

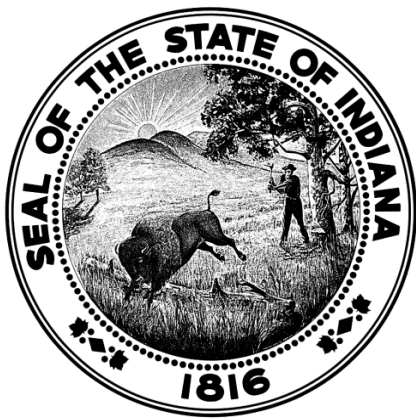
**State of Indiana  
Office of the Secretary of State**

Certificate of Incorporation  
of

**LOUDOUN PLACE HOMEOWNERS' ASSOCIATION, INC.**

I, HOLLI SULLIVAN, Secretary of State, hereby certify that Articles of Incorporation of the above Domestic Nonprofit Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Code.

NOW, THEREFORE, with this document I certify that said transaction will become effective Friday, October 07, 2022.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, October 07, 2022.

A handwritten signature in black ink that reads "Holli Sullivan".

HOLLI SULLIVAN  
SECRETARY OF STATE

202210071629656 / 9587352

To ensure the certificate's validity, go to <https://bsd.sos.in.gov/PublicBusinessSearch>

**ARTICLES OF INCORPORATION**

Formed pursuant to the provisions of the Indiana Code.

**ARTICLE I - NAME AND PRINCIPAL OFFICE ADDRESS**

**BUSINESS ID** 202210071629656  
**BUSINESS TYPE** Domestic Nonprofit Corporation  
**BUSINESS NAME** LOUDOUN PLACE HOMEOWNERS' ASSOCIATION, INC.  
**PRINCIPAL OFFICE ADDRESS** 11555 N. Meridian Street, Suite 400, Carmel, IN, 46032, USA

**ARTICLE II - REGISTERED OFFICE AND ADDRESS**

**REGISTERED AGENT TYPE** Individual  
**NAME** Keith Lash  
**ADDRESS** 11555 N. Meridian Street, Suite 400, Carmel, IN, 46032, USA  
**SERVICE OF PROCESS EMAIL** keith.lash@lennar.com

I acknowledge that the Service of Process email provided above is the email address at which electronic service of process may be accepted.

**ARTICLE III - PERIOD OF DURATION AND EFFECTIVE DATE**

**PERIOD OF DURATION** Perpetual  
**EFFECTIVE DATE** 10/07/2022  
**EFFECTIVE TIME** 02:03PM

**ARTICLE IV - GOVERNING PERSON INFORMATION**

No Principal on record.

**ARTICLE V - INCORPORATOR(S)**

**NAME** April Schilling  
**ADDRESS** 201 N. Illinois Street, Suite 1900, P.O. Box 44961, Indianapolis, IN, 46204, USA

**ARTICLE VI - GENERAL INFORMATION**

**STATEMENT OF PURPOSE**

The Corporation is formed to promote and develop the health, safety, common good and social welfare of the Owners of the Lots which are located in Marion County, Indiana to be known as Loudoun Place, and to provide for the maintenance, repair, replacement, administration and operation of the Common Area and the performance of other services related to the Lots, all as defined in the Declaration of Covenants, Conditions, Easements, and Restrictions for Loudoun Place, recorded or to be recorded in the official records of Marion County, Indiana, and as amended from time to time (the "Declaration"). It is understood that the Corporation is organized in accordance with, and shall operate for nonprofit purposes pursuant to the Indiana Code, and does not contemplate pecuniary gain or profit to its members. In furtherance of its powers, the Corporation shall have the following powers which, unless indicated otherwise by this Certificate of Incorporation, that certain Declaration, the Corporation's bylaws, Indiana Code, or any other applicable law, may be exercised by the Board of Directors: (a) All rights and powers conferred upon nonprofit corporations by Indiana Code, in effect from time to time; (b) All rights and powers conferred upon property associations by Indiana Code, in effect from time to time, provided, however, that the Corporation shall not have the power to institute, defend, intervene in, settle or compromise proceedings in the name of any owner of any portion of the property or any member of the corporation; and (c) All powers necessary, appropriate, or advisable to perform any purpose or duty of the Corporation as set out in this Certificate of Incorporation, the Corporation's bylaws, the Declaration, or Indiana Code.

**TYPE OF CORPORATION** Mutual benefit corporation (all others)

**WILL THE CORPORATION HAVE MEMBERS?** Yes

**DISTRIBUTION OF ASSETS**

Upon a dissolution of the Corporation and after paying or making a provision for the payment of all of the liabilities of the Corporation, including but not limited to (i) advances and loans of members of the Corporation, and (ii) if so authorized by the Board of Directors, distribution to members of such amounts as may be authorized by the Act or statute, the Board of Directors shall dispose of all the assets of the Corporation exclusively for the purposes of the Corporation set forth in these Articles in such manner or to such public agency or nonprofit organization whose purposes are substantially similar to those of the Corporation.

**SIGNATURE**

THE SIGNATOR(S) REPRESENTS THAT THE REGISTERED AGENT NAMED IN THE APPLICATION HAS CONSENTED TO THE APPOINTMENT OF REGISTERED AGENT.

THE UNDERSIGNED, DESIRING TO FORM A CORPORATION PURSUANT TO THE PROVISIONS OF THE INDIANA NONPROFIT CORPORATION ACT, EXECUTE THESE ARTICLES OF INCORPORATION.

IN WITNESS WHEREOF, THE UNDERSIGNED HEREBY VERIFIES, SUBJECT TO THE PENALTIES OF PERJURY, THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE, THIS DAY **October 7, 2022**.

THE UNDERSIGNED ACKNOWLEDGES THAT A PERSON COMMITS A CLASS A MISDEMEANOR BY SIGNING A DOCUMENT THAT THE PERSON KNOWS IS FALSE IN A MATERIAL RESPECT WITH THE INTENT THAT THE DOCUMENT BE DELIVERED TO THE SECRETARY OF STATE FOR FILING.

**SIGNATURE** April Schilling

**TITLE** Incorporator

**A202200112272**

**10/12/2022 12:50 PM**

**KATHERINE SWEENEY BELL  
MARION COUNTY IN RECORDER**

**FEE: \$ 35.00**

**PAGES: 50**

**By: CJ**

**The document has been recorded and no further action is necessary.**

This page has been added for recording purposes to provide space for the necessary Recorder and/or Assessor stamps and/or recording requirements.

**IC 36-2-11-16.5 Requirements for instrument or document presented for recording**

Sec. 16.5 (a) This section does not apply to the following:

- (1) A judgment, an order, or a writ of a court.
- (2) A will or death certificate.
- (3) A plat.
- (4) A survey.

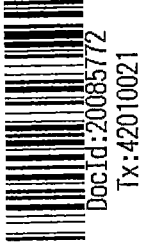
(b) The county recorder may receive for record an instrument or a document if:

- (1) the instrument or document consists of at least one (1) individual page measuring not more than eight and one-half (8 1/2) inches by fourteen (14) inches that is not permanently bound and is not a continuous form;
- (2) the instrument or document is on white paper of at least twenty (20) pound weight and has clean margins:
  - (A) on the first and last pages of at least two (2) inches on the top and bottom and one-half (1/2) inch on each side; and
  - (B) on each additional page of at least one-half (1/2) inch on the top, bottom, and each side; and
- (3) the instrument or document is typewritten or computer generated in black ink in at least 10-point type.

**IC 36-2-11-15 Instruments that may be received for record or filing; name of person or governmental agency that prepared instrument**

I affirm under penalties of perjury, that I have taken reasonable care to redact each social security number in this document unless required by law. This instrument is prepared by:

\_\_\_\_\_ (printed name of individual)

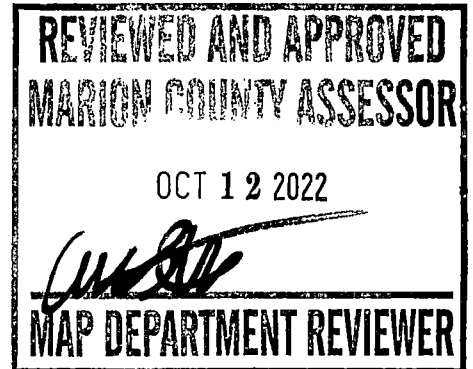


224483

JOSEPH P. O'CONNOR  
MARION COUNTY ASSESSOR

2022 OCT 12 P 12:22

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER



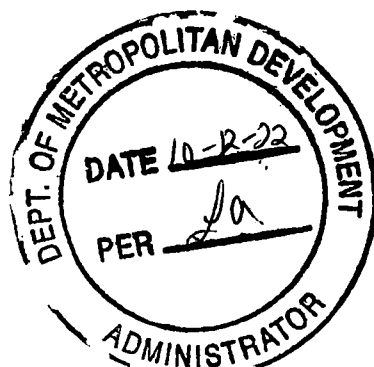
**DECLARATION OF  
COVENANTS, CONDITIONS, EASEMENTS, AND  
RESTRICTIONS FOR LOUDOUN PLACE**

**CROSS REFERENCE:**

202100008158; and

202200072564 plat recorded June 27, 2022 in the Office of the Recorder  
of Marion County

*A 202200112273*



*(49)*

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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND  
RESTRICTIONS FOR LOUDOUN PLACE**

THIS DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS FOR LOUDOUN PLACE, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2022, is made by Lennar Homes of Indiana, LLC, a Delaware limited liability company (“Declarant”) and consented by the landowner, DRP IN 1, LLC (“DRP”).

**RECITALS:**

A. DRP is the owner of all of the land contained in the area described on Exhibit A attached hereto and made a part hereof (the “Real Estate”), which lots and land will be subdivided for the development of Loudoun Place, a single-family housing development in Marion County, Indiana (the “Development”), and will be more particularly described on the plats to be recorded in the Office of the Recorder of Marion County, Indiana (collectively, the “Plat”).

B. As provided herein, DRP has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time, and from time to time as a part of the Development of additional property and has retained and reserved the right to withdraw and remove, any portion of the Real Estate from the control and provisions of this Declaration.

D. DRP will sell and convey all or certain of the residential lots situated within the platted areas of the Development. Before doing so DRP consents to the Declarant’s desire to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges contained herein and as set forth in the Plat (the “Declaration”) under a general plan or scheme of improvement for the benefit and complement of the lots and land in the Development and future owners thereof.

**TERMS:**

NOW, THEREFORE, Declarant, for itself, its successors and assigns, hereby declares that all of the Real Estate located within the Development is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and land in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein, all of the Restrictions shall run with the land and shall be binding upon DRP subject to Declarant’s rights hereunder, and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Real Estate or any part or parts thereof subject to the Restrictions, and shall inure to the benefit of DRP’s successors in title to any Real Estate in the Development.

## ARTICLE I

The following are the definitions of the terms used in this Declaration:

**Section 1.1. "Assessment"** shall mean the share of the Common Expenses imposed on each Lot or other special Assessments, as determined, and levied pursuant to the provisions of Article V hereof.

**Section 1.2. "Association"** shall mean the Loudoun Place Homeowners' Association, Inc., or an entity of similar name, its successors and assigns, which shall be created as an Indiana nonprofit corporation formed or to be formed under the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act").

**Section 1.3. "Board"** shall mean the Board of Directors of the Association, as the same may be amended from time to time.

**Section 1.4. "Budget Meeting"** shall mean the first annual or any special meeting of the Association after the Transfer Period at which the Owners shall be asked to approve the Association's budget for a particular fiscal year.

**Section 1.5. "Committee"** shall mean the Architectural Control Committee which shall be appointed by the Board and have such duties as provided in Article VI hereof.

**Section 1.6. "Common Area(s)"** shall mean those areas and all improvements located therein or thereon which are identified on the Plat, irrespective of whether such Common Areas have been conveyed to the Association.

**Section 1.7. "Common Expenses"** shall mean the actual and estimated cost to the Association of the costs for maintenance, management, operation, repair, improvement and replacement of the Common Areas, and any other cost or expense incurred by the Association for the benefit of the Common Areas or for the benefit of the Association or the Development.

**Section 1.8. "Declarant"** shall mean Lennar Homes of Indiana, LLC, its assigns and its successors in title to the Real Estate (other than Owners).

**Section 1.9. "Development Period"** shall mean the period of time during which DRP or Declarant owns at least one (1) lot in the Development or ending on such earlier date as Declarant may designate.

**Section 1.10. "Dwelling Unit"** shall mean and refer to any structure (or portion thereof) designed or intended for use and occupancy as a residence by one (1) family on a Lot located within the Development, irrespective of whether such dwelling is detached or attached to another Dwelling Unit.

**Section 1.11. "Easement Area"** shall mean any portion of the Real Estate which is subject to an easement as more particularly described in Article III hereof.

**Section 1.12. "Lake" or "Lakes"** shall mean and refer to the water retention pond(s) or lake(s), whether or not such are also a Common Area, together with the shoreline area thereof, as shown on the Plat.

**Section 1.13. "Lot" or "Lots"** shall mean any parcel(s) of the Real Estate (excluding the Common Areas) which are designated and intended for use as a building site or developed and improved for use as a single-family residence identified by number on the Plat. No Lot shall be further subdivided for development purposes, except as may be reasonably necessary to adjust for minor side or rear yard encroachments or inconsistencies.

**Section 1.14. "Member"** shall mean any person or entity holding membership in the Association.

**Section 1.15 "Owner"** shall mean the record owner, whether by one or more persons, of the fee simple title to any Lot, but excluding those persons having such interest merely as security for the performance of an obligation (such as mortgagees having those rights as provided elsewhere in this Declaration).

**Section 1.16 "Restrictions"** shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens, and other provisions set forth in this Declaration with respect to the Real Estate, as the same may amended from time to time.

**Section 1.17. "Structure"** shall mean any temporary or permanent improvement or building or portion thereof, including, without limitation, walls, decks, patios, stairs, windows, window boxes, doors, fences, play equipment, greenhouses, skylights, address markers, mail boxes, name plates, flag poles, lawn ornaments, trees, hedges, shrubbery, solar panels, satellite dishes, antennae, shutters, awnings, fences, pools, hot tubs, pavement, walkways, driveways, garages and/or garage doors, or appurtenances to any of the aforementioned.

**Section 1.18. "Supplemental Declaration"** shall mean an amendment or supplement to this Declaration or a Plat executed by or consented to by DRP or by the Association pursuant to Article II hereof, and recorded in the public records of the county in which the Declaration was originally recorded, which subjects additional real estate to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on all of or a part of the Real Estate or the land described therein. A Supplemental Declaration may also remove any portion of the Real Estate then owned by DRP or Declarant from the control and provisions of this Declaration.

## **ARTICLE II** **DEVELOPMENT OF THE REAL ESTATE**

**Section 2.1. Development of the Real Estate.** All Lots shall be and are hereby restricted exclusively to single-family residential use and shall be subject to the standards and restrictions set forth in this Declaration. DRP with the consent of the Declarant shall have the right, but not the obligation, during the Development Period, to submit additional

real estate which is contiguous (without regards to existing roadway) to any portion of the Real Estate now existing or added in the future to the provisions of this Declaration as set forth in Section 2.3 below, or exclude any portion of the Real Estate from the provisions of this Declaration. Declarant shall have the right, but not the obligation to make and maintain improvements, repairs and changes to any Common Area and all Lots owned by Declarant, including, without limitation: (a) installation and maintenance of improvements in and to the Common Areas; (b) changes in the location of the boundaries of any Lots owned by Declarant or of the Common Areas; (c) installation and maintenance of any water, sewer, and other utility systems and facilities; (d) installation of security or refuse systems; and/or (e) additions or changes to the boundaries of any Common Area or Easement Area.

**Section 2.2. Public Streets.** The streets and public rights-of-way shown on the Plat are, upon recording of the Plat, dedicated to the public use, to be owned and maintained by the governmental body having jurisdiction, subject to construction standards and acceptance by such governmental body; provided, however, until such dedication and acceptance has occurred, such streets shall be Common Areas for which Common Expenses may be charged. All Lots shall be accessed from the interior streets of the Development.

**Section 2.3. Development of Additional Property.** Declarant hereby reserves the right and option, to be exercised at its sole discretion and without further approval by any party, to submit at any time and from time to time during the Development Period, additional real estate to the provisions of this Declaration.

**Section 2.4. Annexation of Additional Real Estate by Members.** After the Development Period, the Association may annex additional real property into the provisions of this Declaration and jurisdiction of the Association. Such annexation shall require the affirmative vote of at least two-thirds (2/3) of the Members. Annexation by the Association shall be accomplished by the appropriate filing of record of an amendment to this Declaration or a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association and by the owner of the property being annexed and any such annexation shall be effective upon filing unless otherwise provided therein.

**Section 2.5. Withdrawal of Property.** Declarant hereby reserves the right and option during the Development Period, to be exercised at its discretion and without further approval by any party except DRP, to withdraw and remove any portion of the Real Estate then owned by Declarant from the control and provisions of this Declaration. Such removal by Declarant shall be carried out generally by the execution and filing of a Supplemental Declaration or other document which shall be filed in the public records of county in which the Declaration was originally recorded, together with a legal description of the Real Estate being withdrawn.

**ARTICLE III**  
**PROPERTY RIGHTS AND EASEMENTS**

**Section 3.1. General.** Each Lot shall, for all purposes, constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. The Owner of any Lot subject to this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every restriction and agreement contained in this Declaration (and any Supplemental Declaration applicable to such Lot). By acceptance of such deed or execution of such contract, the new Owner acknowledges the rights and powers of Declarant with respect to this Declaration and also for itself, its heirs, personal representatives, successors, and assigns. Each Owner shall be entitled to the exclusive ownership and possession of its Lot subject to the provisions of this Declaration, including, without limitation, the provisions of this Article III. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, a non-exclusive right and easement of enjoyment in and to the Common Areas as established hereunder and membership in the Association. Each Owner shall automatically become a Member of the Association and shall remain a Member thereof until such time as such Member's ownership ceases for any reason, at which time such Member's membership in the Association shall automatically pass to such Member's successor-in-title. Lots shall not be subdivided by any Owner and the boundaries between Lots and between the Development and other neighborhoods shall not be relocated, unless the relocation thereof is made with the approval of the Board and, during the Development Period, of Declarant.

**Section 3.2. Owner's Easement of Enjoyment.** Every Owner, such Owner's family, tenants, guests, and invitees shall have a non-exclusive right and easement of use and enjoyment in and to the Common Areas, such easement to be appurtenant to and to pass with title to each Lot, subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board in accordance with the By-Laws of the Association (the "By-Laws") and subject to the following provisions:

(a) The right of the Association to mortgage all or any portion of the Common Areas for the purpose of securing a loan of money to be used to manage, repair, maintain, improve, operate, or expand the Common Areas.

(b) The easements reserved elsewhere in this Declaration or in any Plat of all or any part of the Real Estate, and the right of the Association to grant and accept easements as provided in this Article III. The location of any improvements, trees or landscaping within an Easement Area is done at the Owner's risk and is subject to possible removal by the Association or the grantee of such easement.

(c) The right of the Association to dedicate or transfer fee simple title to all or any portion of the Common Areas to any appropriate public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by Declarant during

the Development Period or thereafter by ninety-five percent (95%) approval of the Members in accordance with the HOA Act.

(d) The rights of the Association and Declarant reserved elsewhere in this Declaration or as provided in any Plat of all or any part of the Real Estate.

(e) The rights of the holder of any mortgage which is prior in right or superior to the rights, interests, options, licenses, easements, and privileges herein reserved or established.

### **Section 3.3. Easement for Declarant.**

(a) During the Development Period, Declarant shall have an easement for access to the Real Estate, including any and all Lots and any and all Common Areas, for the purpose of constructing structures and other improvements in, on, to or for the Lots and Common Areas, and for installing, maintaining, repairing, and replacing such other improvements to the Real Estate (including any portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described in Article II hereof, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing. In addition to the other rights and easements set forth herein and regardless of whether Declarant at that time retains ownership of a Lot, Declarant shall have an alienable, transferable, and perpetual right and easement to have access, ingress and egress to the Common Areas and improvements therein and thereon for such purposes as Declarant deems appropriate, provided that Declarant shall not exercise such right so as to unreasonably interfere with the rights of Owners in the Development.

(b) In addition to the easement set forth in Section 3.3(a) above, Declarant hereby retains, reserves and is granted for the benefit of Declarant an exclusive perpetual easement over, above, across, upon, along, in, through, and under the Utility Easement Areas, as such is defined in Section 3.4 below, (i) for the purpose of owning, installing, maintaining, repairing, replacing, relocating, improving, expanding and otherwise servicing any utility or service, including, without limitation, electricity, gas, sewer, telephone, television, and computer link by line, wire, cable, main, duct, pipe, conduit, pole, microwave, satellite or any other transfer or wireless technology, and any related equipment, facilities and installations of any type bringing such utilities or services to each Lot or Common Area; (ii) to provide access to, and ingress and egress to and from, the Real Estate for the purposes specified in subsection (i) above; and (iii) to make improvements to and within the Real Estate to provide for the rendering of public and quasi-public services to the Real Estate. The easements, rights and privileges reserved to Declarant under this Section 3.3(b) shall be transferable by Declarant to any person or entity solely at the option and benefit of Declarant, its successors and assigns, and without notice to or the consent of the Association, the Owners, or any other person or entity. Declarant may at any time and from time to time grant similar or

lesser easements, rights, or privileges to any person or entity. By way of example, but not by limitation, Declarant, and others to whom Declarant may grant such similar or lesser easements, rights, or privileges, may so use any portion of the Real Estate to supply exclusive telecommunications services to each Lot. The easements, rights, and privileges reserved under this Section shall be for the exclusive benefit of Declarant, its successors and assigns and may not be impaired, limited, transferred, sold, or granted to any person or entity by the Association or any of the Owners.

**Section 3.4. Drainage, Utility, Sewer and Force Main Easements.**

(a) There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual right and easement, as well as the power, to hereafter grant and accept nonexclusive easements to and from any of the following providers and their respective successors and assigns, upon, over, under, and across those portions of all Lots and Common Areas designated on the Plat as "D. & U.E.", "D.E.", "D.U. & S.S.E.", "D.U. & S.E.", "D.U. & L.E.", "S.S.E.", "W.E.", "U.E." or any other combination thereof and as otherwise are reasonably necessary (such areas herein referred to collectively as the "Utility Easement Areas") for installing, replacing, repairing, and maintaining the following specified services, and no other:

Specific Service

Electricity  
Water  
Sewer  
Natural Gas  
Internet  
Telephone  
Cable

Declarant, the Association, and their successors and assigns shall also have the perpetual right and easement, as well as the power to hereafter grant and accept nonexclusive easements within the Utility Easement Areas to and from any public authority or agency, public service district, public or private utility or other person for the purpose of installing, replacing, repairing, maintaining, and using storm sewers, drainage systems, and retention ponds and facilities for the Development or any portion thereof. Any other grant or acceptance of any easement other than those specified above for any other utility service, including, without limitation, master television antenna and/or cable systems, security, and similar systems, shall be made by Declarant in accordance with the rights reserved to Declarant under Section 3.3(b) hereof. To the extent possible, all utility lines and facilities serving the Development and located therein shall be located underground. By virtue of any such easements and facilities, it shall be expressly permissible for the providing utility company or other supplier or service provider, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes,

lift stations, mains, pumps, and other necessary equipment and facilities, (ii) to cut and remove any fences, trees, bushes, or shrubbery, (iii) to grade, excavate, fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

(b) Declarant hereby grants to such governmental authority or agency as shall from time to time have jurisdiction over the Development with respect to law enforcement and fire protection, the perpetual, non-exclusive right and easement upon, over and across all the Common Areas for purposes of performing such duties and activities related to law enforcement and fire protection in the Development as shall be required or appropriate from time to time by such governmental authorities under applicable law.

(c) There shall be created sanitary sewer easements in those areas designated on the Plat, which easements shall run in favor of Declarant and any governmental or private entity needing such access for the purpose of installation and maintenance of the pipes, lines, manholes, pumps, and other equipment necessary for the sanitary sewer system.

**Section 3.5. Regulated Drainage Easements.** There is hereby reserved an easement for the benefit of Declarant, the Association, and their respective successors and assigns for access to and installation, repair, maintenance or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate; provided, however, that the Owner of any Lot subject to a regulated drainage easement shall be required to maintain the portion of said regulated drainage easement on or under such Owner's Lot (as shown on any Plat) in the condition originally provided by Declarant and free from obstructions so that the surface water drainage will be unimpeded. No changes shall be made to said area by the Owner without the written consent of the applicable governmental agency; provided, however, that Declarant, in its sole discretion, may make any changes. No permanent Structures shall be erected or maintained upon said drainage easements.

**Section 3.6. Landscape Easements.** Landscape Easements, as may be designated on a Plat of all or any part of the Real Estate, are hereby created and reserved for the use of Declarant and the Association, for access to and installation, maintenance, repair, and replacement of signs, walls, earth mounds, trees, foliage, landscaping, and other improvements. Except as installed by Declarant or the Association, no improvements or permanent Structures shall be erected or maintained in or upon said Landscape Easements without the written consent of the Board and provided such are in accordance with all applicable zoning laws. Notwithstanding the reservation of this easement, the Owners of Lots that are subject to such Landscape Easement (which does not extend along adjoining streets or roads) shall have the exclusive right to use such area, subject to the restrictions set forth in this Landscape Easement and to any other easement affecting such Lot. The Association shall maintain the Landscape Easements, including but not limited to, the mowing of turf and the replacement of any dead trees.



**Section 3.7. Tree Preservation Areas and Easements.** Tree preservation areas and easements, as may be designated on a Plat of all or any part of the Real Estate, are hereby created and reserved. Except as installed by Declarant or the Association, no improvements or permanent Structures shall be erected or maintained in or upon said Tree Preservation Areas and Easements without the written consent of the Board and provided such are in accordance with all applicable zoning laws.

**Section 3.8. Lake Maintenance Access Easement and Emergency Access Easement.** There may be strips of grounds, as may be designated on a Plat of all or any part of the Real Estate, identified as Lake Maintenance Access Easement and/or Emergency Access Easement, which are created and reserved: (a) for the use of Declarant for access at any time to the Common Areas or the Lakes or another portion of the Real Estate, and (b) for the non-exclusive use of the Association or any applicable governmental authority for access to the Common Areas or the Lakes or another portion of the Real Estate. The Owner of any Lot which is subject to an L.M.A.E. or E.A.E. shall be required to keep the portion of its Lot which is subject to such easement free from obstructions so that access will be unimpeded.

**Section 3.9. Wetland Conservation and Wetland Mitigation Areas.** Certain portions of the Real Estate may contain wetland preservation, conservation or mitigation areas and upland buffers that will contain special wetland vegetation and that are or may be designated as conservation areas on a Plat for the Real Estate or pursuant to separate written instruments ("Conservation Areas"), and any such Conservation Areas will be protected by and be subject to conservation easements in favor of IDEM and/or the U.S. Army Corps of Engineers, as and to the extent applicable ("Conservation Easements"). If so applicable, the terms of the Conservation Easements shall provide that the Conservation Areas shall be maintained and managed in perpetuity by the Association, its successors and assigns, and the Association shall enforce the terms and conditions of the Conservation Easements. In accordance with the terms of the Conservation Easements, the Association shall be responsible for the installation and perpetual maintenance of permanent physical signs/markers designating the Conservation Areas as required. No trees, shrubs and other vegetation located within a Conservation Easement may be altered from their natural or permitted condition, with the exception of exotic or nuisance vegetation removal which shall only be done in accordance with terms of the Conservation Easement.

If and to the extent there are any Conservation Areas within the Real Estate, the following activities shall be prohibited upon the lands of such Conservation Areas: (a) construction or placing of buildings, signs, billboards or other advertising, utilities or other structures on or above the ground; (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials; (c) removal or destruction of trees, shrubs or other vegetation, except for the removal of exotic vegetation; (d) excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface; (e) surface use, except for purposes that permit the land or water area to remain in its natural condition; (f) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including, but not limited to, ditching, diking, and fencing; (g) construction or placing of utilities on, below or above the

ground without appropriate local, state and federal permits or other authorization; (h) application of herbicides, pesticides, or fertilizers; (i) acts or uses detrimental to such aforementioned retention of land or water areas; and (j) acts or uses which are detrimental to the preservation of any features or aspects of the Real Estate having historical or archaeological significance.

**Section 3.10. Medians and Entry Features.** There may be landscaped medians and/or islands located within the Development and within the public right-of-way of the streets which are not otherwise labeled as Common Areas or as a Landscape Easement. These areas are created and reserved for installation and maintenance of landscaping and entry features, including, without limitation, permanent or temporary walls, signs, fences, lighting, irrigation systems, if any, and landscaping material. These landscaped areas and features shall be maintained by the Association as if such were a Common Area.

**Section 3.11. Sales and Construction Offices.** Notwithstanding any provisions or restrictions herein to the contrary, during the Development Period, and for a reasonable time thereafter, there is hereby reserved and created for the use of Declarant, its successors and assigns, and persons constructing improvements within the Development, an easement for access to the Real Estate for the maintenance of signs, sales offices, construction offices, business offices, and model houses, together with such other facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the completion, improvement and/or sale of Lots and the Common Areas.

**Section 3.12. Maintenance Easement.** There is hereby reserved and created for the use of Declarant, the Association and their respective agents, employees, successors and assigns, a maintenance easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush weeds, stumps or other unsightly growth and removing trash, so as to maintain a community-wide standard of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions.

**Section 3.13. Best Management Practices Easement.** There is hereby reserved an easement for the benefit of Declarant, the Association, and their respective successors and assigns for access to and installation, repair, maintenance, or removal of a B.M.P. as part of the approved stormwater drainage system for the Real Estate. The Owner of any Lot subject to a B.M.P. Easement shall be required to maintain the portion of said B.M.P. Easement on or under its Lot (as shown on any Plat) in the condition originally provided by Declarant and free from obstructions so that the volume of the surface water storage and drainage will be unimpeded. The B.M.P. Easement is designed to temporarily retain water during heavy rain events. Absolutely no changes shall be made to said area by the Owner without the written consent of the applicable governmental agency; provided, however, that Declarant, in its sole discretion, may make any changes it deems necessary at any time. No permanent Structures shall be erected or maintained upon any B.M.P. Easement.

**ARTICLE IV**  
**ORGANIZATION AND DUTIES OF ASSOCIATION**

**Section 4.1. Organization of Association.** The Association shall be organized as a nonprofit corporation under the laws of the State of Indiana, to be operated in accordance with the articles of incorporation which have been filed or will be filed by Declarant and the By-Laws of the Association, both of which are incorporated herein by reference. The membership of the Association shall consist of one class of voting members, with each Member having equal voting rights. In the event that any one Lot shall be owned by more than one person, partnership, trust, corporation, or other entity, they shall be treated collectively as one member for voting purposes, so that as to any matter being considered by the Association, only one vote appertains to each Lot; provided, so long as DRP or Declarant owns one or more Lots within the Development, in addition to the one vote for each Lot owned by DRP or Declarant, Declarant shall be assigned four (4) additional votes for each Lot owned by another Owner. Notwithstanding anything herein to the contrary, during the Development Period, Declarant shall appoint the Board and elect all officers of the Association, and all actions of the Association shall otherwise require the prior written approval of Declarant.

**Section 4.2. General Duties of the Association.** The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, operation, and replacement of the Common Areas, the determination of Common Expenses, and the collection of annual and special Assessments. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners seeking enforcement of the terms, covenants, conditions, and restrictions contained in the Plat. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct.

(a) *Responsibilities of the Association.* The Association shall operate, maintain, and keep in good condition and repair the Common Areas, Lakes, and Landscape Easements within Common Areas. This operation and maintenance shall include, without limitation, maintenance, repair, operation, and replacement of all landscaping and other flora, light fixtures, fencing, signs, irrigation systems, if any, structures, recreational facilities including, but not limited to, a pool, pool house, club house, if any, play equipment and gazebos, cluster mailboxes, if any, and all other improvements and appurtenances thereto, along with all private streets situated upon or within the Common Areas, landscaping easements along the primary roads through the Development, medians and rights of ways of public streets within the Real Estate, entry features for the Development, and such portions of any other real property included within the Common Areas as may be provided in this Declaration or by a contract or agreement for maintenance with any other person or entity by the Association. The Association shall also maintain and keep in good condition and repair the light fixtures, streetlights, street signs, and street trees along Common Areas installed by Declarant in the

Development. The Association may contract for services for the Development or any part thereof as it deems necessary or advisable.

(b) *Maintenance by Owners.* Unless specifically identified herein, each Owner shall maintain and repair the interior and exterior of such Owner's Lot and Dwelling Unit, and all Structures, parking areas, lawns, landscaping, street trees between the curb and sidewalk in front of the Lot, if any, grounds, and other improvements comprising the Lot and Dwelling Unit in a manner consistent with all applicable covenants.

(c) *Association's Remedies if Owner Fails to Maintain Lot.* In the event Declarant or the Association determines that: (i) any Owner has failed or refused to properly discharge such Owner's obligations with regard to the maintenance, cleaning, repair, or replacement of items for which is such Owner's responsibility hereunder, or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner or such Owner's family, tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner as the case may be, shall have ten (10) days within which to complete such maintenance, cleaning, repair or replacement in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said ten (10) day period, to commence said maintenance, cleaning, repair or replacement within said ten (10) day period and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with any provision hereof after such notice (except that no notice shall be required in the event of an emergency), Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, and said cost shall include administrative costs or other costs expended to cure each violation and shall become a lien against the individual Owner's Lot, together with the cost of attorneys' fees, if any, in connection with the enforcement of the Owner's obligations and/or the collection of such charges owed by the Owner (with respect to any matter relating to an individual Owner's responsibility), and such cost shall become a part of the costs of the Association (until such time as reimbursement is received from the individual Lot Owner). In the event that Declarant undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses, including, without limitation, attorneys' fees and filing fees.

(d) *Management Company.* The Association may hire a professional management company to administer the day-to-day operations of the Association. No contract or agreement for professional management of the Association, nor any other contract between Declarant and the Association, 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 and without payment of any termination fee upon written notice of a minimum of ninety (90) days.

**Section 4.3. Insurance.** The Association shall maintain in force adequate commercial general liability insurance protecting the Association against liability for property damage and personal injury. The Association may maintain in force adequate officers' and directors' insurance covering the officers and directors of the Association. If appropriate, the Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Areas against fire, windstorm, vandalism, and such other hazards as may be insurable under a standard "extended coverage" provision, in an amount equal to the full insurable value of such improvements and property. The Association shall notify all mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, Declarant, any property manager, their respective employees and agents, and the Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

The Association may maintain a fidelity bond indemnifying the Association, the Board and/or the Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, or employee of the Association or anyone else who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of one (1) years' assessment on all Lots in the development, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association and all mortgagees who have requested such notice before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason, to the extent such coverages are available for such insurance policies.

**Section 4.4. Owners' Insurance Requirements.** By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on its Lot(s), Dwelling Units, and Structures constructed thereon. The Board may require all Owners to furnish copies or certificates thereof to the Association. Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of its Dwelling Unit and Structures located on any Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged Dwelling Unit and Structures in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VI and Article VII hereof and all applicable zoning, building and other governmental regulations. The Owner shall pay any

costs of repair or reconstruction which are not covered by insurance proceeds. In the event that a Dwelling Unit and Structures are totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall promptly clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat, safe, and attractive condition.

**Section 4.5. Condemnation or Destruction.** In the event that any of the Common Areas shall be condemned or taken by any public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Areas condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, second, to the costs incurred by the Association (such as attorneys' fees, appraisal costs, accounting fees, etc.) in connection with such condemnation, damage or destruction, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Areas or turned over to the Owners in proportion to such Owner's Pro-Rata Share (as hereinafter defined), whichever may be determined by a majority vote of the Members of the Association. Each Owner shall be responsible for pursuing its own action for damages to its Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Areas. The Association shall notify all mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Areas.

**Section 4.6. Transfer of Control of Association.** Declarant may, , transfer control of the Association to the Members, and its right to elect the Board and officers of the Association shall terminate, no later than the date that is ten (10) calendar years after the date of recordation of this Declaration ("Transfer Period"); provided, however, that Declarant may, transfer control of the Association at an earlier date (subject to DRP approval to extent DRP still owns Real Estate). Notwithstanding such transfer of control during the Development Period, all actions of the Board and the Association shall continue to require the prior written approval of Declarant. Declarant shall retain all of its rights and privileges provided for herein from the Transfer Period until Dwelling Units have been constructed on all Lots in the Development.

**Section 4.7. Interim Advisory Committee.** Declarant may, in its sole discretion, establish and maintain until such time as Declarant shall transfer control of the Association pursuant to Section 4.6 hereof, an Interim Advisory Committee (the "Advisory Committee"). If established: (a) the Advisory Committee shall serve as a liaison between the Owners (other than Declarant) and the Association, and advise the Association from time to time during such period; (b) The Advisory Committee shall consist of three (3) members, each of whom must be an Owner (other than Declarant or an officer, director or employee of Declarant); (c) The members of the Advisory Committee shall serve without compensation; (d) The Advisory Committee members shall be elected for a term of one (1) year by the Owners (other than Declarant) at a meeting thereof called for such purpose;

and (e) The Owners (other than Declarant) may remove any member of the Advisory Committee with cause, and elect a successor at a meeting thereof called for such purpose.

**Section 4.8. Mortgagees' Rights.** Any mortgagees of any Lots shall have the right, at their option, jointly or severally, upon not less than ten (10) days' prior written notice to the Association, to pay taxes or other charges which are in default or which may or have become a charge against the Common Areas and to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Areas, and mortgagees making such payment shall be owed immediate reimbursement therefor from the Association. In addition, neither the Owners nor the Association shall materially impair the right of any mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate.

## ARTICLE V ASSESSMENTS

**Section 5.1. Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development and promoting the health, safety, and welfare of the Development and the Owners, users, and occupants of the Real Estate and, in particular, for the Association's obligations relating to the improvement, repairing, operating, and maintenance of the Common Areas, including, without limitation, the payment of taxes and insurance thereon, enforcement of the Restrictions, and for the cost of labor, equipment, material, and management furnished with respect to the Common Areas; provided, that the Association shall not be responsible for the replacement, repair or maintenance of any Common Areas which are or hereafter may be dedicated to the public. Each Owner (except DRP and Declarant) hereby covenants and agrees to pay to the Association:

- (a) A Pro-Rata Share of the annual Assessment fixed, established, and determined from time to time, as hereinafter provided.
- (b) A one-time Assessment, as hereinafter provided.
- (c) A reserve Assessment, as hereinafter provided.
- (d) A Pro-Rata Share of any special Assessments fixed, established, and determined from time to time, as hereinafter proved.
- (e) A Violation Assessment, as hereinafter provided.

**Section 5.2. Deficit.** Declarant hereby covenants and agrees to pay to the Association during the Development Period, but not beyond the Transfer Period, an amount equal to the difference, if any, between the expenditures of the Association made pursuant to Section 5.1 and the aggregate amount of the annual Assessment collected by the Association.

**Section 5.3. Basis for Assessments.**

(a) Each Lot owned by a person, other than DRP and Declarant, shall be assessed at a uniform rate without regard to whether a Dwelling Unit has been constructed upon the Lot.

(b) DRP and Declarant shall at no time be assessed or required to pay any Assessment of any type.

**Section 5.4. Liability For Assessment.** Each Assessment, together with any interest thereon and any cost of collection thereof, including attorneys' fees, shall be a charge on each Lot (other than Lots owned by DRP and Declarant) and shall constitute a lien upon each such Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each such Lot at the time when the Assessment is due.

**Section 5.5. Subordination of a Lien to Mortgage.** The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of and from the personal liability hereby imposed. The personal obligation is expressly assumed by such successor.

**Section 5.6. Pro-Rata Share.** The pro-rata share of each Owner for purposes of this Article V shall be the percentage obtained by dividing one by the total number of Lots shown on the Plat of the Development ("Pro-Rata Share").

**Section 5.7. Basis For Annual Assessments.** Until the Transfer Period, Declarant shall set the amount of the annual budget and assessments in its sole discretion. Beginning after the Transfer Period, the Board shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be mailed or delivered to each Owner prior to the annual Budget Meeting of the Association. Such budget shall serve as the basis for establishing the annual Assessments for the Development. Notwithstanding anything in this Article V to the contrary, at least thirty (30) days before Assessments become due, a copy of the budget shall be mailed or delivered to each Owner prior to the beginning of each fiscal year of the Association in accordance with the requirements and procedures of Section 32-25.5-3-3 of the HOA Act. Such budget shall serve as the basis for establishing the annual Assessments. As used herein, "HOA Act" means Article 32-25.5 of the Indiana Code, as the same may be amended from time to time.

**Section 5.8. Annual Assessments.** The annual Assessments provided for herein shall be per fiscal year, as established by the Board, and shall commence for each Lot on the day of closing of the initial conveyance of each Lot by Declarant or another builder to an Owner other than Declarant or another builder. The amount of the annual Assessments shall be established by the Board.



**Section 5.9. One Time Assessment.** Upon the closing of the initial conveyance of each Lot by Declarant or another builder to an Owner other than Declarant or another builder, the purchaser of such Lot shall pay to the Association, in addition to any other amounts then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount equal to fifty percent (50%) of the annual Assessment, not including any Assessment pursuant to a Supplemental Declaration, assessed against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed to the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of or reimbursement to Declarant for advances made to pay expenses of the Association for its early period of operation of the Development, to enable the Association to have cash available to meet unforeseen expenditures, and/or to acquire additional equipment or services deemed necessary by the Board.

**Section 5.10. Reserve Assessment.** Upon the closing of the conveyance of each Lot by an Owner to a subsequent Owner, the purchaser of such Lot shall pay to the Association, in addition to any other amounts then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount equal to fifty percent (50%) of the annual Assessment, not including any Assessment pursuant to a Supplemental Declaration, against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Association with respect to such Lot. Such working capital shall be held and used by the Association for payment of or reimbursement to Declarant for advances made to pay expenses of the Association for its early period of operation of the Development, to enable the Association to have cash available to meet unforeseen expenditures, and/or to acquire additional equipment or services deemed necessary by the Board.

**Section 5.11. Basis For Special Assessments.** Should the Board at any time during the fiscal year determine that the Assessments levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board may, at any time and from time to time, levy such special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board shall have the right to levy at any time, and from time to time, one or more special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the annual Assessments.

Any such special Assessment shall be levied against all of the Lots which benefit from the construction, reconstruction, repair, or replacement of capital improvements giving rise to the special Assessment, pro rata according to each Lot's benefit, as reasonably determined by the Board, which determination shall be final. Notwithstanding the fact that in some instances, this Declaration may provide that certain items of routine and ordinary repair and maintenance should be performed by the Association, the Association shall nevertheless retain the right to assess the costs thereof to any Owner or group of Owners as a special Assessment. To be effective, any such special Assessment shall have the assent of at least sixty-seven percent (67%) of the votes of the Board at a meeting of the duly called for this purpose.

**Section 5.12. Violation Assessment.** In addition to all other assessments authorized or accounted for herein, the Board may levy on an Owner an assessment, (i) for an uncured violation of this Declaration, or (ii) for damages, if any portion of the Common Area that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of such Owner or Owner's guest or invitee (each a "Violation Assessment"). In the event of such damage, the Board shall have the right to undertake the necessary maintenance, repair, or replacement. The choice between repair and replacement is in the sole discretion of the Board. The Violation Assessment shall be a minimum of \$150.00 per occurrence or the actual total amount expended to cure each violation, whichever is greater.

**Section 5.13. Fiscal Year; Date of Commencement of Assessments; Due Date.** The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The liability of an Owner, other than Declarant, for Assessments under this Article V shall commence as of the date such Owner acquires his interest in a Lot. The first annual Assessment within the Development shall be made for the balance of the Association's fiscal year in which such Assessment is made and shall become due and payable commencing on any date fixed by the Association. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association or as otherwise established by the Board of Directors. Annual Assessments shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such Assessments in installments.

**Section 5.14. Duties of the Association Regarding Assessments.**

(a) The Board shall keep proper books and records of the levy and collection of each annual, one-time, reserve and special Assessment, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed or delivered to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed or delivered less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing or delivery of such notice.

(b) The Association shall promptly furnish to any Owner or any mortgagee of any Lot, upon request, a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any

Assessment therein stated to have been paid. The Association may assess an administrative fee for each such certificate, in the amount of \$125.00, or such amount otherwise approved by the Board.

(c) The Association shall notify any mortgagee from which it has received a request for notice of any default in the performance by any Owner of any obligation under the By-laws or this Declaration which is not cured within sixty (60) days.

**Section 5.15. Notice and Due Date.** Written notice of special Assessments and such other notices of Assessment as the Board shall deem appropriate shall be delivered to every Owner subject thereto. The due dates for all Assessments shall be established by the Board.

**Section 5.16. Collection.** All Assessments, together with interest thereon, if any, attorneys' fees, and other costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of the Lot at the time when the Assessment became due.

**Section 5.17. Effect of Non-Payment of Assessments; Remedies of the Association.**

(a) If any Assessment is not paid on or prior to the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot, and shall be collected in the same manner as the Assessments described in subparagraph (b) below; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(b) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, a late fee in the amount of \$25.00 per month shall be applied to such Assessment until paid and Owner shall be responsible for all cost of collection thereof, including attorneys' fees. The Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including but not limited to the Association's attorneys' fees, late fees, and administrative costs; in the event a judgment is obtained, such judgment shall include late fees, costs, and attorneys' fees. Additionally, such Owner shall reimburse the Association for all costs, including administrative costs and filing fees, incurred by the Association in filing assessments liens against the respective Owner's Lot.

(c) Notwithstanding any other provision contained herein, the Board shall have the right to suspend the voting rights, if any, and the services to be provided by the Association, together with the right to use the Common Areas, of any Member.

**Section 5.18. Adjustments.** In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association.

## ARTICLE VI ARCHITECTURAL STANDARDS AND REQUIREMENTS

**Section 6.1. Purpose.** In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Real Estate, the Lots and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article VI and in Article VII. Notwithstanding the foregoing, neither this Article VI nor Article VII shall apply to the activities of Declarant, nor to construction or improvements or modifications of or to the Common Areas by or on behalf of the Association. The Board shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the Committee. Notwithstanding anything in this Declaration to the contrary, neither the Committee or the Board may modify the terms of Article VI or Article VII of this Declaration or any restrictions set forth in any Supplement until after the end of the Development Period without Declarant's prior written approval.

**Section 6.2. Architectural Control Committee.** Until the end of the Transfer Period, Declarant alone shall have all the powers and authority to administer the duties of the Committee and such powers and authority shall not be vested in such Committee unless Declarant elects to appoint the members of the Committee during the Transfer Period or assigns such powers and authorities to the Committee during the Transfer Period. After the power and authority of the Committee has been transferred by Declarant, the Board shall establish a Committee to consist of at least three (3) persons, all of whom shall be appointed by and shall serve at the discretion of the Board and each of which shall be an Owner. Members of the Committee may or may not be members of the Board.

The regular term of office for each member of the Committee shall be one year, coinciding with the fiscal year of the Association. Any Committee member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The Committee shall elect a Chairperson and Vice Chairperson, and the Chairperson, or in the Chairperson's absence, the Vice Chairperson, shall be presiding officer at its meetings. The Committee shall meet upon the call of the Chairperson, and all meetings shall be held at such places as may be

designated by the Chairperson. A majority of the members of the Committee shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Committee shall constitute the action of the Committee on any matter before it. Any meeting of the Committee may be held in person or by video and audio conference or by audio conference only, or any combination of the same, as the Committee deems necessary and proper so long as all parties in attendance at such meeting are able to hear and be heard by all others in attendance. The Committee is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Committee in performing its functions set forth herein. Such costs associated with the use of consultants shall be considered a Common Expense, unless the Committee determines that such costs are the responsibility of the applying Owner.

The Committee shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing Lots, Dwelling Units, or Structures and the open space, if any, appurtenant thereto excluding Lots owned by DRP or Declarant. The Committee shall promulgate a Common Interest and Community Information Disclosure Document (the "CICID"), which may contain additional architectural standards and guidelines for the Development. In addition to such standards, the following shall apply: plans and specifications showing the nature, kind, shape, color, sizes, materials, and location of such modifications, additions, or alterations shall be submitted to the Committee for approval as to quality of workmanship and design and as to harmony of external design with existing Dwelling Units and Structures and location in relation to surroundings, topography, and finished grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of its Dwelling Unit, or to paint the interior of its Dwelling Unit any color desired. The Committee shall endeavor to approve or to disapprove such plans or to request additional information within thirty (30) days after submission of completed plans, proposals, specifications, or drawings. If Owner fails to submit all requested materials as described, the application shall be considered not approved after thirty (30) days. Owner may resubmit later for approval. Owner must complete all work approved by the Committee within one hundred twenty (120) days of approval, unless otherwise approved by the Committee.

**Section 6.3. Architectural Approval.** To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever, with the exception of vegetative landscaping, shall be commenced or maintained by an Owner, other than Declarant, with respect to the construction of, or affecting the exterior appearance of, any Dwelling Unit or with respect to any other portion of the Real Estate, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, tree houses, playground equipment, or similar structures, awnings, walls, fences, exterior lights, garages, or outbuildings, nor shall any exterior addition to or change or alternation therein be made (excluding repainting in the original color but otherwise including, without limitations, painting or staining of any exterior surface), unless and until a written application in the manner and form prescribed from time to time by the Committee and two (2) copies of the plans and specifications and related data (including, if required by Committee, a survey showing the location of trees of

six (6) inches or more in diameter at a height of four (4) feet and other significant vegetation on such Lot) showing the nature, color, type, shape, height, materials, composition, and location of the same shall have been submitted to and approved in writing by the Committee, as to the compliance of such plans and specifications with such standards as may be published by the Committee from time to time, including the harmony of external design, location, and appearance in relation to surrounding Dwelling Units and Structures and topography. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of  $\frac{1}{4}'' = 1'$  and all plot plans shall be drawn by a professional to a scale of  $1'' = 30'$ , or to such other scale as the Committee shall deem appropriate. It is also recommended that a certified survey be prepared to ensure that an improvement is not encroaching onto an adjacent Lot or any Common Area. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Committee, and the other copy shall be returned to the Owner marked "approved", "approved as noted", or "disapproved."

(a) *Approval Process.* Approval of the Committee shall be obtained only after the Owner of the Lot requesting authorization from the Committee has made written application to the Committee at least thirty (30) days prior to the proposed installation or construction.

(b) *Power of Disapproval.* The Committee may refuse to grant permission to construct, place or make the requested improvement, when: (i) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvements to be in violation of the restrictions contained in this Declaration; (ii) The design, proposed material or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or Dwelling Units or Structures, including trim, siding, roof and brick colors, or with the Development in general; (iii) The proposed improvement or any part thereof would architecturally, in the reasonable judgment of the Committee, be contrary to the interests, welfare or rights of all or any other Owners; and/or (iv) The Committee is otherwise authorized to disapprove the requested improvement in this Declaration or in the CICID.

(c) *Powers Following Approval.* Following approval of any plans and specifications by the Committee, representatives of the Committee shall have the right, during reasonable hours, to enter upon and inspect any Lot or other improvements with respect to which construction is underway to determine whether or not the plans and specifications there for have been approved and are being complied with. In the event the Committee shall determine that such plans and specifications have not been approved or are not being complied with, the Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications.

(d) *Exercise of Discretion.* Declarant intends that the members of the Committee exercise discretion in the performance of their duties consistent with the

provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members of the Committee. In any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Committee is raised as a defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

**Section 6.4. Non-Vegetative Landscaping Approval.** To preserve the aesthetic appearance of the Development, no material modification to the grading, excavation or filling of any Lot shall be implemented by an Owner, unless and until the plans there for have been submitted to and approved in writing by the Committee. The provisions hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal shall also be applicable to approvals required under this Section 6.4.

**Section 6.5. Approval Not a Guarantee.** No approval of plans and specifications and no publication of standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Committee shall be responsible or liable for: (a) any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article VI; (b) loss or damages to any person arising out of the approval or disapproval of any plans or specifications; (c) any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations; nor (d) any defects in construction undertaken pursuant to such plans and specifications.

**Section 6.6. Building Restrictions.** All improvements shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions and requirements. Prior to any grading, clearing, construction of impervious surface, building, or other construction activity, the Owner of any Lot which is subject to such rules, regulations, guidelines, or restriction shall make such filings, and obtain such authorizations and permits as are required hereunder, and further, shall receive the prior written approval of the Committee.

## **ARTICLE VII** **USE RESTRICTIONS**

**Section 7.1. Standards and Restrictions.** The Association, acting through its Board, shall have the authority to make and to enforce standards and restrictions governing the use of the Real Estate, in addition to those contained herein, and to impose reasonable user fees for use of Common Areas. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association by a majority of members entitled to vote

thereon; any such cancellation or modification of regulations or use restrictions shall be subject to the prior written consent of Declarant during the Development Period.

**Section 7.2. Use of Lots.** Except as permitted by Section 7.26 hereof, each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried therein. The use of a portion of a Dwelling Unit as a home office by Owner, or its tenant shall not be considered to be a violation of this covenant if Owner complies with Section 7.26 hereof. No building or structure shall be located on any Lot outside of the setback lines designated on the Plat.

**Section 7.3. Diligence in Construction.** Subject to inclement weather and other force majeure events, every Dwelling Unit shall be completed within twelve (12) months after the commencement of its construction or placement. No improvement which has been partially or totally destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage or, if approval of the applicable casualty insurance is pending, then within three (3) months after such approval is requested.

**Section 7.4. Association's Right to Perform Certain Maintenance.** In the event that the Owner of any Lot shall fail to maintain its Lot and any improvements situated thereon in accordance with the provisions of this Declaration after notice from the Association and a cure period set forth in such notice, the Association shall have the right, but not the obligation, by and through its agents, employees, or contractors, to enter upon said Lot and maintain, repair, mow, clean or perform such other acts as may be reasonably necessary to ensure that such Lot and improvements situated thereon, if any, conform to the requirements of this Declaration. The cost incurred by the Association shall be assessed and billed to the Owner. The Association shall have the right to collect any outstanding maintenance assessments in the manner described in Article V. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage that may result from any work performed hereunder.

**Section 7.5. Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly, or unkempt condition on its Lot. The pursuit of hobbies or other activities, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be permitted on any part of the Real Estate. Nothing which would result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation, shall be permitted in the Development. Any Owner, or its family, tenants, guests, invitees, representatives, or agents, who dump or place any trash or debris upon any portion of the Development, shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and such sum shall be added to and become a part of that portion of any Assessment next becoming due to which such Owner and its Lot are subject.

**Section 7.6. Maintenance of Lots and Improvements.** Unless any of the following responsibilities and obligations are otherwise delegated pursuant to a



Supplemental Declaration, each Owner shall at all times maintain its Lot and any improvement situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

- (a) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds. In no event shall the grass on any Lot exceed the lesser of six (6) inches or the maximum height required by applicable statute or ordinance. Notwithstanding the foregoing, vacant Lots owned by DRP or Declarant shall be mowed by Declarant at such times as necessary so that the maximum height of the grass on those Lots shall not exceed twelve (12) inches.
- (b) Remove all debris or rubbish from the Lot.
- (c) Maintain the landscaping on a regular basis and replace any dead tree or shrub that is part of required landscaping including street trees planted between the sidewalk and roadway, if any.
- (d) Cut down, remove, and replace dead trees from the Lot.
- (e) Within sixty (60) days following completion of a Dwelling Unit, the Owner shall landscape the Lot, weather permitting.

**Section 7.7. Awnings and Window Screens.** No foil or other reflective material shall be used on any windows for sunscreens, blinds, shades, or other purposes. No metal, fiberglass or similar type awnings or patio covers shall be permitted unless approved by the Committee.

**Section 7.8. Signs.** No signs of any kind shall be erected within the Development, or permitted within any windows, without the written consent of the Board, except for such signs as may be required by legal proceedings and except for a single standard real estate "for sale" or "for rent" sign may exist on a Lot if such does not exceed six (6) square feet in area. Declarant may use such signs as it deems necessary or appropriate during the Development Period. No business signs, flags, banners, or similar items (except those placed and used by Declarant) which advertise or provide directional information shall be erected by any Owner. If permission is granted to any Owner to erect a sign, including name and address signs within the Development, the Board reserves the right to determine the size and composition of such sign as it, in its sole discretion, deems appropriate.

**Section 7.9. Parking and Prohibited Vehicles.**

- (a) *Parking.* Vehicles shall be parked in the garages or on the driveways serving the Lots. Each Dwelling Unit shall have an attached garage with space for not less than two (2) automobiles. No motor vehicle, whether or not utilized by an Owner, shall be parked on any street or public right-of-way, except on a temporary and non-recurring basis. Garages shall be used for parking of vehicles, and no other use or modification thereof shall be permitted which would reduce the number of

vehicles which may be parked therein below the number for which the garage was originally designed. Vehicles may be parked on a street in the Development for no more than forty-eight (48) consecutive hours, and such an occurrence shall not occur more than one time during any thirty (30) day period. No Owners or other occupants of any portion of the Development shall repair or restore any vehicles of any kind upon or within any Lot or within any portion of the Common Areas, except (i) within enclosed garages or workshops, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. Notwithstanding anything in this Section 7.9 to the contrary, construction vehicles used by Declarant during the Development Period are not subject to the restrictions set forth herein.

(b) *Prohibited Vehicles.* Vehicles labeled or classified as commercial by the State of Indiana, vehicles registered with the Indiana Department of Transportation in the State of Indiana, tractors, buses, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Real Estate except within enclosed garages. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Real Estate during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas. Any vehicles parked in violation of this Section 7.9 or parking rules promulgated by the Board may be towed at the expense of the Owner. Notwithstanding the foregoing, recreational vehicles, campers, camper trailers, boats and other watercraft may be parked in the driveway of a Lot for a period of time not to exceed forty-eight (48) hours in any calendar month for cleaning, loading, and unloading but for no other purposes.

**Section 7.10. Animals and Pets.** No domestic animals for commercial purposes and no farm animals or fowls (including, without limitation, any pigs, goats, or chickens) shall be kept or permitted on any Lot or Lots in the Development. No animals shall be kept or maintained on any Lot except for the usual household pets and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance. Excessive barking of a dog(s) or vicious animal(s) shall constitute a nuisance as determined by the Association and may be ordered removed from the Real Estate by the Association. All pets shall remain under the control and supervision of an adult Owner and shall not be permitted off of such Owner's respective Lot unless on a leash or other restraint. The owner of any pet shall be responsible to clean up or repair any waste or damage caused by such pet and assure that such pet does not create any unreasonable disturbance. Animal quarters, kennels, and runs are specifically prohibited.

**Section 7.11. Quiet Enjoyment.** No portion of the Real Estate shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition. No noxious or illegal activity shall be carried on upon any portion of the Real Estate. No hunting of any nature shall be permitted within the Development. With the exception of a gas or wood burning fire pit and/or outdoor

fireplace, which if permanently affixed to the ground must be approved by the Committee, there shall be no outside open burning of wood, leaves, trash, garbage, or household refuse within the Real Estate. However, the Declarant may permanently affix on Common Area during the Development Period for the benefit of the Owners a gas or wood burning fire pit and/or outdoor fireplace without any approvals by the Committee. Declarant or the Association may at any time order the relocation of any wood piles which, in their sole opinion, are unsightly. No horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development.

#### **Section 7.12. Antennas, Aerials, and Satellite Dishes**

No exterior antennas, aerials, satellite dishes, or other apparatus larger than thirty-six (36) inches in diameter and intended for the reception of television, radio, satellite, or other signals of any kind shall be placed, allowed, or maintained upon any portion of any Lot. Any such antennas, aerials, satellite dishes or other such apparatus that do not exceed thirty-six (36) inches in diameter shall be permitted on a Lot only if such will be aesthetically concealed by landscaping or by other means and shall be installed so as not to be visible from front elevation street view or constitute a nuisance or offensive effect on other Lot Owners. Under no circumstances shall any such antennas, aerials, satellite dishes, or other such apparatus be installed without the approval of the Committee. No radio or television signals, nor electromagnetic radiation, shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Development, provided, however, that Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus or master antenna or cable system for the benefit of all or a portion of the Real Estate, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

**Section 7.13. Garbage Cans, Tanks, Etc.** No storage tanks of any kind shall be allowed upon a Lot with the exception of a small propane tank used exclusively for residential gas grills. The propane tank shall be stored on the gas grill, within the Dwelling Unit on the Lot, or completely out of view of other Owners. No rubbish, trash or garbage containers shall be stored or maintained outdoors except for such temporary storage necessary for immediate pick up of the trash and, in that event, trash shall be stored in appropriate containers. At the option of the Association, trash and refuse disposal for each Dwelling Unit will be provided by the Association on a weekly basis. No dumpsters or other forms of general or common trash accumulation shall be permitted within the Development, except to facilitate or in connection with construction activities by Declarant. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, and other waste shall be kept in sanitary containers at all times and all equipment for storage or disposal of such materials shall be kept clean. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.

**Section 7.14. Pools.** No above ground swimming pools shall be erected, constructed, or installed on any Lot; provided, that nothing herein shall preclude

installation and use of hot tubs, spas, or in-ground pools with prior approval from the Committee as provided herein.

**Section 7.15. Storage Sheds and Temporary Structures.** Except as may be utilized by Declarant during the Development Period, no tent, shack, trailer, storage shed, mini-barn, or other similar detached or attached structure shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events with prior written approval of the Committee or Declarant and children's overnight camping tents will be allowed as long as they are not up longer than forty-eight (48) hours. Any and all forms of outbuildings, including, without limitation, sheds, storage sheds, and playhouses, which are not directly connected to a Dwelling Unit, are prohibited unless the same are necessary or incident to the Declarant's or Association's business or activities.

**Section 7.16. Drainage, Water Wells, and Septic Systems.**

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No person other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(b) No private water wells may be drilled or maintained, and no septic tanks or similar sewerage facilities may be installed or maintained on any Lot.

**Section 7.17. Traffic Regulation and Sight Distance at Intersections.** All Lots located at street intersections shall be landscaped so as to permit safe sight lines across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain wherein it would create a traffic or sight problem. All vehicular traffic on the private streets and roads in the Development shall be subject to the provisions of the laws of the State of Indiana or any applicable political subdivision (including all zoning and other land use ordinances), and any other applicable governmental agency, concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including modifications of those in force on public streets, within the Development. The Association shall be entitled to enforce same by establishing such enforcement procedures as it deems necessary, including levying fines for the violation thereof. Only drivers licensed to operate motor vehicles by the State of Indiana or by any other state in the United States may operate any type of motor vehicle within the Development. All vehicles of any kind and nature which are operated on the streets in the Development shall be operated in a careful, prudent, safe, and quiet manner and with due consideration for the rights of all residents of the Development.

**Section 7.18. Utility Lines.** No overhead utility lines, including lines for cable television, shall be permitted within the Development, except for temporary lines as required during construction and high voltage lines if required by law for safety purposes.

**Section 7.19. Clotheslines.** No clothesline of any kind may be erected, maintained, or permitted on or at any Lot. Clothing, rugs, or other items which are visible to others in the Development shall not be hung on any railing, fence, hedge, or wall.

**Section 7.20. Air Conditioning Units.** No window air conditioning units may be installed in or at any Lot.

**Section 7.21. Mailboxes.** Each Owner of a Lot shall maintain the mailbox and structure which was originally installed by a builder and shall replace same as necessary with a mailbox and structure which is substantially the same in appearance as that which was originally provided to the Dwelling Unit. Nothing may be attached to the mailbox structure which will affect the uniformity thereof with other such structures in the Development. The Committee shall have the discretion to require the replacement of any mailbox within the Development at the expense of the Owner of the Lot served thereby.

**Section 7.22. Solar Panels.** No solar energy collector panels or attendant hardware or other energy conservation equipment (collectively, "Solar Equipment") shall be constructed or installed on any Lot without the prior review and approval of the Committee. All such Solar Equipment shall be located on the rear side of the roof of the Dwelling Unit and shall not be visible from the street facing the front of the Lot upon which such Solar Equipment is located. It is the intent of this provision that the Committee shall be able to strictly regulate all elements of exterior Solar Equipment to the fullest extent of the law and should any regulations adopted herein or by the Committee conflict with federal law or state law, such rules as do not conflict with federal law or state law shall remain in full force and effect.

**Section 7.23. Exterior Flags and Sculptures.** Exterior sculptures, fountains, flags, and similar items must be approved by the Committee.

**Section 7.24. Driveways and Sidewalks.** All driveways will be constructed by a builder of the Dwelling Unit which it serves. Owners shall maintain and replace the driveway of their Lot thereafter so as to maintain the same appearance as provided at the time of original construction, ordinary wear and tear excepted. Each Dwelling Unit shall have a continuous sidewalk from driveway to the front porch or entry. Any modification or extension of driveways and sidewalks beyond those constructed by a builder are subject to Committee approval as provided in Article VI. In no event will concrete, blacktop, gravel or dirt side drives or parking areas be permitted on any Lot or Common Area except where Declarant, during the Development Period, may deem necessary.

**Section 7.25. Fences.** Unless otherwise governed and regulated by a Supplemental Declaration, the following shall apply to all Lots subjected to this Declaration. The Committee, prior to installation, must approve any fencing, walls, mounds, and landscape screening on or at any Lot. It is the goal to keep all fencing or screening harmonious with the architectural character of the community. No fence or screen will be approved which obstructs necessary sight lines for vehicular traffic. Undue obstruction of views from adjoining properties and amenity areas will be taken into consideration by the Committee when reviewing fences, walls, mounds, and screening for

approval. No front yard fencing, walls, mounds, or screening are permitted, except on a Lot on which there is maintained a sales office or model home by Declarant. All plans for approval of fencing which are submitted to the Committee shall identify all corners of the subject Lot, and the Owner shall be responsible for installing the fence in accordance with the approved plans. If approved by the Committee, fences may be privately installed but must be constructed to professional levels of quality, design, material, composition, and color as determined by the Committee. Non-professionally installed fences may be inspected by the Committee after completion in order to ensure that the fence is of a professional quality, and final approval of such fence shall be deemed withheld until completion of such final review. All fences shall be kept in good repair by the Owner. Each Owner shall properly maintain, mow, and trim grass on all portions of such Owner's Lot, including the portions of the Lot located on either side of a fence installed upon such Lot. No fence shall be located any closer to the front Lot line than five (5) feet forward from a back foundation corner of the Dwelling Unit, exclusive of a covered porch. No fence on a side property line shall be located closer than five (5) feet from the side of the Dwelling Unit. On a corner Lot, no fence will be allowed between the side building line and the adjacent street or right-of-way. No fences shall be installed in easements without the prior written approval of the Committee and any public authority or agency having jurisdiction over the easement. The Committee, in its sole discretion, may prohibit fences in easements and/or impose restrictions on fences in easements. If approved by the Committee and applicable public agency, a fence erected in an easement is erected at the sole risk of the Owner, as such fences run the risk of being partially or completely removed at the Owner's expense. Notwithstanding any other provision in this Declaration to the contrary, invisible electronic fences designed to restrict the movement of animals are expressly permitted.

Declarant, during the Development Period, and the Committee, after the Development Period, may reasonably amend or change any of the following restrictions:

(a) *Height Restriction.* The Committee shall determine the height of fences and walls; provided, however, that the maximum heights of walls and fences shall never exceed the following:

- (i) No fence shall exceed forty-eight (48) inches in height;
- (ii) Lot fencing and walls shall not exceed forty-eight (48) inches above grade;
- (iii) Patio screens adjoining the rear of a Dwelling Unit shall not exceed six (6) feet in height; and
- (iv) Any fence enclosing an in-ground pool shall (A) not exceed six (6) feet in height (unless a greater height is required by any applicable zoning ordinance or building code), (B) be black wrought iron, black wrought iron in appearance, or wooden, (C) be installed immediately adjacent to the pool and not along the perimeter of the Lot, and (D) be approved by the Committee.

(b) *Materials and Finish.*

(i) Except provided in Section 25(a)(iv)(B) and in certain areas, such as those adjacent to Common Areas where fences may be restricted by the Committee due to obstructed views by adjoining neighbors, fences are to be wooden, aluminum wrought iron or PVC. Wooden fences may be stained but shall not otherwise be painted and be shadow box or wooden picket in style. Chain link and stockade style fences are prohibited. Aluminum wrought iron and PVC fences must be either be black, white or earth toned in color. The Committee must approve all fencing materials, design, location, and color.

(ii) Walls above-grade must be constructed of natural stone, masonry, wrought iron or wrought iron in appearance fencing, wood shadow box fencing, or a combination thereof.

(iii) The Committee will approve landscape screening materials, design, and location on an individual basis.

(c) *Location.* All fencing erected on a Lot must be erected either (i) within six (6) inches of the property line of such Lot, or (ii) more than four (4) feet from the property line of such Lot. Each Owner who has a fence erected that is located within six (6) inches of the property line of its Lot, hereby approves of each applicable adjacent Lot Owner to encroach upon the Owner's Lot up to a maximum of six (6) inches in order for (x) the applicable adjacent Lot Owner to connect its adjacent Lot Owner's fence to the Owner's fence already erected, (y) such applicable adjacent Lot Owner to subsequently maintain its adjacent Lot Owner's fence within the encroached area of the Owner's Lot, and (z) the applicable adjacent Lot Owner to subsequently mow and/or otherwise maintain the portion of the Owner's Lot located between the Owner's fence and the property line of the applicable adjacent Lot Owner. Under no circumstances shall such encroachment give rise to a claim of adverse possession or easement by prescription. In the event that a fence is already erected on an adjoining Lot within six (6) inches of the property line, then the Owner of a Lot desiring to install a new fence shall either (i) connect the Owner's new fence to the fence on the adjoining Lot if the new fence satisfies all of the criteria expressed herein and is approved by the Committee, or (ii) install the Owner's new fence more than four (4) feet from the property line so that the gap between the Owner's new fence and the existing fence on the adjoining Lot will be at least four (4) feet wide.

(d) *Approval.* The exact location, material, color, and height of the fence and rendering or photograph thereof shall be submitted to the Committee for written approval at least thirty (30) days prior to proposed installation or construction. If, however, approval has not been received by the applicant in writing within thirty (30) days after submission, then said request shall be deemed DENIED.

**Section 7.26. Business Uses.** No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit, so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Real Estate; (c) the business activity does not involve persons coming onto the Real Estate who do not reside in the Real Estate or door-to-door solicitation of residents of the Development; and (d) the business activity (i) is consistent with the residential character of the Development and (ii) does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Real Estate, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involve the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required there for. Notwithstanding the above, the leasing of a Lot or Dwelling Unit shall not be considered a trade or business within the meaning of this Section 7.26. This Section 7.26 shall not apply to any commercial property within the Development nor shall it apply to any activity conducted by Declarant or a builder approved by Declarant with respect to its development and sale of the Real Estate or its use of any Lots or Dwelling Units which it owns within the Real Estate.

**Section 7.27. Basketball Goals, Tennis Courts, Racquetball Courts, and Paddleball Courts.** Unless otherwise governed and regulated by a Supplemental Declaration, the following shall apply to all Lots subject to this Declaration. No basketball goals shall be permitted on any Lot without the prior review and approval of the Committee, except as provided for in this Section 7.27. No basketball goals shall be permitted to be used along any curb or in any street of the Development. Tennis courts, racquetball courts, paddle ball courts, basketball courts, squash courts, and other recreational facilities or sporting facilities will not be permitted on any Lot without approval from the Committee. All submittals to the Committee shall include landscape plans. Permanent basketball goals may be installed on a Lot immediately adjacent to a driveway without Committee approval, provided that such goals have translucent fiberglass or glass backboards and are professionally installed. Non-permanent basketball goals or courts are prohibited. No basketball goal or backboard shall be permitted to hang from or be affixed to any part of the Dwelling Unit. Lighted courts of any kind are prohibited. Temporary or portable basketball goals located on streets or in cul-de-sacs or in the right-of-way of any public street are a safety hazard and are strictly prohibited.

**Section 7.28. Playground Equipment and Trampolines.** Unless otherwise governed and regulated by a Supplemental Declaration, the following shall apply to all Lots subject to this Declaration. No playground equipment shall be installed on any Lot



without the prior review and approval of the Committee. All such equipment shall be located at least then (10) feet from any adjacent property lines and in the rear yard of a Lot (being the portion of such Lot behind the rear corners of the Dwelling Unit on such Lot). Notwithstanding the foregoing, in the event such Lot is located on a corner in the Development, the Committee may, in its discretion, approve a location for such equipment other than a rear yard, provided such is not closer than ten (10) feet from any public sidewalk. Children's play equipment, such as temporary sandboxes and temporary swimming pools having a depth of eighteen (18) inches or less, shall not require approval of the Committee, provided that such equipment is maintained by the Owner in good repair and such equipment is located in the rear yard. Equipment higher than eighteen (18) inches shall require approval of the design, location, color, material and use by the Committee and in no cases, if approved, is allowed to be up for more than forty-eight (48) hours. Aluminum or metal play equipment is prohibited. Free standing plastic or metal playhouses are prohibited, while forts or playhouses that are incorporated as an integral part of a residential play system are permitted but must be approved by the Committee. Trampolines, whether above ground or in-ground, are strictly prohibited.

**Section 7.29. On-Site Fuel Storage.** No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Real Estate, except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of gas grills, lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment.

**Section 7.30. Contiguous Lots.** Whenever two (2) or more contiguous Lots shall be owned by the same Owner, such Owner shall not be permitted to use two (2) or more of said Lots as a site for a single dwelling, subject to applicable zoning and other regulations and restrictions. Each Lot shall be, and shall remain, improved with a single Dwelling Unit, and each Lot shall be subject to Assessments.

**Section 7.31. Control of Lakes and Common Areas.**

(a) *Control by the Association.* As part of its general duties, the Association shall regulate the Lakes and Common Areas and shall provide for the maintenance thereof in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures in the vicinity thereof and the natural or other vegetation and topography of the Lakes and Common Areas. No improvements, excavation, changes in grade or other work shall be done upon the Lakes or Common Areas by any Owner, nor shall the Lakes or Common Areas be changed by any Owner from its natural or improved existing state, without the prior written approval of the Committee.

(b) *Restrictions of Use of Lakes and Common Areas.* The following covenants and restrictions on the use and enjoyment of the Lots, the Lakes and the Common Areas shall be in addition to any other covenants or restrictions contained herein or in the Plat and all such covenants and restrictions are for the mutual benefit and protecting of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or

future Owners of the Association shall be entitled to injunctive relief against any violation or attempted violation of any of such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(i) No one other than Owners who are Members in good standing with the Association, or such an Owner's occupant, tenants, guests, or invitees, may use the Lakes or the Common Areas.

(ii) No nuisance shall be permitted to exist on or at any Lot and no waste shall be committed on or at any Lot which shall or might damage or cause injury to the Lakes or the Common Areas.

(iii) All Owners and members of each Owner's family, its guests, or invitees, and all occupants of any Lot or other persons entitled to use the same and to use and enjoy the Lakes and the Common Areas, shall observe, and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Lakes and the Common Areas.

(iv) No Owner shall be allowed to plant trees, landscape, or do any gardening in any part of the Lakes or the Common Areas without the express permission from the Committee.

(v) The Lakes and the Common Areas shall be used and enjoyed only for the purposes for which they are designed and intended and shall be used subject to the rules and regulations from time to time adopted by the Board. Without limiting the generality of the foregoing, the Lakes are and will be an integral part of the storm water drainage system serving the Development. Accordingly, no use shall be made of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system. Recreational activity shall be permitted in or on the Lakes as determined by the Board. No sewage, garbage, refuse, or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into the Lakes, except the Association may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same. No Owner or other person shall take or remove any water from or out of the Lakes or utilize the water contained therein for any purposes, including, without limitation, connection with any sprinkler or irrigation systems. No piers, docks, retaining walls, rafts, or other improvements shall be built, constructed, or located on any Lot or on the Real Estate, which extend into, or to within twenty-five (25) feet of the shoreline of any Lake, except those installed by Declarant or the Association.

(vi) The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of Lakes, ponds, or streams within the Real Estate.

**Section 7.32. Laws and Ordinances.** Every Owner and occupant of any Lot or Dwelling Unit, together with such Owner's family, guests, and invitees, shall comply with all laws, statutes, ordinances, and rules of federal, state, and municipal governments applicable to the Real Estate and any violation thereof may be considered a violation of this Declaration; provided, however, that the Board shall have no obligation to take action to enforce such laws, statutes, ordinances, or rules.

**Section 7.33. Sales and Construction.** Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots and Dwelling Units or the developing of Lots, Dwelling Units and Common Areas, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model houses, all as may be approved by Declarant from time to time, provided that the location of any construction trailer of any assignees of Declarant's rights under this Section 7.33 shall be subject to Declarant's approval. The right to maintain and carry on such facilities and activities, as provided herein, shall include specifically the right to use Dwelling Units as model residences and to use any Dwelling Unit as an office for the sale of Lots and Dwelling Units and for related activities.

**Section 7.34. Owners Bound.** All provisions of this Declaration, the By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Lot and Dwelling Unit. Every Owner shall cause all occupants, guests and invitees of its Lot or Dwelling Unit to comply with this Declaration, the By-Laws, and rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, guests and invitees, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of this Declaration, the By-Laws and rules and regulations adopted pursuant thereto.

## ARTICLE VIII RULEMAKING AND REMEDIES FOR ENFORCEMENT

**Section 8.1. Rules and Regulations.** Subject to the provisions hereof, the Board may establish reasonable rules and regulations concerning the use of Lots and Dwelling Units, and the amendments thereto shall be furnished by the Association to all Members prior to their effective date upon the Owners, Owners' families, tenants, guests, invitees, representatives, and agents, until and unless any such rule or regulations be specifically overruled, cancelled, or modified by the Board or in a regular or special meeting of the Association by a majority of the Members as set forth in the By-Laws, subject to Declarant's consent during the Development Period.

## **Section 8.2. Authority and Enforcement.**

(a) Upon a violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Association shall have the power, after ten (10) days' written notice to the Owner or the occupant of said violation, and failure by said Owner or occupant to cure the violation: (i) to cause the Association to correct the violation at its own cost and expense, which said cost and expense shall constitute a continuing lien upon the Lot of the Owner or occupant who is guilty of such violation; (ii) to suspend Owner's right to vote in the Association; and (iii) to suspend an Owner or occupant's right (and the right of its family, guests, and tenants) to use of the Common Areas.

The Board shall have the power to impose all or any combination of these sanctions. Such sanctions are in addition to the Association's remedies under Section 4.2 hereof relating to maintenance. An Owner or occupant shall be subject to the foregoing sanctions in the event of such a violation by it or its family, guests, tenants, or invitees. Any such suspension of rights may be for the duration of the infraction and/or any additional period thereafter, such additional period not to exceed thirty (30) days per violation.

(b) Notwithstanding Section 8.2(a) above, a violation or threatened violation of any of the covenants and restrictions contained in this Declaration and the provisions contained in the articles of incorporation or By-Laws of the Association, or any rules and regulations adopted hereunder, shall be grounds for an action at law or equity instituted by Declarant, the Association, or any Owner against any person violating or threatening to violate any such covenant, restriction, rule, or regulation. Available relief in any such action shall include the recovery of damages; injunctive relief, either to restrain the violation or threatened violation or to compel compliance with the covenants, restrictions, rules or regulations, declaratory relief; the enforcement of any lien created by these covenants, restrictions, rules, or regulations; and the recovery of costs and attorneys' fees incurred by any party successfully enforcing such covenants, restrictions, rules, or regulations. Failure by Declarant, the Association, or any Owner to enforce any covenant, restriction, rule, or regulation shall in no event be deemed a waiver of the right to do so thereafter; provided, however, that no action shall be brought against either Declarant or the Association for failing to enforce or carry out any such covenants, restrictions, rules, or regulations.

(c) Notwithstanding any provision in this Article VIII, the Association shall not have the power to institute, defend, intervene in, settle or compromise proceedings in the name of any Owner or Member, and notwithstanding any provision in Section 9.2 or any other section in this Declaration to the contrary, any proposed amendment to the provisions of this Section 8.2 (c) shall be adopted only upon an affirmative vote of Members holding one-hundred percent (100%) of the total number of votes of the Association and the Declarant.

**ARTICLE IX**  
**GENERAL PROVISIONS**

**Section 9.1. Term.** The covenants and restrictions of this Declaration shall run with and bind the Real Estate, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of sixty (60) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by more than ninety-five percent (95%) of the then Owners has been recorded within the year preceding the beginning of each successive period often (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. The number of ten (10) year renewal periods shall be unlimited.

**Section 9.2. Amendment.** Prior to the conveyance of the first Lot to an Owner, Declarant with consent from DRP may amend this Declaration or subject all or any part of the Real Estate to a Supplemental Declaration. After such conveyance, Declarant with consent of DRP may amend this Declaration at any time and from time to time if such amendment is: (a) necessary to bring any provision thereof into compliance with any applicable governmental statutes, rules or regulations, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots and the Dwelling Units; (c) required by an institutional or governmental agency or lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to acquire or purchase mortgage loans on the Lots and the Dwelling Units; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; (e) to annex additional real estate to the Development; or (f) to correct clerical or typographical errors in this Declaration or any exhibit hereto, or any supplement or amendment thereto; provided, however, that any amendment permitted under subsections 9.2 (a) through (f) above shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. Additionally, during the Development Period, Declarant with consent from DRP may amend this Declaration for any purpose, provided the amendment has no material adverse effect upon any right of the Owner.

Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of voting Members representing at least seventy-five percent (75%) of the Members entitled to vote thereon. Any amendment to be effective must be recorded in the public records of the county in which this Declaration was recorded.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

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.

**Section 9.3. Indemnification.** The Association shall indemnify every officer, director, and committee member against any and all expenses, including attorneys' fees, reasonably incurred by, or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors and committee members 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 committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 9.4. Interpretation.** In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing in the public records. The captions of each Article and Section hereof as to the contents of each Article and Sections are inserted only for limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Indiana, without regard to its conflict of law provisions.

**Section 9.5. Right of Entry.** The Association and, during the Development Period, Declarant shall have the right, but not the obligation, to enter onto any Lot for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the By-laws, and the Association rules, which right may be exercised by the Association's board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner or occupant directly affected thereby. This right of entry shall include the right of the Association to enter a Lot and Dwelling Unit to cure any condition which may increase the possibility of a fire or other

hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

**Section 9.6. Perpetuities.** If any of the covenants, conditions, easements, restrictions, or other provisions of this Declaration would be unlawful, void, or voidable for violation of the common law rule against perpetuities, then such provisions shall continue on for the maximum amount of time as allowed by Indiana Code Section 32-17-8 -1 *et seq.* as amended from time to time.

**Section 9.7. Litigation.** Except as provided in Section 8.2, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by an affirmative vote representing at least seventy-five percent (75%) of the Members entitled to vote thereon. However, this Section 9.7 shall not apply to (a) actions brought by the Association to enforce the provisions of the Act, this Declaration (including, without limitation, the foreclosure of liens), the By-Laws and reasonable rules and regulations adopted by the Board, (b) actions brought for the imposition and collection of assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

**Section 9.8. Notice of Sale or Transfer of Title.** In the event that any Owner desires to sell or otherwise transfer title to its Lot, such Owner shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Until such written notice is received by the Board, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Lot hereunder, including payment of assessments, notwithstanding the transfer of title to the Lot.

**Section 9.9. Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provision hereof apply either to corporations or other entities or to individuals, men, or women, shall in all cases be assumed as though in each case fully expressed. The necessary grammatical changes required to make the provisions of this Declaration apply to all persons shall be assumed.

**Section 9.10. Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

**Section 9.11. Right of Third Parties.** This Declaration shall be recorded for the benefit of DRP, Declarant, the Owners and their mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title, or interest whatsoever in the Real Estate or rights of enforcement under the Declaration (which rights shall remain with DRP, Declarant and the Association as provided in this Declaration). Except as provided for herein, or in the operation or continuation thereof or

in the enforcement of any of the provision hereof, and subject to the rights of DRP, Declarant and the mortgagees as herein provided, the Association shall have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

**Section 9.12. Headings.** The headings and captions contained in this Declaration have been inserted and used solely for ease of reference and shall not be considered in the interpretation or construction of this Declaration.

**Section 9.13. Controlling Document.** In the event there is a conflict of interest between the provisions of this Declaration and any Plat, the terms and provisions of this Declaration shall control. In the case of any conflict between this Declaration and the By-Laws, this Declaration shall control. In the case of any conflict between this Declaration and the HOA Act, the HOA Act shall control.

**Section 9.14. Waiver.** The waiver by any party of a breach of or noncompliance with any provision of this Declaration shall not operate or be construed as a continuing waiver or a waiver of any other or subsequent breach or noncompliance hereunder.

**Section 9.15. Notice of Defects.** Until the Development Period has expired, the Association shall send to the applicable developer, contractor, subcontractor, supplier, or design professional a notice of any claim alleging any construction or design defect (the “**Defect Notice**”) prior to commencing any administrative or judicial proceeding with respect to such defects. The Defect Notice shall identify the alleged defect in reasonable detail, and DRP or Declarant shall have the right to inspect and to correct any such defect set forth in the Defect Notice within ninety (90) days (or such longer reasonable time as may be required as a result of the nature of the defect or force majeure events) following Declarant’s receipt of such Defect Notice (the “**Defect Cure Period**”). If the Association does not submit a claim with respect to the defects alleged in the Defect Notice (each a “**Claim**”) to mediation as provided in Section 9.16 of this Declaration within sixty (60) days after expiration of the Defect Cure Period, or does not appear for the mediation, then the party making such Claim shall be deemed to have waived the Claim, and DRP and the Declarant shall be released and discharged from any and all liability on account of such Claim.

**Section 9.16. Alternative Dispute Resolution.** Except with respect to any claim as set forth in the HOA Act, each and every Claim brought under this Declaration shall be subject to the following procedures:

(a) Any Claim shall first be submitted to mediation and, if not settled during mediation, shall thereafter be submitted to binding arbitration as provided by the Federal Arbitration Act (9 U.S.C. §§1 et seq.) and not by or in a court of law or equity.

(b) If the parties are unable to agree to a mediator, the parties will utilize the American Arbitration Association (“AAA”) for this role. The parties expressly agree that the mediator’s charges shall be equally shared and that each party shall



be responsible for its own costs and fees, including attorneys' fees and consultant fees incurred in connection with the mediation.

(c) If the Claim is not fully resolved by mediation, the Claim shall be submitted to binding arbitration and administered by the AAA in accordance with the AAA's Construction Industry Arbitration Rules. In no event shall the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute(s) of limitations, which such statute(s) of limitations the parties expressly agree apply to any Claim. The decision of the arbitrator(s) shall be final and binding on both parties. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000.00 or includes a demand for punitive damages, the Claim shall be heard and determined by three arbitrators; however, if mutually agreed to by the parties, then the Claim shall be heard and determined by one arbitrator. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s). Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. Unless otherwise recoverable by law or statute, each party shall bear its own costs and expenses, including attorneys' fees and paraprofessional fees, for any mediation and arbitration. Notwithstanding the foregoing, if a party unsuccessfully contests the validity or scope of arbitration in a court of law or equity, the non-contesting party shall be awarded reasonable attorneys' fees, paraprofessional fees and expenses incurred in defending such contest, including such fees and costs associated with any appellate proceedings. In addition, if a party fails to abide by the terms of a mediation settlement or arbitration award, the other party shall be awarded reasonable attorneys' fees, paraprofessional fees and expenses incurred in enforcing such settlement or award.

(d) IN THE EVENT THAT ANY COURT OF COMPETENT JURISDICTION DETERMINES THAT THE PROVISIONS OF THIS DECLARATION REQUIRING SUBMITTAL OF ANY CLAIM TO ARBITRATION IS VOID, DRP, DECLARANT, THE ASSOCIATION AND EACH OWNER ARE HEREBY DEEMED TO HAVE WAIVED THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY SUCH PARTY AGAINST THE OTHER, ARISING IN CONNECTION WITH A CLAIM.

**Section 9.17. Damages.** Notwithstanding any other provision of this Declaration to the contrary, including without limitation the provisions of Section 8.2 (b), no Owner shall be entitled to any punitive, exemplary, consequential, or special damages. By taking title to a Lot, each Owner acknowledges and agrees that such Owner has waived and shall be deemed to have waived the right to any award of damages in connection with the arbitration of a Claim other than such Owner's actual damages.

**Section 9.18. Prevailing Party and Damages.** Except as otherwise provided in this Declaration, the articles of incorporation, the By-Laws and rules, regulations, and guidelines, as each may be amended from time to time, each party shall bear its own costs and expenses, including attorneys' fees, for any proceeding of a dispute under this Declaration, the articles of incorporation, the By-Laws and rules, regulations, and guidelines, as each may be amended or supplemented from time to time. Notwithstanding the foregoing, if a party unsuccessfully contests the validity or scope of any proceeding, the non-contesting party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. In addition, if a party fails to abide by the terms of any settlement or award, the other party shall be awarded reasonable attorneys' fees and expenses incurred in enforcing such settlement or award. Further, all present and future Owners of the Lots and Dwelling Units, and other persons claiming by, through or under them, agrees that such Owner has waived and shall be deemed to have waived the right to any award of damages in connection with any dispute under this Declaration, the articles of incorporation, the By-Laws and rules, regulations, and guidelines, as each may be amended or supplemented from time to time.

**Section 9.19 Assignment of Declarant Rights.** Declarant shall have the right, but not the obligation, during the Development Period, to assign, transfer and share the rights, powers, remedies and other terms and conditions which accrue to the Declarant by the forgoing, to any entity, party or person ("Assignee") by executing a notice of assignment. An assignment of any right shall be deemed a full and total assignment of all Declarant rights created hereunder unless said notice explicitly states otherwise. After such assignment the term Declarant shall mean and include the Assignee in accordance with Section 1.8. All rights powers and remedies of Declarant hereunder shall then inure to the benefit of and shall be vested in the Assignee. Declarant shall retain all rights, powers and remedies granted herein and upon assignment both the Declarant and its Assignee shall enjoy full exercise of assigned rights, powers and remedies thereafter. No such assignment shall remove, impede or otherwise unjustly overburden the Owner's, Builder's or Declarant's rights, title or interest in the Real Estate.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions, Easements, and Restrictions for Loudoun Place to be made and executed as of the date written above.

[signature page follows]

**OWNER**

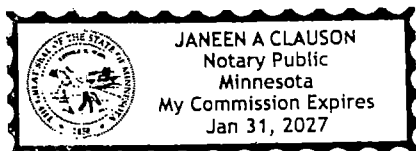
DRP IN 1, LLC

By: *Brian Clauson*  
Authorized Signatory  
Brian Clauson

STATE OF MINNESOTA            )  
  ) SS:  
COUNTY OF Dakota            )

Before me, a Notary Public in and for said County and State, personally appeared Brian Clauson, of DRP IN 1, LLC a Delaware limited liability company, who acknowledged its consent to the execution of the foregoing Declaration of Covenants, Conditions, Easements, and Restrictions on behalf thereof, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 30 day of September, 2022.



Signature *Janeen A. Clauson*  
Printed Janeen A. Clauson  
Notary Public

**DECLARANT**

Lennar Homes of Indiana, LLC

By: [Signature]  
Authorized Signatory  
Keith Lash

STATE OF INDIANA     )  
  ) SS:  
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared KEITH LASH, VICE PRESIDENT, of Lennar Homes of Indiana, LLC a Delaware limited liability company, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Easements, and Restrictions on behalf thereof, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 4th day of October, 2022.



LISA MARTINEZ CLAGHORN  
Resident of Marion County, IN  
Commission Expires: August 24, 2025  
Commission # 704548

Signature [Signature]  
Printed LISA M. CLAGHORN  
Notary Public

This instrument was prepared by: Wanda Wooldridge, Lennar Homes of Indiana, LLC, 11555 N. Meridian Street, Suite 400, Carmel, IN 46032; (317) 846-3148.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. *Wanda Wooldridge*

**EXHIBIT A**  
**DESCRIPTION OF THE REAL ESTATE**

**MODERNIZED DESCRIPTION**  
**BASED ON SURVEY**

A part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 15, Township 16 North, Range 5 East of the Second Principal Meridian, Marion County, Indiana, being more particularly described as follows:

Commencing at a Harrison monument at the northwest corner of said Section 15; thence North 89 degrees 08 minutes 53 seconds East (basis of bearing = Indiana State Plane Coordinate System - East Zone) along the North line thereof a distance of 1326.99 feet to the POINT OF BEGINNING, said point being the northwest corner of the East half of said Northwest Quarter; thence North 89 degrees 09 minutes 08 seconds East along the North line of said Half Quarter a distance of 1326.83 feet to the northeast corner of said Northwest quarter; thence North 88 degrees 44 minutes 53 seconds East along the North line of said Northeast Quarter a distance of 1604.38 feet to a point 1046.93 feet west of the northeast corner of said Northeast Quarter; thence South 00 degrees 54 minutes 15 seconds East parallel with the East line of said Quarter a distance of 1248.25 feet; thence South 88 degrees 44 minutes 53 seconds West parallel with the North line of said Northeast Quarter a distance of 1354.37 feet to the east line of a tract of land described in a deed recorded as Instrument No. 890037801 in the Office of the Recorder of Marion County, Indiana; thence South 01 degree 03 minutes 50 seconds East along said east line a distance of 467.82 feet to the south line of a 0.020 acre parcel described in an Agreed Judgment, Cause No. S683-0142 dated November 7, 1983; thence North 89 degrees 36 minutes 54 seconds West along said south line and the north line of a 0.137 acre parcel described in an Agreed Judgment, Cause No. S683-0142 dated November 7, 1983 a distance of 1573.54 feet to the West line of the East Half of the aforesaid Northwest Quarter; thence North 01 degree 03 minutes 50 seconds West along said West line a distance of 1701.57 feet to the Point of Beginning.

Containing 100.578 acres more or less.

**BY-LAWS  
OF  
LOUDOUN PLACE HOMEOWNERS' ASSOCIATION, INC.**

These By-Laws are hereby adopted by the initial Board of Directors to provide organizational rules to govern the administration of LOUDOUN PLACE HOMEOWNERS' ASSOCIATION, INC. (the "Association"), an Indiana non-profit corporation, incorporated pursuant to Indiana Code Chapter 23-17-3, whose Articles of Incorporation (the "Articles") were acknowledged by the Secretary of State of the State of Indiana on October 7, 2022.

**ARTICLE I  
DEFINITIONS**

1.01 Initial Authority. The purposes of the Association, its initial registered agent and members of its initial Board of Directors are as set forth in the Articles.

1.02 Geographic Limits. The areas lying within the limits of the real property as more particularly described on the attached Exhibit A (the "Property").

1.03 Covenants, Conditions & Restrictions. The Declaration of Covenants, Conditions, Easements, and Restrictions for Loudoun Place recorded in the public records of Marion County, Indiana on October 12, 2022 (the "Recordation Date") as Instrument No. A202200112272, as the same may be amended from time to time (the "Declaration").

1.04 HOA Act. These By-laws are subject to the requirements of Article 32.25.5 of the Indiana Code, as the same may be amended from time to time (the "HOA Act").

1.05 Governing Documents. As used herein, the "Governing Documents" shall refer to the Plat, the Declaration, the Articles, and these By-Laws, as the same may be modified from time to time.

1.06 Other Definitions. All capitalized terms that are not otherwise defined in these By-Laws shall have the same meanings set forth in the Declaration.

**ARTICLE II  
MEMBERSHIP**

2.01 Membership; Voting Rights.

a. As used herein, "Declarant" shall mean Lennar Homes of Indiana, LLC, a Delaware limited liability company, and its successors and assigns. Declarant shall be a Member until the first to occur of the following: (i) the expiration of the Development Period or (ii) until Declarant resigns its membership.

b. The Declaration establishes that each Owner of a Lot located within the Property upon acquisition of title to such Lot shall automatically become a Member of the Association. Such membership shall terminate upon the sale or other disposition by such Member of such Lot at which time the new Owner of such Lot shall automatically become a Member. No person

shall be a Member unless such person has a direct publicly recorded ownership interest in a Lot located within the Property. The membership of the Association shall consist of one class of voting members, with each Member having equal voting rights. If any one Lot shall be owned by more than one person, partnership, trust, corporation, or other entity, they shall be treated collectively as one member for voting purposes, so that as to any matter being considered by the Association, only one vote appertains to each Lot.

c. Notwithstanding anything herein to the contrary, during the Development Period, Declarant shall appoint the Board, and elect all officers of the Association, and perform all actions of the Association shall otherwise require the prior written approval of Declarant. Declarant may transfer control of the Association and its right to elect the Board and officers of the Association shall terminate, no later than the date that is ten (10) calendar years after the Recordation Date ("Transfer Period"); provided, however, that Declarant may transfer control of the Association at an earlier date (subject to DRP's approval to the extent DRP still owns any portion of the Real Estate). Notwithstanding such transfer of control during the Development Period, all actions of the Association shall continue to require the prior written approval of Declarant. Declarant shall retain all of its rights and privileges provided for herein from the Transfer Period until Dwelling Units have been constructed on all Lots in the Development. The date that Declarant turns over complete control of the Association and relinquishes its rights during the Transfer Period shall be referred to herein as the "Turnover Date".

2.02 Privileges of Membership. Each Member of the Association (or its representative in the event that the Member is not a person) shall enjoy the full privileges of membership. Subject to the Articles and the Declaration, membership shall include the right to hold office, to enjoy access to all Common Area. Members who live with a Member of the Association, tenants in possession of a Lot, and family members of a tenant in possession of a Lot who live with such tenant, but who are not themselves Members, shall also enjoy full privileges of membership, except that they shall not have the right to hold office or to vote as specified in Section 3.01, below.

### **ARTICLE III THE ASSOCIATION**

3.01 Location. The principal office of the Association shall initially be located at 11555 N. Meridian Street, Suite 400, Carmel, Indiana, 46032, or such other address as may be designated by the Association in writing and recorded with the Marion County, Indiana Recorder's Office; provided, however, the Association may change the location of its principal office without recording said change, if such change in address is after the Transfer Period.

3.02 Activities of Association. Subject to the Articles and the Declaration, the Association when so empowered shall engage in activities to benefit the Association and the owners of Lots located within the property including, but not limited to, the following:

- a. To enforce and exercise the rights granted to the Association by the Declaration.
- b. To carry out the duties and obligations imposed upon the Association by the Declaration and the HOA Act.

c. To establish and/or enforce reasonable rules and regulations for the use of: (i) landscaped "islands" lying within the public rights of way; (ii) easement areas; or (iii) any areas reserved for common use of the Members.

d. To establish an orderly and efficient system for the payment of, or reimbursement for, all expenses of the Association, and for the establishment and collection of assessments needed to fund the activities of the Association, including both annual and special assessments.

e. To provide and arrange for such other services to Association property as the Board of Directors may from time to time determine.

f. To promulgate and/or enforce rules and regulations and perform such other acts as are deemed necessary to carry out the purposes of the Association.

g. To purchase, lease, or otherwise acquire, improve, construct, own, hold, use maintain, operate, exchange, encumber, sell, convey, or otherwise dispose of, real and personal property of every kind, nature, or description, as may be necessary or desirable to promote the purposes of the Association.

h. To make and perform contracts of every kind for any lawful purpose without limit as to any amount, with any person, firm, Association, corporation, municipality, state, government, or municipal or political subdivision.

3.03 Proxies, Record Date, Manner of Voting. Votes may be cast in person or by proxy. The person appointed as proxy need not be an Owner. Proxies must be in writing and filed with the secretary of the Association prior to the appointed time of each meeting or action taken and shall comply with the requirements of Section 32-25.5-3-10 of the HOA Act. Each proxy shall be revocable and shall automatically cease upon conveyance by a Member of its Lot, or upon suspension of any Member's voting privileges as provided in these By-Laws. The Board of Directors may fix a date, not exceeding seven (7) days prior to the date of any meeting of Members, as a record date of the determination of the Members entitled to vote at such meeting. Only the Members of record on the date so fixed shall be entitled to vote at such meeting. If a record date is not fixed by the Board of Directors, any person who becomes a Member before a meeting of the Members is convened shall be entitled to vote at such meeting. Voting for the election of the Board of Directors shall be by secret written ballot, but all other votes shall be conducted orally unless otherwise directed by the Board of Directors.

3.04 Place of Meeting. Meetings of the Association shall be held at such place upon the Development or at such other place within ten (10) miles of the Property as may be designated by the Board of Directors. Any meeting of the Association may be held in person or by video and audio conference, by audio conference only, by use of virtual platform, or any combination of the same, as the Board of Directors deems necessary and proper so long as all parties in attendance at such meeting are able to hear and be heard by all others in attendance. Persons participating through communications equipment shall be considered for purposes as present at any meeting held pursuant to this Section 3.04.



3.05 Annual Meeting. No annual meeting shall be required prior to the beginning of the Transfer Period. After the Turnover Date, the regular annual meeting of the Members shall be held on such date and at such time during the month of **February** each year as the Board of Directors may from year to year fix, or if the Board of Directors fails so to fix a date and time for the meeting in any year, at 7:00 p.m.(or such time designated by the Board) on the second Thursday of **February**, if not a legal holiday, but if that day is a legal holiday under Indiana law, the annual meeting shall be held on the first succeeding day which is not a legal holiday.

3.06 Special Meetings. Before the Turnover Date, either the President of the Association or the Board of Directors may call a special meeting of the Members. After the Turnover Date, a special meeting of the Members may be called as above or by Members possessing at least ten percent (10%) of the voting power of the Association, upon delivery to the Board of Directors of a request in writing for a meeting of the Members as required under Section 32-25.5-3-2 of the HOA Act. Said request shall state the time and place of such meeting and the purpose thereof. It shall be the duty of the officer to whom the request is delivered to give notice of such meeting to the Members who are entitled to vote. If, upon such request, such officer does not send out a notice of the date, time, and place for such requested special meeting within thirty (30) days after a valid written request is received, the Member making such request may call such a special meeting by giving notice thereof or causing such notice to be given, in accordance with the provisions of Section 3.07 of this Article III. No business shall be transacted at a special meeting except as stated in the notice unless by consent of four-fifths (4/5) of the Members present, either in person or by proxy.

3.07 Notice of Meetings. Written notice of any meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by delivery in person or by mailing a copy of such notice, postage prepaid, to each Member entitled to vote, addressed to the Members' address last appearing on the books of the Association, as supplied by such Member to the Association for the purpose of notice. Such notice shall be mailed at least seven (7) days, but not more than thirty (30) days, prior to the date for such meeting and shall specify the place (in person or by virtual platform), day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Notice shall be mailed only to those Members who are shown to be Members on the records of the Association the date preceding the day on which notice is given.

3.08 Waiver of Notice. Any Member, either before or after any meeting, may waive any notice required by law, the Articles, the Declaration, or these By-Laws. Waivers must be in writing and filed with the secretary of the Association and entered upon the records of the meeting. Notice of a meeting will be deemed to have been waived by any Member who attends such meeting and who does not, before or at the commencement of the meeting, protest lack of proper notice.

3.09 Quorum. At any meeting of the Members, a quorum shall consist of the Members who hold more than fifteen percent (15%) of the voting power of the Association, except when a greater number is required by law. If, a quorum is lacking, the Members present and entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At any reconvened

meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting originally called.

3.10 Administration of Meetings. At each meeting of the Members, the president or, in his or her absence, the vice-president, or in the absence of both, a chairperson chosen by the majority vote of the Members present and entitled to vote shall act as chairperson. The secretary, or, in his or her absence, any person appointed by the chairperson, shall act as secretary for the meeting.

3.11 Order of Business. The order of business at all meetings of the Members shall be as follows:

1. Roll call  
A QUORUM BEING PRESENT
2. Proof of notice of the meeting or waiver thereof;
3. Reading of the minutes of the preceding meeting and action thereon, unless dispensed with by unanimous consent;
4. Report of the Board of Directors, if any;
5. Reports of the officers, if any;
6. Reports of committees, if any;
7. Election of Directors, if any;
8. Unfinished business, if any;
9. New business, if any; and
10. Adjourn.

The order of business at any meeting may be changed by the affirmative vote of Members possessing a majority of the voting power of the Members present and entitled to vote.

3.12 Action by Unanimous Written Consent of the Members. Any action which may be authorized or taken at a meeting of the Members may be authorized or taken without a meeting in writing or writings signed by all of the Members. The writing or writings evidencing such action taken by the unanimous written consent of the Members shall be filed with the records of the Association.

3.13 New Members. Any person entitled to membership shall make such fact known to the Association by giving written notice to the Secretary of the Association at the principal office of the Association. Until such fact is made known to the Association, said person may vote or receive notice of meetings of the Association only upon recognition of such ownership by the Association.

3.14 Membership Roster. The Association shall maintain the roster and other information regarding the Members and make such information available to the Membership as required under Section 32-25.5-3-1 of the HOA Act.

3.15 Budget Process. The Association shall prepare and adopt an annual budget consistent with the requirements and procedures of Section 32-25.5-3-3 of the HOA Act and Section 5.7 of the Declaration. Prior to the Transfer Date, Declarant shall prepare and adopt an annual budget consistent with the preceding sentence.

#### **ARTICLE IV** **BOARD OF DIRECTORS**

4.01 General Powers of Board of Directors. The affairs of the Association shall be governed, its business and affairs shall be conducted, and its property shall be controlled by a Board of Directors, except where otherwise required by the laws of Indiana, the Declaration, the Articles, or these By-Laws.

4.02 Powers of the Board. Subject to the Declaration and the Articles, the Board of Directors shall have the power to:

(a) Adopt and publish rules and regulations governing the use of the facilities of the Association and the personal conduct of the Members and their guests thereon and penalties for the infraction thereof.

(b) Suspend a Member's voting rights and right to use the Association's facilities, if any, during any period in which such Member shall be in default in the payment of any assessment levied by the Association for a period of six (6) months or longer or as a result of any Member's infraction of the rules and regulations established by the Board of Directors.

(c) Declare the position of any Director to be vacant in the event such Director shall be absent without permission from the remaining board members from three (3) consecutive regular meetings of the Board of Directors.

(d) File Association's lien for unpaid assessments against any property for which such assessments are not paid within sixty (60) days after the due date thereof, bring an action at law against the party personally obligated to pay the same, or foreclose the Association's lien once filed consistent with the requirements and limitations of Chapter 32-28-14 of the Indiana Code.

(e) Employ such employees (including, without limitation, an Association facilities manager) as it deems necessary or appropriate to operate on the Common Areas or the facilities owned by the Association, or to furnish landscape maintenance service or other services to the Lot owners, and to prescribe the duties of each employee.

(f) Enter into such contracts, agreements, and make such other arrangements upon such terms and conditions as it deems necessary or appropriate to operate and maintain the facilities owned by the Association, and to, furnish or provide for the Lot owners services it deems necessary including but not limited to landscape maintenance services; provided, however, that the Board shall not enter into any contract or borrow funds in violation of Section 32-25.5-3-4 and Section 32-25.5-3-5 of the HOA Act.

(g) Bond all officers and employees having fiscal responsibilities, as may be deemed appropriate.

(h) Purchase, lease, or otherwise acquire real or personal property in the name of the Association.

(i) Do all things necessary to carry out the purposes of the Association.

(j) Select individual Members to serve on the Committee, to serve as more particularly set forth in the Declaration.

(k) Exercise the powers granted to the Board of Directors pursuant to the terms of the HOA Act.

4.03 Duties of the Board. Subject to the Articles and the Declaration, the Board of Directors shall have the duty to:

(a) Keep a complete record of all its acts and the Association's affairs and present a statement therefore to the Members at the annual meeting of the Members, or at any special meeting when such meeting is called consistent with the requirements of Section 3.06.

(b) Supervise all officers, agents, and employees of the Association and see that their duties are properly performed.

(c) Fix the amount of the annual Assessment at least thirty (30) days in advance of each fiscal year.

(d) Send written notice to every Member at least thirty (30) days in advance of each change in the amount of the annual Assessment which notice shall also include the date, time, and place of a meeting of the Members to be held for the purpose of reviewing the budget and annual Assessment.

(e) Call and conduct a special meeting of Members within thirty (30) days after announcing a change in the amount of the annual Assessment for the purpose of reviewing with the Members the budget and the reasons for the change in the annual Assessment and permitting the Members to express their views on the budget and assessment.

(f) Procure and maintain liability, fire, and other hazard insurance on property owned by the Association.

(g) Take whatever other actions are necessary or appropriate to achieve the purposes for which the Association has been formed; provided, however, that the Board of Directors shall not have the power to institute, defend, intervene in, settle, or compromise proceedings in the name of any Member.

4.04. Number. The Board of Directors shall be composed of between three (3) and five (5) Members; provided, however, the number of directors shall at all times be an odd number. The initial Board shall have three (3) Directors. All of the Directors shall be Members or representatives of Members who are not individuals.

4.05 Term of Office. The initial Directors shall be selected by Declarant and shall serve until the Turnover Date. At the first meeting of the Members, which shall be held within thirty (30) days of the Turnover Date, the Members shall elect at least three (3) Directors for three (3) staggered terms ending at the next three (3) successive annual meetings. The person who receives the most votes at the first meeting shall serve for three (3) years, the person with the next highest vote count shall serve for two (2) years, and the person with the third highest vote count shall serve for one (1) year. At each annual meeting thereafter, the Members shall elect one Director who shall sit for a term of three (3) years and who shall be re-elected or newly elected from the Members nominated in accordance with Section 5.01 below for such Director's seat.

4.06 Removal and Resignation. Any Director may be removed from the Board, with or without cause, by the Members of the Association, at any annual or special meeting of the Members if in the notice of such meeting the intention to consider such removal is specifically stated. Such removal shall be by the affirmative vote of Members possessing not less than two-thirds (2/3) of the voting power of the Members present and entitled to vote.

4.07 Resignation. Any Director may voluntarily resign at any time in writing effective as of the date specified in the resignation. Unless otherwise specified, the acceptance of a resignation shall not be necessary to make it effective.

4.08 Vacancies. Prior to the Turnover Date, vacancies among the initial Board of Directors or their successors shall be filled by the appointees of Declarant. After the Turnover Date, a vacancy in the Board of Directors may be filled by a majority vote of the remaining Directors, even if they are less than a quorum. A Director so elected shall be deemed to be elected for a term equal to the unexpired portion of the term of the vacating Director.

4.09 Compensation. No Director shall receive compensation from the Association for any service he or she may render to the Association, provided that a Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

## **ARTICLE V**

### **NOMINATION AND ELECTION DIRECTORS**

5.01 Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at any annual meeting after the Turnover Date. The Nominating Committee shall consist of three (3) Members of the Association or representatives of Members. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting at which Directors are elected. Such appointment shall be announced by the Board of Directors.

The nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled on the Board. Such nominations may be made only from among Members or representatives of Members entitled to vote.

5.02 Election. Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast as many votes as they are entitled to cast under the provisions of the Articles and these By-Laws for each vacancy. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

**ARTICLE VI**  
**MEETING OF DIRECTORS**

6.01 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and at such places as the Board of Directors may decide. After the Turnover Date, the Board of Directors shall hold at least four (4) such meetings per fiscal year.

6.02 Special Meeting. Special meetings of the Board of Directors shall be held when called by the president of the Association or by any two (2) Directors, after not less than three (3) days' notice to each Director.

6.03 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act done or decision made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

6.04 Organization. At each meeting of the Board of Directors, the president, or, in his or her absence, the vice-president, or in the absence of both, a chairperson chosen by a majority of the Directors present shall act as chairperson. The secretary, or, if the secretary is not present, any person whom the chairperson of the meeting shall appoint, shall act as secretary of the meeting.

6.05 Action Writing in Lieu of Meeting. Any action which by virtue of any provisions of the laws of Indiana, the Declaration, the Articles, or these By-Laws may be taken at a meeting of the Directors may be taken without a meeting if authorized by a writing signed by all the Directors.

6.06 Meetings Through Communications Equipment. Meetings of the Board of Directors may be held in person or by video and audio conference or by audio conference only, or any combination of the same, as the Board of Directors deems necessary and proper so long as all parties in attendance at such meeting are able to hear and be heard by all others in attendance. Persons participating through communications equipment shall be considered for purposes as present at any meeting held pursuant to this Section 6.06.

**ARTICLE VII**  
**OFFICERS AND THEIR DUTIES**

7.01 Enumeration of Officers. The officers of this Association shall be a president and a vice-president, a secretary, a treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

7.02 Election of Officers. Each officer shall be elected annually by the Board of Directors. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

7.03 Term. Each officer of the Association shall hold office until his or her successor is elected, unless any such officer resigns, or is removed or is otherwise disqualified to serve.

7.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require. Each officer specifically appointed shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine. The Board of Directors may delegate to any officer the power to appoint any subordinate officers, agents, or committees. In the absence of any officer, or for any other reason the Board of Directors may deem sufficient, the Board of Directors may delegate, for such time as they determine, the power and duties of such officer to any other officer, or to any Director.

7.05 Resignation and Removal. Any officer may be removed from office with or without cause by majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time so specified. Unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

7.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the Director he or she replaces.

7.07 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any other offices except in the case of special offices created under Section 7.04 of this Article.

7.08 Duties. The duties of the Directors shall be as follows:

(a) President. The President shall preside at all meetings of the Board of Directors and of the Members; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds, contracts, and other written instruments to which the Association is a party; sign all checks and co-sign promissory notes of the Association upon authorization of the Board of Directors.

(b) Vice President. The Vice President shall act in the place and stead of the president in the event of his or her absence, inability, or refusal to act, and exercise and discharge such other duties as may be required of him or her by the Board of Directors or the president.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and the Members; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board or the president.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board of Directors, keep proper books of account, and co-sign all promissory notes of the Association

upon authorization of the Board of Directors. After the Turnover Date, the Treasurer also shall have the Association's books reviewed by an accountant at the completion of each fiscal year, prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each statement to the Members.

## **ARTICLE VIII** **BOOKS AND RECORDS**

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Articles and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

## **ARTICLE IX** **DURATION**

The Association shall remain in existence so long as: (a) the Association owns any property or facilities held for the common benefit of all the Members; (b) the Association has the right and power to enforce any restriction applicable to any Lot; or (c) the Association has the right and power to arbitrate disputes in connection with any restriction applicable to any Lot.

## **ARTICLE X** **DISSOLUTION**

In the event of dissolution, the Directors and Members shall provide for the distribution of the corporate assets in a manner which does not deprive the Association of tax-exempt status.

## **ARTICLE XI** **AMENDMENT AND REGULATIONS**

11.01 Notice of Amendments. DRP and any holder or insurer of a first mortgage upon any Lot, upon written request by such holder or insurer of a first mortgage upon any Lot 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 these By-Laws; and
- (b) Any proposed termination of the Association.

11.02 Amendments Regarding Voting. The unanimous consent of all Members present, either in person or by proxy, who are entitled to vote at a duly called and noticed meeting of the Association, shall be required for any amendment of the Articles or amendment of these By-Laws which affect a change in (a) the allocation of voting powers and control contained in Article III above; or (b) the fundamental purposes for which the Association is organized.

11.03 Other Amendments. Except as provided in Section 11.02 above, the consent of sixty-seven percent (67%) of the Members present, either in person or by proxy, who are entitled



to vote at a duly called and noticed meeting of the Association shall be required to amend these By-Laws.

11.04 Declarant's Consent. Notwithstanding anything in this Article XI to the contrary, Declarant's and DRP's consent to an amendment is required if Declarant or DRP still owns one (1) Lot in the Development and not more than seven (7) years has passed since the Recordation Date.

## **ARTICLE XII** **INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHERS**

12.01 Indemnification; Actions by Others. The Association may indemnify or agree to indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit, or proceedings, whether civil, criminal, administrative, or investigative, other than action by or in the right of the Association, by reason of the fact that he or she is or was a Director or officer of the Association, is or was a Member serving on the Committee or is or was serving at the request of the Association as a trustee, director, officer, employee or agent of another corporation, domestic or foreign, nonprofit or profit, partnership, joint venture, trust, or other enterprise, against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of no lo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to, believe that his or her conduct was unlawful.

12.02 Indemnification; Actions by or in the Right of the Association. The Association may indemnify or agree to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a Director or officer of the Association, or is or was serving at the request of the Association as a trustee, director, officer, employee, or agent of another corporation, domestic or foreign, nonprofit or for, profit, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such

expenses as the court shall deem proper. Indemnification or contribution shall be allowed only pursuant to Indiana Code § 23-17-1-1, et seq.

12.03 Successful Defense. To the extent that a person specified in Sections 12.01 or 12.02, above, has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Sections 12.01 or 12.02, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection therewith.

12.04 Specific Case Determination. Unless ordered by a court and subject to Section 12.03 above, any indemnifications under Sections 12.01 and 12.02 shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the person specified in Sections 12.01 and 12.02 is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 12.01 and 12.02, respectively. Such determination shall be made (i) by a majority vote of a quorum consisting of Directors of the Association who were not and are not parties to or threatened by the action, suit, or proceeding in question; or (ii) if such a quorum is not attainable, or if a majority of a quorum of disinterested Directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney, who has been retained by or who has performed services for the Association or any person to be indemnified within the past five (5) years; or (iii) by the Members; or (iv) by the court in which such action, suit, or proceeding referred to in Sections 12.01 or 12.02 was brought. If an action or suit by or in the right of the Association is involved, any determination made by the disinterested Directors under this Section 12.04 or by independent legal counsel under this Section 12.04 shall be communicated promptly to the person, if any, who threatened or brought the action or suit under Section 12.02, and within ten (10) days after receipt of such notification, such person shall have the right to petition the court in which the action or suit was brought to review the reasonableness of such determination.

12.05 Advance payment. The Association may agree to advance expenses, including reasonable attorneys' fees, incurred in defending any action, suit, or proceeding referred to in Sections 12.01 and 12.02 prior to the final disposition of such action, suit, or proceeding as more particularly set forth in Indiana Code § 23-17-16-10. The decision to advance such expenses by the Association shall be made using the same procedures set forth in Section 12.04, but monies cannot be so advanced unless the person on whose behalf the expenses are to be so advanced first enters into a written undertaking, executed personally, to repay any and all advances if it is ultimately determined that such person did not meet the standard of conduct necessary to be entitled to indemnification by the Association.

12.06 Non-Exclusive. The indemnification provided in this Article shall not be deemed exclusive of any rights to which those seeking indemnification may be entitled under the Articles or the By-Laws or any agreement, vote of Members or disinterested Directors, or otherwise, both as to action in their official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to serve in capacity hereinabove specified, and shall inure to the benefit of the heirs, executors, and administrators of such a person.

12.07 Insurance. The Association may purchase and maintain insurance on behalf of any director, officer, or person specified in Sections 12.01 and 12.02 against any liability asserted against him or her and incurred by him or her in any such capacity, or rising out of his or her status as such, whether or not the Association should have the power to indemnify him or her against such liability under this Article XII.

### **ARTICLE XIII** **MISCELLANEOUS**

13.01 Conflicts with the By-Laws. In the case of any conflict between the Articles and the By-Laws, the Articles shall control. In the case of any conflict between the By-Laws and the Declaration, the Declaration shall control. In the case of any conflict between the By-Laws and the HOA Act, the HOA Act shall control.

13.02 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of filing the Articles with the Secretary of State of Indiana.

13.03 Service of Notice on the Board of Directors. Notices required to be given to the Board of Directors or to the Association may be delivered to any Member of the Board of Directors or officer of the Association either personally or by mail, addressed to such Member or officer at his or her home.

13.04 Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations, or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

13.05 Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-Laws shall be deemed to be binding on all Members, their successors, heirs, and assigns.

13.06 Severability. The invalidity of any covenant, restriction, condition, limitation, or any other provision of these By-Laws or of any part of the same shall not impair or affect in any manner the validity, enforceability, or effect of the rest of these By-Laws.

13.07 Gender and Grammar. The singular whenever used shall be construed to mean the plural when applicable. The necessary grammatical changes required to make the provisions of these By-Laws apply to corporations, partnerships or individuals shall be assumed. The necessary grammatical changes required to make the provisions of these By-Laws apply to all persons shall be assumed.

13.08 Claims; HOA Act Requirements. The Association acknowledges that the HOA Act requires that certain claims or other disputes are subject to the requirements of Subsections 5-1 through 5-7 and Subsections 5-9 through 5-17 of the HOA Act related to the following:

- (1) A claim arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.

- (2) A claim relating to the rights or duties of the Association or the Board of Directors under the Governing Documents.
- (3) A claim relating to the maintenance of the Development.
- (4) Any other claim, grievance, or dispute among the parties involving the Development or the Association.

Notwithstanding the foregoing, the Association further acknowledges that Subsections 5-1 through 5-7 and Subsections 5-9 through 5-17 of the HOA Act do not apply to the following:

- (1) A claim by the Association for assessments or dues and any action by the Association to collect assessments or dues.
- (2) An action by a party to obtain a temporary restraining order or equivalent emergency equitable relief:
  - (A) to maintain the status quo and preserve the party's ability to enforce the Governing Documents; or
  - (B) when an emergency condition exists that jeopardizes the health or safety of any of the residents within the Development.
- (3) A suit to which an applicable statute of limitations would expire within the notice period, which shall not apply if a party against which the claim is made agrees to toll the statute of limitations as to the claim for the period reasonably necessary to comply with the procedures set forth in the HOA Act.
- (4) A dispute that is subject to mediation, arbitration, or other alternate dispute resolution under applicable law, contract, warranty agreement, or other instrument.
- (5) A claim that is substantively identical to a claim:
  - (A) that was previously addressed by the parties; or
  - (B) that was resolved by a judicial determination in favor of one (1) of the parties.

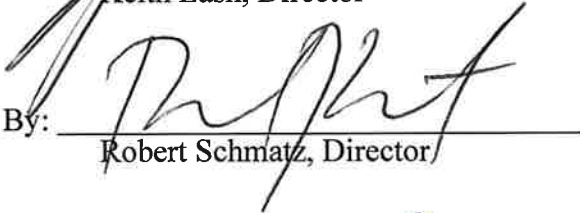
The Board of Directors acknowledges that Subsections 5-1 through 5-7 and 5-9 through 5-17 of the HOA Act set forth certain requirements and mandatory grievance procedures for all claims set forth above that must be complied with before an action may be filed in court or an administrative proceeding may be commenced under applicable law, and Subsections 5-1 through 5-7 and 5-9 through 5-17 of the HOA Act are hereby incorporated by reference as if fully rewritten herein. In addition, all Owners, Members, the Association, and the Board of Directors shall comply with the requirements of Subsections 5-1 through 5-7 and 5-9 through 5-17 of the HOA Act.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the initial Board of Directors of Loudoun Place Homeowners' Association, Inc. have caused this instrument to be duly executed this 19<sup>th</sup> day of December, 2022.

**LOUDOUN PLACE HOMEOWNERS' ASSOCIATION, INC.**

By:   
Keith Lash, Director

By:   
Robert Schmatz, Director

By:   
Nicole Scott, Director

## **EXHIBIT A**

### **Legal Description of Property**

A part of the East Half of the Northwest Quarter, and part of the West Half of the Northeast Quarter of Section 15, Township 16 North, Range 5 East of the Second Principal Meridian, Marion County, Indiana, being more particularly described as follows:

Commencing at a Harrison monument at the northwest corner of said Section 15; thence North 89 degrees 08 minutes 53 seconds East (basis of bearing = Indiana State Plane Coordinate System - East Zone) along the North line thereof a distance of 1326.99 feet to the POINT OF BEGINNING, said point being the northwest corner of the East half of said Northwest Quarter; thence North 89 degrees 09 minutes 08 seconds East along the North line of said Half Quarter a distance of 1326.83 feet to the northeast corner of said Northwest quarter; thence North 88 degrees 44 minutes 53 seconds East along the North line of said Northeast Quarter a distance of 1604.38 feet to a point 1046.93 feet west of the northeast corner of said Northeast Quarter; thence South 00 degrees 54 minutes 15 seconds East parallel with the East line of said Quarter a distance of 1248.25 feet; thence South 88 degrees 44 minutes 53 seconds West parallel with the North line of said Northeast Quarter a distance of 1354.37 feet to the east line of a tract of land described in a deed recorded as Instrument No. 890037801 in the Office of the Recorder of Marion County, Indiana; thence South 01 degree 03 minutes 50 seconds East along said east line a distance of 467.82 feet to the south line of a 0.020 acre parcel described in an Agreed Judgment, Cause No. S683-0142 dated November 7, 1983; thence North 89 degrees 36 minutes 54 seconds West along said south line and the north line of a 0.137 acre parcel described in an Agreed Judgment, Cause No. S683-0142 dated November 7, 1983 a distance of 1573.54 feet to the West line of the East Half of the aforesaid Northwest Quarter; thence North 01 degree 03 minutes 50 seconds West along said West line a distance of 1701.57 feet to the Point of Beginning.

Containing 100.578 acres more or less.