

**Cross Reference: Instrument number 201500005327 recorded with the Office of the Recorder of Boone County, Indiana.**

**MASTER DECLARATION AND GENERAL PROTECTIVE COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
PROMONTORY**

THIS MASTER DECLARATION AND GENERAL PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR PROMONTORY (the "Master Declaration") is made by PROMONTORY OF ZIONSVILLE, LLC f/k/a Windy Hills Farm, LLC, an Indiana limited liability company.

**WITNESSETH:**

**WHEREAS**, PROMONTORY OF ZIONSVILLE, LLC f/k/a Windy Hills Farm, LLC, an Indiana limited liability company (the "Master Declarant") is the owner of certain real estate described in what is attached hereto and incorporated herein by reference as Exhibit "A" (the "Real Estate");

**WHEREAS**, Master Declarant is the developer of a residential community development, to be known as the Promontory, consisting of a residential development, a pool, tennis courts, meeting house, lake amenities and equestrian area (collectively "Promontory" or "Development");

**WHEREAS**, Master Declarant may in the future elect to subject to this Master Declaration the Additional Real Estate, and to amend this Master Declaration with respect to such Additional Real Estate and, as well, to impose additional protective covenants, conditions and restrictions on such Additional Real Estate if any;

**WHEREAS**, the term "Property" shall mean the Real Estate together with such portions of the Additional Real Estate as have from time to time and at any time been subjected to this Master Declaration per the terms of this Master Declaration;

**WHEREAS**, the Master Declarant desires to impose certain protective covenants, conditions and restrictions on the Property to have, hold, and possess all of the rights, powers, and authority of the Master Declarant as set forth in this Master Declaration;

**WHEREAS**, this Master Declaration is intended to provide for the preservation and enhancement of property values, amenities and opportunities in the Property and contributing to the general health, safety and welfare of residents and for the maintenance of the Property and Improvements thereon and, to this end, the Property is declared to be subject to the protective covenants, conditions, restrictions and other provisions hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner thereof; and

**WHEREAS**, Master Declarant, may from time to time, convey, lease or grant a license, easement or other use right to lands within or without the Property, by deed, easement or other means to the Master Association (defined below), which must accept the same, or to third parties for the purpose of maintenance, landscaping, drainage, recreation, or other purposes for the use and benefit of Members and their families, tenants and guests.

**NOW THEREFORE**, the Master Declarant hereby declares that the Property is and shall be owned, used, and conveyed subject to the covenants, restrictions, easements, and conditions, and all other provisions of this Master Declaration as it may be amended from time to time, all as hereinafter set forth, which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The Master Declarant reserves the right, in its sole discretion, to add or withdraw property from the submission to the Master Declaration, except that the Master Declarant shall not be permitted to withdraw any portion of the Property from the Master Declaration if such property has been conveyed to an Owner other than the Master Declarant.

**ARTICLE I**  
**DEFINITIONS**

Capitalized terms shall be defined as set forth in what is attached hereto and incorporated herein by reference as **Exhibit "B"** or elsewhere in this Master Declaration.

**ARTICLE II**  
**MASTER DECLARANT'S RIGHTS AND POWERS**

**SECTION 2.01 GENERAL PROVISIONS**

Any or all of the rights and obligations of the Master Declarant set forth in this Master Declaration or the Master Association may be transferred, in whole or in part, to other Persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Master Declaration or the Master Association. No such transfer shall be effective unless it is in a written instrument signed by the Master Declarant and duly recorded with the Recorder. No such transfer shall effect the termination of the Master Declarant Membership unless, in the written document evidencing such transfer, the Master Declarant expressly states specifically the intention to terminate the Master Declarant Membership.

The Master Declarant and Designated Builders may maintain and carry on upon portions of the Master Common Areas such facilities and activities as, in the sole opinion of the Master

Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Residences, including, but not limited to, business offices, signs, model units, and sales offices. The Master Declarant, as well as Designated Builders and prospective purchasers, shall have easements for access to and use of such facilities.

The Master Declarant shall undertake the work of developing all Plots within the Property. The completion of that work, or the sale, lease, or other disposition of Residences is essential to the establishment and welfare of the Property as an ongoing residential community. In order that such work may be completed and the Property established as a fully-occupied residential community, nothing in this Master Declaration shall be understood or construed to prevent the Master Declarant, or the employees, contractors or subcontractors of Master Declarant, or of Master Declarant's transferees, from doing whatever they may determine to be reasonable, necessary or advisable for the completion of the work and the establishment of the Property as a residential community. As used in this Section 2.01, the words, "its transferees" specifically excludes purchasers of Plots improved with completed residences.

Until the occurrence of the Master Turnover Date, the following shall apply, notwithstanding any other provisions in this Master Declaration to the contrary:

(i) The Master Declarant reserves the right to carry on construction, development and sales activities, place equipment, machinery, supplies and signs, construct and maintain models or other structures, and park vehicles of prospective or actual purchasers, lessees or employees and personnel of Master Declarant, on any part of the Property owned by Master Declarant or the Master Association.

(ii) Neither the Owners nor the Master Association, (nor their use of the Plots and Residences), shall unreasonably interfere with the completion of the contemplated Improvements or sales of Plots or any other part of the Property. The Master Declarant may make any use of the unsold Plots as may reasonably be expected to facilitate completion and sales, including, but not limited to, maintenance of construction and sales offices, display of signs, farm leasing the vacant property, leasing Residences, and showing the Residences for sale to prospective purchasers.

(iii) All or any portion of the rights, privileges, powers and duties of the Master Declarant set forth in the Master Founding Documents may be assigned in whole or in part by the Master Declarant to any Person or entity, without the consent of any other Owner or any holder of a mortgage secured by any Plot. Upon the acceptance of such assignment by the assignee, the assignor shall be relieved of all liabilities and responsibilities to the extent of the assignment. In the event of the foreclosure of any mortgage owed by the Master Declarant, or deed in lieu of such foreclosure, the Person first acquiring title to such interest by reason of such foreclosure, or deed in lieu of foreclosure, shall succeed to all rights, powers, privileges and immunities of the Master Declarant in and to such interest.

No Person shall record with the Recorder any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Master Declarant's review and prior written consent. Any attempted recordation with the Recorder without such consent shall result in such instrument being void and of no force

and effect unless subsequently approved by a written consent signed by the Master Declarant and recorded with the Recorder.

## **SECTION 2.02 ADDITIONS TO AND WITHDRAWAL FROM THE PROPERTY**

(a) Master Declarant shall have the right, and the power but neither the duty nor the obligation, in its sole discretion to add part or all of the Additional Real Estate to the Property, thereby increasing the size and scope of the Development, including Plots and/or amenities, without notice to or the consent of the Regular Members or the Limited Member (but with the consent of the owner of the Additional Real Estate, if such owner is different than the Master Declarant), so long as Master Declarant is a Master Declarant Member of the Master Association, and thereafter only with the consent of a Majority of the Regular Members. Any portion of the Additional Real Estate shall be added to the Property, and therefore and thereby becomes a part of the Property and subject in all respects to this Master Declaration and all rights, obligations, and privileges herein, when Master Declarant records with the Recorder, an instrument so declaring the same to be part of the Property, which Supplemental Declaration may be as part of a subdivision plat for any portion of the Additional Real Estate, or an amendment or supplement to this Master Declaration. Such Supplemental Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, percentage voting rights, reduced assessments and/or additional assessments as determined by the Master Declarant in its sole discretion or as may be necessary to reflect the different character, if any, of the Additional Real Estate and/or the type and character of the Residences to be constructed thereon.

Upon recording with the Recorder of any such instrument on or before the expiration of the Master Turnover Date, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Plots within such real estate shall be deemed for all purposes to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Plots within the Property. No single exercise of Master Declarant's right and option to add and expand the Property as to any part or parts of the Additional Real Estate shall preclude Master Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Master Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the Master Turnover Date. Such expansion of the Property is entirely at the discretion of the Master Declarant and nothing contained in this Master Declaration or otherwise shall require Master Declarant to expand the Property beyond the Real Estate, or to any portions of the Additional Real Estate, and any part of the Additional Real Estate not annexed or subjected by the Master Declarant to this Master Declaration per the terms of this Section 2.02 shall remain free and clear and unaffected by this Master Declaration.

(b) In addition to other amendment rights granted in this Master Declaration, at any time Additional Real Estate is made subject to this Master Declaration, Master Declarant may also record with the Recorder an instrument which (i) modifies any of the provisions of this Master Declaration insofar as they may apply to such Additional Real Estate; or (ii) creates new provisions applicable only to such Additional Real Estate; or (iii) omits the applicability of any of the provisions of this Master Declaration as to any such Additional Real Estate; or (iv) does any, all or none of the above.

(c) So long as it has a right to annex or subject to this Master Declaration the Additional Real Estate pursuant to Section 2.02, Master Declarant reserves the unilateral right in its sole discretion to amend this Master Declaration for the purpose of removing any portion of the Property, which has not yet been improved with Residences, from the coverage of this Master Declaration. Such amendment shall not require the consent of or notice to any Person other than the Owner(s) of the property to be withdrawn, if not the Master Declarant.

(d) The execution and recordation with the Recorder of this Master Declaration shall not be construed to require Master Declarant to subject any lands to the covenants, conditions, restrictions or other provisions of this Master Declaration or any other recorded instrument with the Recorder. No amendment to any of the Master Founding Documents shall be effective to diminish or alter Master Declarant's rights, powers and privileges.

### **SECTION 2.03 MASTER DECLARANT'S RIGHT TO CONVEY, LEASE OR GRANT A LICENSE**

(a) Master Declarant shall have the right and the power, but neither the duty nor the obligation, in its sole discretion, to convey, lease or grant a license, easement or other use right to real property located within or without the Property, to the Master Association, Equestrian Club or other parties for such purposes as may be expressed in the instrument of conveyance, lease or grant of license or use.

(b) Any such conveyance, lease or grant of license or use right to the Master Association may be exclusive or non-exclusive so that Persons or entities other than the Master Association may or may not have a right, power, duty, or privilege with respect to all or any part of any real property so conveyed, leased, licensed, or the use of which has been granted. Master Association must accept from Master Declarant any such conveyance, lease, grant of license or grant of use right subject to the terms and conditions upon which it is conveyed by the Master Declarant. Master Association shall not accept, from any Person other than Master Declarant, a conveyance, lease, grant of license or grant of use right except upon the prior written approval of the Master Declarant.

(c) Prior to any conveyance, lease or grant of license or other use right by Master Declarant to Master Association of any property, Master Declarant shall have the right to charge reasonable fees for the use of such property. Thereafter, the right to use such property may be subject to reasonable rents, fees and other charges in favor of the Master Association, except that the Master Association shall never impose or charge a rent fee or other charge on the Equestrian Club other than the Annual Assessment applicable to the Equestrian Club as set forth in Article VIII below. In any event, rents, fees and other charges required to be paid to Master Declarant under leases, grants, licenses or contracts creating use rights shall continue to be paid.

(d) Upon the initial sale of ninety percent (90%) of Plots to an Owner other than Master Declarant or a Designated Builder, Master Declarant shall have the right, in its sole discretion, to elect to sell the Meeting House, and Master Common Area(s) upon which the Meeting House is situated, to the Master Association at a mutually agreeable price.

## **SECTION 2.04 OTHER ENTITIES OR ASSOCIATIONS**

Master Declarant shall have the right and the power, but neither the duty nor the obligation, to record with the Recorder an instrument subjecting the Additional Real Estate as provided in Sections 2.02 and 2.03 above to protective covenants, conditions, restrictions or provisions other than those provided for in this Master Declaration. Such provisions may or may not create property owners associations or entities other than the Master Association. Such other entities may or may not have the same, additional, or different rights, powers, duties or privileges with respect to such Additional Real Estate; provided, however, that any such instrument recorded with the Recorder may subject such Additional Real Estate to the jurisdiction of the Master Association, and may make the Owners of such Additional Real Estate Regular Members of the Master Association under such terms and conditions as may be provided therein, which may be the same as or substantially different from the terms and conditions of membership as are provided herein.

## **SECTION 2.05 ENFORCEMENT**

(a) The Master Declarant, each Owner, the owner(s) of the Equestrian Club, and the Master Association shall have the right and the power to enforce the covenants, conditions, restrictions, and other provisions of this Master Declaration. Upon the assumption by the Master Association of all Master Declarant's rights hereunder pursuant to the Master Founding Documents, the Master Association shall be responsible for all of the duties and rights which Master Declarant previously had hereunder, and Master Declarant shall be released from liability and association therewith.

(b) The Master Declarant, each Owner, the owner(s) of the Equestrian Club, and the Master Association shall have the right and the power to enforce the covenants, conditions, restrictions and other provisions imposed by this Master Declaration by a proceeding at law or in equity against any Person violating or attempting to violate any such provisions, to restrain any violation or attempted violation of such provisions, to require specific performance of such provisions, and to recover damages for violations of such provision and to levy against the land and enforce any lien created or allowed by this Master Declaration. Failure by Master Declarant, or the Master Association, or any Owner, or the owner(s) of the Equestrian Club, or any other Person, to enforce any of such provisions shall in no event be deemed a waiver of their right to do so thereafter.

(c) The costs and reasonable attorney's fees, including those resulting from any appellate proceedings, incurred by Master Declarant or the Master Association, in any action against an Owner to enforce any provision of this Master Declaration, shall be a personal obligation of such Owner which shall be paid by such Owner and any amount thereof which remains due and unpaid shall be a continuing lien upon such Owner's Plot, collectible in the manner provided in Article VIII below.

## **SECTION 2.06 MASTER DECLARANT'S INACTION**

Neither the execution and recordation with the Recorder of this Master Declaration, nor the creation of any Master Association, nor the recordation with the Recorder of any Supplemental Declaration, shall obligate or require (a) Master Declarant to grant any right, power, duty or privilege or any nature or kind to the Master Association or to another entity, or (b) Master Declarant, the Master Association or any other entity to perform any act permitted by this Master

Declaration or by any other instrument recorded with the Recorder, or to enforce any covenant, condition, restriction or other provision hereof or thereof, or to do anything which it does not, in its sole discretion, elect to so do.

#### **SECTION 2.07 ASSIGNMENT**

Master Declarant reserves the right and the power to delegate or assign, either exclusively or non-exclusively to any Person, any or all of its rights, powers, duties or privileges created or provided for by this Master Declaration or by any other instrument recorded with the Recorder. No such delegation or assignment shall be effective unless it is in writing, signed by the Master Declarant. Master Declarant shall be under no obligation to delegate or assign any of its rights, powers, duties and privileges contained in this Master Declaration to any Person. No such delegation or assignment shall effect the termination of the Master Declarant Membership unless, in the written document evidencing such delegation or assignment, the Master Declarant and expressly states specifically the intention to terminate the Master Declarant Membership.

#### **SECTION 2.08 AMENDMENT**

This Article II may not be amended without the written consent of the Master Declarant.

### **ARTICLE III** **RIGHTS AND MASTER COMMON AREAS**

#### **SECTION 3.01 MASTER COMMON AREAS – GENERALLY**

The Master Common Areas shall include all real property, interests in the real property, easements, rights-of-way licenses, leases, use rights and servitudes that are now or in the future specifically caused to be set aside, designated, reserved, granted, dedicated assigned or deeded to the Master Association by the Master Declarant for the common use and enjoyment of Owners within the Property. Master Common Areas may be identified, described or designated as such at any time by Master Declarant, or developers of Plots, with the written consent of Master Declarant, by any written instrument including, without limitation, by amendment to this Master Declaration or as part of the plats. All Common Areas or other real estate conveyed by the Master Declarant to the Master Association shall be a Master Common Area. Until the occurrence of the Master Turnover Date, the Master Declarant may, in its sole discretion, but shall not be obligated to, (i) remove or plant trees or vegetation from, and otherwise alter the appearance and features of any Common Areas and (ii) install in any Common Area trails, lighting, signage, recreational facilities, landscaping, hardscaping and any other Development amenities.

Master Common Areas shall also include any personal property that may be provided by the Master Declarant or acquired by the Master Association for the common use and benefit of the Owners within the Property, subject to limitations that may be imposed upon the use of such personal property in accordance with the Master Declaration. The Master Declarant reserves the unilateral right, without any notice or consent, to add additional Master Common Areas and to amend or alter the development plan for the Property and the Master Common Areas. Other Master Common Areas may be acquired by the Master Association with consent of the Master Declarant prior to the Master Turnover Date, and without such consent after the Master Turnover Date.

In the event the Master Association does not repair or maintain the Master Common Areas, Master Declarant will have the right, but not the obligation, to perform such duties for the Master Association. In that event, Master Declarant will be entitled to reimbursement from the Master Association of all costs incurred by Master Declarant such reimbursement being due within 30 days after the receipt by the Master Association of an invoice from Master Declarant, itemizing the costs incurred. After expiration of the 30 day period allowed for payment, Master Declarant may collect interest on the amount due at the highest amount allowable under Indiana law.

### **SECTION 3.02 TITLE TO MASTER COMMON AREAS**

Master Declarant or others may retain ownership of each part of the Master Common Areas until such time as Master Declarant or other owner transfers or assigns ownership, title or the interest in such Master Common Areas to the Master Association. Notwithstanding such retained ownership or rights of Master Declarant, the Master Association shall be responsible for maintenance of such parts of the Master Common Areas that have been made available by or with the consent of Master Declarant for the common use, enjoyment and benefit of Owners with the Property.

### **SECTION 3.03 MEMBERS' COMMON EASEMENTS**

(a) Subject to the provisions of the Master Founding Documents, and any prior use rights granted in the Master Common Areas, every Regular Member, their successors and assigns and their families and every guest, tenant, and invitee of such Regular Member is hereby granted a right and easement of ingress and egress and enjoyment in and to Master Common Areas which shall be appurtenant to and shall pass with the title to every Plot, subject to the following provisions in this Section 3.03. The provisions of this Article III, Section 3.03 (a-i) through (a-vii) may not be modified or amended in any manner so as to limit or restrict any rights granted by these provisions.

(i) The Owners of the Equestrian Club, the members of the Equestrian Club, their family members, guests, invitees and lessees, or users of the Equestrian Facilities, or other recreational facilities which are part of such Equestrian Club, and the spectators at any equestrian tournaments (collectively the "Visitors") may be granted temporary limited rights by Master Declarant to use the Master Common Areas that are designated for equestrian use only, including, but not limited to, ingress and egress and for the furnishing of services and facilities and for such other purposes for which the same are reasonably intended in accordance with the terms of this Master Declaration. However, this license as it relates to the use of the Master Common Areas by members of the Equestrian Club or Visitors shall be only as to that portion of the Master Common Areas necessary for their use. Any disputes as to what constitutes a normal purpose or what portion of the Master Common Areas is necessary for their use shall, during the term of this Master Declaration, be determined by Master Declarant (even if the Master Declarant Membership expires prior to expiration of this Master Declaration), in its sole and absolute discretion;

(ii) The Master Declarant and/or the Master Association shall have the right, without further consent from the Limited Member or the Regular Members or their Mortgagees, to declare, grant and record with the Recorder perpetual easements granting the full free right,



power and authority to lay, operate and maintain landscaping, drainage facilities, well and septic systems, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication lines, cable television lines and such other further service facilities or other uses as Master Declarant may deem necessary, along, through, in, over and under a strip of land up to ten (10) feet in width from all side, front and rear lines of any Plot and along, through, in, over and under all Master Common Areas. Such easements may benefit Property or lands not within the Property. Further, the Master Declarant and/or the Master Association shall have the right to acquire, extend, terminate or abandon such easement;

(iii) The Master Declarant, all Persons lawfully on and entitled to occupancy rights on any portion on the Property and the Regular Members with an interest in and to the Property shall have a non-exclusive perpetual right of ingress and egress over and across lands owned by the Master Association or Master Declarant subject to the Master Association's Articles of Incorporation and Bylaws;

(iv) The Master Association shall have the right to borrow money for the purpose of acquiring and improving the Master Common Areas and, in aid thereof, to mortgage Master Common Areas; and

(v) The Master Association shall have the right to take such steps as are reasonably necessary to protect Master Common Areas against foreclosure.

(vi) In the event the Master Declarant shall cause the Lake, Ponds and Water Management Systems to be conveyed to the Master Association as Master Common Areas, no Regular Members of the Master Association and no Owners of a Plot shall have the right of access to or use of the Lake, Ponds and Water Management Systems except as expressly stated in this Master Declaration and the Lake Rules and Regulations. Access to or entry upon such areas by Regular Members of the Master Association or Owners of Plots shall only be permitted (i) for purposes of maintaining such areas under the direction and approval of the Master Board (ii) for light Lake recreation purposes, including swimming, fishing, electric and human-powered (non-engine) boating like sailing, paddle boarding and kayaking and (iii) as permitted under the Lake Rules and Regulations and this Master Declaration; provided, however, that (i) fishing from the banks of the Ponds or anywhere in the Lake may be allowed or disallowed in the discretion of the Master Directors, but no owner shall be permitted to cross or otherwise enter upon another Owner's Plot, (ii) sailing, kayaking and boating with a boat having an electric motor of no greater than 3 horsepower is permitted on the Lake, and (iii) no boat of any type longer than eighteen (18) feet in length is permitted on the Lake. Boat traffic, as well as designated travel direction while on the water by boats may be designated or limited by Master Declarant.

(vii) The Master Declarant shall have the sole right and authority to grant use rights in and access to Ponds, the Lake and Water Management Systems and Master Declarant's right to grant such rights shall terminate upon the occurrence of the Master Turnover Date; provided, however, that each Owner of a Plot bordering the Lake or a Pond shall have automatic access to the Lake or Pond which said Plot of Owner touches, subject to revocation by the Master Board for failure to comply with the Lake Rules and Regulations, and each Owner of a Plot is responsible for the annual maintenance of their adjoining shore, including existing or installed seawalls. Any damage to the Lake, Ponds, stream or creeks as a result of an Owner's maintenance, improvements

or failure to maintain, shall be the sole financial responsibility of the Owner to remedy. Use of the Lake may be revoked or suspended by Master Declarant if violating Lake Rules and Regulations. Upon termination of the Master Declarant Membership, the Master Association shall have the authority to grant use rights in or access to the Ponds, Lake and Water Management Systems; provided, however, that each Owner of a Plot bordering the Lake or a Pond shall have automatic access to the Lake or Pond which said Plot of Owner touches, subject to revocation by the Master Board for failure to comply with the Lake Rules and Regulations.

(b) Until the occurrence of the Master Turnover Date, any and all rights of an Owner and/or a Regular Member and any and all restrictions, limitations, conditions and rules and regulations to which an Owner and/or Regular Member shall be subject, pursuant to this Article III, shall not be effective without the written approval of the Master Declarant.

#### **SECTION 3.04 DELEGATION OF RIGHT**

(a) A Regular Member may delegate his right of use in and to the Master Common Areas to such Owner's Resident Family, to residential tenants who reside in a Residence on the Regular Member's Plot and to the Regular Member's guests, but only with approval by Master Declarant, to the extent and subject to conditions, limitations and restrictions as may be provided for in the Master Association's Bylaws and in accordance with the Master Rules and Regulations. A fee may be imposed by Master Declarant to allow use by a tenant of the Lake.

(b) Each Regular Member shall be responsible for the actions of any Person to whom the Regular Member has delegated his right to use the Master Common Areas. Any unpaid charge against such Person shall be charged against such Regular Member personally and be assessed against such Regular Member's Plot. Any infraction of the Master Rules and Regulations by such Person shall be deemed to be an infraction by such Regular Member.

#### **SECTION 3.05 CONVEYANCE AND USE**

(a) Any real property conveyed, leased, or the use of which has been granted by Master Declarant or any third party to the Master Association as Master Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of the Master Declarant Member, Regular Members, the Limited Member or to those parties to which any use right has been granted, subject to the terms of this Master Declaration.

(b) Master Declarant may convey property to the Master Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and Master Association must accept such property in an "as is" condition and no other representations, warranties or other agreements shall be given by the Master Declarant to the Master Association or its Regular Members with respect to such unimproved or improved property. Until the after the occurrence of the Master Turnover Date, the Master Association shall not accept the conveyance of real property from any third party, in either an improved or unimproved condition, without the prior written consent of Master Declarant.

#### **SECTION 3.06 MASTER ASSOCIATION'S RIGHTS AND POWERS**

(a) Subject to the provisions of this Master Declaration or any other applicable instrument recorded with the Recorder and the Master Association's Articles and Bylaws, the Master Association shall have the right, and the power to develop, promulgate and enforce Master Rules and Regulations for the use and enjoyment of Master Common Areas.

(b) No Master Common Areas shall be used in violation of any Master Rule and Regulations or other requirement of the Master Association established pursuant to the provisions of this Master Declaration or the Master Association's Bylaws.

### **SECTION 3.07 MASTER DECLARANT'S RIGHTS AND POWERS**

(a) Master Declarant shall have the right, and the power, to regulate and control the external design and appearance of Master Common Areas: (i) to promote a quality environment which will preserve the value of an Owner's Plot, and (ii) to foster the attractiveness and functional utility of the Property, including a harmonious relationship among structures, vegetation and topography. Master Declarant, in its sole discretion, shall determine what constitutes a quality environment and the attractiveness and functional utility of the Property.

(b) The Master Declarant reserves the right, until the occurrence of the Master Turnover Date, to increase the size of a Plot or Plots, platted or unplatted.

(c) The Master Declarant shall have the unilateral right, in its sole discretion, to replat and change the size and dimensions of unsold portions of the Property without notice to or the consent or the joinder of any Owner.

(d) The Master Declarant shall have the right to receive back deposits or payments made to utility companies or governmental authorities, which are refunded during the course of development, even if such refunds occur after the sale of the last Plot in the Property to an Owner other than the Master Declarant.

(e) The Master Common Areas shall be subject to the provisions of Article V. The uses of the Master Common Areas shall be in conformity with the uses permitted in Article V. The provisions of Article V shall not be applicable to any part of the Property owned by Master Declarant prior to its conveyance to the Master Association and shall, under no circumstances, be construed to limit or restrict the Master Declarant's sales or development activity.

(f) No nuisance or obnoxious or offensive activity shall be conducted or permitted on any Master Common Areas. The Master Declarant shall have the right and the power in the exercise of its reasonable discretion to determine what activities or uses constitute nuisances or obnoxious or offensive activity. Nothing shall be done within the Master Common Areas that may be or might become a nuisance to Owners and/or the Master Declarant Member, the Limited Member or the Regular Members.

### **SECTION 3.08 RESPONSIBILITY**

(a) The Owner of each Residence shall be liable for the expenses of any maintenance, repair or replacement of Master Common Areas, other Residences or personal property made necessary by his act, negligence, carelessness or by that of any members of his family or his guests,

employees, agents, or lessees. The Owner of a Plot is responsible for any damage to the Lake, Ponds or other Plots, including failure to maintain the shoreline, seawall, quality of retention wall, deck, stone or the like which results in damage to the shoreline, water quality, water flow, wildlife or the like.

(b) Each Plot Owner shall be held responsible if they disrupt or damage the regular operation of another Plot Owner's well or other utility, and the Master Association may recover costs of repair on behalf of damaged Plot Owner.

(c) The Master Association shall provide annual overall maintenance (or as needed if not annual) on horse fencing or other fencing installed by Master Declarant, as needed, including replacement of broken boards or repainting from time to time; provided, however, horse fencing located on or immediately adjacent to a Plot Owner's property shall be observed and maintained by Plot Owner, as needed.

(d) Each Owner shall be responsible for their use of and actions while on the Lake, including but not limited to negative impact on water quality, trash, noise levels on the water, creation of wake or other actions which may disturb the enjoyment of other Plot Owners, as further delineated within the Lake Rules and Regulations.

#### **ARTICLE IV** **LAKE AND WATER RIGHTS**

##### **SECTION 4.01 RIGHTS TO STORM WATER RUNOFF**

The Master Declarant hereby reserves for itself and its designees all rights to ground water, Lake water, surface water, and storm water runoff within the Property and each Owner agrees, by acceptance of a deed to a Plot, that the Master Declarant shall retain all such rights. No Person other than the Master Declarant and its designees shall claim, capture or collect rainwater, groundwater, surface water or storm water runoff within the Property without prior written permission of the Master Declarant or its designee. No Owner or occupant of a Residence shall have any right to be compensated for water claimed or reclaimed from Residences or Plots. The Master Board shall also have the right to establish restrictions on or prohibit outside use of potable water within the Property.

##### **SECTION 4.02 WATER MANAGEMENT**

(a) The Master Association is responsible for the operation, maintenance and management of the surface water and storm water management systems serving locations within the Property in accordance with applicable codes, ordinances and regulations as such codes, ordinances or regulations may be now or hereafter amended. Any land within the Property used for surface water or storm water management may in the Master Declarant's discretion, be placed under the control of the Master Association, either by direct conveyance of such land as Master Common Areas, or the granting of an easement or license over such land to the Master Association. The operation and maintenance for stormwater management and stormwater management systems shall comply with

the latest edition of the Operations and Maintenance Manual for the subdivision and on file with the Town.

(b) The Master Association may adopt Master Rules and Regulations governing the maintenance, conservation and preservation of the use of lands within the Property designated for water management; provided, however, that said Master Rules and Regulations shall not contravene the provision of the ordinances, resolutions and permits referenced in Section 4.02(a) above, the requirements of the Stormwater Operations and Maintenance Manual for the subdivision, or the Master Declarant's rights as established herein, and further provided that such Master Rules and Regulations shall not interfere with the use by the Equestrian Club or Social Club of such areas unless governmental authorities have caused such rules and regulations be imposed.

(c) No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of a Water Management System or lake reserved for, or intended by Master Declarant to be reserved for, drainage ways, sluiceways or for the accumulation of runoff waters, as reflected in any plat or instrument of record with the Recorder, without the specific written permission of the Master Association.

(d) The right of ingress and egress, and easements therefore, are reserved over the Water Management System and Ponds and the Lake within the Property in favor of the Master Declarant, the Master Association, Social Club and its members and employees and any appropriate governmental agency, entity, quasi-governmental agency, public utility or private utility that may reasonably require such ingress and egress. An Owner shall not prevent ingress and egress by Master Declarant, the Master Association, Social Club, private utility, public utility, or any appropriate governmental or quasi-governmental agency to such Water Management System and lake for maintenance or landscape purposes. An Owner's right to access is further limited by Article III, Section 3.03.

(e) No Plot shall be increased in size by filling in any Water Management System, Ponds or Lake on which it abuts, nor shall an Owner fill, dike, rip-rap, block, divert or change the established Water Management System, Ponds and Lake that have been or may be placed under Master Association control by conveyance, dedication, easement or license without the prior written consent of the Master Association. Each Owner shall take precautionary measures to prevent sediment from such Owner's Plot from accumulating in any Ponds, Lake or Water Management System located within the Property and, in the event of such accumulation, shall be responsible, at such Owner's cost, for promptly and correctly removing such sediment in a manner (i) which does not damage the Ponds, Lake and/or Water Management System and (ii) which restores the Ponds, Lake and/or Water Management System to its prior condition.

(f) The Master Association shall have the power and obligation to levy and enforce sufficient assessments, pursuant to Article VIII, to comply with this Article IV.

(g) The Master Association shall not undertake any activity in connection with or modification of the Ponds, Lake or Water Management Systems located within the Property that may affect the integrity or operation of the Equestrian Club without the express written consent of

the Equestrian Club. This provision shall not limit Master Association's ability or obligation to maintain the Water Management Systems located within the Property to the minimum extent required by governmental regulations. The Master Association shall coordinate maintenance activities with the Equestrian Club and may contract with the Equestrian Club for the operation and maintenance of the Ponds, Lake and Water Management Systems located within the Property.

(h) The Master Association shall take precautionary measures to prevent sediment from the Master Common Areas from accumulating in any Ponds, Lake or Water Management System located within the Property and, in the event of such accumulation, shall be responsible, at its cost, for promptly and correctly removing such sediment in a manner (i) which does not damage the Lake and/or Water Management System and (ii) which restores the Ponds, Lake and/or Water Management System to its prior condition. The Master Association shall also take precautionary measures to prevent sediment from the creek draining into the northeast portion of the Lake from accumulating in the Lake by periodically replacing the filter located in said creek and, in the event of such accumulation, shall be responsible, at its cost, for promptly and correctly removing such sediment in a manner (i) which does not damage the Lake and/or Water Management System and (ii) which restores the Lake and/or Water Management System to its prior condition.

#### **SECTION 4.03 IMPROVEMENTS ON LAKE**

(a) In the event the Master Declarant, an entity designated by the Master Declarant, or the Master Association shall construct for common use and benefit any bridges, docks, or other Improvements that may extend over or into the Lake within the Property or construct for common use and benefit any bulkheads or similar Improvements to support or enhance such Lake, the Master Association shall maintain any and all Improvements in good repair and condition, unless maintained by the municipality by reason of an accepted public dedication thereof.

(b) Each Owner of a Lake Lot may construct amenities on their Lake Lot including but not limited to small foot bridges, a dock, shore retention using concrete or stones, a recessed pier or other related amenity for the sole use of the Lake Lot Owner, which shall run horizontally, if applicable, along the length of the rear lot line, so as to not protrude past their shoreline, all of which all shall be reviewed by the Master Declarant or Architectural Review Board for cohesiveness, minimalism, aesthetic, size, as well as construction plans, impact to the Lake and landscaping. Any deck or dock constructed along a Lake Lot shall (i) not protrude past the Lake Lot Owner's shoreline into the water (ii) be generally flush with the edge of the Lake, (iii) be built using a deck material and color approved by Master Declarant or Architectural Review Board, (iv) not rise above ground level unless otherwise approved by Master Declarant or the Architectural Review Board and (v) be of a length no more than 20% of the total linear footage of the rear property line adjacent to the Lake, unless otherwise approved by Master Declarant or Architectural Review Board. No structure shall be placed within the rear set back or along shore that is for storage unless it does not protrude past ground level and is approved by Master Declarant. No Owner, except the Master Declarant, its designee or the Master Association, shall be permitted to construct any Improvement, permanent or temporary, on, over or under any Lake or Water Management System (i) without the written consent of the Master Declarant, which consent may be withheld for any reason and (ii) with written approval by the Architectural Review Board pursuant the Article V herein. Lake Lot Owners shall only construct a dock, pier or other related amenity for the use by that Lake Lot Owner and not for other Owners in the community, public or

commercial purposes. After termination of the Master Declarant Membership, any Owner must obtain written consent of the Master Association to construct any Improvement, permanent or temporary on, over or under any Lake or Water Management System.

(c) No improvements shall be constructed in the area of the Dam, unless otherwise approved by Master Declarant.

#### **SECTION 4.04 DRY HYDRANT SYSTEM**

Master Declarant, in its sole discretion, shall determine the location of one or more Dry Hydrant Systems adjacent to the Lake or Ponds. The Dry Hydrant Systems shall be maintained, tested and cleaned annually in compliance with Applicable Laws. The cost of cleaning, testing and maintenance of the Dry Hydrant Systems installed shall be included in the Annual Assessment as a Master Common Expense.

#### **SECTION 4.05 INDEMNIFICATION**

In connection with the platting of the Property, the Master Declarant may assume or may be required to assume certain obligations for the maintenance of the Lake and Ponds. The Master Declarant hereby assigns to the Master Association and the Master Association hereby assumes all the obligations of the Master Declarant under all plats. The Master Association further agrees that subsequent to the recording with the Recorder of this Master Declaration, it shall indemnify and hold Master Declarant harmless from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damages or other damage arising from or out of occurrence, in, upon, at or from the maintenance of the Ponds and Lake, occasioned wholly or in part by any act or omission of the Master Association or its agents, contractors, employees, servants or licenses.

#### **SECTION 4.06 RESTRICTIONS ON USE OF LAKE**

Except as otherwise provided, no individual using the Lake has the right to cross another Plot or trespass upon shoreline not within a Master Common Area owned by the Master Association or Declarant, subject to the rights of the Master Declarant, the Master Association, their employees, heirs, successors and assigns as set forth in the Master Declaration. No one shall do or permit any action or activity which could result in pollution of the Lake, any Pond, diversion of water, elevation of any Lake or Pond level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper lake management except as provided in the Master Declaration; violations are subject to fines and are the sole financial responsibility of the Owner who caused it. The area surrounding the Dam may not be used for swimming, ice skating, ice fishing, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Master Board of Directors in writing and allowed by Applicable Laws. Intake pipes are prohibited from being installed on a Lake Lot. Any Lake or Pond water used by an Owner shall be returned to the Lake or Pond, as applicable. Construction or building of any Improvements along the Dam shoreline is prohibited, unless required by Applicable Laws. Only environmentally-friendly products for lawn maintenance (i.e. fertilizers/pesticides/insecticides) are allowed as permitted by the Lake Rules and Regulations. All electrical cords and outlets shall not be in the water at any time. Owners shall

not blow leaves or grass directly into the Lake or Ponds. Use of glass containers is prohibited on Lake while boating or near shoreline. All Lot Owners must register all watercraft, including electric and manual powered, with Master Association for a permit to use on the Lake. Only the Master Declarant and the Master Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Master Association adjacent to the Lake.

**ARTICLE V**  
**COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS**

**SECTION 5.01 GENERAL USE RESTRICTIONS**

The Property may be used for those purposes as provided in the PUD. The PUD contains certain provisions which allow various land uses of the real property within the Property. Master Declarant reserves solely unto itself the right and the power to assign and reassign various land uses to real property within the Property as provided by the PUD, and to inaugurate and implement variations from, modifications to, or amendments of the PUD and any other governmental plans, land development regulations, development orders and development permits applicable to the Property. The Master Declarant shall further have the right, in Master Declarant's sole discretion, to modify or grant variances from any of the provisions contained in this Article V.

(a) Except for portions of the Property used in conjunction with the Social Club or the operation or maintenance thereof, a Plot may be utilized for residential use and for no other purpose other than such home occupations as permitted by and subject to the restrictions contained in the PUD and the Zoning Ordinance of the Town of Zionsville, Indiana. Master Declarant may vary the size of a Plot or Plots by adding or deleting parts of other lands or Plots, and may vary the number or size of any parcels within the PUD, subject to any ordinances of governing bodies.

(b) Notwithstanding any of the provisions in this Article V, the Master Declarant may, in its sole discretion, permit one or more Plots, any part of the Master Common Areas, or any part of the Social Club to be used or maintained as a sales office and/or model for the promotion of real estate located within the Property. Any such permission must be granted by Master Declarant in writing prior to such use and may include restrictions on the type and nature of promotional materials that may be utilized. Master Declarant and partners of Henke Development Group, LLC reserve the right to use any part of the Master Common Areas and may utilize Master Common Areas as amenities for a limited number of non-Owner Social Club memberships, passes or leases to non-Owners.

(c) An Owner shall commence construction of a Residence on his Plot within two (2) years from the date of closing of the sale of the Plot. If an original Owner resells his Plot within the initial two (2) year period, the new Owner(s) will be required to commence construction within two (2) years of the date of closing between the Master Declarant and the original Owner. If the Owner does not commence construction within that period of time, then the Master Declarant shall have the right, but not the obligation, to purchase the Plot from the Owner at ninety-eight (98%) of the original purchase price paid to the Master Declarant. The Master Declarant, at its sole discretion, may extend such date for commencement of construction to an Owner and such extension for one (1) Owner shall not give cause for such extension to any other Owner of a Plot.



(d) Unless otherwise specified in a Supplemental Declaration, the maintenance, repair and replacement of the Plots and Residences, including utility and shoreline improvements, shall be the responsibility of the Owner thereof. The Owner's responsibility shall be to keep the appearance of the structure and Residences and all related Improvements in a condition comparable to when they were new, except normal wear. The Owner's responsibility includes, without limitation, (i) air conditioning compressors, screens, garage doors, glass, exterior lights, patios, exterior painting, all utility lines, ducts, conduits, pipes, wires, docks, piers, landscaping, well and septic systems and other utility fixtures and appurtenances which are located upon or under his Plot and which service only his Residence and driveways that service that individual Residence, and (ii) Plot maintenance and the maintenance and irrigation of all grass and landscaping located upon such Plot.

(e) No Master Common Areas Improvement shall be improved or altered by an Owner or any other Person whomsoever, except by the Master Declarant until the Master Turnover Date and thereafter by the Master Association, nor shall any grading, excavation, tree removal or change of exterior color or other work which in any way alters the exterior appearance of the Master Common Areas be done by those named in this Section 5.01(e) without the prior written approval of the Architectural Review Board.

(f) The provisions of this Section 5.01 shall not restrict the Master Declarant in its use or occupancy of any Plot.

(g) No Owner shall enter designated Equestrian Facilities directly from their Lot, excluding trails or other areas that are expressly for the common use by both pedestrians and horses, nor shall any Owner transfer food, landscaping debris, trash or other articles from their Plot to any designated Equestrian Facilities; Owners, their families and guests, shall exercise caution and adhere to any policies set forth by the Equestrian Facilities, including the Equestrian Rules and Regulations, and Owners shall be liable for any damage caused.

## **SECTION 5.02 ARCHITECTURAL AND AESTHETIC CONTROLS**

(a) Master Declarant and the Master Board may establish and from time to time modify and grant variances from the provisions of this Article V and the standards for the control of the design of all structure and Improvements and other development within the Property. Master Declarant may also establish additional architectural guidelines in an Architectural Guide in an effort to encourage the use of modern or traditional architectural styles to be thoroughly incorporated into the Residence's exterior plan so as to enhance the consistency of a particular style across the Residence. Historical architectural styles as well as Modern and Contemporary styles, shall be encouraged.

(b) Subject to, but not limited by, this Master Declaration and the approved Architectural Planning Criteria (defined below), Master Declarant hereby delegates architectural control of a residential Plot within the Property to the Master Association's Architectural Review Board.

(c) No building, fence, wall, flag pole, fountain, antenna, dock, pier, recreational sea wall and playground equipment, basketball court or other structure, excavation, Residence, Improvement, landscaping or exterior lighting plan or any other type of Improvement, other than

those erected by the Master Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of the same shall have been submitted, along with any applicable review fees, to and approved in writing as to harmony of external design and location in relation to surrounding Improvements and topography by the Architectural Review Board. Improvements or modifications which are specifically subject to architectural approval in the sole and absolute discretion of the Architectural Review Board include, without limitation (i) the construction of the initial Residence and Improvements on a Plot and the painting or alteration of a Residence (including doors, windows, roof), (ii) the installation of solar collectors or other devices, (iii) the construction of fountains, swimming pools, jacuzzis, (iv) the construction of fences, additions of awnings, shelters, gates, flower boxes, shelves, statues, and docks (on or adjacent to a Plot as permitted herein) and (v) the removal from a Plot of any trees, having a diameter of three (3) inches or more at a height of one (1) foot above grade.

(d) The approval, rejection, or withholding of any approval by the Architectural Review Board of the plans, proposals and specifications, and the location of all structure, Residences, Improvements, and every alteration of any structure, Residences or Improvement shall under no circumstances be construed or interpreted as a representation or determination by the Architectural Review Board that any building, plumbing, electrical code or other applicable governmental regulations or requirements have or have not been properly met.

(e) The Master Declarant and the Architectural Review Board shall have no duty, responsibility nor liability to an Owner, the Master Association, or any other Persons whomsoever in respect to the exercise of its rights or the failure to exercise its rights. The Architectural Review Board may reject plans, proposals and specifications based on any grounds or reason whatsoever, including purely aesthetic grounds, in its sole, subjective, and absolute discretion. The Architectural Review Board's decision to approve, reject or withhold its approval of such work may in the sole exercise of its discretion, be based upon: (i) the harmony of its exterior design, color and location in relation to, and its effect upon, surrounding structures, Residences, Improvements, vegetation, topography, and the overall community design; (ii) the character of the exterior materials; (iii) the planned quality of the exterior workmanship and consistency with the architectural style throughout the home and detached accessory building; (iv) Architectural Review Board's design and construction standards; and/or (v) any other material and relevant factors.

(f) Neither the Master Declarant nor the Architectural Review Board, their respective successors or assigns shall be liable for damages to anyone submitting plans to them for approval, or to an Owner affected by this Master Declaration, by reason of mistake of judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any such plans or specifications. Every Person who submits plans to the Architectural Review Board for approval agrees, by submission of such plans and specifications, and every Owner of a Plot agrees, by acquiring title thereto or an interest therein, that such Owner will not bring any action or suit against the Master Association, Architectural Review Board or Master Declarant or their directors, officers or employees, to recover any such damages.

## **SECTION 5.03 ARCHITECTURAL REVIEW BOARD**

The architectural review and control functions of the Master Declarant shall be administered and performed by the Architectural Review Board, which shall consist of at least three (3) members who need not be members of the Master Association. Until the occurrence of the Master Turnover Date, the Master Declarant shall have the right to appoint, remove and replace all of the members of the Architectural Review Board, or such lesser number as it may, in its sole discretion, appoint. After the occurrence of the Master Turnover Date, members of the Architectural Review Board shall be appointed by, and shall serve at the pleasure of, the Master Board. At such time as the Master Board of Directors has the right to appoint the members of the Architectural Review Board, the Master Board shall appoint at least one (1) architect or building contractor thereto. A Majority of the Architectural Review Board shall constitute a quorum to transact business at any meeting of the Architectural Review Board, and the action of a Majority present at a meeting at which a quorum is present shall constitute the action of the Architectural Review Board. Any vacancy occurring on the Architectural Review Board because of death, removal, resignation, or other termination of service of any member thereof shall be filled by the Master Declarant until the Master Turnover Date and thereafter by the Master Board.

(a) The Architectural Review Board shall have the following powers and duties:

(i) In the discretion of and if by the Master Board, to draft Architectural Planning Criteria (the "Architectural Planning Criteria"). Subsequent to the Master Turnover Date, the Architectural Review Board shall recommend to the Master Board modifications and/or amendments to the Architectural Planning Criteria. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Master Declaration, and shall not be effective until adopted by a Majority of the Master Board. However, a receipt by Owners or Designated Builders of a copy of a modification or amendment to the Architectural Planning Criteria shall not constitute a condition precedent to the effectiveness or validity of such change or modification. No Master Board approval of the Architectural Planning Criteria shall be required during the time the Master Declarant has control of the Architectural Review Board.

(ii) To require submission to the Architectural Review Board of two (2) complete sets of preliminary and final plans and specifications as hereinafter defined for any Improvement or alteration to any structure, Residence or Improvement of any kind, to be constructed by any Person other than the Master Declarant, including, without limitation, any Improvements, building, Residence, fence, wall, private dock, pier, sign, site paving, grading, parking and building additions, alterations, screen enclosure, well, septic system, drain, disposal system, decorative building, landscaping, landscape device or object, exterior lighting scheme or other Improvement. The Architectural Review Board may also require submission of samples of building materials and colors proposed for use in the proposed Improvement and may require such additional information as reasonably may be necessary for the Architectural Review Board to completely evaluate the proposed Improvement in accordance with the Master Declaration and the Architectural Planning Criteria.

(iii) To approve or disapprove any proposed Improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Plot or the Property. Subsequent to the transfer of control of the Architectural Review Board by the Master Declarant, any party aggrieved by a decision of the Architectural Review

Board shall have the right to make a written request to the Master Board within thirty (30) days of such decision, for a review thereof. The determination of the Master Board upon reviewing any such decision shall be final; provided, however, during the time the Master Declarant controls the Architectural Review Board, determination by the Architectural Review Board shall be final and binding and not appealable to the Master Board.

(iv) To evaluate such application for the total effect, including the manner in which the home site is developed. This evaluation relates to matters of judgment and taste that cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a proposed Improvement might meet individual criteria delineated in this Article V and the Architectural Planning Criteria and still not receive approval if, in the sole judgment of the Architectural Review Board, its overall aesthetic impact is unacceptable. The approval of an application for one proposed Improvement shall not be construed as creating any obligation on the part of the Architectural Review Board to approve applications involving similar designs for proposed Improvements pertaining to different Plots.

(v) To demand that if any proposed Improvements as aforesaid shall be changed, modified or altered without prior approval of the Architectural Review Board of such change, modification or alteration, and the plans and specifications therefore, if any, that the Owner shall cause the proposed Improvement to be restored to comply with the original plans and specifications, or the plans and specifications originally approved by the Architectural Review Board, and shall bear all costs and expenses of such restoration, including costs and reasonable attorneys, fees of the Architectural Review Board.

(vi) To make such charges as it deems necessary to cover the cost of review of the plans and specifications.

(vii) To permit variances to any development standards and/or criteria in this Master Declaration or the Architectural Planning Criteria.

(b) The Architectural Review Board shall approve or disapprove the application for a proposed Improvement within thirty (30) days after each has been submitted to it in proper form together with all supporting information. If the plans are not approved within such period, they shall be deemed disapproved. All applications and plans shall be submitted to the Architectural Review Board, together with a review fee in an amount to be determined by the Architectural Review Board and may be adjusted for reasonable cost increases (i) in the sum of five hundred fifty dollars (\$550.00) for Residences and (ii) the sum of one hundred dollars (\$100.00) for each accessory building or pool/playground/sport court/pier/dock, in duplicate and shall contain the following information:

(i) Required Building Plan Information -

- Residence floor plan.
- Residential/Building elevations.
- Materials and colors proposed for exterior walls, roof, exterior doors and windows, garage doors, landscape and patio stone/brick and driveway.

- Summary showing architectural style and adherence with its consistency throughout the Residence, including doors, columns, windows, dormers, roof design, porch, shutters, window or door accessories like shutter doors or hinges, railings and other aspects visible from the exterior.
- Selections of outdoor lighting consistent with architectural style.

(ii) Required Site Plan Information -

- Existing grades; finished grading plan (coordinated with Boone County's approved Architectural Planning Criteria).
- Building location with dimensions to property lines.
- Drives, walks, walls, pools and enclosures, terraces and docks/piers.
- Areas to be grassed and irrigated; type of grass planted.
- Irrigation system design.
- Landscape planting plan.
- Septic System design.
- Well design.

(c) The Architectural Review Board will use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. If additional review, re-platting, additional engineer services or other contractor review is required, it shall be the financial responsibility of the Plot Owner. Neither the Architectural Review Board nor any individual Architectural Review Board member will be liable to any Person for any official act of the Architectural Review Board in connection with submitted plans and specifications. Approval by the Architectural Review Board does not in any manner constitute or assure approval by the appropriate governmental or municipal board, commission, council and/or agency. Notwithstanding that the Architectural Review Board has approved plans and specifications, neither the Architectural Review Board nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the Improvements. Neither the Master Board, the Architectural Review Board, nor any agent thereof, nor Master Declarant, nor any of its partners, employees, agents or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Master Founding Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Architectural Review Board and/or Master Declarant will be defended and indemnified by the Master Association in any such suit or proceeding that may arise by reason of the Architectural Review Board's decision. Any Owner making or causing to be made any proposed Improvement or additions to the Property or a Plot does hereby agree to hold harmless the Architectural Review Board, the Master Association, the Master Declarant and all other Owners from any liability, damage to the Property and from expenses arising from the construction and installation of any proposed Improvement and shall be solely responsible for the maintenance, repair and insurance of any alteration, modification or change and for assuring that the proposed Improvement meets with all applicable governmental approvals, rules and regulations.

**SECTION 5.04 AIR CONDITIONERS**

No window or wall air conditioning units shall be permitted.

#### **SECTION 5.05 ANTENNAS AND FLAGPOLES**

No outside antennas, antenna poles, antenna masts, satellite television reception devices, electronic devices, solar water panels, antenna towers or citizen band (CB) or amateur band (HAM) antennas shall be permitted except as approved in writing by the Architectural Review Board. A flagpole for display of the American flag shall be permitted if first approved by all governmental authorities and in writing by the Architectural Review Board, so long as it is located within the buildable area of the Residence. Both its design and location must be first approved in writing by the Architectural Review Board. An approved flagpole shall not be used as an antenna. It is the intent of this provision to protect Owners from unreasonable interference with television reception, electronic devices, and the operation of home appliances caused by the operation of HAM radios, CB radios and other high-powered broadcasting equipment. Satellite television reception devices must be reviewed and approved by the Architectural Review Board, and may not exceed twenty-four (24) inches in diameter, unless the denial of a larger size is prohibited by Applicable Laws.

#### **SECTION 5.06 AWNINGS AND WINDOWS**

Awnings, hurricane shutters, solar film and other window shading or decoration shall be subject to the prior approval and control of the Architectural Review Board. Window design shall be encouraged to follow the architectural style of the Residence.

#### **SECTION 5.07 CLOTHES DRYING AREA**

No outdoor clothes drying area shall be allowed unless approved in writing by the Architectural Review Board, which approval may later be revoked by the Architectural Review Board.

#### **SECTION 5.08 COLORS**

No exterior colors on any structure, Residence or Improvement shall be permitted that, in the judgment of the Architectural Review Board, would be inharmonious or discordant or incongruous with the intended development of the Property. The initial exterior color of the structure and colors of exterior features, including but not limited to shutters, windows, painted exterior walls, sport courts, detached garage or other items, Residence and Improvements and any later changes thereto must be submitted with plans and review fee, if applicable and approved in writing by the Architectural Review Board in advance. Colors of each Residence and Improvement shall vary based on adjacent or nearby Residences, as well as nearby Residences visible from the rear of the Plot. Colors should also be consistent with historical architectural style of the Residence, including colors of brick and stone, where possible.

## SECTION 5.09 CONSTRUCTION

(a) During the period of construction, the construction site (defined as Plot on which a Residence or Improvement is being built) shall be maintained in a neat and orderly manner.

(b) All parking of construction vehicles and placement of building materials must be confined to the Plot or to a construction site or location approved by the Master Association for such purpose on a temporary gravel area located near the front lot line on said Plot and behind buffered landscaping where if possible, Owner may install the approved front yard / streetscape landscaping so as to help buffer construction parking area. Parking on the streets, other than as incident to the development, maintenance and repair of the Social Club, may be restricted by the Master Declarant, the Master Association, or the Architectural Review Board, particularly in areas where Trails are part of the roadway system.

(c) Each Plot shall have a commercial trash receptacle or other receptacle approved by the Architectural Review Board located thereon which is emptied on a regular and timely basis.

(d) No temporary trailers shall be placed on any construction site without the prior written approval of the Architectural Review Board.

(e) The Master Association shall have the right to require contractors to remove all debris and store all materials in a sightly fashion at the contractor's sole cost and expense.

(f) The failure by a contractor to abide by the contents of this Section 5.09 shall result in the Owner of the Plot whose Residence is being constructed to be charged and assessed for all monies incurred by the Master Association for cleaning up the site. During construction of a Residence, the Plot Owner shall be liable and will be charged and assessed by the Master Association for any damage to the Master Common Areas and/or roadways or sidewalks abutting the Owner's Plot, whether or not the perpetrator of the damage is known. Said charges and assessments, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

(g) Once construction has commenced, work thereon must be performed diligently and completed within one (1) year, unless approved otherwise by the Architectural Review Board. If for any reason work is discontinued and there is no substantial progress towards completion for a continuous one (1) month period, then the Master Association shall have the right, but not the obligation, after ten (10) days' notice to the Owner of the Plot per the Recorder's records, to invade the premises, and take such steps as may be required to correct an undesirable appearance, specifically including the right to demolish a partially completed structure, Residence or Improvement and remove the debris from the Plot. Further, the Master Association shall have the right, but not the obligation, to complete said Residence in substantial accordance with the plans and specifications previously approved by the Architectural Review Board, allowing for such deviations from the plans as the Master Association, in its sole discretion, deems appropriate. The reason for such correction shall be solely in the discretion of the Master Association and may include, but not be limited to, purely aesthetic grounds. The Owner of the Plot shall be liable and assessed for all costs incurred in such action and the total costs thereof will be a lien on the Plot,

which lien may be foreclosed in the same manner as is provided in Article VIII below for the enforcement of Master Assessment liens. Said charge, until paid, shall be a lien against the Plot of the Owner responsible for the payment.

(h) If an Owner is adding a new improvement to the Residence such as a pool, basketball court, or other related improvements, Owner shall make reasonable effort to locate the construction drive away from adjoining neighbor outdoor living areas.

#### **SECTION 5.10 MASTER DECLARANT'S EXCULPATION**

Master Declarant, Master Board and/or the Architectural Review Board may grant, withhold or deny its permission or approval, in any instance where its permission or approval is permitted or required, without any liability of any nature or kind to Owner or any Person for any reason whatsoever, and any permission or approval granted shall be binding upon all Persons. The use restrictions of this Master Declaration shall not apply to any Property owned by the Master Declarant prior to its conveyance to an Owner other than the Master Declarant.

#### **SECTION 5.11 DRAINAGE**

No Owner will do or permit any work, place any landscaping or install any other Improvements or suffer the existence of any condition whatsoever which will alter or interfere with the drainage pattern for the Property, except to the extent such alteration and drainage pattern is approved by the Master Association, and except for rights reserved to Master Declarant to alter or change drainage patterns.

#### **SECTION 5.12 DRIVEWAYS**

All driveways shall be constructed of materials approved by the Architectural Review Board. Textured or featured paving such as pavers or concrete are preferred driveway materials. Driveways may connect to roadways only at points that have been approved by the Architectural Review Board.

#### **SECTION 5.13 DWELLING ROOFS**

All roofing material(s) must be approved by the Architectural Review Board. The type of material proposed for a structure, Residence or Improvement must be included in the building plans submitted to the Architectural Review Board for approval.

#### **SECTION 5.14 ENCLOSURES**

(a) All enclosures, including spa, hot tub and swimming pool enclosures (screened or otherwise), shall be constructed and maintained with compatible design, color and materials as the Residence in connection with which it is utilized.

(b) The location and design of all swimming pools, spas and hot tubs, and their enclosures and screens, must be approved by the Architectural Review Board, in writing, prior to construction.



## **SECTION 5.15 ENTRY RIGHTS**

(a) Each Owner shall permit Master Declarant, the Master Association, or any employee or contractor to enter upon Master Common Areas and upon the owner's Plot at reasonable times, to carry out and verify compliance with the provisions of this Master Declaration, and the same shall not constitute a trespass.

(b) Such entry shall include, but not be limited to, the right to use of the Owner's water from an outside spigot if used for maintenance of the Owner's Plot, as the case may be. This provision shall not be construed as authorizing the entry into any structure, Residence or Improvement located on any Plot.

## **SECTION 5.16 EXCAVATION**

No excavation will be made except in connection with approved Improvements as provided in this Master Declaration. For purposes of this Section 5.16, "excavation" means any disturbance of the surface of the land that results in the removal of earth, rock or other substance, a depth of more than eighteen inches below the natural surface of the land.

## **SECTION 5.17 FACTORY-BUILT STRUCTURE, RESIDENCE OR IMPROVEMENTS**

No structure, Residence or Improvement of any kind that is commonly known as "factory-built", "modular", or "mobile home" type of construction shall be allowed on a Plot with the exception of any temporary structure, Residence or Improvement built by Master Declarant for use until the Master Turnover Date.

## **SECTION 5.18 ACCESSORY BUILDINGS, STORAGE AREAS, AND GARAGES**

(a) No storage area, maids quarters, guest house, or other accessory building, shall be erected which is separated from the Residence, unless approved by the Architectural Review Board; provided, however, that each Residence (i) shall not exceed one accessory garage for vehicles and one additional building including pool house, green house or similar structure, (ii) must incorporate the design of the accessory garage and building into the entire plan of the Residence, including driveway, and the height and width shall be proportional to the main Residence on said Plot, as determined in the sole discretion of the Architectural Review Board. Each Residence shall have a garage that shall accommodate no less than two automobiles, and then only if approved by Architectural Review Board; provided, however, that in certain areas the Master Declarant and/or the Architectural Review Board may require greater garage capacity. Repair of vehicles shall be permitted only inside the garage. All garage doors shall include an automatic closing device and shall be closed when not in use for ingress and egress to the garage. If an Owner shall have a Golf Cart garage, it too shall be equipped with an electric door opener and shall be closed when not in use for ingress and egress to the garage. A garage door opening on any Residence may not exceed ten (10) feet in height, when approved by the Architectural Review Board. Carports are prohibited.

(b) Unless approved by the Architectural Review Board, no enclosed storage area shall be erected which is separated from the Residence.

(c) If multiple accessory buildings are included in a Residence plan, it shall be encouraged for one to be in the rear and one to be in the front of the Residence, unless otherwise approved.

#### **SECTION 5.19 GARBAGE, TRASH AND REFUSE**

All garbage, trash and refuse containers must be placed in walled-in, sight-screened or fenced-in areas so that they all not be readily visible from any adjacent streets or Plots.

#### **SECTION 5.20 DRAINAGE GRADE OF PLOT**

No fill shall be used to extend a Plot beyond the pre-existing Plot line. To preserve existing landforms and site vegetation, grading plans for each Plot shall be sensitive to the existing vegetation and features of the Plot. Grading and construction practices, which disturb these natural features, promote erosion. Erosion control throughout the building and landscaping process is the responsibility of the Owner and their Designated Builder. Planting shall be supplemented where disturbance occurs. Every effort shall be made to minimize grading and excavating and to contain construction within fixed limits including materials storage and parking of construction vehicles. Each Plot has its own natural drainage pattern resulting from its topography and vegetation. Whenever possible, this surface drainage pattern shall be preserved using surface systems such as swales, culverts and retention basins. Impervious surfaces shall be minimized. Where closed underground systems are necessary, release points must be designed to reduce erosion. Drainage impacts on surrounding Plots and the Social Club must be minimized and negative impacts must be mitigated. All drainage swales must either be mulched and planted or stabilized by other means immediately following construction.

#### **SECTION 5.21 HEALTH AND SAFETY HAZARDS**

Any conditions which are deemed by the Master Association to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Master Association and the cost thereof shall be charged and assessed to the responsible Owner. Said charge, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

#### **SECTION 5.22 LANDSCAPING**

(a) Prior to any landscape installation, each Owner shall submit to the Architectural Review Board for approval a landscape, irrigation and land grading plan for the Plot which includes irrigation that irrigates all street trees located on said Plot. No landscaping shall be installed, cut down, destroyed or removed without the prior written consent of the Architectural Review Board. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Plot, unless approved by the Architectural Review Board.

(b) From the date of purchase to commencement of construction, the Owner shall provide proper maintenance and keep the Plot in a clean and orderly condition and do any clearing that

may be required by the Master Association from time to time. Any request by the Master Association for Plot maintenance or clearing shall be solely in the discretion of the Master Association and may include, but shall not be limited to, purely aesthetic grounds. If there is no substantial progress towards compliance with maintenance or clearing request to the Owner, the Master Association shall have the right, after ten (10) days' advance notice to the Owner of the Plot per the Recorder's records, to take such steps as may be required to correct an undesirable appearance. The Owner of the Plot shall be liable and assessed for all costs incurred in such action. Said costs, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

(c) The Owner of a Plot shall be responsible for maintaining and keeping the landscape irrigation system installed in or on the Owner's Plot in good working order.

(d) All areas on the Owner's Plot not covered by structure, Residence or Improvements, walkways or paved parking facilities shall be maintained as lawn or landscaped areas. No stone, gravel, or paving of any type shall be used as a substitute for grass in a lawn. All lawns and landscaping shall be completed at the time of completion of the structure, Residence or Improvement as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Owner. Sprinkler systems located on Master Common Areas adjacent to an Owner's Plot shall be the responsibility of the Master Association.

(e) No weeds, high lawns, underbrush, undesirable exotic plants or other unsightly growth shall be permitted to grow or remain upon any part of a Plot. Natural areas are desired and not prohibited, but must be maintained and must not grow wild. Lawn growth shall not exceed a maximum of four (4) inches above the ground at any time and all trees and shrubbery shall be appropriately trimmed as needed. If, for any reason, an Owner permits such weeds, high grass, underbrush or other unsightly growth and fails to correct same after five (5) days' advance notice from the Master Association, then the Master Association shall have the right to enter upon the premises and make such corrections and shall charge the Owner for the cost of the corrections. Said charge, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

(f) Surface water runoff must be properly handled and cause no ponding, erosion sediment accumulation or unfavorable impact on adjacent Plots, Water Management Systems, Ponds or Lake and/or Master Common Areas. No changes in the elevations of any Plot or right-of-way shall be made which will interfere with the approved drainage, or otherwise cause undue hardship to adjoining property, except with approval of the Architectural Review Board.

(g) All Plots for Residences shall adhere to the landscape requirements of the Architectural Review Board and shall comply with streetscape standards set forth in the PUD and otherwise established by the Architectural Review Board. Following construction of the internal roads, and pending weather conditions, Master Declarant may install the initial street tree requirement of one (1) ornamental tree approximately every twenty (20) feet, unless specified otherwise in an effort

to create a cohesive streetscape plan along the entire frontage of the road on both sides for Residences. Master Association will reimburse Declarant and Lot Owners are responsible for maintaining. In addition, All Plots for Residences shall have a minimum of four (4) shade trees and two (2) ornamental trees, unless greater numbers are required per the PUD. In the discretion of the Architectural Review Board, credit may be given for existing trees, depending upon their location.

(h) All lawns must be sodded or hydro seeded as determined by the Architectural Review Board in its sole discretion. Irrigation is required for all lawns in full, unless approved otherwise by the Architectural Review Board such as in heavy wooded areas. No synthetic or artificial plant materials such as Astroturf or imported, exotic and/or inorganic materials such as lava rock will be approved by the Architectural Review Board in areas visible from off site or adjacent Plots. Irrigation and turf shall be extended to the area along the road.

(i) The beauty of each Residence and Plot is to be enhanced by planting materials that create a composition. Priority should be given to scale and balance of plantings as they affect the view of the Plot and Residence from the street. Corners should be softened and expanses of any plain facades should be broken up by layering from the ground plain, using small plants toward the front and then transitioning to larger plants near the foundation. A single row of uniformly spaced plants of equal size arranged in a single row along the foundation is not acceptable. Installing plant material with different sizes and textures, in natural groupings, is encouraged. Plantings should be used to effectively screen mechanical equipment, such as compressors, tanks, meters, well equipment, septic tank equipment, and other unsightly features, from neighbors and public view.

(j) Planting is to be accomplished immediately after construction or within one (1) year from issuance of the building permit, whichever is earliest, unless a variance is granted due to seasonal issues.

(k) Any small pond located on a Plot shall be regularly maintained by said Plot Owner including, but not limited to, treating and removing algae and following regularly scheduled maintenance on said pond.

### **SECTION 5.23 LEASING**

No time share program shall be permitted on any Plot; however, an Owner may lease his Residence without prior Master Board approval, subject to the following restrictions and conditions:

(a) The lease must be written, and a fully executed copy must be provided to the Master Association not less than three (3) days before the beginning of the lease term, together with such other information about the lessee(s) as the Master Board may reasonably require.

(b) All of the provisions of the Master Founding Documents and the Master Rules and Regulations pertaining to use and occupancy shall be applicable and enforceable against any Person occupying a Residence. The Master Association has the right, but not the obligation, to require each Owner to produce proof of insurance. The costs incurred by the Master Association

by reason of any Owner's failure or refusal to comply with this Section 5.23 shall be immediately due and payable by the Owner in all respects, together with interest reasonable attorney's fees and costs of collection, upon the Master Association notifying the Owner, in writing, that it has procured such insurance. Said costs, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

#### **SECTION 5.24 LIGHTING AND FOUNTAINS**

(a) All exterior lighting and fountains on a Plot shall be accomplished in accordance with a plan approved in writing by the Architectural Review Board prior to installation; provided, however, that underwater lighting on Lake Lots is prohibited.

(b) Lighting for landscape, pool, recreation and security purposes and fountains shall be designed so as not to be an annoyance to the surrounding Residences and to be directed away from any Lake or Pond so as to minimize reflection. Time clock controls shall be used.

(c) Low-intensity solar-powered lighting shall be required for docks and piers constructed on a Lake Lot in accordance with a plan approved in writing by the Architectural Review Board prior to installation.

(d) Except as may be initially installed by Master Declarant, no spotlights, floodlights, or similar type high intensity lighting shall be placed or utilized upon any Plot which in any way will allow light to be reflected on any other Plot or the Improvements thereon, or Lake or Pond without the written authorization of the Architectural Review Board. Other types of low intensity lighting which do not unreasonably disturb the Owners or other occupants of the Property may be allowed. If the Master Declarant or a Designated Builder installs a front yard lamp on a Plot, then the Owner of each Plot shall maintain and keep operating that lamp during all hours of darkness and the Owner's responsibility includes any replacement of the photoelectric cell and replacement of light bulbs. In the event that the front yard lamp is not functional for a two (2) week period, the Master Association shall have the right to repair the lamp and the Owner shall reimburse the Master Association for the costs of such repairs. Said costs, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens.

#### **SECTION 5.25 MAIL BOXES**

No mail box, paper box, or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected on any Plot other than that approved by the Architectural Review Board. The Architectural Review Board may require consistent or uniform mail boxes within the Property.

#### **SECTION 5.26 NOISE**

No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or Improvements, will be placed or used on any

portion of the Property. Noise levels on the Lake and near Equestrian Facilities shall be kept minimal and respectful of surrounding residents and wildlife.

#### **SECTION 5.27 NUISANCES**

No obnoxious, unpleasant or offensive activity shall be carried on, nor may anything be done which can be reasonably construed to constitute a nuisance, public or private in nature. The determination of a nuisance shall be made by the Master Board of Directors, which may exercise legal action to correct any nuisance and shall charge the respective Owner the costs of any legal fees incurred which shall be assessed to the respective Plot. Said costs, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens. Notwithstanding the foregoing, Master Declarant reserves the right and the power to determine what activities or uses constitute a nuisance or obnoxious or offensive activity pursuant to this Section 5.27.

#### **SECTION 5.28 OUTDOOR EQUIPMENT**

All oil tanks, bottled gas tanks, swimming pool equipment and housing, air conditioning equipment, well equipment, septic tank equipment, and other such outdoor equipment, must be placed underground, walled-in or placed in sight-screened or fenced-in areas so that they shall not be readily visible from any adjacent streets or Plots. Otherwise, adequate landscaping shall be installed around these facilities so that they cannot be visible from adjacent streets or Plots.

#### **SECTION 5.29 OUTSIDE STORAGE AND RECREATION EQUIPMENT**

No outside storage or outbuildings of any kind shall be permitted without the prior written approval of the Architectural Review Board. Temporary construction trailers during the actual construction of any Residence may be permitted upon written approval of the Architectural Review Board. There shall be no outside storage or permanent placement of equipment or recreational vehicles of any kind including motor homes, campers, motorcycles, boats, horse trailers, canoes, kayaks, wave runners, jet skis, and lawn care equipment. Storage or permanent placement shall be deemed to exist if an item or vehicle remains outside for a period of more than twenty-four (24) consecutive hours or for more than sixteen (16) hours in any forty-eight (48) hour period. No playground and outside recreational equipment, including swing sets and basketball goals, shall be permitted unless approved by the Architectural Review Board, in its sole discretion and on an individual basis, and landscaped as approved by the Architectural Review Board. Only one playground or playhouse is permitted per Plot.

#### **SECTION 5.30 OWNER AND MEMBER COMPLIANCE**

(a) The protective covenants, conditions, restrictions and other provisions of this Master Declaration shall apply not only to Owners, Regular Members, and Persons to whom a Regular Member has delegated his right of use in and to the Master Common Areas, but also to any other Person occupying an Owner's Plot under lease from the Owner, or by permission or invitation of the Owner or his tenants, expressed or implied, licensees, invitee or guests.

(b) Failure of an Owner to notify any Person of the existence of the covenants, conditions, restrictions, and other provisions of this Master Declaration shall not in any way act to limit or divest the right of Master Declarant of enforcement of these provisions and, in addition, the Owner shall be responsible for any and all violations of these provisions by his tenants, delegates, licensees, invitees or guests, and by guests, licensees and invitees of his tenants at any time.

### **SECTION 5.31 PETS AND ANIMALS**

(a) Fish or birds, in a reasonable number, and no more than two (2) commonly accepted household pets such as dogs or cats, may be kept by any Owner. All animals shall be contained within the Owner's Residence. Pets or animals may not be kept within a screened or similarly enclosed area attached to or located outside of the Residence. Any pet or animal taken outside a Residence must be on a leash held by the Owner or be carried by the Owner, or must be confined to the Owner's Plot by an invisible fence. No pet or animal shall cause an annoyance or nuisance to any other Resident. Pets must be on a leash or carried when on Master Common Areas. Other than (i) dogs used by the Social Club for waterfowl control, pets are not allowed on Social Club property. It shall be the Owner's obligation to dispose of waste material from pets. The Master Board of Directors of the Master Association shall have the right to order the removal of any pet that in the Master Board's sole discretion, is considered a nuisance, and the same shall be done without compensation to the Owner. In such event, the Master Board shall give written notice thereof to the pet's Owner, and the pet shall immediately thereafter be permanently removed. A pet not on a leash shall be deemed a nuisance. Failure to clean the waste material from a pet shall be deemed a nuisance. Except as otherwise noted above, a pet on the Social Club property shall be deemed a nuisance. Any pet that in the opinion of the Master Association creates an unreasonable annoyance, to other Residents shall be deemed a nuisance. Notwithstanding the foregoing or anything to the contrary in this Master Declaration, the Social Club shall be permitted to utilize dogs for water fowl control, and such dogs need not be on a leash.

(b) Excluding the Equestrian Fields and Equestrian Facilities, commercial activities involving pets shall not be allowed.

### **SECTION 5.32 PLAYGROUND**

Any playground or other play areas or equipment furnished by the Master Association or erected within the Master Common Areas shall be used at the risk of the user and the Master Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

### **SECTION 5.33 SIDEWALKS AND TRAILS**

Other than Equestrian Club or Social Club maintenance/landscape equipment, all motor vehicles, motorcycles, or mopeds not driven by an electric engine, are prohibited on any path or trail. The Master Association shall assess an Owner for any and all damage caused by or derived from any activity related to the Owner. Said assessment, until paid, shall be a lien against the Plot of the Owner responsible for the payment. This lien may be enforced by the Master Association in the same manner as provided in Article VIII for the enforcement of Master Assessment liens. Parking on the streets, other than as incident to the development, maintenance and repair of the

Social Club, may be restricted by the Master Declarant, the Master Association, or the Architectural Review Board, particularly in areas where Trails are part of the roadway system.

#### **SECTION 5.34 SIGNS**

(a) No signs, including, without limitation, for sale signs and signs which are freestanding or otherwise installed, shall be erected or displayed on any Master Common Areas or Plot, unless the placement, character, form, size, lighting and time of placement of such sign is first approved in writing by the Architectural Review Board. No signs, of any kind or nature are permitted in the rear or side yards of Plots adjoining the Social Club. The foregoing notwithstanding, the Master Declarant and its agents or other parties approved by Master Declarant may display signs for purposes of selling Plots owned by them.

(b) All signs must conform with governmental codes and regulations and with any master design or plans for signs as may be established by Master Declarant and the Architectural Review Board.

#### **SECTION 5.35 SOLAR COLLECTORS**

The location of and materials used in the construction of solar collectors shall be approved in writing by the Architectural Review Board. When a solar collector is used, it shall not be visible in general from any place off the Plot.

#### **SECTION 5.36 SUBDIVISION AND REGULATION OF LAND**

(a) No Plot shall be further divided or subdivided without the express written consent of Master Declarant, who may impose certain requirements on the Owner to comply with the provisions of the PUD. Master Declarant shall assign one Regular Membership for each Plot. If more than one Plot is used for a Residence, the Master Declarant shall assign one Regular Membership only for the enlarged Plot.

(b) An Owner shall not inaugurate or implement any variation from, modification to, or amendment of the PUD or any other governmental plans, land development regulations, development orders or development permits applicable to the Property or to any Plot therein, without the prior written approval of Master Declarant, which approval may be denied at the sole discretion of Master Declarant.

#### **SECTION 5.37 SWIMMING POOLS**

Any swimming pool to be constructed on any Plot shall be subject to the requirements of the Architectural Review Board, which include, but are not limited to, the following:

(a) Swimming pools must be approved by the Architectural Review Board before any work is undertaken. Permanent backyard pools and accessory structures or Improvements will be approved by the Architectural Review Board only after careful consideration of their potential effect to neighboring properties, including the Lake, Ponds, and Master Common Areas. Fencing is prohibited unless, in limited circumstances, approved by the Architectural Review Board in its



sole discretion, in which case wrought iron fencing with heavy landscaping is preferred. The use of plantings in the vicinity of the pool will be required to soften the effects of sound and fencing on the neighboring properties. An application for the construction of a swimming pool will not be considered unless accompanied by a proposed minimal fencing and landscape design;

(b) Composition shall be of material thoroughly tested and accepted by the industry for such construction and approved by the Architectural Review Board;

(c) The rear yard setback for patio and terrace slabs and pool decks shall require prior approval of the Architectural Review Board. Pool decks will generally be prohibited on Lake Lots unless immediately adjacent to the Residence and not adjacent to the shoreline of the Lake;

(d) Swimming pools and spas/hot tubs shall not be constructed or erected above ground except for infinity edge pools with elements above ground; and

(e) Electric pool covers are required unless alternatives are approved by the Architectural Review Board.

#### **SECTION 5.38 TEMPORARY STRUCTURE, RESIDENCE OR IMPROVEMENTS**

No structure or Improvement of a temporary character, including trailer, tent or shack, shall be used on any Plot at any time as a living unit, either temporarily or permanently, except as may be determined to be necessary during construction and as specifically authorized by the Master Declarant.

#### **SECTION 5.39 TREE REMOVAL**

During its review of any Owner's building plans, the Architectural Review Board shall take into account existing vegetation and encourage the Owner to incorporate them in his landscaping plan. No trees of three (3) or more inches in diameter, measured one (1) foot above grade, shall be cut or removed without approval of the Architectural Review Board. Thereafter, no trees of three (3) inches or more in diameter, measured one (1) foot above grade, shall be removed until prior written approval of the Architectural Review Board. Further, absent prior written approval from the owner of the Equestrian Club, trees within thirty (30) feet of the Equestrian Club property shall not be trimmed, pruned, or removed.

#### **SECTION 5.40 TRUCKS, COMMERCIAL VEHICLES, RECREATION, VEHICLES, MOTOR HOMES, MOBILE HOMES, BOATS, CAMPERS, TRAILERS, AND GOLF CARTS**

(a) No commercial vehicle of any kind shall be parked within the Property for a period of more than four (4) hours per day, unless such vehicle is necessary in the actual construction or repair of a structure, Residence or Improvement or for grounds maintenance or maintenance of public or private utilities, or unless such vehicle is fully enclosed inside a structure, Residence or Improvement. The parking of vans will be permitted if the following requirements are met:

- (i) The vehicle will be used for personal, non-business use only;
  - (ii) All vans must have windows on both side panels and seating capacity throughout, shall not contain or display any signage and must first be approved by the Architectural Review Board in its sole discretion; and
  - (iii) No tools, equipment, merchandise, materials or supplies may be kept or stored in the van.
- (b) All cars, equipment, lawnmowers, motor cycles, electric carts, Golf Carts, trucks, commercial vehicles or trailers, residential vehicles, vans and pick-up trucks and/or other motorized vehicles belonging to an Owner must be parked overnight inside a garage.
- (c) No boat trailer or other trailer of any kind, camper, mobile home, motor home, pick-up truck or disabled vehicle shall be permitted to be parked or stored upon the Property unless kept fully enclosed inside a structure, Residence or Improvement.
- (d) No vehicle shall be parked anywhere but on areas intended for that purpose or in garages. Parking on lawns or landscaped areas is prohibited.
- (e) No vehicle shall be used as a domicile or living unit, either permanent or temporary.
- (f) No Owner may keep a Golf Cart in the Property unless the Owner has a garage and the Golf Cart is parked inside at all times when not in use.
- (g) The foregoing Section 5.40 notwithstanding, the Master Declarant shall be permitted to maintain, keep, use and store such vehicles and equipment as the Master Declarant determines, in its sole discretion, are necessary for the development and/or sale of the Property.

#### **SECTION 5.41 USE OF PROPERTY DURING CONSTRUCTION**

It will be expressly permissible and proper for Master Declarant and any Owner acting with the prior written consent of the Master Board, and their respective employees, agents, independent contractors, successors, and assigns involved in the construction of Improvements on or the providing of utility service to the Property, and/or any expansion property or other real property owned by Master Declarant, to perform such activities, and to maintain upon portions of the Property as they deem necessary such facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. Notwithstanding anything in this Master Declaration to the contrary, such permission specifically includes, without limiting the generality of the foregoing, maintaining storage areas, construction yards, model homes, construction trailers, sales trailers, equipment and signs. However, no activity will be performed and no facility will be maintained on any portion of the Property which, in the Architectural Review Board's discretion, unreasonably interferes with or disturbs any purchaser or Owner of a Plot, or unreasonably interferes with the use, enjoyment or access of such Owner or his tenants, employees, guests, or business invitees, of and to his Plot. If any Owner's use under

this provision is deemed objectionable by the Architectural Review Board, then the Architectural Review Board, as applicable, in its sole discretion, may withdraw this permission.

#### **SECTION 5.42 WALLS AND FENCES**

(a) To encourage the feel of open country, fences and walls are prohibited unless first approved by the Architectural Review Board in its sole discretion, in which case black 4-board Lexington Horse fencing with heavy landscaping is preferred. No hedge or shrubbery abutting the Plot lines shall be permitted without the prior written approval of the Architectural Review Board. No wall or fence shall be constructed on any Plot until its height, length, type, design, composition, material and location shall have first been approved in writing by the Architectural Review Board. The height of any wall or fence shall be measured from the existing property elevations. Plot Owners may not alter fencing and install access gates to Equestrian Facilities or other Common Areas unless otherwise approved in writing by Declarant. Any dispute as to height, length, type, design, composition or material shall be resolved by the Architectural Review Board, whose decision shall be final; and,

(b) No walls, fences, hedges, shrubs or other materials, which materially obstruct the view of the Lake shall be permitted or approved.

(c) All fencing approved by the Architectural Review Board shall be black 4-board Lexington Horse fencing, unless a smaller area is approved for a dog run, in which case it shall have masonry columns in each corner that match the masonry material of the house and wrought iron. Size and look subject to approval by the Architectural Review Board.

(d) If a Plot is located adjacent to an Equestrian Field or Trail, a gate in the fencing shall be permitted to be installed by Owner, at their cost, in the middle of their rear property line so that they may access the Trail directly. Fencing posts shall be on the opposite side relative to where horses will be at pasture. Owners and residents shall not scale fencing into Equestrian Fields, including owners of horses, unless completely approved by Equestrian Stable director or other comparable manager.

#### **SECTION 5.43 EQUINE RESPONSIBILITY**

(a) Horses grazing in the Equestrian Fields or walking trails shall be yielded to for their safety.

(b) All residents and their pets shall keep a minimum of twenty (20) feet distance from horses if they are along fencerow adjacent to Plot.

(c) Residents shall not use dangerous chemicals, insecticides or fertilizers that can harm horses grazing along rear property lines.

(d) Residents shall avoid making loud noises to distract or spook horses grazing or riders, including yelling, music or the like by a resident, their guests or pets, as well as avoid bright lighting, laser lights or other comparable lighting objects that may be distracting.

(e) Residents, their guests, equestrian owners and others shall all adhere to the Equestrian Policies & Procedures, as applicable.

#### **SECTION 5.44 WATER MANAGEMENT AND DRAINAGE RESTRICTIONS AND EASEMENTS**

(a) No structure, Residence or Improvement, planting or other material (other than lawn) of any kind shall be constructed, erected or installed, unless constructed, erected or installed by Master Declarant, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of a Water Management System and drainage area reserved for, or intended by Master Declarant to be reserved for, drainage way, sluice-ways or for the accumulation of runoff waters, as reflected in any Plot or instrument of record with the Recorder, without the specific written permission of the Master Association and the Master Declarant.

(b) An Owner shall in no way deny or prevent ingress and egress by Master Declarant or the Master Association to any Water Management System and drainage area for maintenance or landscape purposes. The right of ingress and egress, and easements therefore, are hereby granted in favor of the Master Declarant, the Master Association, any appropriate governmental or quasi-governmental agency or any public or private utilities that may reasonably require such ingress and egress and easements therefore are hereby specifically reserved and created.

(c) No Plot shall be increased in size by the filling in of any Lake, Pond, water retention or drainage areas on which it abuts. Owners shall not fill, dike, rip-rap, block, divert or change the established water retention and drainage areas without the prior written consent of the Master Association and the Master Declarant. No Owners may draw water for irrigation or other purposes from any Lake, Ponds or other water management area.

(d) All Water Management Systems within the Property will be the ultimate responsibility of the Master Association. The Master Association may enter any Plot or Common Area and make whatever Improvements or repairs are deemed necessary to restore proper water management. The cost shall be an expense of the Master Association.

(e) Nothing in this Section 5.44 shall be construed to allow construction of any new water management facility or alteration of Water Management Systems without first obtaining the necessary permits from all governmental regulatory agencies having jurisdiction.

#### **SECTION 5.45 DOCKS, DECKING AND LAKE USE**

(a) Each Owner of a Lake Lot, if said Lake Lot is of a size and location that may reasonably permit a dock in the sole discretion of the Architectural Review Board, may install one (1) dock on their Plot and no other Improvements shall be located in the Lake adjacent to their Plot. Any dock installed shall be (i) constructed of commercial grade quality, (ii) made of pressure-treated wood, aluminum or fiberglass, (iii) installed only after approved in all aspects by the Architectural

Review Board and (iv) removed from the Lake by November 1 of each year and stored in a screened location on said Owner's Plot.

(b) Each dock shall be located towards the center of shoreline for the Plot, and may be recessed or parallel utilizing shoreline. If recessed, said dock shall not exceed ten (10) feet in depth and must be completed in a concrete seawall in a similar manner as that which exists as of the Effective Date on the Plot designated "B3" on the Section 1A Plat.

(c) Docks along the shoreline using understated cleats along seawall and not protruding into Lake shall be permitted subject to review by the Architectural Review Board. Any boat must be docked parallel to water's edge on Lake Lot. Cleats shall be minimal and fastened to concrete seawall or decking walkway.

(d) A \$5000 performance bond may be required for the duration of the dock construction. Any Improvement that protrudes into the Lake must have reflective lighting on it and low-intensity solar-powered lighting in accordance with a plan approved in writing by the Architectural Review Board prior to installation. The maximum extension from the shoreline of docks and watercraft is fifteen (15) feet. Floating docks are prohibited. Railing height not to exceed 3 or 4' to get in and out of any boat or watercraft.

(e) Decking along shoreline of Lake Lot shall not exceed twenty percent (20%) of frontage and may not protrude into the Lake. Decking foundation may comprise concrete or wood and is subject to approval by the Architectural Review Board prior to installation. Decking along shoreline of Lake Lot may be in natural colors only to blend in with surroundings including beige, gray, brown shades. (i.e. no bright colors or bright white decking). Patio furniture located on decking shall be consistent with house character and should not include bright contrasting or neon colors or patterns.

(f) Seawalls are permitted and shall be made of stone matching that which is already present on Residence, continuation of concrete or otherwise approved by the Architectural Review Board prior to installation.

(g) Owners of Lake Lots are permitted to convert portion of shoreline along the Lake Lot not exceeding fifty percent (50%) of shoreline length into beach area, as approved by the Architectural Review Board prior to installation, provided that measures are taken to ensure that erosion of said shoreline is prevented and negative impact on Lake averted.

(h) Light watercraft, including kayaks, canoes, paddle boards and other related water gear (life jackets, etc.) shall be (i) stored close to the Residence and not within rear yard setback overnight and (ii) screened or located internal to Residence or accessory building so not visible to others or obstructing views. Vertical racks along the Lake, dock or pier are not permitted. Inflatable lake accessories (including trampolines / slides) as well as diving piers or other similar floatable are not permitted.

(i) Hours of operation for personal non-motorized watercraft (ie small sailboats, paddle boards, kayaks, etc.) are sunrise to dusk only; boats must have lighting from dusk to dawn and are to be used only after dusk for returning home from a neighbors Plot and not for evening cruising.

(j) All boats operated on the Lake shall adhere to either a clockwise or counterclockwise route on the Lake, as set forth in the Lake Rules and Regulations.

#### **SECTION 5.46 WELLS AND SEPTIC SYSTEMS**

Each well and septic system installed on each Plot shall be constructed, installed and maintained at Owner's expense in compliance with all Applicable Laws.

#### **SECTION 5.47 EASTERN PATH**

The use of the Eastern Path shall be restricted to Owners of Plots within the Property only; provided, however, that in addition to pedestrian use by the Owners, Owners may also use Private Carts on the Eastern Path, subject to Master Rules and Regulations established by the Master Declarant.

#### **SECTION 5.48 PERIMETER PATHWAY**

Pedestrian access to the Property shall be coordinated with adjoining properties with existing trails or sidewalks that adjoin Promontory. If no existing trails or walks exist, no connections shall be provided, except as provided below:

(a) While installation of the Perimeter Pathway is not required at the time of primary platting where no existing trails, sidewalks or pathways adjoin Promontory, such Perimeter Pathway shall be installed at the sole cost of the Master Declarant, or its successor-in-interest, at such time as a public pathway is extended to the boundary line of the Property through real estate contiguous to the north or south and, in such event, a portion of the Perimeter Pathway shall be extended across the Property continuously along US 421 so the portion of the Perimeter Pathway extends the full length of the Property along US 421 from north to south, starting from the contiguous property boundary.

(b) If a public pathway is extended to the boundary line of the Property upon real estate contiguous to the west or east side of the Property, such pathway shall be extended across the Real Estate continuously along CR 200 N, so that the portion of the Perimeter Pathway extends the full width of the Property from east to west along CR 200 N, starting from the contiguous property boundary.

(c) If a public pathway is extended to the north or south boundary line of the Property adjacent to CR 1000 E, extension to the Promontory trail system shall be constructed by the Master Declarant, or its successor-in-interest, and the trail along the east edge of Promontory shall be allowed for public use.

## **SECTION 5.49      DAM**

The following restrictions, terms of usage, and conditions apply to the Dam:

(a) Restrictions on Access. No Owners or their families, tenants, guests, and invitees shall access the Dam area at any time. If any Owners or their families, tenants, guests, and invitees are found to have violated this Section, said Owners may be fined in the sole discretion of the Master Declarant until the Master Turnover Date, and after the Master Turnover Date, by the Master Board, in its sole discretion.

(b) Ownership. The Dam shall be owned by the Master Declarant until the Master Turnover Date, and by the Master Association after the Master Turnover Date.

(c) Maintenance. The Master Declarant and Master Association will comply with the dam ownership and maintenance provisions as described in the current versions of Indiana Code 14-27-7.5 and 312 IAC 10.5, and all expenses incurred shall be Master Common Expenses.

(d) Inspections. Regular formal inspections of the Dam shall be conducted in accordance with the frequency and recommendations in the Indiana Dam Safety Inspection Manual, and all expenses incurred shall be Master Common Expenses.

(e) Repairs and Alterations. The Master Declarant until the Master Turnover Date, and the Master Association after the Master Turnover Date, shall perform any recommended maintenance, repairs or alterations as recommended to remedy deficiencies in the Dam structure as identified in the regularly required inspections, and all expenses incurred shall be Master Common Expenses.

## **SECTION 5.50      ADDITIONAL ARCHITECTURAL STANDARDS**

(a) Architectural Style and Character. Residences are expected to reflect classic and historically traditional or modern architecture styles throughout the entire design of the Residence. An emphasis on architectural details that are consistent with the chosen style will be heavily reviewed. Building types shall respond to the setting and be compatible with the overall community. It is desired that the balance, symmetry and detailing of traditional architecture be reflected in all buildings.

(b) Building Projections. The use of porches, veranda, courtyards, patios and/or outdoor living and circulation are encouraged. Such projections must be designed as integral elements of the building using compatible forms and materials. Vinyl and aluminum covered porches are not permitted. All roof projections including chimneys, flues, vents and other equipment must be grouped and concealed in chimney-like structure, Residence or Improvements compatible in height with the structure, Residence or Improvement from which they project. Wood chimney chases are not permitted.

(c) Design Standards. The Residences shall have a minimum distance of 3.0 feet from finished floor to the existing grade (within the building area). The Architectural Review Board is encouraging an “elevated” appearance on the entry elevation.

(d) Roofs, Roof Shape and Ridge Alignment. Roofs shall be carefully designed in color, material and shape so they help to integrate the structure, Residence or Improvement with the landscape and compliment the surrounding Equestrian Facilities and terrain. The goal is to select roofing materials that are dark in color so that the roof recedes into the landscape. Roofing materials shall be non-reflective and fire retardant. Roof flashings, trim and counter flashings shall be in harmony both in color and material with the roof surfacing.

(i) The minimum roof pitch for all Residences shall be 6 vertical to 12 horizontal unless otherwise approved in writing by the Architectural Review Board. Roofs shall truncate above the ground, and roofs on both sides of a ridge shall be the same slope, but not necessarily the same length. Building codes must be met regarding the distance from the roof eaves to finish grade.

(ii) Roof appurtenances shall be integral parts of the architecture of the Residence. Dormers and skylights create interest and add interior light, but they shall integrate with the overall exterior design. Dormers generally shall be gable, shed, hip or derivative types. Non-functional roof ornamentation shall be avoided.

(iii) Diverters, gutters, downspouts and similar accessories, if used, shall be designed within the total roof shape. Mechanical, electrical and roof access equipment and vents shall be integrated into the roof or dormer design and not be visible from public view. Ridge ventilators are acceptable.

(e) Driveway and Garage Layouts. Concrete or approved pavers are preferred driveway materials. The driveway and parking garage layouts shall minimize the visibility of garage doors and guest parking from major views of adjacent Residences and streets. It is required, where practical and feasible, that garage doors shall be oriented so they do not face the street.

(f) Building Materials, Doors and Windows. Building materials, such as brick, stone and wood (or cement fiber board, such as hardi-plank) siding are preferred for exterior surfaces. Wall decorations, shutters, bay windows, flower boxes, balconies and other wall appurtenances shall be simple, functional and well integrated with the total design. Glass may be coated or tinted to control solar heat if approved by the Architectural Review Board, but reflective mirrored appearance is not permitted.

(i) The exterior finishes of windows and doors shall be of wood, anodized finish, or vinyl clad. Metal doors may be permitted with Architectural Review Board approval in limited locations such as garage service doors.

(ii) Windows are required on all sides of a Residence the Plot width of which is at least 70 feet at the building line. For Plots less than 70 feet wide at the building line, windows are required on three (3) sides of the Residence. In the event that a side of a Residence does not



have a window, it shall have at least two (2) architectural breaks, such as a chimney or another corner break, not including the corners of that side.

(g) Sidewalks. A 5-foot wide concrete sidewalk is required in the front yard of every Residence. Sidewalks must be installed by the Designated Builder within thirty (30) days of substantial completion of the Residence. All sidewalks and driveway aprons shall be constructed in accordance with the construction plans approved by the Architectural Review Board and Town of Zionsville, Indiana specifications.

(h) Sports Courts. Sports courts, such as those for tennis, basketball, paddleball, squash or other recreational or sporting facilities must be (i) designed and constructed for natural colors which are not bright and (ii) approved by the Architectural Review Board. No lighted courts or facilities will be allowed except as approved specifically by the Architectural Review Board. All basketball goals will have clear backboards and black poles. No portable basketball goals shall be permitted. Basketball goals are not permitted within the front yard setback of any home.

(i) Minimum Residential Square Footage. The minimum Residential Square Footages for Residences shall be as follows: (i) with respect to lots or Plots with a Plot Width that is between 65 feet and less than 100 feet in width, the first floor above grade shall be a minimum of 1,500 Residential Square Feet for single story Residences and 1,000 Residential Square Feet for two story Residences, (ii) with respect to lots or Plots with a Plot Width that is between 100 feet and less than 120 feet in width, the first floor above grade shall be a minimum of 2,000 Residential Square Feet for single story Residences and 1,000 Residential Square Feet for two story Residences, (iii) with respect to lots or Plots with a Plot Width that is between 120 feet and less than 150 feet in width, the first floor above grade shall be a minimum of 2,200 Residential Square Feet for single story Residences and 1,250 Residential Square Feet for two story Residences, (iv) with respect to lots or Plots with a Plot Width that is between 150 feet and less than 200 feet in width, the first floor above grade shall be a minimum of 2,500 Residential Square Feet for single story Residences and 1,500 Residential Square Feet for two story Residences, (v) with respect to lots or Plots with a Plot Width that is 200 feet or more in width, the first floor above grade shall be a minimum of 2,000 Residential Square Feet for single story Residences and 2,500 Residential Square Feet for two story Residences; provided, however, that such minimum Residential Square footages may be increased or decreased, on a Residence by Residence basis, until the Master Turnover Date by the Declarant, in its sole discretion, and after the Master Turnover Date, by the Architectural Review Board, in its sole discretion, and will be evidenced not by an amendment to this Master Declaration but only by written approval by the Master Declarant or the Architectural Review Board, as applicable.

## **ARTICLE VI**

### **UTILITY AND OTHER EASEMENTS AND DEVELOPMENT RIGHTS**

#### **SECTION 6.01 PLAT EASEMENTS**

In addition to such other easements as are created in this Master Declaration or in a Supplemental Declaration, and as may be created by Master Declarant pursuant to other written

instruments recorded in the office of the Recorder, Plots and Master Common Areas are subject to drainage easements, sanitary sewer easements, utility easements, entryway easements, landscape easements, water access easements, community area access easements, trail/pathway easements, conservation easements and non-access easements, either separately or in any combination thereof, as shown on any plat of all or any portion of the Property recorded with the Recorder, which are reserved for the use of Master Declarant and its designees, Owners, the Master Association, the Architectural Review Board, public and private utility companies, and governmental agencies, as follows:

(a) Drainage Easements are created to provide paths and courses for area and local storm drainage, either over land or in adequate underground conduit, to serve the needs of the Property, the Equestrian Club, and adjoining ground and/or public drainage systems; and it shall be the individual responsibility of each Owner to maintain the drainage across his own Plot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any Improvement, nor shall any grading restrict, in any manner, the water flow. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over any drainage, by Master Declarant, and by the Architectural Review Board, but neither the Master Declarant nor the Architectural Review Board shall have any duty to undertake any such construction or reconstruction.

(b) Sanitary Sewer Easements are created for the use of the local governmental agency having jurisdiction over any storm and sanitary waste disposal system which may be designed to serve the Property and adjoining lands, including the Equestrian Club, for the purpose of installation and maintenance of sewers that are a part of said system.

(c) Utility Easements are created for the use of the Master Declarant, the Master Association, and all public, municipal, or private utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, poles, lines, wires and other facilities, as well as for all uses specified in the case of sewer easements.

(d) Entryway Easements, if any, are created for the use by Master Declarant, the Architectural Review Board, and the Master Association for the installation, operation, and maintenance of any entryways.

(e) Landscape Maintenance Easements are created for the use by Master Declarant, the Architectural Review Board, and the Master Association for the planting and maintenance of trees, shrubs, and other plantings.

(f) Water Access Easements, if shown on a plat recorded with the Recorder, are created for the use by Master Declarant, the Master Association, and the Social Club for purpose of gaining access to any lake in the course of maintenance, repair, or replacement of any portion thereof.

(g) Private Streets shown on a plat recorded with the Recorder, to be installed by Master Declarant, maintained by the Master Association to which they are conveyed, and used by the Owners for vehicular and pedestrian access, ingress and egress.

(h) Non-Access Easements (NAE), if any, are shown on a plat recorded with the Recorder are created to preclude access from certain Plots to abutting rights-of-way across the land subject to such easements.

(i) Trail Easements (T.E) shown on a plat recorded with the Recorder, to be installed by Master Declarant, maintained by the Master Association, and used by the Owners for pedestrian access and passive recreational trail purposes, such as walking, hiking, jogging, and running.

(j) Conservation Easements (C.E.) shown on a plat recorded with the Recorder are created to prohibit Owners of Plots upon which the conservation easement is located from altering, modifying or manipulating in any way the natural state of the creek or waterway located within the conservation easement and, therefore, by way of example and not limitation, no permanent or other structures, or landscaping are to be erected or maintained upon said strips of land within the conservation easement.

All easements described in this Section 6.01 include the right of reasonable ingress and egress for the exercise of other rights reserved. No structure, Residence or Improvement, including fences, shall be built on any drainage, sewer, or utility easement if such structure, Residence or Improvement would interfere with the utilization of such easement for the purpose intended or violate any applicable legal requirement or the terms and conditions of any easements specifically granted, to a Person other than an owner, by an instrument recorded with the Recorder, Indiana; provided, however, that paved or concrete driveways necessary to provide access to a Plot from a Public Street or Private Street or Private Road and a sidewalk installed by or at the direction of the Master Declarant, together with replacements thereof, shall not be deemed a "structure, Residence or Improvement" for the purpose of this restriction.

## **SECTION 6.02 ADDITIONAL EASEMENTS**

(a) The following rights and easements reserved and retained in this Section 6.02(a) shall not be exercised with respect to a Plot, after the conveyance of such Plot by Master Declarant to an Owner, in a manner that (i) unreasonably affects any Residence or portion thereof located upon such Plot or the Owner's use or enjoyment thereof, or (ii) unreasonably affects the rights of ingress and egress to such Plot:

(i) During the term of this Master Declaration, the Master Declarant, until the occurrence of the Master Turnover Date and, thereafter, the Master Association hereby reserves and shall have the right (i) to grant telephone, gas, water, sewer, irrigation, drainage, cable television or other easements, including rights of access to maintain, repair, replace, or install fixtures and appurtenances necessary for such utility and government services for the benefit of the appropriate utility companies, agencies, franchises, or government agencies, and to relocate any existing easement in any portion of the Property, and (ii) to grant access easements and to relocate any existing access easements in any portion of the Property as the Master Declarant or the Master Association shall deem necessary or desirable, for the proper operation and maintenance of the Property, or any portion thereof, or for the general health or welfare of the Owners, or for the purpose of carrying out any provision of this Master Declaration.

(ii) There is hereby created a blanket easement over, across, through, and under the Property for ingress, egress, installation, replacement, repair, and maintenance of underground utility and service lines and systems including, but not limited to, water, sewers, gas, telephone, electricity, television, cable or communication lines and systems; provided, however, that such easements may not be utilized or exercised except as approved by the Master Declarant prior to the Master Turnover Date or by the Architectural Review Board thereafter. By virtue of this easement, it shall be expressly permissible for Master Declarant or the providing utility or service company to install and maintain facilities and equipment on the Property and to excavate for such purposes if the Master Declarant or such company restores the disturbed area as nearly as is practicable to the condition in which it was found. Should any utility furnishing a service covered by this general easement request a specific easement by separate document to be recorded with the Recorder, Master Declarant or the Master Declaration shall have the right to grant such easement on the Property without conflicting with the terms hereof. Notwithstanding anything herein to the contrary, however, this blanket easement shall in no way affect any easements on the Property that are recorded with the Recorder, shall be limited to Improvements as originally constructed, and shall not cover any portion of a Plot upon which a Residence has been constructed.

(iii) Master Declarant hereby reserves to itself and its designees the right and power, during a period of fifty (50) years from the date of the recordation with the Recorder of this Master Declaration, to declare and file or record with the Recorder of additional easements granting full, free right, power and authority to lay, operate, and maintain such drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, communication lines, cable television lines, and such other public service facilities as the Master Declarant may deem necessary along, through, in, and over a strip of land ten (10) feet in width from all side, front, and rear lines of any Plot. These easements may be granted for the benefit of the Property or burden the Property for the benefit of other real estate including, without limitation, the Equestrian Club.

(b) Master Common Area Easements. All Master Common Areas are hereby declared to be subject to a perpetual, non-exclusive easement in favor of the Master Association and its employees and agents in order that such employees and agents may carry out their duties on behalf of the Master Association. Notwithstanding anything else to the contrary set forth in this Master Declaration, the Master Declarant, solely at the Master Declarant's discretion, reserves the right to grant perpetual, non-exclusive easements over the Master Common Areas for ingress, egress, utilities, water, sewer, cable television, drainage and other purposes for the benefit of the Master Common Areas, Equestrian Club or any Plot or of other real property.

(c) Signage Easement. Any signage placed on any Plot or Master Common Areas by the Master Declarant is hereby allowed, and an easement is hereby reserved to the Master Declarant to enter upon any Plot or Master Common Areas for the purpose of replacing, improving, altering, landscaping, and maintaining any signage thereon. The aforesaid reservation of easements shall be freely assignable by Master Declarant, either in whole or in part, to any entity or entities at the Master Declarant's sole and absolute discretion, and without further approval from the Master Association. Except for the aforesaid Master Declarant's reservation of easement right, together with the Master Declarant's right of assignment thereof, no signs shall be placed on or allowed to

be placed on or adjacent to a Plot or Master Common Areas by any Owner without the prior written approval of the Architectural Review Board.

(d) Sales and Development Easement. Notwithstanding anything to the contrary contained in this Master Declaration or any other instrument or agreement, the Master Declarant or its sales agents, contractors, or designees shall have the right and easement to use, without charge, any Plot or part of the Property owned by it, and any Master Common Areas (i) for all purposes in connection with the development of the Property, and (ii) in order to establish, modify, maintain, and utilize, as it and they may deem proper, model homes, sales homes, and such other offices and facilities as, in the sole opinion of the Master Declarant, may be reasonably required, convenient, or incidental to the construction, sale, or rental of Plots and Residences including, without limitation, a general business office, storage area, construction signs, model Residences, sales and leasing offices, and any signs or other promotional material to advertise Plots and Residences for sale or lease, and to take all other action helpful for the sales and promotion of the Property.

(e) Master Declarant's Easement to Correct Drainage. For a period of fifty (50) years from the date of the conveyance of the first Plot, Master Declarant reserves a blanket easement and right on, over and under the ground within the Property to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary, following which the Master Declarant shall restore the affected Property to its original condition as nearly as practicable. Master Declarant shall give reasonable notice of its intention to take such action to all affected Owners, unless in the opinion of Master Declarant an emergency exists which precludes such notice.

(f) Enforcement Easements. Each Owner hereby grants to the Master Association a non-exclusive easement for ingress and egress over the Master Common Areas and over the Owner's Plot, to enter upon the same at reasonable times to enforce the provisions of this Master Declaration, and the same shall not constitute a trespass.

(g) Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Plot and such portion or portions of the Master Common Areas adjacent thereto or as between adjacent Plots due to the unintentional placement or settling or shifting of the Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Plot and the adjacent portion of the Master Common Areas or as between said adjacent Plot, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Master Association.

(h) Right of Entry. The Master Association shall have the right, but not the obligation, to enter upon any Plot for emergency, security, and safety reasons, to perform maintenance pursuant to this Master Declaration, and to inspect for the purpose of ensuring compliance with

this Master Declaration and any Supplemental Declaration, which right may be exercised by any member of the Master Board, the Master Association, officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Master Association to enter upon any Plot 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 requested by the Master Board, but shall not authorize entry into Residence without permission of the Owner, except by emergency personnel acting in their official capacities.

(i) Tree Preservation Easements (the “Preservation Areas”), if any, are shown on the Plat as “Tree Preservation Easements”. As shown, Tree Preservation Areas are located in Common Areas and upon Plots or lots. Except as noted below, each Designated Builder, and/or Owner shall endeavor to preserve trees within the Tree Preservation Easements and shall not remove trees, small trees and/or underbrush within the Preservation Areas:

- (i) The clearing of dead trees by the Master Declarant or the Master Association shall be allowed;
- (ii) The removal of trees and underbrush by the Master Declarant as necessary for the installation of utilities, drainage improvements and infrastructure, landscaping, walls and fencing shall be allowed;
- (iii) The removal of trees for public health and safety shall be allowed, but only when such removal is first approved by the Architectural Review Board, unless there exists an emergency necessitating immediate removal, in which case the removal may occur before the approval of the Architectural Review, provided that the Architectural Review Board shall thereafter review the circumstances surrounding the removal.

#### **SECTION 6.03 UTILITY LINES**

All electric, telephone, cable television, fiber optic, high speed internet, gas and other utility lines must be installed underground. The Architectural Review Board may require that the Owner install, at the time of construction of a Residence, conduit from the street to the Residence for future technology.

### **ARTICLE VII MASTER ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

The Owner of each Plot shall be a Regular Member of the Master Association. The Master Declarant shall also be the Master Declarant Member as set forth herein.

#### **SECTION 7.01 MEMBERSHIPS**

(a) Each Plot in the Property shall have one (1) Regular Membership appurtenant to it. When more than one Person is an Owner of a fee simple or of a fractional undivided fee simple interest in any Plot per the Recorder's records, said owning Persons or entities shall decide among themselves who shall be the sole Regular Member and only such Person shall qualify for membership or continuation of membership. In no event shall there be more than one (1) Regular Membership with respect to any Plot. The foregoing is not intended, to include Persons or entities who hold an interest merely as security for the performance of an obligation.

(b) Membership in the Master Association shall be appurtenant to and may not be separated from ownership of any Plot, with the exception of Limited Member and Master Declarant Member.

(c) All membership rights and duties shall be subject to and controlled by this Master Declaration, which is a covenant running with the land. No Regular Member may be expelled from membership in the Master Association for any reason. The Master Board shall have the right to suspend the voting rights of a Regular Member for a period during which any Master Assessment or charge owed by a Regular Member remains unpaid in excess of six (6) months.

(d) Each Owner agrees to accept membership in the Master Association and to be bound by this Master Declaration, the Master Association and the Master Rules and Regulations enacted pursuant thereto.

(e) The Master Declarant may, in its sole discretion, from time to time, designate the number of votes that are assigned to each Plot whether or not there are any structures, Residences or Improvements located on it. Any dispute as to the number of votes assigned to a Plot shall be decided by Master Declarant, whose decision shall be final.

(f) Regular Membership in the Master Association is automatic upon acquisition of ownership of a Plot and may not be transferred separate and apart from a transfer of ownership of the Plot. Regular Membership likewise automatically terminates upon the sale or transfer of an Owner's interest in a Plot, whether voluntary or involuntary. A Regular Member's voting rights and privileges in connection with the Master Common Areas may be regulated or suspended as provided in this Master Declaration or Master Rules and Regulations.

(g) Limited Membership in the Master Association is automatic upon acquisition of ownership of the Equestrian Club and may not be transferred separate and apart from a transfer of the Equestrian Club. Limited Membership likewise automatically terminates upon the sale or transfer of the ownership in the Equestrian Club, whether voluntary or involuntary.

## **SECTION 7.02 VOTING RIGHTS**

For purposes of voting rights only, the Master Association shall be deemed to have three types of membership; namely, Regular Membership, Limited Membership, and Master Declarant Membership.

(a) Regular Membership – Residences. Regular Members shall be all Owners of Plots with the exception of the Limited Member and the Master Declarant Members. Regular members shall be entitled to one vote for each Residence owned by such Regular Member. In the event that a Regular Member owns a Plot on which a Residence has not yet been constructed, such Regular Member shall be entitled to one (1) vote for each Residence which has been assigned to the Plot by the Master Declarant.

(b) Multiple Owners. When there are multiple owners of a Plot, only one vote may be exercised for each Residence (whether constructed or assigned as provided above), which vote shall be exercised among the Owners of said Plot as provided in the Master Association. Regular Members shall be entitled to vote as provided in the Master Founding Documents.

(c) Limited Membership. The Limited Member shall be the owner of the Equestrian Club and its successors and assigns. The Limited Membership shall be appurtenant to and may not be separated from ownership of the Equestrian Club property, and ownership of the Equestrian Club property shall be the sole qualification for such Limited Membership. In the event that fee title to the Equestrian Club property is transferred or otherwise conveyed, the Limited Membership in the Master Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include Institutional Mortgagees or any other Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect the Limited Member's membership in the Master Association. Where a mortgagee or other Person holding an interest in the Equestrian Club property as security for the performance of an obligation acquires to the Equestrian Club property through a foreclosure proceeding or the issuance of a deed in lieu of foreclosure, such mortgagee or other transferee shall be deemed to have a Limited Membership in the Master Association upon acquiring title to the Equestrian Club property. The rights and privileges of the Limited Membership, including the right to vote and to hold an office (if appointed or elected, as applicable) in the Master Association, may be exercised by the Limited Member, but in no event shall more than one office be held by the Limited Member. When a vote of the members of the Master Association is required by this Master Declaration or by the Bylaws of the Master Association, the Limited Member shall be assigned twenty-five (25) votes for its membership.

(d) Master Declarant Membership. Master Declarant Member shall be the Master Declarant or any successor to Master Declarant, or any assignee, designee or nominee of Master Declarant, in whole or in part, to whom Master Declarant has assigned all or any part of its rights as a Master Declarant Member (the "Master Declarant Member"). At all times prior to expiration of the Master Declarant Membership, as provided herein, the Master Declarant Member shall have the same number of votes at any meeting in which votes are to be taken as is held by all Regular Members and the Limited Member, plus an additional five hundred (500) votes. The Master Declarant reserves the right to assign some of its rights and obligations under this Master Association without terminating or waiving its right to Master Declarant Membership. From and after the Master Turnover Date, the Master Declarant Member shall be deemed to be a Regular Member and for purposes of calculation of casting vote, may be classified as both a Regular and a Limited Member (with additional voting rights per Section 7.02(c) above) dependent upon whether the Master Declarant owns the Equestrian Club, and as then a Regular Member shall be entitled to



the same number of votes based upon such property ownership in accordance with the provisions of Section 7.02(a) and Section 7.02(b) above. Within sixty (60) days after such Master Turnover Date, Master Declarant shall call a meeting as provided in the Master Association for special meetings to advise the membership of the termination of the Master Declarant Membership status.

### **SECTION 7.03 DELEGATION OF VOTING RIGHTS**

When the vote of Limited Members is required or requested under this Master Declaration or the Master Association Founding Documents, or required by the Master Board, the Limited Member shall appoint a Person to be the voting member of the Equestrian Club who, in turn, shall cast all of the 75 votes of the Limited Member as a block, either all positive or all negative, in the manner approved by the Owner of the Equestrian Club.

- (a) Voting shall be conducted on specific matters in the manner provided in the Master Association Founding Documents.

### **SECTION 7.04 ELECTION OF MASTER BOARD OF DIRECTORS**

It is anticipated that the day-to-day operation of the Master Association shall be conducted by the Master Board. Until the Master Turnover Date, Master Declarant will retain the exclusive powers to appoint and remove and replace Master Directors and Officers of the Master Association. After the Master Turnover Date, Master Directors of the Master Association shall be elected at the annual meeting of the Regular Members in the manner provided in the Master Association's Bylaws and Master Directors may be removed and vacancies on the Master Board shall be filled in the manner provided in this Master Declaration and the Bylaws of the Master Association. Limited Member shall not be entitled to vote on the election of the Master Board. The Master Directors of the Master Association shall manage the affairs of the Master Association. Master Directors need not be Regular Members.

### **SECTION 7.05 CONTROL OF BOARD BY MASTER DECLARANT**

So long as there is a Master Declarant Member, the Master Declarant has the right to designate, elect, remove or replace all of the Master Board of Directors, and the Master Directors so designated by the Master Declarant need not be Regular Members of the Master Association. The Master Declarant may waive its right to designate any one or more Master Directors, as provided in the Master Association's Bylaws.

### **SECTION 7.06 PROFESSIONAL MANAGEMENT**

At any time prior to the occurrence of the Master Turnover Date, the Master Declarant, in the Master Declarant's sole discretion, may require that the Master Association continuously employ a professional management company, possessing experience and experienced in the management of home owners associations, to assist the Master Board in the management and administration of the Master Association. The cost of such professional assistance shall immediately and automatically be added to the annual assessment as a Common Expense. If the

Master Declarant so elects, such professional management shall continue without interruption after the Master Turnover Date at all times during the existence of the Master Association.

**ARTICLE VIII**  
**MASTER ASSESSMENTS AND LIEN RIGHTS**

**SECTION 8.01 CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS**

Each Owner of a Plot or Residence, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Master Association the following "Master Assessments":

(a) Annual Assessments, Supplemental Assessments, Special Assessments, Initial Assessments, and Perimeter Pathway Assessments, all as established and to be collected as hereafter set forth;

(b) Social Membership Assessments as established and to be collected as hereafter set forth;

(c) Individual Assessments against any particular Plot or Residence, as established and hereafter set forth, including, but not limited to, (i) charges, assessments, fines as may be imposed against such Plot and/or Residence as set forth anywhere in this Master Declaration including, but not limited to, Article V and (ii) liens against such Plot and/or Residence as imposed pursuant to Section 8.09 herein; and

(d) Any additional assessments specified in a Supplemental Declaration.

(e) Any such Master Assessments, together with late charges, simple interest at the maximum rate allowable by law per annum, and court costs and attorneys' fees incurred to enforce or collect such Master Assessments, shall be an equitable charge and a continuing lien upon the Plot or Residence, the Owner of which is responsible for payment. Each Owner shall be personally liable for Master Assessments coming due while such Owner is the Owner of a Plot or Residence, and his grantee shall take title to such Plot or Residence subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Master Assessments shall not apply to the holder of any first priority Institutional Mortgage or to the holder of any Institutional Mortgage securing a loan made by Master Declarant, its affiliates, successors, or assigns, and who takes title to a Plot or Residence through foreclosure or through conveyance of a deed in lieu of foreclosure or to any purchaser of such Plot or Residence at such foreclosure sale. In the event of co-ownership of any Plot or Residence, all of such co-owners shall be jointly and severally liable for the entire amount of such Master Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Master Board, provided that, unless otherwise provided by the Master Board, the Annual Assessments shall be paid in advance at the beginning of the fiscal year of the Master Association.

## **SECTION 8.02 ASSESSMENTS AGAINST THE EQUESTRIAN CLUB**

Per the terms of Section 8.03, the owner of the Equestrian Club property shall be responsible for paying only Annual Assessments, but under no circumstances shall the owner of the Equestrian Club be responsible for the payment of any Supplemental Assessments or Special Assessments as provided in Sections 8.04 and 8.05, respectively, Initial Assessments as provided in Section 8.06 below, Individual Assessments as provided in Section 8.09 below, the Social Membership Assessment as provided in Section 8.08 below, or any Master Assessments other than Annual Assessments per the terms of Section 8.03 below.

## **SECTION 8.03 ANNUAL ASSESSMENTS**

Prior to the Master Turnover Date, by a vote of a Majority of the Master Board, the Master Board shall (i) shall adopt an annual budget for the subsequent fiscal year, which shall provide for the allocation of expenses in such a manner that the obligations imposed by the Master Declaration (the "Annual Budget") and (ii) fix the Annual Assessment for each assessment year of the Master Association at an amount sufficient to meet the obligations imposed by this Master Declaration upon the Master Association. The Master Board shall establish the date(s) the Annual Assessment shall become due, and the manner in which it shall be paid.

The Master Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

- (a) management fees and expenses of administration, including legal and accounting fees;
- (b) utility charges for utilities serving the Master Common Areas and charges for other common services for the Property, security services, if any such services or charges are provided or paid by the Master Association;
- (c) the cost of any policies of insurance purchased for the benefit of all the Owners and the Master Association as required or permitted by this Master Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Master Board determines to be in the interests of the Master Association and the Owners;
- (d) the expenses of landscaping, mowing, maintenance, operation, repair and/or replacement of (i) those portions of the Master Common Areas which are the responsibility of the Master Association under the provisions of this Master Declaration, including the Dam; together with (ii) all Improvements and trails located within such Master Common Areas, including the Dam;
- (e) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Master Board from time to time determines to be in the best interest of the Master Association;

(f) the expenses of the Architectural Review Board that are not defrayed by plan review charges;

(g) ad valorem real and personal property taxes assessed and levied against the Master Common Areas;

(h) the expenses for conducting recreational, cultural, or other related programs for the benefit of the Owners and their families, tenants, guests, and invitees;

(k) in the sole and absolute discretion of the Master Board, the Master Board may from time to time elect to provide services including, without limitation, snow removal from Public Streets, and Private Streets and/or Private Roads and trash collection from Residences (provided such trash collection is not undertaken by the Town of Zionsville, Indiana) in which case the costs of such snow removal and trash collection shall be included within the Master Common Expenses;

(l) the expense of maintaining any entrance gate, gate house, guard houses, and entrance systems and features installed by the Master Declarant in any Common Area or elsewhere;

(m) the expense of maintaining any street lights installed by the Master Declarant in any Street or elsewhere; and,

(n) such other expenses as may be determined from time to time by the Master Board to be Master Common Expenses, including, without limitation, all painted Golf Cart Path markings, taxes and governmental charges not separately assessed against Plots or Residences.

After the Master Turnover Date, the Annual Budget shall reflect the estimated revenues and expenses for the budget year, and the estimated surplus or deficit as of the end of the current budget year. The Master Association shall provide each Owner with: (1) a copy of the proposed Annual Budget; or (2) written notice that a copy of the proposed Annual Budget is available upon request at no charge to the Owner. At the same time, the Master Association shall provide each Owner with a written notice of the amount of any increase or decrease in the Annual Assessment paid by the Owners that would occur if the proposed Annual Budget is approved. After all of the foregoing take place, the Master Association shall hold a meeting pursuant to the immediately following subparagraphs (i) and (ii):

(i) After the Master Turnover Date, and subject to subparagraph (ii) immediately below, the Annual Budget must be approved at a meeting of the Regular Members by a Majority of the Regular Members of the Master Association in attendance at a meeting called and conducted in accordance with the requirements of this Master Declaration, the Master Association's Articles and the Master Association's By-Laws. For purposes of this meeting, a Regular Member is considered to be in attendance at the meeting if the Regular Member attends: (1) in Person; (2) by proxy; or (3) by any other means allowed under

Indiana law or under this Master Declaration, the Master Association's Articles or the Master Association's By-Laws.

(ii) If the number of Regular Members in attendance at the meeting held under subparagraph (i) immediately above does not constitute a quorum as defined in the Master Association's By-Laws, the Master Board may adopt an Annual Budget for the Association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved annual budget last approved by the Master Association.

The total Annual Assessments shall be divided among the Plots or Residences, as hereinafter provided: (i) the Owner of each Residence or Plot on which a Residence shall be constructed shall pay Annual Assessments which, beginning in 2023 and subject to increase as provided herein, shall be an amount not less than \$650.00 per Plot or Residence, unless otherwise determined by Master Declarant; (ii) the owner(s) of the Equestrian Club property shall pay Annual Assessments to the Master Association in an amount equal to five (5) multiplied by the Annual Assessment for a Residence as set forth above; and, (iv) notwithstanding anything to the contrary in this Master Declaration, no Plot owned by Master Declarant shall be assessed for Annual Assessments and no Plot owned by a Designated Builder, other than a Plot on which there exists a Residence in which the Designated Builder resides, shall be assessed for Annual Assessments.

#### **SECTION 8.04 SUPPLEMENTAL ASSESSMENTS**

If the Master Board determines that the Annual Assessment, and any Supplemental Assessments, for the current year are, or will become, inadequate to meet all Master Common Expenses for any reason, it shall determine the approximate amount of such inadequacy and make a Supplementary Assessment against each Plot, specifying the date or dates when due (the "Supplemental Assessment"). A Supplementary Assessment may be added to and paid with installments of the Annual Assessment, or be otherwise payable as determined by the Master Board. Notwithstanding anything to the contrary in this Master Declaration, no Plot owned by Master Declarant or a Designated Builder, other than a Plot on which there exists a Residence in which the Designated Builder resides, shall be assessed for Supplemental Assessments.

#### **SECTION 8.05 SPECIAL ASSESSMENTS**

From time-to-time Master Common Expenses of an unusual or extraordinary nature or not otherwise contemplated may arise. At such times, in addition to the Annual Assessments authorized above, the Master Association, acting through its Master Board, may levy, in any assessment year, Special Assessments, applicable to that year only, provided that such Special Assessment shall be approved (i) by Master Declarant until the occurrence of the Master Turnover Date, and (ii) by a Majority of the votes entitled to be cast at a meeting duly called for this purpose. The Master Board may make such Special Assessments payable in installments over a period which may, in the Master Board's discretion, extend in excess of the fiscal year in which adopted. Such Special Assessments are to be allocated among the Plots and Residences as provided with respect to Annual Assessments. Under no circumstances shall the Equestrian Club be responsible for Special Assessments. Notwithstanding anything to the contrary in this Master Declaration, no

Plot owned by Master Declarant or a Designated Builder, other than a Plot on which there exists a Residence in which the Designated Builder resides, shall be assessed for Special Assessments.

#### **SECTION 8.06 INITIAL ASSESSMENT**

Each Owner of a Plot or Residence, shall pay to Declarant an Initial Assessment, in the sum of \$400.00, on the earlier of (i) the date the Declarant conveys the Plot to an Owner (other than a Designated Builder or the holder of a first mortgage on such Plot in a conveyance which constitutes a deed in lieu of foreclosure), (ii) the date a Residence constructed on the Plot has been certified for occupancy by the local zoning authority, (iii) the date a Designated Builder conveys the Plot to an Owner (other than Declarant), or (iv) the date a Residence on the Plot is first occupied by an Owner or occupant upon completion of construction thereof.

#### **SECTION 8.07 UNIFORMITY OF ASSESSMENT**

Each owner of a Residence shall pay the same Annual Assessment, Supplemental Assessment, and Special Assessment.

#### **SECTION 8.08 SOCIAL MEMBERSHIP ASSESSMENTS**

Subject to the Social Club's rules and regulations, membership plans and applications, which specify the terms, conditions, rules and regulations that may be unilaterally amended at any time, and from time to time, without notice to or consent of any Person, by the Master Declarant prior to the Master Turnover Date in their sole discretion, each Owner shall be and is a Social Member of the Social Club and, by virtue thereof, each Owner has a nonexclusive right to use and enjoy the Social Club facilities other than, except for and excluding the Equestrian Stable, Equestrian Facilities, Equestrian Fields, and the certain other Equestrian Club facilities that are reserved exclusively for other Equestrian Members. The Social Club shall, in its sole discretion, have other forms of membership including, without limitation, Social Members who are not Residents.

Social Membership Assessments shall be determined by the Master Board, in their sole discretion, and shall be levied by the Master Board against all Plots on which Residences exist. The Social Membership Assessment shall be mandatory and shall not be subject to or submitted to a vote. In the Master Board's sole discretion, the Social Membership Assessment shall be a mandatory part of every Annual Budget. The Master Declarant and the Master Board have the right, in their sole discretion, to suspend any Social Membership for cause, including the violation by any Social Member of the rules and regulations promulgated and made applicable by the Master Declarant and the Master Board to all Social members; provided, however, that any such suspension shall not suspend or alleviate the suspended Regular Member's obligation to commence to timely pay all Social Membership Assessments.

Social Membership Assessments shall commence when the Master Declarant, in its sole discretion, determines that the Meeting House is substantially completed and, (i) upon such determination, and prior to the substantial completion of the Social Club's pool, the Social Membership Assessment shall be \$95.00 per month and, (ii) upon the determination by the Master Declarant, in its sole discretion, that the Social Club's pool is substantially completed, the Social

Membership Assessment shall automatically be increased and shall become \$135.00 per month, all subject to increase as set forth below. After the determination by the Master Declarant, in its sole discretion, that the Social Club's pool is substantially completed, the Social Membership Assessment may not be increased by more than the greater of (i) ten (10) percent of the Social Membership Assessment in the prior year or (ii) the percentage increase, if any, over the previous year's Consumer Price Index (All Urban Consumers, United States Average, All items 1967=100) or its successor index). Notwithstanding anything in this Master Declaration to the contrary, without the written consent of the Master Declarant prior to the Master Turnover Date, the Master Declaration may not be amended to eliminate or modify the requirement of Social Membership Assessments or to modify or alter any of the rights of the Social Club specified in this Master Declaration. Master Declarant reserves the right to lease the Meeting House to the Master Association, the rental amount for which shall (i) be determined solely by Master Declarant and (ii) become part of the Social Membership Assessments.

#### **SECTION 8.09 INDIVIDUAL ASSESSMENTS**

Any expenses of the Master Association occasioned by the conduct of less than all of the Owners or by the Owner's Resident Family, tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Plots or Residences. The Individual Assessments provided for in this Section 8.09 shall be levied by the Master Board and the amount and due date of such Individual Assessment so levied by the Master Board shall be as specified by the Master Board in its discretion. Under no circumstances shall the Equestrian Club be responsible for Individual Assessments.

#### **SECTION 8.10 PERIMETER PATHWAY ASSESSMENTS**

Master Declarant until the Master Turnover Date, in its sole discretion, and after the Master Turnover Date, the Master Board, in its sole discretion shall determine the amount of and collect assessments for the construction of the Perimeter Pathway, to be held in reserve as per Section 8.11 herein. Once the aggregate amount of the reserve collected for the Perimeter Pathway reaches the amount of Two Hundred Thousand Dollars (\$200,000.00), further collection of Perimeter Pathway Assessments shall cease until construction of the Perimeter Pathway begins, and collection of Perimeter Pathway Assessments shall only resume if needed to complete construction of the Perimeter Pathway.

#### **SECTION 8.11 RESERVES**

The Master Board may establish reserve accounts funded from Initial Assessments, Annual Assessments and/or Supplemental Assessments in reasonable amounts and in such categories as are determined by the Master Board for deferred maintenance and repair and replacement, including maintenance of all Master Common Areas, emergency repairs as a result of casualty losses, and recurring periodic maintenance, or the initial cost of any new service to be performed by the Master Association. All amounts collected as a reserve shall be deposited or invested by the Master Board in separate accounts to be held in trust for the purposes for which such funds are collected, and shall not be commingled with any other funds of the Master Association. Such

reserves shall be deemed a contribution to the capital account of the Master Association by the Regular Members.

#### **SECTION 8.12 COLLECTION AND COMMENCEMENT**

Master Assessments and Social Membership Assessments that are levied by the Master Association against any Plot shall be collected directly by the Master Association. The Annual Assessment and Social Membership Assessment shall commence with respect to assessable Plots on the next day of the month following conveyance of the first Plot to an Owner who is not Master Declarant or a Designated Builder, other than a Plot on which there exists a Residence in which the Designated Builder resides. The initial Assessment on any assessable Plot shall be adjusted according to the days remaining in the month in which the Plot became subject to assessment. Only Plots for which the Annual Assessment has commenced shall be subject to Supplemental Assessments, Special Assessments, Social Membership Assessments, and Individual Assessments.

#### **SECTION 8.13 LIENS**

All sums assessed against any Plot or Residence pursuant to this Master Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Plot or Residence in favor of the Master Association. Such liens shall be superior to all other liens and encumbrances on such Plot or Residence except only for: (i) liens of ad valorem taxes, and (ii) liens for all sums unpaid on a first priority Institutional Mortgage from any Owner or the Master Declarant, or its affiliates, successors, or assigns, and all amounts advanced pursuant to any such first priority Institutional Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of Master Assessments and charges to the lien of such Mortgages shall only apply to such Master Assessments and charges that have become due and payable prior to acquisition of title at a foreclosure sale or by a deed in lieu of foreclosure. All other Persons acquiring liens or encumbrances on any Plot or Residence after this Master Declaration has been recorded with the Recorder shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for Master Assessments and charges as provided herein.

Whenever provisions in this Master Declaration, including, without limitation, provisions in Article V above or in this Article VIII, provide for a lien for Master Assessments or otherwise, the Master Declarant and/or the Master Association may, in its sole discretion, cause a lien against the subject Plot to be recorded with the Recorder, which lien may be foreclosed in the same manner as mortgages are foreclosed in the State of Indiana or as otherwise specified under the laws and statutes of the State of Indiana.

#### **SECTION 8.14 EFFECT OF NONPAYMENT; REMEDIES**

Any Master Assessments or charge of an Owner or any portions thereof that are not paid when due shall be delinquent. Any Master Assessment or charge delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Master Board from time to time and shall also commence to accrue simple



interest at the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. A lien and equitable charge as herein provided for each Master Assessment or charge shall attach simultaneously as the same shall become due and payable, and if a Master Assessment or charge has not been paid within thirty (30) days, the entire unpaid balance of the Master Assessment or charge may be accelerated at the option of the Master Board and be declared due and payable in full. The continuing lien and equitable charge of such Master Assessment or charge shall include the late charge established by the Master Board, and interest on the principal amount due at the maximum interest rate allowed by the laws of the State of Indiana, whichever is lower. All costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law shall be recoverable. In the event that the Master Assessment or charge remains unpaid after sixty (60) days from the original due date, the Master Association may, as the Master Board shall determine, institute suit to collect such amounts and to foreclose its lien in the same manner as mortgages are foreclosed in the State of Indiana or as otherwise specified under the laws and statutes of the State of Indiana. The equitable charge and lien provided for in this Article VIII shall be in favor of the Master Association.

#### **SECTION 8.15 CERTIFICATE**

The treasurer, any assistant treasurer, or the manager of the Master Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Master Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by said treasurer, assistant treasurer, or manager setting forth whether the Master Assessments and charges for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Master Assessments and charges stated therein to have been paid.

### **ARTICLE IX MASTER TURNOVER DATE**

#### **SECTION 9.01 TIME OF MASTER TURNOVER**

Unless Master Turnover of control of the Master Association occurs at an earlier time as explicitly elected in writing by the Master Declarant in the Master Declarant's sole discretion, the date on which Master Turnover of control of the Master Association shall occur is the date of the last to occur of the following (the "Master Turnover Date"):

- 9.01.1 The conveyance by Master Declarant of a total of one hundred percent (100%) of the Plots and Common Areas within the Property; and
- 9.01.2 Twenty (20) years from the date hereof; and
- 9.01.3 When Master Declarant, in its sole discretion, shall determine that the development of the Property has been completed.

At the Master Turnover Meeting, the Regular Members shall elect a Master Board of Directors and the Master Directors appointed by the Master Declarant shall resign.

#### **SECTION 9.02 PROCEDURE FOR CALLING MASTER TURNOVER MEETING**

No more than forty-five (45) days and no less than thirty (30) days prior to the Master Turnover Meeting, the Master Association shall notify in writing all Regular Members of the date, time and place of the Master Turnover Meeting.

#### **SECTION 9.03 EARLY MASTER TURNOVER**

The Master Declarant may, by written instrument recorded with the Recorder, turn over control of the Master Association to Owners other than the Master Declarant prior to the Master Turnover Date set forth above by causing all of its appointed members of the Master Board to resign, whereupon it shall be the affirmative obligation of Owners other than the Master Declarant to elect members of the Master Board and assume control of the Master Association. The Master Declarant shall not be liable in any manner in connection with such resignations, even if Owners other than the Master Declarant refuse or fail to assume control.

#### **SECTION 9.04 CONVEYANCE TO MASTER ASSOCIATION**

Master Declarant agrees that it shall, subjection to Section 2.03(d), convey to the Master Association the Master Common Areas together with the Improvements located thereon upon or before the "Conveyance Date", which shall be on or before sixty (60) days after Master Turnover Date. Such conveyances to the Master Association described herein shall be by quit claim deed. The Master Association shall be obligated to accept all conveyances of any property within the Property from the Master Declarant. The Master Association shall have the right and power to convey Master Association property and/or easements therein to any grantee for consideration or no consideration.

#### **SECTION 9.05 PROFESSIONAL MANAGEMENT**

At any time prior to the occurrence of the Master Turnover Date, the Master Declarant, in the Master Declarant's sole discretion, may require that the Master Association continuously employ a professional management company, possessing experience and experienced in the management of home owners associations, to assist the Master Board in the management and administration of the Master Association. The cost of such professional assistance shall immediately and automatically be added to the Annual Assessment as a Master Common Expense. If the Master Declarant so elects, such professional management shall continue without interruption after the Master Turnover Date at all times during the existence of the Association.

### **ARTICLE X EQUESTRIAN CLUB**

## **SECTION 10.01 OWNERSHIP AND OPERATION OF EQUESTRIAN CLUB**

The Master Declarant, in its sole and absolute discretion, reserves the right to determine if, when, and all terms and conditions under which the Equestrian Club, Equestrian Stable, Equestrian Fields and Equestrian Facilities may be established, as permitted by the Town of Zionsville, Indiana. Master Declarant further reserves the right to negotiate the right to use the Equestrian Facilities for Plot Owners, as well as establish guidelines for construction of a barn, riding arena, stables and other improvements, as well as the construction and maintenance standards for such facilities, lease of property or improvements (including the lease of any Common Areas), entryways, parking lots, access, trails, pasture fields, ponds, public events, public use and private non-resident use, third party management or ownership agreements and more. All Persons, including all Owners, are hereby advised that the ownership and/or operation of the Equestrian Club, if any, may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Equestrian Club by an independent entity or entities, (b) the creation or conversion of the ownership and/or operating structure or Improvement of the Equestrian Club to an "equity" club or similar arrangement whereby the Equestrian Club or the rights to operate it are transferred to an entity which is owned or controlled by its members, or (c) the transfer of ownership or control of the Equestrian Club to one or more affiliates, shareholders, employees, or independent contractors of the Master Declarant. No consent of the Master Association or any Owner shall be required to effectuate such transfer or conversion. No representations or warranties have been made by the Master Declarant or any other Person with regard to the creation, continuing existence, ownership or operation of the Equestrian Club.

## **SECTION 10.02 RIGHT TO USE**

Neither Regular Membership in the Master Association nor ownership or occupancy of a Plot or Residence shall confer any ownership interest in the Equestrian Club. Neither Regular Membership in the Master Association nor ownership or occupancy of a Plot or Residence shall confer any right to use the Equestrian Club. Rights to use the Equestrian Club will be granted only to such Persons, and on such terms and conditions, as may be determined from time to time by the owner of the Equestrian Club. The owner of the Equestrian Club shall have the right, from time to time, in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Equestrian Club, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding Equestrian Club membership documents.

## **SECTION 10.03 VIEW IMPAIRMENT**

Neither the Master Declarant, the Master Association nor the owner or operator of the Equestrian Club guarantees or represents that any view over and across the Equestrian Club from any adjacent Plot or Residence will be reserved without impairment. The owner of the Equestrian Club shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Equestrian Club from

time to time. In addition, the owner of the Equestrian Club may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees on the Equestrian Club from time to time. Any such additions or changes to the Equestrian Club may diminish or obstruct any view from a Plot or Residence and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

#### **SECTION 10.04 RISKS**

By Owner's acceptance of a deed to a Plot, owner acknowledges and accepts the benefits and burdens associated with the Equestrian Club, including without limitation, assuming the risk of the special benefits associated with the Equestrian Club, including, without limitation, those matters more particularly described below. The owner of the Equestrian Club and each and every member, guest, employee or agent of the Equestrian Club, disclaims any liability for personal injury or property damage resulting in any way, all or in part, from any of the following items set forth below. Owner accepts such disclaimer and agrees to release and waive any claims that Owner may have as a result of any such following items:

(a) Each Owner acknowledges and agrees that owning property adjacent to an Equestrian Stable and Equestrian Facilities has benefits as well as detriments, and the detriments include, but are not limited to: (i) the odors that accompany Equestrian Facilities; and (ii) the sounds that may go with having Equestrian Facilities nearby. Additionally, each Owner expressly assumes such detriments and risks and agrees that none of the Master Declarant, its successors or assigns, the Master Association or Regular Members (in their capacity as such), the owner of the Equestrian Club, or any officer, director or partner of any of the foregoing, shall be liable to any Owner or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destructions of property, trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of an Owner's Plot to the Equestrian Club, Equestrian Fields and Equestrian Facilities, including, without limitation, any claim arising in whole or in part from the negligence of Master Declarant or the Equestrian Club.

(b) Pesticides, fertilizers and other chemicals will be utilized in connection with the Equestrian Club. Owner acknowledges, accepts and assumes the risk of proximity to such pesticides, fertilizers and chemicals.

(d) Owner may experience "over spray" at Owner's Plot from the Equestrian Club irrigation system. Owner acknowledges, accepts and assumes the risk of such "over spray".

(e) Owner and/or other occupants of the Plot may be exposed to lights, noise or activities resulting from use of the Equestrian Club for entertainment and use of the parking lot. Owner acknowledges, accepts and assumes the risk of such light, noise or activities.

(f) Notwithstanding the proximity of the Equestrian Club to the Plot, and notwithstanding that Owner may have a right to use some of the Equestrian Club facilities as a result of an Equestrian Membership or other rights acquired separately from ownership of the Plot or Regular

Membership in the Master Association, Owner or other resident or occupant of the Plot does not have a right of access to the Equestrian Club directly from the Plot.

(g) Equestrian Facilities require daily maintenance, including mowing, irrigation and grooming, during early morning and evening hours, including without limitation the use of tractors, feeding equipment, blowers, pumps, compressors and utility vehicles. Owners will be exposed to the noise and other effects of such maintenance. Owners acknowledge, accept and assume the risk of such noise and effects.

(h) Master Declarant for itself and for Equestrian Club owner reserves the right and easement to the use of all Master Common Areas, but only as may be needed to provide for the development, operation, maintenance and repair of the Equestrian Club.

#### **SECTION 10.05 LIMITATIONS ON AMENDMENTS**

In recognition of the fact that the provisions of this Article X are for the benefit of the owner of the Equestrian Club, no amendment to this Article X, and no amendment to this Article X in derogation of any rights reserved or granted to the owner of the Equestrian Club by other provisions of this Master Declaration, may be made without the written approval of the owner of the Equestrian Club. The foregoing shall not apply, however, to amendments made by the Master Declarant.

#### **SECTION 10.06 JURISDICTION AND COOPERATION**

It is Master Declarant's intention that the Master Association and the owner of the Equestrian Club shall cooperate to the maximum extent possible in the operation of the Property and the Equestrian Club. Each shall reasonably assist the other in upholding the community-wide standard. The Master Association shall have no power to promulgate rules and regulations affecting activities on or use of the Equestrian Club.

#### **SECTION 10.07 NOISE, IRRIGATION, FERTILIZATION**

Owners may not permit any irrigation water to over spray or drain from Owners' Plot onto any portion of the Equestrian Club except through storm drainage Improvements constructed by Master Declarant. Owners may not permit any fertilizer, pesticides or other chemical substances to over spray, drain, flow or be disposed of in any manner upon the Equestrian Club. If Owners violate the provisions of this Section 10.07, Owners shall be liable to the owner of the Equestrian Club for all damages to the horses or turf resulting from their violation and all damages, including consequential damages suffered by the owner of the Equestrian Club.

#### **SECTION 10.08 EQUESTRIAN CLUB EASEMENTS**

The Master Declarant hereby reserves for itself and for the benefit of any Person developing or owning the Equestrian Club, the following described easements:

(a) Golf Cart Path Easement. The Master Declarant, in connection with the development of the Equestrian Club, will cause the construction of Trails for Private Carts that may cross or encroach upon Master Common Areas (“Cart Paths”). The Master Declarant hereby grants and declares a non-exclusive easement for such Cart Paths and for their use by the Equestrian Club and its members over and across such areas of the Master Common Areas as are subsequently developed and improved for such purpose (“Golf Cart Path Easement”) Nothing shall be placed or maintained in any Golf Cart Path Easement that shall interfere with utilization thereof as a part of the Equestrian Club.

(b) Equestrian Club Easement. Any Equestrian Club Easement, designated as such, which shall be developed as part of the Equestrian Club for purposes of landscaping, maintenance or the placement of Improvements (“Equestrian Club Easement”).

(c) Above-Ground Utilities. The right to utilize areas of Plots and Master Common Areas contiguous to the edge of the Equestrian Club for temporary, above-ground utility lines for use solely in conjunction with equestrian tournaments and special events on the Equestrian Club. Such use shall not interfere with or damage the primary use of the Plots and Master Common Areas so affected, and the utility lines and installations shall be removed by the Equestrian Club and all damage repaired promptly upon conclusion of each such tournament and special event.

(d) Common Areas. The Owner of the Equestrian Club, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Master Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the respective Equestrian Club.

(f) Overspray. The Property immediately adjacent to the Equestrian Club are hereby burdened with a non-exclusive easement in favor of the Equestrian Club for overspray of water, fertilizer, weed killer, fungicide and pesticide from any irrigation system, serving the Equestrian Club. Under no circumstances shall the Master Association or the Owners of the Equestrian Club be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(g) Additional Rights. Master Declarant reserves the right to grant or deed such easement rights to the Person developing the Equestrian Club and to impose such additional restrictions on the Golf Cart Path Easement and Equestrian Club Easement at that time and from time to time as may be reasonably required to effectuate the purposes of such easements. The reservation of the Golf Cart Path Easements and the Equestrian Club Easements is made for the benefit of Master Declarant, the owner of the Equestrian Club, the members and invited guests or any golf club associated with the Equestrian Club, and for associated maintenance and service personnel, for Equestrian Facilities and related recreational purposes.

#### **SECTION 10.09 NOT PART OF PROPERTY**

Neither the Equestrian Club, Equestrian Facilities, Equestrian Stables, nor the Equestrian Fields are within or a part of the Property and, therefore, by way of example but without limitation,

neither the Equestrian Club, Equestrian Facilities, Equestrian Stables, nor the Equestrian Fields are a part of or within any Common Area.

#### **SECTION 10.10 DEADLINE TO JOIN EQUESTRIAN CLUB**

Each Owner shall have ninety (90) days after becoming an Owner of a Plot to notify in writing the owner of the Equestrian Club that they desire to become a member of the Equestrian Club; provided, however, that after ninety (90) days have passed without said Owner electing to become a member of the Equestrian Club, the owner of the Equestrian Club may offer said membership to the general public per the Equestrian Rules and Regulations.

### **ARTICLE XI** **GOLF CARTS**

The following restrictions on the use, storage and operation of Private Carts within Property shall apply:

#### **SECTION 11.01 AUTHORIZED GOLF CARTS**

The only golf carts that shall be permitted to be operated within the Property shall be electric powered golf carts purchased and maintained by Owners and approved for use by the Master Board ("Private Carts"). All Golf Carts powered by a source other than electricity are prohibited unless approved, in writing, by both the Master Association. All Private Carts approved for use by the Master Board must be maintained in a first-class condition. Notwithstanding the foregoing, the Equestrian Club has the right to use non-electric carts and equipment, particularly for the maintenance and general operation of the Equestrian Club.

#### **SECTION 11.02 OPERATION OF PRIVATE CARTS ON STREETS WITHIN THE PROPERTY**

Owners of Residences may maintain Private Carts at their Residence and operate such vehicles on streets within the Property to the full extent permitted by law, subject to the restrictions and standards set forth in this Master Declaration and the Master Rules and Regulations and amended from time to time. All Private Carts must have working headlights, taillights, brake lights, turn signals, and can only be operated by Persons over the age of sixteen (16) who have a valid automobile driver's license. The operation of Private Carts within the Property is a privilege and not a right that can be suspended at any time by the Master Board. All Private Carts shall be stored inside when not in use. Outside storage of Private Carts is prohibited.

#### **SECTION 11.03 OPERATION OF PRIVATE CARTS ON EQUESTRIAN CLUB TRAILS**

If the Owner is a member of the Equestrian Club and intends to operate the Private Cart on the Cart Paths of the Equestrian Club in accordance with the Equestrian Rules and Regulations, the Private Cart must be operated in accordance with the Equestrian Rules and Regulations, which,

among other things, may: (A) restrict the speed of Golf Carts to fifteen (15) miles per hour, and (B) prohibit any access to the Equestrian Club's Trails from any Plot within the Property. Private Carts that are intended to be operated on Cart Paths within the Equestrian Club must also be approved by the Equestrian Club. The operation of Private Carts within the Equestrian Club is a privilege and not a right which may be suspended at any time by the owner of the Equestrian Club and is subject to all rules and regulations for use and operation imposed by the Equestrian Club.

#### **SECTION 11.04 REVOCATION OF PRIVATE GOLF CART PRIVILEGES**

If Owner or any family member, guest or invitee of Owner is observed operating Owner's approved Private Cart on the Trails of the Equestrian Club in a fashion that violated the Equestrian Rules and Regulations, or if a Private Cart is observed entering the Equestrian Club directly from the Owner's Plot, both the Equestrian Club and/or the Master Association shall have the right to revoke the privilege conferred on the Owner to own, maintain and operate an authorized Private Cart within Property or Equestrian Club.

#### **SECTION 11.05 IMPROVEMENTS**

Any Improvements to an Owner's Plot that relate to the ownership and maintenance of an authorized Private Cart, such as any vehicle storage area, must be reviewed and approved in advance by the Architectural Review Board in accordance with this Master Declaration.

#### **SECTION 11.06 LIABILITY**

Each owner of a Private Cart accepts and assumes all responsibility for liability connected with the operation of the Private Cart, and expressly indemnifies and agrees to hold harmless the Declarant, the Equestrian Club, and the Master Association and their partners, members, officers, directors, employees, affiliates, representatives and agents, from any and all damages, whether direct or consequential, arising from or related to the use and operation of the Private Cart.

### **ARTICLE XII** **GENERAL AND PROCEDURAL PROVISIONS**

#### **SECTION 12.01 SECURITY**

The Master Association may, but shall not be obligated to, maintain or support certain activities within the properties designed to make the Property safer than they otherwise might be. Neither the Master Association, the Master Declarant, nor any successor Master Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any gatehouse, fence, buffer area, fire protection system, burglar alarm system, security camera system or other security system cannot be compromised or circumvented, or that any such systems or security measures undertaken will in any or all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands



and covenants to inform its tenants that the Master Association, its Master Board of Directors and committees, Master Declarant, and any successor Master Declarant are not insurers and that each Person using the properties assumes all risks for loss or damage to Persons, to Residences and to the contents of Residences resulting from acts of third parties.

## **SECTION 12.02 INSURANCE/RECONSTRUCTION**

The Master Association shall obtain and continue in effect as a Master Common Expense the following types of insurance:

(a) A comprehensive policy of public liability insurance covering the Master Common Areas with limits to be approved by the Master Board, covering claims for personal injury and/or property damage, including protection against water damage liability, liability for non-owned and hired automobiles, and liability for property of others and such other risks as shall customarily be covered with respect to similar developments and risks. Such policy shall contain a “severability of interest” endorsement or the equivalent, which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Master Association or other Owners.

(b) A policy of fire and casualty insurance with extended coverage for the replacement value of all Improvements to the Master Common Areas and tangible personal property as shall be determined annually by the Master Board.

(c) Such other policies and in such other amounts and coverage as the Master Board shall from time to time determine to be appropriate and desirable including, without limitation, errors and omissions coverage insuring the Master Board, the officers of the Master Association, and the Architectural Review Board.

(d) The Master Association shall purchase adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Master Association and the Master Directors and all others who handle and are responsible for handling funds of the Master Association, such coverage to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived by the Master Board.

(i) Such bonds shall name the Master Association as an Obligee;

(ii) Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Master Association expense; and,

(iii) Such amounts shall contain waivers of any defense based upon the exclusion of Persons who serve without compensation from any definition of “employee” or similar expression.

(e) The Master Declarant shall be named as additional insureds in any liability policy obtained by the Master Association.

### **SECTION 12.03 OWNER'S INSURANCE/RECONSTRUCTION**

The Master Association is only obligated to provide insurance as set forth in Section 12.02. The Master Association is neither authorized to nor shall it obtain any insurance with respect to any Plot, and/or Residence, or to provide any insurance with respect to liability, fire, theft, damage or any other casualty loss for any private property of any Owner, his tenant or their guests or family members, all of which shall be the responsibility of the Owner.

Each Owner shall at all times maintain casualty insurance on his Residence and all other insurable Improvements in an amount equal to the full replacement cost thereof. Each such insurance policy shall contain a waiver of subrogation provision as to both Master Declarant and the Master Association. If any Improvements located on any Plot are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner of such Improvements shall cause repair or replacement to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the Improvements to substantially their original character, design and condition, and shall utilize and conform with the original foundation and appearance of the original Improvements except as otherwise approved by the Architectural Review Board.

If the Owner of any Plot fails to commence or complete construction to repair or replace any damaged or destroyed Improvements within the time periods provided for above, the Master Association shall give written notice to the Owner of his default. If after thirty (30) days the Owner has not made satisfactory arrangements to meet his obligations, the Master Association shall be deemed to have been granted the right by the respective Owner, as such Owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the Improvements to their original condition, according to the plans and specifications of the original Improvements. If the Master Association exercises the rights afforded to it by this Section 12.03, which shall be in the sole discretion of the Master Board, the Owner shall be deemed to have assigned to the Master Association any right such Owner may have to insurance proceeds that may be available because of the damage or destruction of the Improvements. The Master Association shall have the right to recover from the Owner any costs not paid by insurance and shall have a lien on the Plot and Residence to secure payment.

### **SECTION 12.04 DAMAGE AND DESTRUCTION**

Any damage or destruction to the Master Common Areas shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost of repair or reconstruction, the Master Board shall, without the necessity of a vote of the Master Declarant Member and the Regular Members, levy a Special Assessment against all Owners as permitted in Article VIII. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

### **SECTION 12.05 LITIGATION**

No judicial or administrative proceeding shall be commenced or prosecuted by the Master Association unless approved by the Master Declarant prior to the Master Turnover Date and thereafter by a Majority vote of all the Master Declarant Member and the Regular Members entitled to vote. This Section 12.05 shall not apply, however, to (i) actions brought by the Master Association to enforce the provisions of this Master Declaration (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of Master Assessments as provided in Article VIII; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Master Association in proceedings instituted against it.

#### **SECTION 12.06 OTHER DOCUMENTS**

Master Declarant, the Master Association, or other entity provided for herein, or in any applicable instrument recorded with the Recorder, shall have such rights, powers, duties, and privileges as set forth herein or in the Master Founding Documents and other constituent documents of such entity; however, no such entity may have rights, duties, powers or privileges that are in conflict with the provisions of this Master Declaration, which shall prevail in all events of conflict.

#### **SECTION 12.07 DURATION OF RESTRICTIONS**

The covenants, reservations, restrictions, and other provisions of this Master Declaration shall run with and bind the Property and shall inure to the benefit of the Master Declarant or any Owner subject to this Master Declaration, their respective legal representatives, heirs, successors and assigns, for an initial term of seventy five (75) years from this date this Master Declaration is recorded with the Recorder. Upon the expiration of such initial period, this Master Declaration shall automatically be extended for successive periods of ten (10) years. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Master Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Master Declaration if during the last renewal period, three-fourths (3/4) the votes cast at a duly held meeting of the Master Declarant Member and the Regular Members of the Master Association vote in favor of terminating this Master Declaration at the end of its current term. It shall be required that written notice of any meeting at which such proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the of the Master Declarant Member and the Regular Members vote to terminate this Master Declaration, the president and secretary of the Master Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Master Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate must be signed by all votes cast in favor such resolution and signed by all Institutional Mortgages in existence one (1) years prior to the termination of such term or extension agreeing to terminate this Master Declaration. Said certificate shall be recorded with the Recorder, and may be relied upon for the correctness of the facts contained therein as they relate to the

termination of this Master Declaration, upon which event this Master Declaration shall be terminated upon the expiration of the original term or the ten (10) year extension during which such instrument of termination was recorded with the Recorder.

#### **SECTION 12.08 MODIFICATION AND AMENDMENT OF DECLARATION**

Until after the occurrence of the Master Turnover Date, the Master Declarant reserves the exclusive right, at any time, in its sole discretion and without notice to or consent of any Person, to make modifications or amendments to this Master Declaration and other Master Founding Documents by a written instrument, executed by the Master Declarant and recorded with the Recorder. After the Master Turnover Date, modifications and amendments to this Master Declaration may be made from time to time upon the affirmative vote of two-thirds (2/3) of all Regular Members of the Master Association at any Annual or Special meeting called for that purpose, provided, however, that the full text of any proposed amendments shall be included in the notice of such Annual or Special meeting and the voting requirements specified for any action under any provisions of this Master Declaration shall also apply to any amendment of such provisions, and no amendment shall be effective which is in contravention of the duties, responsibilities or obligations of the Master Association or the Regular Members as provided in this Master Declaration. This Master Declaration is supplemental to and independent of any zoning, present or future, of Boone County, Indiana, or of any other applicable County, or of any other governmental entity, and no variance or zoning change permitted by the appropriate governmental authority shall in any way be construed to reduce or modify the covenants contained herein. The foregoing provisions of this Section 12.08 and any other provisions of this Master Declaration notwithstanding, under no circumstances shall this Master Declaration be amended in a manner that is expressly prohibited elsewhere in this Master Declaration and, by way of example and not by way of limitation, this Master Declaration shall not be amended to eliminate the requirement in Section 8.08 above that all Regular Members are liable for and shall pay Social Membership Assessments.

#### **SECTION 12.09 AMENDMENT LIMITATIONS.**

(a) No amendment in derogation of any rights or privileges reserved or granted in this Master Declaration to the Master Declarant, may be made, other than by the Master Declarant, without the written approval of the Master Declarant.

(b) No amendment in derogation of any rights or privileges reserved or granted in this Master Declaration to the Equestrian Club and/or the Equestrian Club owner, may be made without the prior written approval of the Equestrian Club owner.

#### **SECTION 12.10 CONDEMNATION**

If at any time during the term of this Master Declaration, the whole or any portion of the Master Common Areas shall be taken for any public purpose by any lawful power or authority by the exercise of the power of eminent domain or by agreement between those authorized to exercise such power, this Master Declaration and all obligations hereunder as to the taken area shall

terminate and expire on the date of such taking and expenses provided to be paid for such taken area shall be apportioned and paid to the date of such taking. To the extent that Master Declarant owns any Residences or Plots, Master Declarant shall participate in any award or awards after any condemnation, due to its interest in the Master Common Areas taken along with and to no lesser extent or degree than other Owners. If any Improvements upon the Master Common Areas not included in the area taken shall be damaged or partially destroyed by such condemnation, then the Master Association shall proceed with reasonable diligence to demolish, if necessary, and to construct, repair, replace or rebuild such Improvements so such Improvements are complete and in good condition and repair.

If the temporary use of the whole or any part of the Master Common Areas shall be taken at any time during the term of this Master Declaration by the exercise of the right of condemnation by any authority have such power, then the term of this Master Declaration shall not be reduced or affected in any way and the Master Association expenses herein provided to be paid shall continue to be due and payable and the Owners shall be entitled to the entire award granted by reason of such temporary taking.

#### **SECTION 12.11 ACCEPTANCE OF MASTER DECLARATION BY OWNERS**

Each Owner, by accepting an interest in any Plot, hereby agrees to be bound by all the conditions, limitations, reservations and restrictions as contained herein, and in the event of a breach agrees to pay all costs, including reasonable attorney fees, for the enforcement of this Master Declaration.

#### **SECTION 12.12 REMEDIES**

The provisions of this Master Declaration may be enforced by (i) any Owner, (ii) the Master Declarant, (iii) the Master Association, and (iv) the Equestrian Club, but only to the extent that the provision sought to be enforced involves an easement or right expressly granted to the Equestrian Club under the Master Declaration. In the event of a violation or breach of the Master Declaration, the Master Association and/or Master Declarant shall have the right to proceed at law, or in equity, to compel compliance with the terms hereof or to prevent the violation or breach of any of them. The failure to enforce any right, reservation restriction, condition or limitation herein contained, however long delayed, shall not be deemed a waiver or the right to do so thereafter.

#### **SECTION 12.13 SEVERABILITY AND NON-WAIVER**

If any covenant, condition, restriction or other provision of this Master Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, then such ruling shall in no way affect the validity of the remaining provisions of this Master Declaration, all of which shall remain in full force and effect. Waivers, omissions, errors, or other allowances, however made, shall not create a precedent or invalidate this Master Declaration, and no Regular Member shall make a claim for relief based on any prior waiver or omission or error.

#### **SECTION 12.14 GENDER**

Whenever in this Master Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

#### **SECTION 12.15 ADMINISTRATION**

The administration of the Master Association shall be in accordance with the provisions of this Master Declaration and Master Association's Articles of Incorporation and Bylaws.

#### **SECTION 12.16 NON-LIABILITY OF MASTER DECLARANT**

The Master Declarant shall not in any way or manner be held liable or responsible for any violation of this Master Declaration by any Person other than itself.

#### **SECTION 12.17 NOTICES**

(a) To Master Declarant. Notice to Master Declarant, as may be required herein, shall be in writing and delivered or mailed to Master Declarant at its principal place of business or any other location designated by Master Declarant.

(b) To Master Association. Notice to Master Association, as may be required herein, or in the Bylaws of the Master Association shall be in writing and delivered or mailed to the Master Association at its principal place of business as shown by the records of the Secretary of State of Indiana, or at any other location designated by the Master Association.

(c) To Owner. Notice to any Owner for Master Assessments, of a violation of any of these restrictions, or any other notice as may be required herein, shall be in writing and shall be delivered or mailed to the Owner at the address shown on the tax rolls of Boone County, Indiana, or if not shown thereon, to the address of the Owner, as shown on the deed recorded with the Recorder, or at any other location designated by the Owner.

#### **SECTION 12.18 INTERPRETATION**

The Master Board of the Master Association shall be responsible for interpreting the provisions of this Master Declaration and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel representing the Master Association that an interpretation adopted by the Master Board is not unreasonable shall conclusively establish the validity of such interpretation.

#### **SECTION 12.19 USE OF THE WORDS "PROMONTORY"**

No Person shall use the words the "Promontory" or any derivative or any other term which Master Declarant may select as the name of this development or any component thereof in any printed or promotional material without the Master Declarant's prior written consent. However,

Owners may use the words the “Promontory” in printed or promotional matter solely to specify that particular property is located within the Property, and the Master Association shall be entitled to use the words the “Promontory” in its name.

#### **SECTION 12.20 COMPLIANCE**

Every Owner and occupant of any Residence shall comply with this Master Declaration and the Master Association’s Bylaws, Articles, the Master Rules and Regulations and the Equestrian Rules and Regulations. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Master Declarant, the Master Association or, in a proper case, by any aggrieved Owner(s) of a Residence.

#### **SECTION 12.21 ANNEXATION**

Each owner of a Plot, by acceptance of a deed thereto, shall be deemed to have waived and shall have waived such owner’s right to remonstrate or object, in any manner, to the annexation of all or any portion of the Property to the Town of Zionsville, Indiana.

#### **SECTION 12.22 NOTICE OF ZONING REQUIREMENTS AND PUD ORDINANCE**

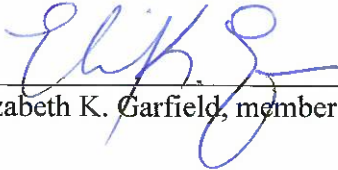
Notice is hereby given that the development of the real estate is governed, in part, by the PUD including provisions pertaining, without limitation, to development and architectural standards, landscaping, and signage.

#### **SECTION 12.23 RIGHT TO FARM NEIGHBORING PROPERTIES**

Each owner of a Plot, by acceptance of a deed thereto, shall sign at the closing pursuant to which they become Owner of a Plot an acknowledgement document by which each Owner (i) acknowledges the right of owners of real estate adjacent to the Property (“Adjacent Farms”) to farm their land, (ii) acknowledges that the Adjacent Farms may produce at times unpleasant odors typically associated with a farm and (iii) waives all rights to claim that the Adjacent Farms are a nuisance.

**(remainder of page intentionally left blank; signature page follows)**

**PROMONTORY OF ZIONSVILLE, LLC  
f/k/a Windy Hills Farm, LLC,  
an Indiana limited liability company**

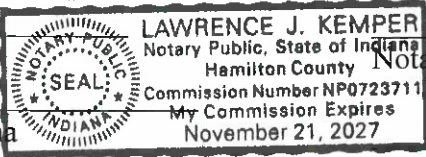

By:   
Elizabeth K. Garfield, member

Date: September 29, 2022

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public in and for said County and State, personally appeared Elizabeth K. Garfield, a member of PROMONTORY OF ZIONSVILLE, LLC f/k/a Windy Hills Farm, LLC, this 29<sup>th</sup> Day of September, 2022 and acknowledged the execution of the foregoing Master Declaration for and on behalf of said entity.

My Commission Expires:

\_\_\_\_\_  
Residing in \_\_\_\_\_  
County, Indiana \_\_\_\_\_  
   
Notary Public  
\_\_\_\_\_  
Printed Name

This instrument prepared by and return to: Lawrence J. Kemper, Nelson & Frankenberger, 550 Congressional Drive, Suite 210, Carmel, IN 46032.

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. Lawrence J. Kemper.



**EXHIBIT "A"**  
("Real Estate")

Parcel 1:

Part of the North Half of Section 27, part of the Southeast Quarter of Section 27 and part of the Northeast Quarter of Section 28, all in Township 19 North, Range 2 East, Union Township, Boone County, Indiana, and more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 27; thence along the East line thereof, South 00 degrees 21 minutes 22 seconds West 2635.51 feet to the Northeast corner of the Southeast Quarter of said Section 27; thence along the East line thereof, South 00 degrees 17 minutes 29 seconds West 997.26 feet; thence North 89 degrees 50 minutes 17 seconds West 1265.27 feet to the Southeast corner of the Crane Property as recorded in Deed Record 254, Pages 11-12, Boone County Recorder's Office (the next four courses are along the Easterly and Northerly lines of said Crane Property) (1) thence North 02 degrees 14 minutes 02 seconds West 1096.26 feet; (2) thence parallel with the South line of said North Half, North 89 degrees 55 minutes 24 seconds West, 2577.17 feet; (3) thence North 00 degrees 18 minutes 28 seconds West 400.48 feet; (4) thence parallel with the South line of said North Half, North 89 degrees 55 minutes 24 seconds West 875.57 feet to a point on the center line of U.S. Highway 421, also known as the Michigan Road; thence along the center line of said U.S. Highway 421, North 19 degrees 51 minutes 48 seconds West 2264.42 feet to a point on the North line of said Section 28; thence along said North line, North 89 degrees 45 minutes 36 seconds East 227.18 feet to the Northwest corner of the Northwest Quarter of said Section 27; thence along the North line of said Northwest Quarter Section, North 89 degrees 50 minutes 53 seconds East 2658.22 feet to the Northwest corner of the Northeast Quarter of said Section 27; thence along the North line of said Northeast Quarter Section, South 89 degrees 48 minutes 17 seconds East, 2668.38 feet to the point of beginning, containing 321.4784 acres, more or less.

Excepting therefrom the following:

Part of the land described in a Quitclaim Deed conveyed to Windy Hills Farm, LLC, recorded as Instrument No. 201500005327, in the Office of the Recorder of Boone County, Indiana, also part of the Northeast Quarter and the Southeast Quarter of Section 27, Township 19 North, Range 2 East in Union Township, Boone County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 27; thence South 01 degrees 01 minutes 46 seconds East (Indiana State Plane Coordinate System- West Zone, NAD 83) along the East line of said Northeast Quarter 2637.54 feet to the Northeast corner of the Southeast Quarter of said Section 27; thence South 01 degrees 06 minutes 38 seconds East along the East line of said Southeast Quarter 997.26 feet to the Southeast corner of land described in said Instrument No. 201500005327; thence South 88 degrees 45 minutes 35 seconds West along the Southern boundary of said described land 1265.27 feet to the Southeast corner of the Crane Property as described in Deed Record 254, pages 11-12, recorded in said Recorder's Office; thence North 03 degrees 38 minutes 09 seconds West along the Eastern boundary of said Crane Property

1096.26 feet; thence North 01 degrees 01 minutes 46 seconds West 70.28 feet; thence North 88 degrees 58 minutes 14 seconds East 813.70 feet; thence North 01 degrees 01 minutes 46 seconds West parallel with the East line of said Northeast Quarter 2472.14 feet to the North line of said Northeast Quarter; thence North 88 degrees 45 minutes 08 seconds East along said North line 500.00 feet to the POINT OF BEGINNING, containing 62.856 acres, more or less.

Together with

Parcel 2:

Part of the land described in a Quitclaim Deed conveyed to Windy Hills Farm, LLC, recorded as Instrument No. 201500005327, in the Office of the Recorder of Boone County, Indiana, also part of the Northeast Quarter and the Southeast Quarter of Section 27, Township 19 North, Range 2 East in Union Township, Boone County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the Northeast Quarter of said Section 27; thence South 01 degrees 01 minutes 46 seconds East (Indiana State Plane Coordinate System- West Zone, NAD 83) along the East line of said Northeast Quarter 2637.54 feet to the Northeast corner of the Southeast Quarter of said Section 27; thence South 01 degrees 06 minutes 38 seconds East along the East line of said Southeast Quarter 997.26 feet to the Southeast corner of land described in said Instrument No. 201500005327; thence South 88 degrees 45 minutes 35 seconds West along the Southern boundary of said described land 1265.27 feet to the Southeast corner of the Crane Property as described in Deed Record 254, pages 11-12, recorded in said Recorder's Office; thence North 03 degrees 38 minutes 09 seconds West along the Eastern boundary of said Crane Property 1096.26 feet; thence North 01 degrees 01 minutes 46 seconds West 70.28 feet; thence North 88 degrees 58 minutes 14 seconds East 813.70 feet; thence North 01 degrees 01 minutes 46 seconds West parallel with the East line of said Northeast Quarter 2472.14 feet to the North line of said Northeast Quarter; thence North 88 degrees 45 minutes 08 seconds East along said North line 500.00 feet to the POINT OF BEGINNING, containing 62.856 acres, more or less.

## **EXHIBIT "B"**

### **(DEFINITIONS)**

**"ADDITIONAL REAL ESTATE"** means and refers to all real estate that is contiguous with the Real Estate together with all real estate that is contiguous with a Public Street with which the Real Estate is contiguous.

**"APPLICABLE LAWS"** means and refers to any and all municipal, county, state, federal or other governmental authority and any federal, state or local statutes, codes, ordinances, rules or regulations.

**"ARCHITECTURAL REVIEW BOARD"** means the Architectural Review Board of the Master Association. Architectural review and control functions of the Master Association shall be administered and performed by the Architectural Review Board that shall consist of at least three (3) members who need not be Regular Members of the Master Association. Until the Master Turnover Date, the Master Declarant shall have the sole and exclusive right to appoint, terminate and/or replace any or all of the members of the Architectural Review Board.

**"COMMON AREA(S)"** means, collectively, (i) any Master Common Areas, (ii) any Private Streets and/or Private Roads (ii) any area designated on a plat, recorded with the Recorder, as a Common Area, a "C.A.", Block and/or Private Roads.

**"DAM"** means the existing dam which is regulated by the Indiana Department of Natural Resources located near the southeast corner of the Lake.

**"DESIGNATED BUILDER"** means during such period as such designation by Master Declarant may continue, any Person engaged in the construction of Residences who is designated by Master Declarant as a "Designated Builder". Master Declarant may make and revoke any such designation at any time and from time to time.

**"DRY HYDRANT SYSTEM"** means non-pressurized pipe systems that draft water from an adjacent body of water (such as a Pond, Lake or stream) such that one end of the pipe system is situated in the water source, and the other end is available near the roadside, where firefighters can connect to the hydrant and pump from the water source.

**"EASTERN PATH"** means and refers to the perimeter pathway located along the eastern boundary of the Property as shown on the Site Plan.

**"EFFECTIVE DATE"** means and refers to the date this Master Declaration is recorded with the Recorder.

**"EQUESTRIAN CLUB"** means the land and all Improvements thereon, developed for use by the Equestrian Members. The Equestrian Club property shall include, without limitation, any property conveyed by Master Declarant to the Equestrian Club or declared by the Master Declarant to be Equestrian Club property, which may include, but is not limited to, the Equestrian

Stables, the Equestrian Facilities, and the Equestrian Fields, or any easement, lease, license or use rights in such property. In no event shall any part of the Property, or any Master Common Areas be considered part of the Equestrian Club or vice versa, (i) except that easements, licenses or other use rights over portions of the Equestrian Club including, without limitation, lakes within the Equestrian Fields, may be granted, conveyed or dedicated by the Master Declarant to the Master Association and (ii) except that the Master Declarant may grant to or create for the benefit of the Equestrian Club easements, licenses, or other use rights over portions of the Master Common Areas, including without limitation, lakes, and Water Management Systems. Except as otherwise provided in this Master Declaration and except as may be provided in any easements over the Equestrian Club property, no Person, firm, partnership or corporation, other than the fee simple owner of the Equestrian Club property shall, by the recording of this Master Declaration with the Recorder, by the recording of any plat with the Recorder, or by any permissive use, expressed or implied, have an easement to use or enjoy the Equestrian Club, nor shall any Person or such entities acquire any other right, title or interest in or to said Equestrian Club, it being intended that fee simple title and all other property rights in and to the Equestrian Club or other use of the Equestrian Club by the Regular Members of the Property will be entirely at the pleasure and sole discretion of the fee simple owner(s) of the Equestrian Club and that such owner(s) has no responsibility or obligation to provide such use.

**“EQUESTRIAN FACILITIES”** means the Equestrian Stable and all horse-riding areas, grazing areas and riding features located on the Equestrian Fields as shown on the Site Plan and designated by Declarant in its sole discretion.

**“EQUESTRIAN FIELDS”** means those areas designated on the Site Plan as “Equestrian Fields” or by Declarant, in its sole discretion, for equestrian riding and grazing.

**“EQUESTRIAN MEMBERS”** means members of the Equestrian Club who are permitted to use the Equestrian Stable, Equestrian Facilities and Equestrian Fields, and are further given such additional rights including, without limitation, the exclusive right to use stalls, as determined by the owner of the Equestrian Club in its sole discretion. An Owner shall have ninety (90) days after becoming an Owner within which to decide to become an Equestrian Member by notifying the owner of the Equestrian Club in writing; provided, however, if in the sole discretion of the Equestrian Club owner there are an insufficient number of Owners to fund operations of the Equestrian Stable, Equestrian Facilities and Equestrian Fields, the owner of the Equestrian Club may make Equestrian Memberships available to the general public/non-Owners.

**“EQUESTRIAN RULES AND REGULATIONS”** means and refers to any and all rules and regulations promulgated by the owner of the Equestrian Club in furtherance of, and not in conflict with, the Master Founding Documents that may include, without limitation, the rules and regulations pertaining to the use, occupancy and enjoyment of the Equestrian Stable, Equestrian Facilities and Equestrian Fields.

**“EQUESTRIAN STABLE”** means the Equestrian Stable that may be developed and located within the Equestrian Fields and east of US 421, south of CR 200 N.

**“GOLF CARTS”** means and refers to Private Carts.

**“IMPROVEMENT(S)”** means all buildings, Residences, structures, parking areas, loading areas, fences, walls, hedges, plantings, lighting, poles, driveways, roads, Water Management Systems, including without limitation ponds and lakes, trails, gates, signs, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility Improvements, removal of trees or plantings, and any new exterior construction or exterior Improvement which may not be included in the foregoing. “Improvement(s)” does not include turf, shrub or tree repair or replacement of a magnitude that does not change exterior colors or exterior appearances. “Improvement(s)” does include both original Improvements and all later changes and Improvements.

**“INSTITUTIONAL MORTGAGE”** means a mortgage held by an Institutional Mortgagee.

**“INSTITUTIONAL MORTGAGEE”** means the holder of any mortgage against the Property, Plot or Residence, which holder is the Master Declarant, a bank, savings and loan association, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust; or the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, any agency of the United States of America or the Government of the State of Indiana or the holder of a first mortgage which is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. The term also includes any and all individuals, corporations, lending institutions, or other entities, or the successors and assigns of such lenders (herein referred to as the “Lenders”) which have loaned money to Master Declarant or any Person which succeeds to Master Declarant’s position as Master Declarant of part or all of the Property and which hold a mortgage upon any portion of the Property securing such a loan.

**“LAKE”** means the area (i) identified as “Lake” on the Site Plan illustration attached hereto and incorporated herein by reference as Exhibit “C” and (ii) identified as “Common Area E” on the Section 1A Plat.

**“LAKE LOT”** means a Plot that is immediately adjacent to the Lake and touches the Lake.

**“LAKE RULES AND REGULATIONS”** means and refers to any and all rules and regulations of the Master Association promulgated in furtherance of, and not in conflict with, the Master Founding Documents by and through the Master Board, that may include, without limitation, the rules and regulations pertaining to the use, occupancy and enjoyment of the Lake.

**“LIMITED MEMBER”** means the owner of the Equestrian Club and its successors and assigns.

**“MAINTENANCE”** means the exercise of reasonable care by the Master Association to keep Master Common Areas and all Improvements and fixtures on the Master Common Areas in a condition comparable to their original conditions, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices

necessary to promote a healthy environment for reasonable plant growth in any of the Master Common Areas.

**“MAJORITY”** means greater than fifty percent (50%).

**“MASTER ASSESSMENT” OR “MASTER ASSESSMENTS”** means those charges made by the Master Association against a particular Owner and his Plot in accordance with this Master Declaration and secured by a lien against such Plot. Assessments are further described and defined in Article VIII above and include, without limitation:

- A. “Annual Assessment” means the assessment described in Section 8.03 above.
- B. “Supplemental Assessment” means the assessment described in Section 8.04 above.
- C. “Special Assessment” means the assessment described in Section 8.05 above.
- D. “Initial Assessment” means the assessment described in Section 8.06 above.
- E. “Social Membership Assessment” means the assessment described in Section 8.08 above.
- F. “Individual Assessment” means the assessment described in Section 8.09 above.

**“MASTER ASSOCIATION”** means the Promontory Master Homeowners’ Association, Inc., an Indiana not-for-profit corporation, which has its principal place of business in Boone County, Indiana, its successors or assigns. Any reference to the Master Association shall also be a reference to its Articles, Minutes, Bylaws, and the Master Rules and Regulations.

**“MASTER BOARD OF DIRECTORS” or “MASTER BOARD” or “MASTER DIRECTORS”** means the Board of Directors of the Master Association.

**“MASTER COMMON EXPENSES”** means all expenses incurred to fulfill the obligations of the Master Association per the terms of this Master Declaration including, without limitation, the Master Common Expenses in Section 8.03 above.

**“MASTER COMMON AREAS”** means all real property, parks, easements, rights of way, licenses, interest in real property, use rights and servitudes and Improvements thereof, that are now or in the future, designated by the Master Declarant as a Master Common Areas and owned, contracted for, or leased or otherwise held by the Master Association for the common use and enjoyment of its Regular Members and the Master Declarant Member. Master Common Areas may include, but is not limited to, any gates, guard houses, entrance systems and features, trail systems, lakes, landscaping, signs, and Water Management Systems and gate houses. Master Declarant may retain legal rights to all or any part of said Master Common Areas, together with any other lands and/or Improvements deeded or leased to the Master Association by Master Declarant, until the Master Turnover Date, and the Master Declarant may at its option reserve any easement and control rights as hereafter set forth relative to the same.

**“MASTER DECLARANT”** means PROMONTORY OF ZIONSVILLE, LLC f/k/a Windy Hills Farm, LLC, an Indiana limited liability company, presently having its principal place of business in Boone County, Indiana, and its successors or assigns. Provided, however, that an Owner shall not, solely by the purchase of a Residence, be deemed a successor or assign of Master Declarant or of the rights of the Master Declarant under this Master Declaration unless such Owner

is specifically so designated as a successor or assignee of such rights in the respective instrument of conveyance or any other instrument executed by the Master Declarant. With respect to all or part of the Property, the Master Declarant shall have the right to expressly designate, in writing, any other Person as a successor Master Declarant, and if such designation occurs, the designated Person shall succeed to all of the Master Declarant's rights and powers as set forth in the Master Funding Documents.

**"MASTER DECLARATION"** means this document entitled Master Declaration and General Protective Covenants, Conditions and Restrictions for Promontory, as the same may be amended from time to time.

**"MASTER DECLARANT MEMBER"** means the Master Declarant and its successors and assigns.

**"MASTER DIRECTOR(S)"** means the members, collectively, or a member, singularly, of the Master Board of Directors.

**"MASTER FOUNDING DOCUMENTS"** means this Master Declaration, any amendment to this Master Declaration, the Articles of Incorporation of the Master Association and the Bylaws of the Master Association, as amended from time to time.

**"MASTER RULES AND REGULATIONS"** means and refers to any and all rules and regulations of the Master Association promulgated in furtherance of, and not in conflict with, the Master Founding Documents by and through the Master Board, that may include, without limitation, the rules and regulations pertaining to the use, occupancy and leasing of Residences, to the use and enjoyment of the Master Common Areas, to the use and enjoyment of the Meeting House, to the use of Water Management Systems and to the type and operation of Private Carts on the Property.

**"MASTER TURNOVER DATE"** means the date, specified above in Article IX, on which the Master Declarant Membership terminates and is converted to a Regular Membership.

**"MEETING HOUSE"** means the community-based clubhouse and surrounding amenities including, but not limited to, the pool, sports fields, tennis courts, pickle ball court(s), commercial dock system, fire pit(s), and outdoor seating areas.

**"OWNER"** means the Owner per the Recorder's records, whether one or more Persons or entities, of the fee simple title to any Plot, but not including those having an interest merely as security for the performance of an obligation, and excluding the Master Declarant so long as the Master Declarant is a Master Declarant Member as described in Article VII above.

**"PERIMETER PATHWAY"** means the pathways for pedestrian and Private Cart use to be constructed along and adjacent to N US Highway 421, E CR 200N and N CR 1000E.

**"PERSON"** means an individual, corporation, governmental agency, business trust, estate trust, partnership, association, two or more Persons having a joint or common interest, or any other legal entity.

**“PLAT”** means any plat of the Property recorded in the Office of the Recorder of Boone County, Indiana including, but not limited to, the Secondary Plat Promontory – Section 1A, recorded with the Recorder of Boone County, Indiana on September 29, 2022 as instrument number 2022010900, as amended.

**“PLOT”** means a discreet lot, parcel or building parcel for a Residence, as reflected on a plat of lands, recorded with the Recorder, forming a part of the Property. The term “Plot” shall not include any land that is Master Common Areas.

**“PLOT WIDTH”** means the width of a Plot as determined by (i) the length of the Building Setback Line, as indicated on a plat, located closest to the Street or (ii) the Master Declarant, in its sole discretion.

**“POND”** or **“PONDS”** means any one individually or all of the two ponds, as applicable, located on the Property in the areas (i) identified as “Pond” on the Site Plan illustration attached hereto and incorporated herein by reference as Exhibit “C” (excluding those located in the Equestrian Fields) and (ii) identified as “Common Area C” on the Section 1A Plat.

**“PONTOON”** means any flattish boat that relies on two or three pontoons (also called tubes) to remain buoyant and which possess one electric motor which shall not exceed three (3) horsepower.

**“PRIVATE STREETS”** or **“PRIVATE ROADS”** means any streets and/or alleys, which are neither dedicated to the Town of Zionsville, Indiana, for public use nor maintained by the Town of Zionsville, Indiana.

**“PUBLIC STREETS”** means all streets which are dedicated for public use and accepted for maintenance by the Town of Zionsville.

**“PROPERTY”** means the Real Estate together with such portions of the Additional Real Estate as have from time to time and at any time been subjected to this Master Declaration per the terms of this Master Declaration

**“PUD”** means ORDINANCE NO. 2022-08 OF THE TOWN OF ZIONSVILLE, INDIANA AN ORDINANCE ESTABLISHING PROMONTORY PLANNED UNIT DEVELOPMENT DISTRICT under Plan Commission Petition No. 2022-07-Z, recorded in the Office of the Recorder of Boone County, Indiana on July 1, 2022 as Instrument Number 2022007618.

**“RECORDER”** means the Recorder of Boone County, Indiana.

**“REGULAR MEMBER”** means a Regular Member as described in Article VII above and does not mean or include the Master Declarant Member (until converted after the Master Turnover Date) or the Limited Member.



**“RESIDENCE”** means any residential property within the Property for which a certificate of occupancy has been issued by the appropriate governmental authority and which is intended for single family residential habitation.

**“RESIDENT”** or **“RESIDENTS”** means an Owner or Owners, respectively, of a Plot and such Owner’s Resident Family.

**“RESIDENT FAMILY”** means and refers to those members of an Owners immediate family who reside in such Owner’s Residence.

**“RESIDENTIAL SQUARE FOOTAGE”** or **“RESIDENTIAL SQUARE FEET”** means the square footage of areas in a Residence, excluding garages, that are fully enclosed by walls and a roof or ceiling and that are heated and air conditioned so that they can be occupied during all of the four seasons in a calendar year.

**“SECTION 1A PLAT”** means the Secondary Plat Promontory – Section 1A, recorded with the Recorder of Boone County, Indiana on September 29, 2022 as instrument number 2022010900, as amended.

**“SHARED DRIVES”** means strips of ground that are identified on any plat of the Property recorded with the Recorder as an “I.E.”, an “Ingress/Egress” easement or a Shared Drive and that serve as private, shared driveways providing access two (2) or more residential Plots and, therefore, Shared Drives include, without limitation, any strips of ground shown on any plats, of any part of the Property, hereafter recorded with the Recorder after the Effective Date, as an “I.E.”, an “Ingress/Egress” easement or a Shared Drive and that serve as private, shared driveways providing access two (2) or more residential Plots.

**“SITE PLAN”** means the diagram and illustration attached hereto and incorporated herein by reference as Exhibit “C”.

**“SOCIAL CLUB”** means the land and all Improvements thereon, developed for use by the Social Members. The Social Club property shall include, without limitation, any property conveyed by Master Declarant to the Master Association or declared by the Master Declarant to be Social Club property, which may include, but is not limited to, the Meeting House, pool, tennis courts, ancillary commercial establishments, cart barn, pool and tennis maintenance facilities, commercial dock system, and any lake amenities owned by Master Association or any easement, lease, license or use rights in such property.

**“SOCIAL MEMBER”** means any person possessing a Social Membership, as defined below, including without limitation all Owners.

**“SOCIAL MEMBERSHIP”** means a social membership in the Social Club to be made available on terms, conditions, rules and regulations which may be determined and changed by the Master Declarant until the Master Turnover Date, and the Master Association after the Master Turnover Date, in their sole and absolute discretion, entitling a Person or family to use one or more of the Meeting House, pool, fitness center, and the commercial dock systems, but not entitling a Person or family to use (i) the Equestrian Stable, (ii) the Equestrian Facilities, and (iii) the

Equestrian Fields. A Social Membership also entitles the Person or family to a "Social Membership" at Holliday Farms as "Social Membership" is defined in the Master Declaration and General Protective Covenants, Conditions and Restrictions for Holliday Farms recorded with the Recorder of Boone County, Indiana, on the 17th day of June, 2019 as Instrument Number 2019005318, as amended.

**"STREET"** means any street, highway or other thoroughfare, whether public or private, constructed within the properties dedicated to or owned by a governmental entity or the Master Association, whether the same is designated as a street, avenue, boulevard, drive, place, court, road, terrace, way, circle, land, walk or other similar designation.

**"SUCCESSOR MASTER DECLARANT"** means any party or entity to whom Master Declarant assigns any portion or all of its rights, obligations or interest as Master Declarant, as permitted by this Master Declaration and evidenced by an assignment recorded with the Recorder, designating such party as a Successor Master Declarant, signed by the transferor and the transferee. Upon such recording with the Recorder, the rights and obligations of the assigning entity under this Master Declaration will cease, terminate or be modified to the extent provided in such document and shall vest, accordingly, in the entity to which the assignment is made.

**"SUPPLEMENTAL DECLARATION"** means any Declaration of Covenants and Restrictions which may be recorded with the Recorder by Master Declarant, which extends the provisions of this Master Declaration to any Additional Real Estate or which contains such complimentary provisions for the Property as are deemed appropriate by the Master Declarant and/or as are herein required.

**"TRAILS"** means and refers to paths within the Property for use by pedestrians and the Golf Carts.

**"WATER MANAGEMENT SYSTEMS"** (i) means and refers to the surface and/or underground system and facility for the storage of surface water, and storm water located within and throughout the Property including, without limitation, lakes, ponds, swales and other water management areas but (ii) shall not mean or refer to the surface and/or underground system and facility for the storage of surface water including, without limitation, lakes, ponds, swales and other water management areas that are not located within and throughout the Property and, therefore, by way of example and not limitation, Water Management Systems do not mean and refer to the surface and/or underground system and facility for the storage of surface water, and storm water including, without limitation, lakes, ponds, swales and other water management areas located within and throughout the Equestrian Facilities.

EXHIBIT "C"

