



Cross Reference: Instrument No. 198901294 (“Restrictions of Sugar Bush Farms”)
Instrument No. 199610231 (Amended, Restated CCR)
Instrument No. 198901293 (Section 1)
Instrument No. 199103110 (Section 2)
Instrument No. 199210998 (Section 3)
Instrument No. 199402432 (Section 3, 158-160)
Instrument No. 199210999 (Section 4)
Instrument No. 199316225 (Section 5)
Instrument No. 199300094 (Section 6a)
Instrument No. 199402431 (Section 6a, 119, 121-122)
Instrument No. 199316467 (Section 7)
Instrument No. 199417510 (Section 7 COC)
Instrument No. 199420631 (Section 7 COC)
Instrument No. 199324272 (Section 8)

SECOND AMENDED, RESTATED AND COMBINED RESTRICTIONS FOR ALL
SECTIONS OF SUGAR BUSH FARMS

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This Amendment and Restatement made this 27th day of July 2019, by Sugar Bush Farms Property Owners Association, Inc., an Indiana nonprofit corporation (“Association”), WITNESSETH that:

Sugar Bush Farms is a single-dwelling housing development located in Hendricks County, Indiana, and developed by Bien Inc., and C.P. Morgan Communities L.P. (the “Developers”). The real estate of Sugar Bush Farms is shown in Exhibit “A” hereto (the “Development”). The Developers had executed and recorded restrictions in the Office of the Recorder of Hendricks County as follows: “Restrictions on Sugar Bush Farms” dated June 13, 1989, and recorded July 21, 1989, in book 118, Page 152, as Instrument No. 1294, and “Amended and Restated Restrictions for Sections 3 and 4 of Sugar Bush Farms” dated July 31, 1992, and recorded August 4, 1992, in Book 132, Page 76-97 in Instrument 14224 (collectively referred to as the “Prior Restrictions”). Subsequent to the recordings of the Prior Restrictions, the Developers completed construction and sold all of the real estate to different individual Owners. Pursuant to the language of the Prior Restrictions, the Owners took control of the Association.

The Association then executed and recorded the “Amended, Restated and Combined Restrictions for All Sections of Sugar Bush Farms” (the “Combined Restrictions”), dated February 8, 1996, and recorded on May 16, 1996, which attempted to combine all sections of Sugar Bush Farms under one set of restrictions. Pursuant to the Prior Restrictions, any amendments could not take place for twenty-five (25) years; and

As a result, the Prior Restrictions and the Combined Restrictions were not uniform and led to different sections within Sugar Bush Farms to be controlled by competing restrictions. Sections I-IV of Sugar Bush Farms were governed by the Restrictions of Sugar Bush Farms and sections V-VIII were governed by the Combined Restrictions. This led to governing and enforcement issues for the Association within the Development; and

The Prior Restrictions and the Combined Restrictions provide provisions for amendment and changes; and

Pursuant to the approval received from over fifty percent (50%) of the Owners governed by the Restrictions of Sugar Bush Farms and approval from over seventy-five percent (75%) of the Owners governed by the Combined Restrictions at a meeting duly held on July 27, 2019, the Prior Restrictions and Combined Restrictions were amended and restated as necessary to produce a uniform set of restrictions governing all sections of Sugar Bush Farms:

NOW THEREFORE, the Association hereby declares that all of the platted lots and lands constituting part of the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the Second Amended Restated and Combined Restrictions for All Sections of Sugar Bush Farms, all of which are

declared and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and each of the lots situated herein. All the Restrictions shall run with the land and shall be binding upon the Current Owners, any parties having or acquiring any rights, title or interest, legal or equitable, in and to the real property or any part or parts thereof which are subject to these Restrictions, and shall inure to the benefit of the Associations, the Owners, and any successors thereto. The restrictions to Sugar Bush Farms are hereby amended, restated and combined as follows and any prior declaration is superseded by this Second Amended, Restated and Combined Restrictions for All Sections of Sugar Bush Farms.

1. **Definitions:** The following are the definitions of the terms as they are used in this Declaration:
 - A. "Act" shall mean the Indiana Homeowner's Association Act presently codified at Indiana Code 32-25.5-1-1 *et seq.*, as amended. The Act is incorporated herein by reference. Owners have not voted to adopt the full provisions of the Act. The Board acknowledges the requirements specified under 32-25-5.1-1(b) (as amended).
 - B. "Assessment" shall mean the share of the Common Expenses imposed on each lot or other special assessments, as determined and levied pursuant to the provisions of Paragraph 5 hereof.
 - C. "Association" shall mean the Sugar Bush Property Owners Association, Inc., an Indiana non-profit Corporation, formed by the Prior Developer. Each owner shall be a member of the Association.
 - D. "Board" shall mean the Board of Directors of the Association composed of a minimum of three members, serving one-year terms, subject to review yearly by the Association.
 - E. "By-Laws" shall mean the By-Laws of the Association as approved by the Board.
 - F. "Committee" shall mean the Architecture and Environmental Control Committee, composed of a minimum of three members of the Association, appointed by the Board. The members of the Committee shall serve a one-year term but are subject to review on a yearly basis by the Board. Any vacancies on the Committees from time to time existing shall be filled by appointment by the Board.
 - G. "Common Areas" shall mean those areas and all improvements located thereon set aside for recreation areas, theme structures or landscaped areas or mounds at street entrances, lights, park areas, street landscaping, the Lakes, as defined herein, and any other area so designated on the Plats.
 - H. "Common Expenses" shall mean the actual and estimated cost to the Association of its proportionate share of the costs for maintenance, management, operation, repair, improvement and replacement of the Common Areas, and any other cost or

expenses incurred by the Association for the benefit of the Common Areas or for the benefit of the Association.

- I. "Lake" or "Lakes" shall mean and refer to the water retention pond(s) or Lake(s) and the common area portions of the shoreline area as shown on the Plats, which serve or shall serve as part of the storm and surface water drainage system, serving the Development, as such are, or in the future shall be, more particularly described on the Plats.
- J. "Limited Common Area" may appear upon the Plats designated by block letter and further identified as a "cul-de-loop" which is created for the exclusive use and enjoyment of those particular lots having public street access therefrom. Each such owner shall have an easement for ingress and egress in across such area. Such cul-de-loop may further have a landscaped island as may be shown on the Plats therein adjacent owned and maintained by equal undivided interests as tenants in common of the lots abutting thereon and using the cul-de-loop as a means of ingress and egress to the public street. Such maintenance and repair shall be undertaken by a determination in writing of a majority of the lot owners having an undivided interest in the Limited Common Area, and upon the failure of any such lot owner to pay his equal contributive share for such maintenance or repair, the remaining lot owners or any one of them may advance the defaulting lot owner's contributive share upon thirty (30) days written notice and such advancement shall constitute a lien upon the lot of the defaulting lot owner enforceable in the same manner and under the same terms as made and provided under the provisions of the Mechanics Lien Laws of the State of Indiana, Chapter 116 of the Acts of the 1909 Indiana General Assembly as amended to date, I.C. 32-8-3-1 et. Seq. Any such lien shall be subordinate to the lien of any first mortgage and any first mortgagee taking title to a lot by foreclosure or deed in lieu thereof shall take title free and clear of any such assessments for work performed prior to such mortgagee's taking title.
- K. "Lot" or "Lots" shall mean any parcel(s) of real estate, whether residential or otherwise, described by one of the Plats.
- L. "Member" shall mean any person or entity holding membership in the Association as provided in this Declaration.
- M. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

2. **Organization and Duties of Association:**

- A. Organization of Association: The Association was incorporated as an Indiana non-profit corporation when its Articles of Incorporation were filed with the Indiana

Secretary of State's Office on May 17, 1991. As such, the Sugar Bush Farms Property Owner's Association is governed by the Nonprofit Act, codified at Indiana Code 23-17-1 *et seq (as amended)*. The Association shall be organized as a nonprofit corporation under the laws of the State of Indiana, to be operated in accordance with the Articles of Incorporation, which have been filed or will be filed by Developer or the Prior Developer, and the Code of By-Laws of the Association. The membership of the Association shall consist of one class of voting members, with each Member having equal voting purposes, so that as to any matter being considered by the Association as, only one vote appertains to each Lot.

- B. General Duties of the Association: The Association is hereby authorized to act and shall act on behalf of, and in the name, place and stead of, the individual Owners in all matters pertaining to the maintenance, repair and replacement of the Common Areas, the determination of Common Expenses, and the collection of annual and special Assessments. The Association shall also have the right, but not the obligation to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions, and restrictions contained in the Plats and these Restrictions. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent or reckless misconduct.
- C. Amendment of Declaration: The Association shall have the right to amend this Declaration at any time, and from time to time in accordance with Paragraph 11 of this Declaration.
- D. Insurance: The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury. The Association may, but need not, maintain in force adequate officers and director's insurance covering the officers and directors of the Association. If appropriate, the Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Areas against fire, windstorm, vandalism and such other hazards as may be insurable under standard "extended coverage" provisions or a master casualty policy affording All Other Perils insurance (also known as fire and extended coverage insurance), in an amount equal to the full insurable value of such improvements and property. The Association shall notify all mortgagees which have requested notice of any lapse. All policies of insurance shall contain an endorsement or clause whereby the insurer **waives any right** to be subrogated to any claim against the Association, its officers, Board members, the Developer, any property manager, their respective employees and agents, the Owners and occupants, and also waives any defense based on co-

insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

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

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

- E. Condemnation Destruction: In the event that any of the Common Areas shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Areas condemned, damaged or destroyed, to the extent such restoration or repair is practicable and the balance of such sums shall either be held as a reserve for future maintenance of the Common Areas or turned over to the Owners in proportion to their Pro-rata Shares (as hereinafter defined), whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Areas. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage or destruction of any Common Areas.

Where the improvements are not insured or where the insurance proceeds are not sufficient to cover the cost of repair or reconstruction of the Common Areas, the Owners shall contribute equally to the balance of any such costs, if approved, by the majority vote of Owners.

- F. Mortgagees' Rights: Any mortgagees of any Owners shall have the right, at their option, jointly or severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Areas and to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage

on the lapse of a policy for the Common Areas, and mortgagees making such payment shall be owed immediate reimbursement therefore from the Association. In addition, neither the Owners nor the Association shall materially impair the right of any mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate.

3. **Powers of Committee:**

- A. **In General:** No dwelling, building, structure, fencing, exterior painting (excluding repainting in the same color) or exterior improvement of any type of kind (excluding landscaping) shall be constructed or placed on any Lot without the prior written approval of the Committee. Such approval shall be obtained only after written application requesting authorization has been made to the Committee by the Owner of the Lot. Such written application shall be in the manner and form prescribed from time to time by the Committee, and the Committee may require a set of plans and specifications for any such proposed construction or improvement. The Committee may require that such plans include plot plans showing the location of all improvements existing upon the Lot and the location of the improvements proposed to be constructed or placed upon the Lot, each properly and clearly designated. The Committee may also require that such plans and specifications set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require.
- B. **Power of Disapproval:** The Committee may refuse to grant permission to construct, place or make the requested improvement, when:
- (1) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvements to be in violation of these Restrictions;
 - (2) The design, proposed material or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures, including trim, siding, roof and brick colors, or with the Development in general;
 - (3) The proposed improvement or any part thereof would architecturally, in the reasonable judgment of the Committee, be contrary to the interests, welfare or rights of all or any other Owners.
- C. **Duties of Committee:** The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been received. A copy of submitted materials shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event

that such notification is one of disapproval, it shall specify the reason or reasons, therefore. The Committee shall further affix its signature of approval upon two (2) site plans for purposes of obtaining an improvement Location Permit, or similar permit, from the Permits Section of the Department of Metropolitan Development, or other applicable governmental authority, if such are required.

- D. Liability of Committee: Neither the Committee nor any agent or member thereof shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.
- E. Inspection: The Committee or its designated agent may inspect work being performed to assure compliance with these Restrictions and applicable regulations.
- F. Rules Governing Building On Several Contiguous Lots Having One Owner: Whenever two or more contiguous Lots shall be owned by the same Owner, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of determining the Assessment and for applying these Restrictions to said Lots, so long as such Lots remain improved with one single dwelling.

4. Remedies.

- A. In General: Any party to whose benefit these Restrictions inure, including any Owner, the Association, or any applicable governmental authority, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but the Association shall not be liable for damages of any kind to any person for failing either to enforce or carry out any of these Restrictions.
- B. The Board shall follow the grievance resolution procedure as describe in the Act prior to seeking any legal action or remedy. This procedure does not apply to actions taken with:
 - (1) Claims relating to collection of assessments;
 - (2) Claims necessitating a temporary restraining order or other necessary emergency relief;
 - (3) A claim to which an applicable statute of limitations would expire within the notice period;
 - (4) A dispute subject to alternative dispute resolution under application, contract or warrant; or
 - (5) A claim that was previously addressed by the parties or was previously resolved in Court.

- C. Delay or Failure to Enforce: No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

5. **Covenants for Maintenance Assessments:**

- A. Purpose of Assessments: The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development and promoting the health, safety, and welfare of the Owners, users, and occupants of the Development and, in particular, for the Association's obligations relating to the improvement, repairing, operating, and maintenance of the Common Areas, including, but not limited to, the payment of taxes and insurance thereto, enforcement of the Restrictions, and for the cost of labor, equipment, material and management furnished with respect to the Common Areas; provided that the Association shall not be responsible for the replacement, repair or maintenance of any Common Areas which are or hereafter may be dedicated to the public. Each owner hereby covenants and agrees to pay to the Association:
- (1) A Pro-rata Share (as hereinafter defined) of the annual Assessment fixed, established, and determined from time to time, as hereinafter provided, subject to Paragraph 5. D.
 - (2) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established and determined from time to time, as hereinafter provided, subject to Paragraph 5. E.
- B. Liability for Assessment: Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien from and after the due date thereof in favor of the Association upon each such Lot. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each such Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments, which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

- C. Pro-Rata Share: The Pro-rata Share of each Owner for purposes of Paragraph 5 shall be the percentage obtained by dividing one by the total number of Lots shown on the Plats of the Development (“Pro-rata Share”), except, as provided in Paragraph 3.F. herein.
- D. Basis of Annual Assessments: Subject to the limitations described in this subparagraph D, the Board shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be mailed (or electronically mailed), delivered or posted on the Community Website so each Owner has an opportunity to view the budget before the beginning of each fiscal year. The annual assessment shall be \$155.00 per Lot. The Association may change this amount prospectively provided that any such change shall have the consent of the majority of the voting members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice of such a meeting shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.
- E. Basis of Special Assessments: Should the Board, at any time during the fiscal year, determine that the Assessment levied with respect to such year is insufficient to pay the Common Expenses for such year, the Board may, at any time, and from time to time, levy such special assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board shall have the right to levy at any time, and from time to time, one or more special Assessments for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the annual Assessments. Notwithstanding anything in this subparagraph E. to the contrary, such special Assessments shall have the consent of a majority of the voting members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice of such a meeting shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting.
- F. Quorum for Action Authorized Under Subparagraph D and E: At the first meeting called as provided in such subparagraphs, the presence at the meeting of members or of members voting by proxy who are entitled to cast fifty percent (50%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in such subparagraphs, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- G. Fiscal Year; Date of Commencement of Assessments; Due Dates: The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. The annual Assessment for each year

after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Association may from time to time, by resolution, authorize the payment of such Assessments in installments.

H. Duties of the Association:

- (1) The Board shall keep proper books and records of the levy and collection of each annual and special Assessment, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed or delivered to the Owners or their designated representatives as promptly as practical and in any event, not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed or delivered less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing or delivery of such notice.
- (2) The Association shall promptly furnish to any Owner, or any mortgagee of any Owner, upon request a certificate in writing signed by an Officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.
- (3) The Association shall notify any mortgagee from which it has received a request for notice of any default in the performance by any owner of any obligation under the By-laws or this Declaration which is not cured within sixty (60) days.

I. Non-payment of Assessments; Remedies of Association:

- (1) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot, and shall be collected in the same manner as the Assessment described in

paragraph (ii) hereof; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(2) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, a penalty fee not to exceed \$10.00 shall be added thereto and from such date interest at the rate of eighteen percent (18%) per annum may be added to the delinquent balance and penalty, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs and attorney's fees.

(3) The Board may, at its option, bring suit to recover a money judgment on any unpaid Assessments without filing for a lien, foreclosing or waiving the lien securing the same. In any action to recover an Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Association shall be entitled to recover from the Owner of the respective Lot all costs and expenses of such action incurred, including, but not limited to, reasonable attorney's fees, and interest thereon from the date such assessments were due until paid at the rate established in subsection (ii) herein.

J. Adjustments: Except as provided in Paragraph 5.K., in the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for Annual Assessments or by the making of one or more Special Assessments for such purpose, at the option of the Board. Any adjustment shall not be greater than 5% (five percent) of the previous year's budget.

K. Reserve Fund: In the event that the Annual Assessment exceeds the amount actually expended by the Association for Common Expenses for that fiscal year, the Board may place the excess funds into a reserve fund for use in future years to further the duties of the Board. The reserve fund shall not exceed the current year's annual budget. In the event the reserve fund is fully funded, and the amount of the Annual Assessment is more than the expenses of that year, a Pro-Rata share of such surplus shall be a credit against the Assessment(s) due from each Owner for the next fiscal year.

6. Effect of Becoming an Owner: The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall

accept such deed and execute such contract subject to each and every restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the new Owner acknowledges the rights and powers of Developer with respect to these Restrictions and also for themselves, their heirs, personal representatives, successors and assigns. Such Owners covenant and agree and consent to and with the Owners and subsequent owners of each of the Lots affected by these Restrictions, to keep, observe, comply with and perform such Restrictions and agreements.

7. **Control of the Lakes and Common Areas:**

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

8. **Restrictions, Covenants and Regulations:**

- A. **Restrictions on Use:** The following covenants and restrictions on the use and enjoyment of the Lots, the Lakes, and the Common Areas shall be in addition to any other covenants or restrictions contained herein or in the Plats and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future Owners or the Associations shall be entitled to injunctive relief against any violation or attempted violation of any of such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there will be no right of reservation or forfeiture resulting from such violation. These covenants and restrictions are as follows:
 - (1) No one other than Owners who are Members in good standing with the Association, or such an Owner's occupant, tenants, guests or invitees, may use the Lakes or Common Areas.
 - (2) No nuisance shall be permitted to exist on any Lot and no waste shall be committed on any Lot, which shall or might damage or cause injury to the Lakes or the Common Areas.

- (3) All Owners and members of their families, their guests, or invitees, and all occupants of any Lot of the Properties or other persons entitled to use the same and to use and enjoy the Lakes and the Common Areas, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Lakes and the Common Areas.
- (4) No Owner shall be allowed to plant trees, landscape or do any gardening in any part of the Lakes or the Common Areas, except with express permission from the Board.
- (5) The Lakes and the Common areas shall be used and enjoyed only for the purposes for which they are designed and intended and shall be used subject to the rules and regulations and from time to time, adopted by the Board. Without limiting the generality of the foregoing, **the Lakes are and will be an integral part of the storm water drainage system serving the Development and are intended to be used for such purpose and primarily as a visual and aesthetic amenity and not as a recreational amenity.** Accordingly, no use shall be made of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system. No boating, swimming, diving, skiing, ice skating or other recreational activity shall be permitted in or on the Lakes. No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into the Lakes, except the Association may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein, structures and equipment to create the same. Fishing from the shoreline area of the Lakes by an Owner, his occupants, his invited guests and family, shall be permitted subject to the rules determined by the Associations and obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations. Access to Lakes shall be restricted to those shoreline areas marked Common Areas, but not to include the shoreline directly adjacent to Owners' property, **without permission from said Owner.** No piers, docks, retaining walls, rafts or other improvements shall be built, constructed or located on any Lot or on the Properties, except by the Association, which extend into, or to within twenty-five (25) feet from the shoreline of the Lake(s).
- (6) Pumping water from any Lake will be allowed **only by those Homeowners whose Properties directly touch the Lake's edge.** Pumping water will be regulated by safe water levels to be determined by the Town of Brownsburg, in compliance either with applicable Town ordinance, or per standard practice by the Town of Brownsburg in such matters. Pumping must desist when safe water levels are reached, and not to resume until safe levels are reached thereafter.

- B. Non-applicability to Association: Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in subparagraph A of this paragraph 8 shall not apply to be or be binding upon the Association in its management, administration, operation, maintenance, repair, replacement and upkeep of the Lakes and Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Lakes and Common Areas.
9. Additional Restrictions and Development Standards: The following covenants and restrictions on the use and enjoyment of the Lots shall be in addition to any other covenants and restrictions contained herein or in the Plats and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion and forfeiture resulting from such violations. These covenants and restrictions are as follows:
- A. Land Use: Lots shall be used only for residential purposes. No structure of any kind on said real estate shall be used for the purpose of carrying on a business, trade or profession. Where an Owner acquired adjoining Lots for the purpose of building one dwelling across the common Lot line, in addition to the requirements of Section 3.F. hereof, any side Lot line set back restrictions or regulations shall not apply to said common Lot line. Lot lines coinciding with sanitary sewer easements, drainage easements and utility easements may not be built across.
- B. Dwelling Size: No dwelling shall be erected, altered, placed or permitted to remain on any Lot, other than one single-family residence, not to exceed three stories in height. Dwellings on all Lots shall have, at a minimum, attached two-car garages. The floor area of the main structure of any dwelling, excluding garages and porches, shall not be less than 1,200 square feet.
- C. Building Lines: Front building lines are established as shown on the Plats between which lines and the property lines or the street, no structure shall be erected or maintained. Side building lines are established as shown on the Plats or by the Town of Brownsburg as the case may be, between which lines and the property lines or the street, no structure shall be erected or maintained.
- D. Animals: No farm animals, fowl or domestic animals for commercial purposes shall be kept or permitted on any Lot in the Development. No noxious, unlawful or otherwise offensive activity shall be carried out on any Lot in the Development;

nor shall anything be done thereon, which may be or may become an annoyance or nuisance to the Development.

- E. Vehicle Parking: No camper, motorhome, inoperative vehicle, truck, trailer, boat or recreational vehicle of any kind may be stored in open view on any Lot in the Development for more than seventy-two (72) hours.
- F. Waste Disposal: No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon.
- G. Storage Tanks: Any gas or oil storage tanks used in connection with a Lot shall be located within a garage or house such that they are completely concealed from public view.
- H. Sewage Disposal and Water Supply: No private or semi-private water supply may be located upon any Lot in the Development, which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health or other civil authority having jurisdiction. No septic tank absorption field, or other similar method of sewage disposal shall be located or constructed on any Lot.
- I. Antennas: No antennas shall be allowed to extend higher than five (5) feet above the roofline on the exterior of homes in the Development.
- J. Fencing: All fencing shall be subject to approval by the Committee pursuant to Section 3 hereof. Committee requires a set of plans, specifications and composition of all materials being used in fences prior to erecting or constructing a fence, and Homeowner must receive Board approval before commencing any fence installment. No fencing shall be higher than six (6) feet. No fencing shall extend forward of a point which is ten (10) feet behind the furthest back front corner of the residence on a Lot. Undue obstructions of view of other amenities from adjoining properties will be taken into consideration by the Committee when reviewing fence construction information for approval.

All **metal** fencing used in the Development where permitted must have a factory finish of either brown or black vinyl.
- K. Solar Panels: Any solar panel additions shall be subject to approval by the Committee pursuant to Paragraph 3. Any restrictions on the addition of solar panels shall be on the basis of public health and safety. The Committee may place restrictions that do not significantly increase the cost of the system or significantly

decrease the efficiency of the system, i.e. specific placement on the roof and/or enclosed within a fenced area.

- L. Division of Land: No Lot shall be re-divided into a smaller parcel.
- M. Construction and Repair Time: Any house, fence, waterline, sewer, ditch or any structure, once approved and under construction, must be completed within one hundred twenty (120) days from the date initial construction commences. Any structure that is externally damaged by fire, tornado or other disaster shall be repaired or removed within six (6) months of occurrence.
- N. Signs: Owners may display political signs in the Development, however, the Board may adopt rules pursuant to I.C. 32-21-13 *et seq.*, as amended that allow for certain restrictions based on size, number of signs, locations of the signs and date restrictions based on the election date. The only other signs permitted to be erected or displayed in the Development are: those required by law, a single sign placed by a builder or financial institution to advertise a property during the construction and/or sales period, a single yard sale or garage sale sign placed by the Owner no more frequently than one day, twice annually, a single sign placed by an Owner to advertise the property being for sale or rent, or to prohibit hunting or trapping.
- O. Hunting and Trapping: Hunting and trapping are prohibited in this Development, except that the Association has exclusive authority to allow trapping in the Lakes.
- P. Sight Distance at Intersection: No fences, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and six (6) feet above the roadways shall be placed, or permitted to remain, on any corner Lot within the triangle area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street line. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street's property line with the edge of a driveway. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at such higher to prevent obstruction of such sight lines.
- Q. Landscaping: Each Owner shall landscape his respective Lot within sixty (60) days following completion of a house thereon, weather permitting.
- R. Maintenance of Lots and Improvements: Each Owner shall at all times maintain his respective Lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the Development, and by keeping the exterior of all improvements in a good state of repair. No Lots shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and the same shall not be kept, except in sanitary

containers out of view from the street, except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash. All Lots, whether improved or not, shall be mowed by the Owners or their designated representative at least twice during each of the months of April through September.

- S. Nuisances: No noxious or offensive activity shall be carried out or allowed to be carried out of any Lot, nor shall anything be done or allowed to be done thereon which may become or be an annoyance or nuisance to the residents of the Development.
- T. Basements: Basements may be constructed in the Development, but pump ejector systems for withdrawing wastewater from basement facilities, as well as other pumps for foundation drains, may be required.
- U. Driveways: Residential driveways shall be constructed of concrete. Pavement shall be a minimum of four (4) inches in thickness, excluding sub-base materials.
- V. Swimming Pools: No swimming pools, where the water level is either partially or completely above ground level, shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Prior to construction, such pool or fencing shall be approved by the Committee pursuant to Section 3.
- W. Crawl Spaces and Foundation Drains: No crawl spaces, eaves, troughs, gutters, downspouts or foundation drains shall be constructed so as to discharge water onto a street.
- X. Signal Receiver: No signal receiver in the form of a satellite dish or other similar device, larger than forty-eight (48) inches in diameter, shall be permitted.
- Y. Walks: Each Owner, by acceptance of a deed for a Lot, even if not expressed in said deed, is deemed to covenant and agree to build and maintain in good condition a concrete walk at the sides of all streets upon which his respective Lot abuts. All walks shall conform with the specification and development plans for this Development on file in the Office of the Brownsburg Plan Commission and shall be completed within sixty (60) days after completion of the house on the Lot, weather permitting.
- Z. Gazebos: Freestanding gazebos are permitted if design and location is approved by the Committee pursuant to Section 3.
- AA. Storage Sheds and Mini-Barns: Structures may be built only after prior approval of the Committee as stated in paragraph 3. Such approval shall be obtained only after written application requesting authorization has been made to the Committee by the owner of the Lot. The Committee requires a set of plans, specifications and

composition of all exterior materials being used for proposed structure. Undue obstruction of view of other amenities from adjoining properties will be taken into consideration by the Committee when reviewing structures for approval. Structure shall be constructed of wood and shall be consistent with color and make-up of house exterior.

BB. Mailboxes: As long as a mailbox is required to be installed at a street location for Postal delivery, said box must be supported and mounted on a four inch by four-inch (4" x 4") wood material, preferably of a treated variety. Any exception, such as a decorative enclosure or support, must be approved by the Committee pursuant to Section 3 hereof. The mailboxes initially installed by the Developer shall include a newspaper holder/box. No additional newspaper boxes or attachments may be added or made to the mailbox structure.

CC. Blanket Temporary Easement: Each lot shall henceforth be encumbered by a blanket temporary easement for the purpose of installation, maintenance and upkeep of the drainageways and subsurface drains of the drive, with this blanket temporary easement being supplementary to the easement depicted on the Plats.

DD. Pedestrian Walkway Easement: Lot No. 134 in Section 4 of the Development includes a ten (10) foot Pedestrian Walkway Easement, as referenced on the Plat. This easement is hereby reserved for the non-exclusive use and enjoyment of the Owners for access to the Brownsburg Community Schools and Recreational facilities. No improvements may be constructed within this easement by the Association.

EE. Play Equipment: Children's play equipment such as sandboxes, swing and slide sets, temporary swimming pools having a depth of less than twenty-four (24) inches, play houses and tents shall not require approval by the Committee provided such equipment is not more than six feet high, maintained by the Owner in good repair (including painting) and every reasonable effort has been made by the Lot owner to screen or shield such equipment from view. Equipment higher than six (6) feet shall require approval of the design, location, color, material and use by the Committee.

10. Duration: The foregoing covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years commencing on the date this Declaration is recorded, at which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years except that changes or amendments to these covenants, conditions and restrictions may be made by Owners at any time and from time to time in accordance and subject to conditions in Paragraph 11 hereof.

11. **Amendment of Declaration:**

Generally: Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- I. Notice: Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.
- II. Resolution: A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.
- III. Meeting: The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws of the Association.
- IV. Adoption: Any proposed amendment to this Declaration must be approved by a vote greater than fifty percent (50%) in the aggregate of the votes of all Owners. In the event any Lot is subject to a first mortgage, the mortgagee thereunder shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the mortgagee has given prior written notice of its mortgage interest to the Association.
- V. Special Amendments: No amendment to this Declaration shall be adopted which changes the applicable share of an Owner's liability of assessments, or the method of determining the same, without, in each and any of such circumstances, the majority approval of all owners and all mortgagees whose mortgage interest have been made known to the Association.
- VI. Recording: Each amendment to this Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Hendricks County, Indiana, and such amendment shall not become effective until so recorded.

12. **Costs and Attorney Fees:** Unless stated otherwise in this Declaration, in any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Board shall be entitled to recover reasonable attorney's fees in connection with such default or failure on behalf of the Property Owner's Association.

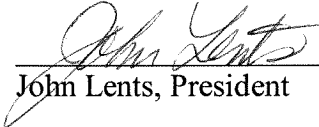
13. **Severability:** Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the


Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or “running” quality of any other one of the Restrictions.

14. **Interpretation:** The captions and titles of the various paragraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

IN WITNESS WHEREOF, the Association has caused this Amendment and Restatement to be executed this 21 day of August, 2019.

Sugar Bush Property Owners Association, Inc. by:

By: 
John Lents, President

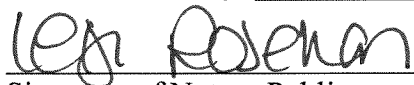
By: 
Jerry Rolfson, Secretary

STATE OF INDIANA)
)SS:
COUNTY OF HENDRICKS)

Before me, a Notary Public in and for said State and County, personally appeared John Lents and Jerry Rolfson, the President and Secretary Respectfully, of the Sugar Bush Farms Property Owner's Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the individuals whose signatures are provided above, who first being sworn upon their oath and acknowledge execution of the foregoing document. Witness my hand and seal this 21st day of August 2019.

My commission expires: Jan 24 2025

Residence County: Hendricks


Signature of Notary Public

LEIGH ROSEMAN
Printed Name of Notary Public



"I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Joshua D. Adair

This document has been prepared by and should be returned to JOSHUA D. ADAIR, HOSTETTER & ASSOCIATES, 515 North Green Street, Suite 200, Brownsburg, Indiana 46112.

**EXHIBIT A TO THE SECOND AMENDED, RESTATED AND COMBINED
RESTRICTIONS FOR ALL SECTIONS OF SUGAR BUSH FARMS**

The real estate to which Sugar Bush Farms Restrictions apply are as follows and are incorporated into this declaration by reference:

All lots in Section 1 of Sugar Bush Farms as shown on the plat thereof filed in the Office of the Recorder of Hendricks County on July 21, 1989, in Plat Cabinet 1, slide 27-28 with document ID number 198901293 and recording ID number 9171.

All lots in Section 2 of Sugar Bush Farms as shown on the plat thereof filed in the Office of the Recorder of Hendricks County on January 19, 1991, in Plat Cabinet 1, slide 131 with document ID number 199103110 and recording ID number 31649.

All lots in Section 3 of Sugar Bush Farms as shown on the plat thereof filed in the Office of the Recorder of Hendricks County on June 15, 1992, in Plat Cabinet 1, slide 191, and as replatted on February 1, 1994, in Plat Cabinet 2, slide 111 with document ID numbers 199210998 and 199402432 and recording ID numbers 57180 and 101603 respectfully.

All lots in Section 4 of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on June 14, 1992, in Plat Cabinet 1, slide 191 with document ID number 199210999 and recording ID number 57181.

All lots in Section 5 of Sugar Bush Farms as shown on the plat on file in the Office of Recorder of Hendricks County dated August 9, 1993 with document ID number 199316225 and recording ID number 87282.

All lots in Section 6 of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on February 1, 1994, in Plat Cabinet 2, slide 110 with document ID number 199402431 and recording ID number 101602.

All lots in Section 6a of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on January 4, 1993, in Plat Cabinet 2, slide 34 with document ID number 199300094 and recording ID number 71156.

All lots in Section 6b of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on August 11, 1993, in Plat Cabinet 2, page 66 with document ID number 199316467 and recording ID number 87524

All lots in Section 7 of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on May 20, 1994, in Plat Cabinet 2, slide 142 with document ID number 199410788 and recording ID number 109957. Section 7 includes plats listed in the Certificate of Correction dated August 31, 1994 listed in Book 143 on page 242 with document ID 199417510 and recording ID number 116677 and the Certificate of Correction recorded on October 19, 1994 listed in Book 144 on page 144 with document ID 199420631 and recording ID 119798.

All lots in Section 8 of Sugar Bush Farms as shown on the plat thereof filed in the Office of Recorder of Hendricks County on November 16, 1993, in Plat Cabinet 2, slide 97 with document ID number 199324272 and recording ID number 95323 including the plats recorded with the Certificate of Correction recorded on October 17, 1994 in Book 144 on Page 81 with document ID number 199420302 and recording ID 119469.

All lots in any other section of Sugar Bush Farms which were subject to any previously recorded restrictions which are amended.