailbox. Declarant may designate and require a curbside mailbox for each Lot, with a design and composition that will provide uniformity to the Community. In the event that a curbside mailbox is installed, each mailbox shall have the street numbers for the Lot on each side of such mailbox. If the mailbox is damaged, destroyed or deteriorates, then the Association, as a Common Expense, shall repair or replace such mailbox with an identical mailbox, or if unavailable, with another of a like kind, design, pattern and color as the initial mailbox. If a mailbox requires painting, the Board or Managing Agent (if so directed by the Board) shall be responsible for having the mailbox repainted and the cost to repaint a mailbox shall be a Common Expense unless such repainting was caused by the negligence of the Owner of the Lot where the mailbox is located, in which case the Association shall assess said cost or expense as an Individual Lot Assessment against said Owner and the Owner's Lot.

10.17 Fencing. Except as otherwise provided herein, no fence may be constructed upon any Lot except those installed by Declarant or the Association or a fence replacing a fence that was installed by Declarant or the Association.

10.18 Swimming Pools. No above-ground or in-ground swimming pool shall be permitted upon any Lot except that this restriction shall not prohibit the installation of a hot tub or sauna, so long as such hot tub or sauna is designed for no more than eight (8) adults.

10.19 Compliance with Zoning. Certain provisions of this Declaration may have been included herein as a result of governmental requirements established through the zoning and development plan approval processes in the State, County, and/or City in which the Subject Property is located. Compliance with all such governmental requirements, for so long as such requirements are effective and binding and as such requirements may be amended or modified, is required by this Declaration.

10.20 Miscellaneous. Permanent outdoor clotheslines and window air conditioning units on any window of a Dwelling Unit facing a street shall not be permitted on any Lot.

11. ESTABLISHMENTS AND LICENSES

11.1 Easement of Access and Enjoyment Over Common Elements. Every Owner shall have a right and easement (in common with all other Owners) of enjoyment in, over, and upon the Common Elements owned by the Association, which rights shall be appurtenant to, and shall pass with the title to, that Owner's Lot, subject to the terms and limitations set forth herein, and subject to the Rules. An Owner may delegate that Owner's rights of access and enjoyment to Occupants, licensees and invitees.

11.2 Right of Entry for Repair. The Association through its duly authorized agents, officers, contractors, and employees, shall have a right of entry and access to all property subject hereto, including, without limitation, the Lots and Dwelling Units for the purpose of exercising the Association's obligations, rights and performing the Association's duties pursuant hereto with regard to enforcement of the covenants, restrictions and other provisions of this Declaration, and the maintenance, repair, restoration and/or servicing of any items, things or areas for which it has responsibility or the right to perform. The Association may enter a Lot to remove or correct any violation of any provision hereof, or any Rules, but only during reasonable hours and after providing reasonable advance notice to the Owner, except in cases of emergency.

11.3 Easement for Utilities and Other Purposes. The Board or Declarant may convey easements over the Common Elements to any entity for the purpose of constructing, installing, maintaining, and operating poles, pipes, conduit, wires, ducts, cables, and other equipment necessary to furnish electrical, gas, sewer, water, telephone, cable television, and other similar utility or security services, whether of public or private nature, to the Community and to any entity for such other purposes as the Board or Declarant deems appropriate; provided that such equipment or the exercise of such easement rights shall not unreasonably interfere with any Owners' use and enjoyment of that Owner's Lot. The Board or Declarant may grant such easements over all portions of the Community for the benefit of adjacent properties as the Board or Declarant deems appropriate; provided that the grant of such easements imposes no undue, unreasonable, or

material burden or cost upon any property in the Community, and further provided that the board or Declarant may not convey any easement over a Lot without the prior written consent of the Owner of such Lot (which consent shall not be unreasonably withheld, delayed or conditioned).

11.4 Easements Reserved to Declarant. Non-Exclusive easements exist and continue to exist or are hereby reserved to Declarant, and its respective officers, employees, contractors, sub-contractors, and designees, over and upon the Common Elements for (a) such time as is necessary to construct and sell Dwelling Units on all Lots and completing Common Element Improvements, provided that such right of access shall be to the extent, but only to the extent, that access hereto is not otherwise reasonably available, (b) the periods provided for warranties hereunder or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with home purchasers, and (c) for the period necessary to construct dwelling on all the Lots and sell the same, to maintain and utilize one or more Lots, and Improvements thereon, and/or a portion or portions of the Common Elements, for sales and management offices, for storage and maintenance, for model homes, for parking areas for sales and rental purposes, and for advertising signs. The rights and easements reserved pursuant to this Section shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to unreasonably interfere with the operation of the Association and the rights of Lot Owners and Occupants of dwellings on Lots.

11.5 General. Unless specifically limited herein otherwise, the easements described herein shall run with the land and pass with the title to the benefited and burdened properties, shall be appurtenant to the properties benefited thereby, and shall be perpetual. The easements and grants provided herein shall in no way affect any other recorded grant or easement. Failure to refer specifically to any of all of the easements and/or rights described in this Declaration in any deed of conveyance or in any mortgage or other evidence of obligation shall not defeat or fail to reserve said rights or easements by the same shall be deemed conveyed or encumbered, as the case may be, along with the Lot.

12. **UTILITY SERVICES**

Each Lot Owner by acceptance of a deed to a Lot agrees to pay for utility services separately metered or separately charged by the utility company to that Lot. The Association shall arrange for the provision of utility services, if any, to the Common Elements and shall pay the costs of such services separately metered to the Association.

13. **MISCELLANEOUS**

13.1 Term. The provisions hereof shall bind and run with the land for a term of forty (40) years from and after the date that this Declaration is filed for recording with the Recorder of Tippecanoe County, Indiana and thereafter shall automatically renew forever for successive periods of ten (10) years each, unless earlier terminated with the consent of Members exercising not less than seventy-five percent (75%) of the voting power of all Members and the consent of all holders of first mortgage liens on Lots.

13.2 Enforcement. The provisions hereof may be enforced by any proceeding at law or in equity by Declarant, any Owner, the Association, the Board, the Design Review Committee, and each of their respective heirs, successors and assigns, against any Person(s) violating, or attempting to violate, any covenant, restriction, or Rule to restrain and/or to enjoin any violation, to obtain a decree for specific performance as to removal of any nonconforming Improvement, and to recover all damages, costs of enforcement and any other costs incurred (including without limitation reasonable attorneys' fees) in connection with any violation. The failure or forbearance to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of these rights.

13.3 Amendments. Until the Turnover Date, Declarant may, in its sole and absolute discretion, unilaterally amend the provisions hereof at any time and from time to time, without the consent of any other Owners. Any such amendment may impose covenants, conditions, restrictions and easements in addition to those set forth herein including, without limitation, restrictions on use and covenants to pay additional charges with respect to the maintenance and improvement of any property in the Community. After the Turnover Date, Declarant may unilaterally amend the provisions hereof, without the consent of any other Owners, if such amendment is: (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation of judicial order; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) necessary to conform to the requirements of the United States Federal Housing Administration of the Veterans Administration, or (d) necessary to correct errors; provided, however, that any such amendment shall not materially adversely affect the title to any Lot unless the Owner or Owners have thereof consented to such amendment in writing.

After the Turnover Date, this Declaration may be amended or modified with the approval of Owners holding not less than seventy-five percent (75%) of the voting power of all Owners in the Association; provided, however, that the consent of Declarant shall be required for any amendment or modification which affects Declarant's rights hereunder, and further provided that the consent of all Owners shall be required for any amendment which effects a change in the voting power of any Owner, the method of allocating Common Expenses among Owners, or the fundamental purpose for which the Association is organized or to terminate the provisions of this Declaration. Any amendment to this Declaration adopted with the aforesaid consent shall be executed with the same formalities as to execution as observed in this Declaration by the president and secretary of the Association and shall contain their certifications that the amendment was duly adopted in accordance with the requirements of this section. Any amendment so adopted and executed shall be effective upon the filing of the same with the Tippecanoe County Recorder. The Declaration may not be amended so as to eliminate the Association's responsibility to repair and maintain Common Elements in the Community or to change or eliminate the requirement and obligation of the Lot Owners to be Members of and pay Assessments to the Association.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

13.4. Declarant's Rights to Complete Development. Declarant and builders approved by Declarant shall have the unrestricted right to: (a) complete the development, construction, promotion, marketing, sale, resale and leasing of properties within the Community; (b) construct or alter Improvements on any property owned by Declarant or builders

approved by the Declarant; (c) construct, maintain and operate model homes, offices for construction, sales or leasing purposes, storage areas, construction yards or similar facilities on any property owned by Declarant, builders approved by the Declarant or the Association; or (d) post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Community. Further, Declarant and its assignees shall have the right of ingress and egress through the streets, paths and walkways located in the Community for any purpose whatsoever, including, but not limited to, purposes related to the construction, maintenance and operation of Improvements. Nothing contained herein shall limit the rights of Declarant or require Declarant to obtain approval to: (i) excavate, cut, fill, or grade any property owned by Declarant; (ii) construct, alter, remodel, demolish, replace, or use any Improvements on any Common Elements or any property or Lot owned by Declarant as a construction office, model home or real estate sales or leasing office in connection with the sale of any property or Lot; or (iii) require Declarant to seek or obtain the approval of the Association or the Design Review Committee for any activity or Improvement on any Common Elements or any property or Lot owned by Declarant. Nothing in this Section shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

13.5. Mortgagee Rights. A holder or insurer of a first mortgage upon any Lot, upon written request to the Association (which request shall state the name and address of such holder or insurer and a description of the Lot) shall be entitled to timely written notice of:

- a. any proposed amendment of this Declaration;
- b. any proposed termination of the Association; and
- c. any default under the provisions hereof which gives rise to a cause of action by the Association against the Owner of the Lot subject to the mortgage of such holder or insurer, where the default has not been cured in sixty (60) days following the date a notice describing a default is sent to an Owner.

Each holder and insurer of a first mortgage on any Lot shall be entitled, upon written request and at such mortgagee's expense, to inspect the books and records of the Association during normal business hours.

13.6. Indemnification. The Association shall indemnify, defend and hold every officer, director, and agent of the Association harmless against any and all claims, liabilities, and expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer, director, or agent in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he/she may be a party by reason of being or having been an officer, director, or agent. The officers, directors, and agents of the Association shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misconduct, bad faith or gross negligence. The officers, directors, and agents of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer, director, and agent free from and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided herein shall not be

exclusive of any other rights to which any officer, director, or agent, or former officer, director, or agent may be entitled by law or the provisions of any other Governing Document.

13.7. Mutuality. All restrictions, conditions and covenants contained herein are made for the direct, mutual, and reciprocal benefit of Declarant, the Association, and the present and future Owners of Lots, and each part thereof, and their respective personal representatives, heirs, successors, and assigns; the provisions hereof shall create mutual equitable servitudes upon the property submitted hereto.

13.8. Severability. If any Article, Section, Paragraph, sentence, clause or word herein is held by a court of competent jurisdiction to be in conflict with any law, or unenforceable, then the requirements of such law shall prevail and the conflicting provision or language shall be deemed void in such circumstance; provided that the remaining provisions or language of this Declaration shall continue in full force and effect.

13.9. Enforcement; Waiver. Failure of Declarant, the Association, the Design Review Committee, or any Owner to enforce any provision of this Declaration or the Rules in any manner shall not constitute a waiver of any right to enforce any violation of such provision. By accepting a deed to a Lot, each Owner is deemed to waive the defenses of laches and statute of limitations in connection with the enforcement by the Association of the provisions hereof or the Rules.

13.10. Notices. Notices, demands or other communications to an Owner shall be given in writing by personal delivery or posting at the Lot if a residence has been constructed on such Lot, or by depositing such notice in the United States Mail, first class, postage prepaid, to the address of the Owner of the Lot as shown by the records of the Association, or as otherwise designated in writing by the Owner. Any demand, notice or other communication or action given or taken hereunder or by one of the joint Owners of a Lot shall be deemed to be given, taken, or received by all such joint Owners.

13.11. Exhibits. The Exhibits hereto are a part of this Declaration as if set forth in full herein.

13.12. Construction. In interpreting words and phrases herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders. Any rule of construction to the effect that any ambiguities are to be resolved against the party who drafted the document shall not be utilized in interpreting this Declaration and the Exhibits hereto.

13.13. Captions. The caption of each Article, Section and Paragraph of this Declaration is inserted only for convenience and does not define, limit or describe the scope or intent of its provisions.

IN TESTIMONY WHEREOF, the undersigned has executed this instrument this 11 day of May, 2021.

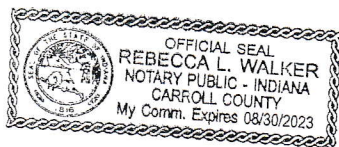
WHISKIR, LLC,
an Indiana limited liability company

By: Ronald H. Whistler
Ronald H. Whistler, Member

STATE OF INDIANA)
) SS:
TIPPECANOE COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared Whiskir, LLC by its Member, Ronald H. Whistler, who acknowledged the execution of the foregoing document on behalf of Whiskir, LLC.

WITNESS my hand and Notarial Seal this 11th day of May, 2021.



Rebecca L. Walker
(written)
Rebecca L. Walker
(printed)

My Commission expires:
August 30th, 2023

NOTARY PUBLIC
Resident of Carroll County

This instrument prepared by: Daniel A. Teder of the firm of REILING TEDER & SCHRIER, LLC, 250 Main St., Suite 601, P.O. Box 280, Lafayette, Indiana 47902-0208. Telephone: (765) 423-5333. E-Mail Address: dat@rtslawfirm.com

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Daniel A. Teder