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**MASTER DECLARATION**  
**OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**WOODSIDE AT WEST CLAY**  
**A RESIDENTIAL DEVELOPMENT**  
**IN CLAY TOWNSHIP, HAMILTON COUNTY, INDIANA**

This MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as this "**Declaration**") is made this 3rd day of November, 2017 by SNAP II Properties LLC (hereinafter referred to as "**Developer**").

**Recitals**

WHEREAS, Developer is the owner and developer of that certain real property described on Exhibit A attached hereto (hereinafter referred to as the "**Real Estate**");

WHEREAS, Developer desires to develop, or cause to be developed, the Real Estate into that certain single family residential subdivision to be known as Woodside at West Clay (hereinafter referred to as "the Development"), comprised of forty (40) single family residential lots, as depicted on that certain Woodside at West Clay Secondary Plat, (hereinafter referred to as the "**Plat**");

WHEREAS, Developer wishes to impose the following development standards, restrictions, covenants, conditions and assessments on the Real Estate (hereinafter referred to as a "**Lot**" and collectively, the "**Lots**"), for the benefit of all present and future Owners (as hereinafter defined) of any Lot in the Subdivision (as hereinafter defined) and Developer.

**DECLARATIONS**

Developer hereby declares that the Development and all of the Lots in the Development, ( hereinafter referred to as the "**Subdivision**"), as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, shall be subject to the following development standards, restrictions, covenants, conditions and assessments, which are in furtherance of a plan of the improvement and sale of the Subdivision and each Lot and Residence (as hereinafter defined) situated therein and in accordance with the Woodside at West Clay Preliminary Plan, Covenants and Development Standards, Ordinance No. Z-618-16, dated as of October 17, 2016 (hereinafter referred to as the "**PUD**"), and are established and agreed upon for the purpose of enhancing and protecting the values, desirability and attractiveness of the Subdivision as a whole, each of the Lots situated therein and the homes constructed thereon. This Declaration shall be for the benefit of Developer and all Owners and occupants within the

Subdivision and shall run with the property and shall be binding on Developer and all Owners and all persons claiming under them for a period of ten (10) years from the date these covenants are recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time after expiration or sooner termination of the Development Period (as hereinafter defined) and the turnover of the Master Association (as hereinafter defined) to the Owners pursuant to the terms hereof, a majority of the Owners in the Subdivision agree to change or terminate said covenants in whole or in part and on the condition that an instrument to that effect signed by the Owners voting in favor of such change has been recorded; provided, however, that Developer may, in its sole and absolute discretion, terminate said covenants in whole or in part before the expiration or sooner termination of the Development Period for any portion of the Subdivision upon recordation of an instrument to that effect signed by Developer. In no event shall any change or termination of said covenants affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto. If any of the development standards, restrictions, covenants, conditions and assessments or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth II, Queen of England.

The Owner of any Lots subject to these development standards, restrictions, covenants, conditions and assessments contained in this Declaration, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer, any third party builder, or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to each development standard, restriction, covenant, condition, assessment and agreement herein contained.

Developer shall have the right, and hereby reserves on to itself the right, from time to time at any time prior to the expiration or sooner termination of the Development Period, to add to the Subdivision and subject all or any part of the Additional Real Estate to this Declaration. Any portion of the Additional Real Estate shall become a part of the Subdivision and subject in all respects to this Declaration and all rights, obligations, and privileges herein when Developer places of record in Hamilton County, Indiana an instrument so declaring the same to be part of the Subdivision and subject to this Declaration (hereinafter referred to as a "**Supplementary Declaration**"). Such Supplementary Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate or improvements to be located thereon.

Upon recording of any such Supplementary Declaration on or before the expiration or sooner termination of the Development Period, unless later removed by Developer during the Development Period as provided for herein, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Subdivision and Developer and the Owners of any Lots 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 Developer and Owners of Lots within the Subdivision. No single exercise of Developer's right and option to add and expand the

Subdivision as to any part or parts of the Additional Real Estate or to contract the Subdivision, shall preclude Developer from thereafter from time to time further expanding and adding to the Subdivision other portions of the Additional Real Estate or further contracting the Subdivision, and such right and option of expansion may be exercised by Developer from time to time as to all or any portions of the Additional Real Estate and such right and option of contraction may be exercised by Developer from time to time as to all or any portions of the Real Estate so long as such expansion or contraction is accomplished on or before the expiration or sooner termination of the Development Period. Such expansion or contraction of the Subdivision is entirely at the sole discretion of Developer and nothing contained in this Declaration or otherwise shall require Developer to contract the Subdivision or expand the Subdivision beyond the Real Estate or to any portions of the Additional Real Estate which Developer may voluntarily and in its sole discretion from time to time subject to this Declaration.

The "Development Period" shall be the period commencing on the date hereof and expiring on the date which is the sooner to occur of (a) ninety (90) days after 100% of all Lots within the Subdivision are sold to third party Owners, or (b) Developer elects, in its sole and absolute discretion, to turn over control of the Master Association to the Owners.

#### **Article 1.     Use Restrictions**

1.01 Each Lot shall be used for single family residential purposes only. However, Developer, its agents or assignees may use the Lots for construction and sales purposes during the Development Period. "**Residence**" shall mean a single family detached residence located on a Lot. An "**Owner**" shall mean and refer to the record title Owner of a Lot in the Subdivision other than Developer, and shall be all Owners, jointly and severally, if there is more than one Owner of record.

1.02 Except as expressly provided for herein, no Residence, building, shed, fence, flagpole, mailbox, light pole or fixture, swimming pool, tennis court, pavement, driveway, awning, wall or structure of any kind shall be erected, placed or altered on any Lot without first obtaining the written consent of the Committee (as hereinafter defined) subsequently described herein. Except as expressly provided for herein, all requests for approvals from the Committee shall be in writing, shall be dated, shall specifically request approval of the contemplated improvement(s) and shall be accompanied by two (2) copies of detailed plans and specifications and site plan for the proposed improvements showing, where applicable, the size, location, type, architectural design and details, spacing, quality, use, construction materials, color scheme, grading plan, finished grade elevation and landscaping plans for said improvements.

1.03 Residences within the Subdivision shall have the following minimum square footage of two thousand (2000) square feet exclusive of basements, open porches, garages and other unheated areas. Each Residence shall have an attached garage with space for not less than two (2) automobiles.

1.04 All structures or improvements commenced by an Owner and/or building within the Subdivision must be completed within nine (9) months from the date of construction commencement.

1.05 All Residences shall have light fixtures flanking the garage door and equipped with a photo cell so the light is on from dusk to dawn. Lighting shall also be provided at the entry to each Residence. The Owner shall maintain such lights in operating condition at all times and shall not alter or modify the exterior lighting without the prior written approval of the Committee.

1.06 No detached storage buildings shall be permitted on any Lot.

1.07 No towers of any description or satellite dish antennas greater than thirty-nine (39) inches in diameter will be permitted on any Lot without the prior written approval of the Committee. Said Committee may deny any such request in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate. Any satellite dish antenna less than thirty-nine (39) inches in diameter and as otherwise approved pursuant to this Section 1.07 shall require Committee approval as to location, color and other aesthetic conditions; provided, however, that any satellite dish antenna permitted hereunder shall be situated on a lot and installed and maintained with sufficient landscaping screening to minimize visibility from adjacent Residences, sidewalks, streets and the Common Areas (as hereinafter defined).

1.08 No Residence shall have a sump pump which discharges directly into the street through a curb.

1.09 No building shall be located closer to any street than the building setback lines shown on the Plat. The setback areas designated on the Plat shall be used for lawn and landscaping purposes only in accordance with the conditions and restrictions contained in this Declaration. This covenant shall not be construed to prevent the use of the setback areas for mailboxes, walks, drives, trees, shrubbery, flowers, or ornamental plants used for the purpose of beautification in accordance with the conditions and restrictions contained in this Declaration.

1.10 No structures or materials shall be placed or permitted within the utility or drainage easement areas as designated on the Plat. Plantings placed and maintained within said utility or drainage easement areas shall be placed and maintained at the Owner's sole risk of loss if such plantings, as determined solely by the applicable utility authority or the Committee, would damage or interfere with the installation or maintenance of utilities or would change or retard the flow of surface water from its proper course. Each Owner shall maintain such portion of any utility or drainage easement area as is located upon such Owner's Lot in accordance with the conditions and restrictions contained in this Declaration.

1.11 No business activities of any kind shall be conducted on any Lot or open space in the Subdivision without the approval of the Master Association; provided, however, that the foregoing shall not apply to (a) the business activities of Developer or the construction, sale or maintenance of the Lots or Residences located thereon by authorized builders or by Developer, its agents or assigns, during the Development Period, (b) the maintenance or sale of a Residence and/or Lot conducted by authorized contractors, agents or assigns of an Owner or (c) a home occupation or home based business that (i) satisfies all applicable zoning ordinances, (ii) does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other residences in the Subdivision, (iii) is conducted entirely within a Residence by an Owner or by an immediate family member of an Owner residing in said Residence, (iv) is clearly incidental

and secondary to the use of the Residence for single family residential dwelling purposes and does not change the character thereof, (v) utilizes no sign or display visible from a Lot or the exterior of a Residence that a Residence is being utilized in whole or in part for any purpose other than that of a single family residential dwelling, (vi) does not involve the sale of any commodity, (vii) does not employ persons other than members of the immediate family of an Owner residing in the Residence; (viii) does not involve any activity that generates a significant number of client, customer or other visits related to the business or unreasonable parking demands (each as determined by the Master Association in its sole and absolute discretion), or (ix) does not involve manufacturing or assembly operations on a Lot or in a Residence. Notwithstanding the foregoing, in no event shall the following activities, or similar activities, be conducted or considered to be permitted on any Lot or within any Residence: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog trimming, or any other similar activities.

1.12 No clothesline shall be located on any Lot. No laundry articles shall be left outdoors overnight or any time on Saturdays or Sundays.

1.13 No automobile, commercial vehicle, bus, camper, motor home, trailer, boat, other watercraft, snowmobile, motorcycle, all-terrain vehicle or other similar vehicle shall be stored on any Lot unless completely enclosed within a Residence's garage. For purposes of this section, a vehicle shall be considered "stored" if inoperable, put up on blocks or covered with a tarpaulin and it remains in such condition for a period of seven (7) consecutive days or more than fourteen (14) non-consecutive days during any calendar year.

1.14 No Lot shall be used as a dumping ground or storage area for rubbish, machinery, scrap, paper, glass or other such materials. Garbage or other waste shall be kept in trash containers approved by the Master Association. All containers used for the storage or disposal of trash or recyclable materials shall be kept in a clean and sanitary condition and kept in a Residence's garage or otherwise screened from public view. Building materials to be used in the construction of approved structures may be stored on or within a Lot, provided such building materials are incorporated into the approved improvement within ninety (90) days after their delivery to such Lot.

1.15 No sod, dirt or gravel, other than incidental to the construction of an approved structure or the normal maintenance of lawn areas, shall be removed from any Lot without the written approval of the Committee.

1.16 No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Lot. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. The Master Association may regulate and control the maintenance of lawn areas by publishing rules and regulations as it deems necessary from time to time.

1.17 It shall be the duty and obligation of the Owner of any vacant Lot to maintain such Lot and mow the lawn thereof. Developer, during the Development Period, and the Master Association thereafter shall have the right, but not the duty, to enter upon each vacant Lot and to maintain the appearance thereof by cutting weeds, mowing grass, trimming trees, removing

debris, installing erosion control devices, and performing any other act reasonable under the circumstances. The Owner shall be responsible for payment of all such expenses upon demand and Developer or the Master Association, as the case may be, shall have a lien on such Lot for the payment of such expenses, together with attorneys' fees and all other costs and expenses of litigation and collection which may be incurred in connection therewith.

1.18 No geothermal or solar heating system shall be installed on any Lot or on any Residence thereon without the prior approval of all applicable agencies and the Committee.

1.19 No animals or livestock of any kind shall be raised, bred or kept on any Lot or in any Residence, except that a reasonable number of dogs, cats or other usual domesticated household pets may be kept on a Lot or in a Residence, so long as such pets are not kept, bred or maintained for any commercial purpose. No animal shall be permitted to run loose or become a nuisance. The Master Association may regulate and control the maintenance of such household pets by publishing such rules and regulations as it deems necessary from time to time.

1.20 Permitted signs shall include only those professionally constructed signs which advertise a home on any Lot for sale, and which are non-illuminated and less than or equal to six (6) square feet in size (hereinafter referred to as "**Permitted Signs**"). With the exception of Permitted Signs, all signs including, but not limited to those advertising a garage sale or a Residence "For Lease", must be approved by the Committee before being placed upon any Lot or Common Area, or displayed from a Residence. No more than one sign (including Permitted Signs) may be displayed on a Lot or from a Residence at any one time. All Permitted Signs advertising a Residence or Lot for sale shall be removed within three (3) business days of the conveyance of the Residence or Lot. Signs advertising a Residence for "Rent to Own", or something similar, are expressly prohibited and may not be placed on a Lot or displayed from a Residence constructed thereon. Developer and designated builder(s) are expressly exempt from the requirements of this Section 1.20 and may post any signs in the Common Areas and Lots owned by Developer and/or designated builder(s) during the Development Period, as approved by Developer.

1.21 All tanks for the storage of propane gas, fuel or oil shall be located beneath ground level, except that propane tanks for service to the entire Subdivision or, on a temporary basis, for construction of an approved structure may be located above ground. Notwithstanding the foregoing, nothing in this section shall prohibit an Owner from storing propane gas tanks, as reasonably necessary to operate residential outdoor grills for personal use, in a Residence's garage or otherwise screened from public view.

1.22 No well for the production of gas, water or oil, whether intended for temporary or permanent purposes, shall be drilled or maintained on any Lot without the written consent of the Committee.

1.23 No chain link fence will be permitted on any Lot. Acceptable fence styles and materials shall be established by the Committee in its sole and absolute discretion from time to time. Any fence to be installed on a Lot and the location thereof shall be submitted to the Committee for its review and approval prior to installation.

1.24 No above ground swimming pools in place for more than forty eight (48) consecutive hours will be permitted on any Lot.

1.25 Nothing shall be done, placed or stored on any Lot which may endanger the health or unreasonably disturb the occupants of any neighboring Residence or any Lot or Residence within the Subdivision.

1.26 Except as otherwise approved by Developer in connection with a builder's model home sales center, all outside lighting contained in or with respect to the Subdivision shall be of an ornamental nature compatible with the overall architectural design of the Subdivision, shall provide for projection of light so as to not create a glare, distraction or nuisance to the other Owners and shall be consistent with the outside lighting depicted in the plans and specifications approved by the Committee.

1.27 No fence, wall, mound, hedge, landscape screening or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right of way and a line connecting points twenty-five (25) feet from the intersection of the street right of way extended or in the case of a rounded property corner, from the intersection of the street rights of way extended. The same sight line limitations shall apply to any Lot within ten (10) feet from the intersection of a street right of way with the edge of a driveway or alley line. No tree shall be permitted to remain within such distances of such areas unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

## **Article 2. Easement Restrictions**

2.01 There are hereby reserved unto Developer, during the Development Period, and thereafter, the Master Association, and the designees of each (which may include, without limitation, any private or public utility provider or governmental authority) (collectively, the "**Infrastructure Easement Holder**"), access, maintenance and utility easements upon, across, over and under the Subdivision to the extent reasonably necessary for the purposes of replacing, repairing and maintaining security and similar systems, landscaping, landscaping mounding and screening, roadways, sidewalks, bicycle pathways, lakes, ponds, drainage systems, street lights, signage and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas and electricity infrastructure, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on the Plat. Notwithstanding anything to the contrary herein, this easement shall not entitle the Infrastructure Easement Holder to construct or install any of the foregoing systems, facilities, infrastructure or utilities over, under or through any existing Residence on a Lot or in such a manner as to unreasonably and adversely affect any Residence or portion thereof located upon such Lot or Developer's or the Owner's use and enjoyment thereof or unreasonably restrict the rights of ingress and egress to such Lot, except in an emergency. Entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

2.02 Subject to the restrictions, covenants and easements contained in the Plat and this Declaration, there are hereby reserved unto each Owner, Developer, during the Development Period, and thereafter, the Master Association, and their agents, contractors or employees (each,

a **“Maintenance Easement Holder”**), non-exclusive maintenance access easements upon, across, over and under that portion of each Lot or the Common Areas adjacent to an Owner’s Lot, as applicable, and that portion of the each Lot adjacent to the Common Areas, as applicable, extending a distance of not more than three (3) feet from each side of the common boundary line between adjacent Lots or between each Lot and adjacent Common Areas, as applicable, as measured from any point on the common boundary line and extending perpendicular to such common boundary line at such point (the **“Maintenance Access Easement”**). Subject to the restrictions, covenants and easements contained in the Plat and this Declaration, the Maintenance Access Easement shall be used by the Maintenance Easement Holder thereof on a non-exclusive basis for the sole purpose of allowing for convenient and minimally invasive access to inspect, construct, maintain, replace or restore that portion of any structures or improvements constructed on a Maintenance Easement Holder’s Lot or the Common Areas, as applicable, in accordance with this Declaration within three (3) feet of the common boundary line, as measured from any point on the common boundary line extending perpendicular to such boundary at such point, only to the extent such inspection, construction, maintenance, replacement or restoration activities cannot be reasonably performed within the boundaries of a Maintenance Easement Holder’s Lot or the Common Areas without utilizing the Maintenance Access Easement. Notwithstanding anything to the contrary herein, (a) in no event shall such Maintenance Access Easement exist with respect to a Maintenance Easement Holder if the Maintenance Easement Holder’s landscaping, structures or improvements otherwise benefitting from the Maintenance Access Easement were constructed in violation of the restrictions, covenants and easements contained in the Plat or this Declaration or encroach upon an adjacent Lot or the Common Areas due to the willful and knowing conduct on the part of, or with the knowledge and consent of, the Maintenance Easement Holder or occupant, (b) the Maintenance Access Easement shall not entitle a Maintenance Easement Holder to construct or install any landscaping, structures or improvements on an adjacent Lot or the Common Areas, (c) the Maintenance Access Easement shall not entitle a Maintenance Easement Holder to relocate or unnecessarily disturb any landscaping, structures or improvements on an adjacent Lot or Common Areas, without first obtaining such Owner’s, Developer’s or the Master Association’s, as applicable, prior written consent, (d) use of the Maintenance Access Easement shall be limited to such location and duration as minimally necessary to complete inspection, construction, maintenance or restoration activities during such times and on such days as established for such activities by Developer or the Master Association, as applicable, from time to time, and (e) upon completion of the inspection, construction, maintenance, replacement or restoration activities within the Maintenance Access Easement, any damage or destruction to landscaping, structures or improvements located within the Maintenance Access Easement shall be immediately repaired and restored to the same condition as existed immediately prior to the Maintenance Easement Holder’s use of the Maintenance Access Easement or better, at the Maintenance Easement Holder’s sole cost and expense.

2.03 No Owner shall do or permit to be done any action or activity which would result in (a) the pollution or contamination of any retained water, (b) the diversion of water, (c) a change in the elevation of the water level, (d) silting or (e) an adverse effect on water quality, drainage or proper water management, or which would otherwise impair or interfere with the use of easement areas for drainage and related purposes for the benefit of all Owners.



2.04 No boating, fishing, swimming, ice skating or other recreational activity shall be conducted in, on or above any easement areas.

2.05 The Master Association shall have the right to establish from time to time rules regarding the use of any easement areas, provided such rules are not in conflict with any other provision contained herein, and are reasonably established to protect the safety and welfare of Developer, the Owners and their guests and the general public, or are established to ensure the continued service of the areas for the purposes for which they were designed.

### **Article 3. Master Association**

3.01 Formation. Within sixty (60) days after the recording of this Declaration, Developer shall form and incorporate the Woodside at West Clay Homeowners' Association, Inc., an Indiana nonprofit corporation (hereinafter referred to as the “**Master Association**”) to promote the common interest of Developer and all Owners, to handle maintenance of certain areas within the Subdivision as set forth in this Declaration and to promote compliance with the development standards, restrictions, covenants, conditions and assessments set forth in this Declaration and the PUD. The Master Association shall be comprised of Developer and all Owners in the Subdivision, as provided for herein.

3.02 Owner Votes and Records. The Master Association shall have two (2) classes of membership as provided for in this Section 3.02. Developer shall be the Class A Member of the Master Association created in accordance with Section 3.01 hereof and shall be entitled to ten (10) votes for each Lot owned during the Development Period and one (1) vote for each Lot owned after expiration or sooner termination of the Development Period. For purposes of determining the number of aggregate votes possessed by Developer, it shall be assumed that Developer owns all Lots within the Subdivision, with such number of Lots being reduced as Lots are conveyed to an Owner. Each Owner within the Subdivision, upon acquisition of title to a Lot, shall automatically become a Class B Member of the Master Association. Each such Owner shall be entitled to one (1) vote for each Lot owned during the Development Period and one (1) vote for each Lot owned after expiration or sooner termination of the Development Period. When more than one person holds an interest in any Lot, all such persons shall be members; provided, however, in no event shall more than one (1) vote be cast with respect to any Lot. The membership rights of a Lot owned by a corporation, partnership or limited liability company shall be exercised by the individual designated from time to time by Developer or the Owner in a written instrument provided to the Master Association as more fully set forth in the Articles of Incorporation and By Laws for the Master Association. Such membership shall be appurtenant to and shall not be separated from ownership of the Lot and such membership shall terminate upon the sale or other disposition by such member of such Lot ownership. The Master Association shall maintain a current roster of each Owner within the Subdivision and the mailing address of each Owner and legal description for each Lot within the Subdivision. To the extent provided to the Master Association by an Owner, the Master Association shall also maintain an electronic mail address for those Owners who have consented to receive notice from the Master Association by electronic mail. Electronic mail addresses approved by an Owner to receive notice by electronic mail shall be removed from the Master Association's records when the Owner revokes consent to receive notice by electronic mail; provided, however, the Master Association shall not be liable for an erroneous disclosure of an electronic mail address for

receiving notices. The mailing addresses and legal descriptions maintained by the Master Association shall be available to Developer and an Owner upon request, may be used by Developer or an Owner only for purposes related to the operation of the Master Association and may not be used by Developer or an Owner for personal reasons unrelated to the operation of the Master Association.

3.03 (a) “Common Areas” means (i) all portions of the Subdivision (including improvements thereto) so designated on the Plat which are not located on a Lot and which are not dedicated to the public, (ii) all facilities, structures, buildings, improvements and personal property owned or leased by the Master Association from time to time and (iii) all alleys shown on the Plat. Common Areas may be located within a public right-of-way or in an easement area as shown on the Plat.

(b) “Common Expenses” means (i) the costs and expenses incurred in connection with the maintenance, operation, repair or replacement of the Common Areas and related improvements thereon and the costs and expenses related to the performance of the responsibilities and duties of the Master Association, including, without limitation, costs and expenses for the improvement, operation, maintenance, replacement or repair of the improvements, lawn, foliage and landscaping not located on a Lot, including adequate reserves for replacement of buildings, improvements, furniture, fixtures or equipment, except for lawn maintenance as described herein (unless located on an easement located on a Lot to the extent the Master Association deems, in its sole and absolute discretion, it necessary to maintain such easement), (ii) costs and expenses incurred in connection with the maintenance, repair or continuation of the drainage facilities located within and upon the easements, (iii) all judgments, liens and valid claims against the Master Association, (iv) all expenses incurred in the administration of the Master Association and (v) if applicable, costs and expenses associated with trash pick-up within the Subdivision.

3.04 Master Association Insurance. The Master Association shall purchase the following coverage:

(a) Liability Insurance. The Master Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as public liability and/or owners policies insuring the Master Association against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the fulfillment by the Master Association of its obligations specified in this Declaration, or for any other risk insured against by such policies which the Master Association, in its sole and absolute discretion, determines to insure against, including, without limitation, claims arising out of the Common Areas. Each policy purchased by the Master Association shall have limits of not less than Two Million Dollars (\$2,000,000.00) covering all claims for personal injury and Two Hundred Fifty Thousand Dollars (\$250,000.00) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Master Association shall include protection against liability for property damage, bodily injuries and deaths of persons in connection with the fulfillment by the Master Association of its obligations specified in this Declaration, liability for non-owned and hired automobiles, liability for property of others and liability arising out of the Common Areas. All such policies will name the Master Association as the insured under such policy or policies. The insurance purchased shall contain a “severability

of interest endorsement”, or equivalent coverage, which would preclude the insurer from (i) denying the claims of an Owner because of the negligent acts of either the Master Association, Developer or any other Owners or (ii) denying the claims of either Developer or the Master Association because of the negligent acts of an Owner.

(b) Casualty Insurance. The Master Association may purchase and pay the costs of a policy or policies of insurance to allow the Master Association to insure from the fulfillment by the Master Association of its obligations specified in this Declaration. Such casualty insurance may insure, without limitation, any improvements located within the Common Areas.

(c) Errors and Omissions Coverage. The Master Association shall purchase adequate errors and omissions insurance in an amount reasonably determined by the Board of Directors to protect and insure the Master Association and its officers and directors against liability for negligence in the fulfillment of their obligations and duties.

3.05 Board of Directors. The management and control of the affairs of the Master Association shall be vested in its Board of Directors. The Board of Directors shall be composed of between three (3) and nine (9) members. The initial members of the Board of Directors shall be selected by Developer. The three (3) initial members of the Board of Directors shall serve until the expiration or sooner termination of the Development Period. Upon the incapacity, resignation or death of any initial director, a successor, who shall serve the remaining term of the departed director, shall be appointed by the remaining members of the Board of Directors within three (3) months after the incapacity, resignation or death of the departed director. Upon expiration or sooner termination of the Development Period, the Board of Directors shall be elected by a majority vote of Developer and the Owners as more fully set forth in the Articles of Incorporation and By Laws for the Master Association.

3.06 Special Meetings. In addition to any other meetings held by the Board of Directors as permitted or required in the Articles of Incorporation or By Laws for the Master Association, the Board of Directors shall hold a special meeting of the Owners and, if applicable, Developer, if Developer submits a written demand to the Board of Directors, or the Owners submit to the Board of Directors a written demand signed by at least twenty five percent (25%) of the Owners, for a special meeting that describes the purpose for which the meeting is to be held. If the Board of Directors does not send out a notice of the date, time and place for a special meeting as required in the Articles of Incorporation and By Laws for the Master Association within thirty (30) days after the date the Board of Directors receives such valid written demand therefore, Developer, if Developer submitted the written demand, or an Owner who signed the written demand, may set the date, time and place for the special meeting and send out the notice for the special meeting to the Owners and Developer, as applicable.

3.07 Other Matters Concerning the Master Association. The Articles of Incorporation of the Master Association as filed with the Indiana Secretary of State and the By Laws of the Master Association, both as may be amended from time to time, are incorporated herein by reference.

3.08 Master Association Common Area Rights. The Master Association, or its agents, assigns or third party contractors, shall have the right to enter onto the Common Areas, open

space, public right of way, tree preservation easement areas or landscape easement areas as shown on the Plat, if any, or other easement area as it from time to time deems necessary for the purpose of maintaining the same. Such maintenance may include, but shall not be limited to:

- (a) regular mowing, trimming and fertilizing of grassy areas;
- (b) periodic mulching of flower beds and landscaped areas within the Subdivision as well as the tree preservation easement along the northern property line of the Subdivision;
- (c) regular weeding of flower beds, landscaped areas, and the tree preservation easement along the northern property line of the Subdivision;
- (d) flower planting and landscaping installation within the Subdivision as well as the tree preservation easement along the northern property line of the Subdivision;
- (e) maintenance of street lighting, if any, and associated electric service billings;
- (f) repair, maintenance and replacement of any permanent signs;
- (g) repair, maintenance and replacement of any Common Area wall, monument or fencing;
- (h) operation, maintenance, repair and replacement of any community pools, buildings, playgrounds, pathways or other Common Area amenities;
- (i) plowing and/or removal of snow from private streets and alleys located within Common Areas and community walkways located within Common Areas;
- (j) treatment of water in any detention or retention areas to limit algae and grassy growth; and
- (k) maintaining, trimming, pruning, irrigating, fertilizing, removing and replacing flowers, plants, trees and bushes within Common Areas as well as Tree Preservation Easements as necessary.

3.09 Master Association Annual Budget. Without any approval or vote by the Owners, but subject to the approval of the Developer during the Development Period, the Board of Directors shall prepare, or cause to be prepared, a proposed annual budget (herein after referred to as the “**Proposed Budget**”) for the subsequent calendar year which shall be the basis for any amounts collected from the Owners in the Subdivision, estimates of Common Expenses and other costs and expenses to be incurred by the Master Association in the subsequent calendar year and shall provide for the allocation of expenses in such a manner that the obligations imposed by this Declaration and all Supplemental Declarations can effectively be met. The Proposed Budget shall provide the Board of Directors’ estimate of revenues and expenses for the subsequent budget calendar year and the estimated surplus or deficit as of the end of the then

current budget calendar year. The Master Association shall provide Developer and each Owner with a copy of the Proposed Budget or written notice that the Proposed Budget is available upon request at no charge to the Developer or Owner and a written notice of any increases or decrease in annual assessments paid by the Owners if the Proposed Budget is approved. The Board of Directors during any calendar year prior to the effective date of the Proposed Budget shall be entitled to increase any assessments for the year in which the Proposed Budget is to be in effect if the Board of Directors should determine that the estimate or current assessment is insufficient for that year, provided that the Board of Directors shall give at least thirty (30) days advance notice thereof to Developer and the Owners. After all of the foregoing take place, the Association shall hold a meeting pursuant to the following Section 3.10.

3.10 Master Association Meeting to Approve the Budget. The Master Association Proposed Budget must be approved by a majority vote of the Developer and Owners in attendance at a meeting called and conducted in accordance with the requirements of this Declaration, the Articles of Incorporation and the By-Laws (the “**Approved Budget**”). For purposes of this meeting, Developer or an Owner is considered to be in attendance at the meeting if the Developer or Owner attends: (1) in person; (2) by proxy; or (3) by any other means allowed under Indiana law or under this Declaration, the Articles of Incorporation or the By-Laws.

3.11 Power of the Board of Directors to Adopt a Proposed Budget in the Absence of a Quorum. If the number of votes possessed by Developer and the Owners in attendance at the meeting held under Section 3.10 above does not constitute a quorum as defined in the By-Laws of the Association, the Board of Directors may adopt an annual budget for the Master Association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved Master Association annual budget and such annual budget adopted by the Board of Directors shall be deemed to be the Approved Budget for the ensuing year.

3.12 Amounts. Each Owner of any Lot, except as otherwise provided for herein, by acceptance of a deed therefore, whether or not it shall be solely expressed in such deed, is deemed to covenant and agree to pay to the Master Association assessments as provided for herein for the purpose of providing funds to carry out the responsibilities of the Master Association hereunder. The assessments provided for herein shall be per calendar year and shall commence for each Lot on the date of closing of the sale of a Lot to an Owner based on the Approved Budget for the applicable calendar year. The obligation to pay the assessments provided for herein shall commence for each Lot on the date it is conveyed to an Owner. The assessments for the calendar year shall be pro-rated to year-end. The Board of Directors shall fix any increase in the amount of the any amounts assessed hereunder at least thirty (30) days in advance of the effective date of such increase. The initial due date for annual assessments shall be January 1<sup>st</sup>, and such assessment shall be subject to collection and late charges beginning on January 31<sup>st</sup>. The Board of Directors may provide for reasonable interest and late charges on past due installments of assessments.

3.13 Notice and Due Date. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be delivered to every

Owner subject thereto. The due dates for special assessments shall be established by the Board of Directors.

3.14 Annual Assessment. The annual assessments levied by the Association shall be used in the reasonable discretion of the Board of Directors in accordance with the Approved Budget to fulfill the duties and obligations of the Association specified in or reasonably inferred by this Declaration, including, without limitation, the Common Expenses, as well as the costs and expenses of insurance, and professional property management, if applicable (the “**Annual Assessment**”).

For the purpose of providing funds to carry out the responsibilities of the Master Association hereunder, the Master Association shall be empowered to levy, assess and collect from each Owner in the Subdivision an amount up to Eight Hundred Dollars (\$800.00) per year, irrespective of whether the Subdivision has been completed. Provided, however, that such limit of Eight Hundred Dollars (\$800.00) per Lot per year may be increased or decreased in proportion to any increase or decrease in the Consumer Price Index of the U.S. Bureau of Labor Statistics from the base period of December 2016. If the Master Association elects to provide trash pick-up service through the Master Association as provided for in Section 3.02 (b) (vi) hereof, the cost of trash pick-up shall be assessed in addition to the Eight Hundred Dollars (\$800.00) described herein. Any fees assessed by the Master Association in excess of Eight Hundred Dollars (\$800.00), plus the cost of trash pick-up if applicable per Lot per year, or its adjusted equivalent, must be approved by a majority of the Owners.

3.15 Initial Operating/Reserve Fund Assessment. In addition to the Annual Assessment set forth above, upon the closing of the initial conveyance of each Lot to the first Owner of the respective Lot, the Owner shall pay to the Master Association, in addition to any other amount then owed or due to the Master Association, as a contribution to the working capital of the Master Association and its start-up fund, an amount equal to \$300.00 Dollars, which payment shall be non-refundable and shall not be considered as an advance payment of any other assessments or other charges owed to the Master Association with respect to such Lot . The working capital and start-up fund shall be held and used by the Master Association for payment of, or reimbursement to, Developer for advances made to pay expenses of the Master Association for its early period of operation to enable the Master Association to have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary by the Board of Directors. In the event the start-up fund is insufficient to reimburse Developer for the advances made to pay expenses of the Master Association for its early period of operation to enable the Master Association to have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary by the Board of Directors, Developer will be reimbursed through a Special Assessment at the end of the Development Period from the Reserve Fund.

3.16 Special Assessments. In addition to Annual Assessment and the Initial Operating/Reserve Fund Assessment set forth above, the Board of Directors of the Master Association may make special assessments against each Lot (a “**Special Assessment**”) for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing or replacing any capital improvement which the Master Association is required to maintain or the

cost of special maintenance and repairs or to recover any deficits (whether from operations or any other loss including the reimbursement of the Developer for advances made to pay expenses of the Master Association for its early period of operation to enable the Master Association to have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary by the Board of Directors) which the Master Association may from time to time incur, but only with the assent of one-third (1/3) of the Developer or members of the Owners who cast votes in person or by proxy at a duly constituted meeting of the members of the Master Association called for such purpose.

3.17 Exemption. In no event shall Developer, or any related entity expressly exempted by Developer, be assessed or levied any portion of an Annual Assessment, an Initial Operating/Reserve Fund Assessment or a Special Assessment during the Development Period of the Subdivision or any time thereafter. During the period commencing upon the closing of the conveyance of a Lot from Developer to Weekley Homes of Indiana, LLC, an Indiana limited liability company (“**Weekley Homes**”) (each, a “**Weekley Closing**”), and ending on the earlier of (a) Weekley Homes’ sale of that Lot to a third party Owner or (b) twelve (12) months after the Weekley Closing, Weekley Homes shall be exempted from being assessed or levied any portion of an Annual Assessment, an Initial Operating/Reserve Fund Assessment or a Special Assessment for that Lot. For avoidance of doubt, Weekley Homes shall be responsible for an Initial Operating/Reserve Fund Assessment and all Annual Assessments and Special Assessments commencing on the twelve (12) month anniversary of each Weekley Closing, if such Lot is not sooner sold to a third party Owner. Weekley Homes shall be responsible for all maintenance associated with the Lots it owns until the twelve (12) month anniversary of each Weekley Closing, if such Lot is not sooner sold to a third party Owner. In addition, Weekley Homes shall be exempted from being assessed or levied any portion of an Annual Assessment, an Initial Operating/Reserve Fund Assessment or a Special Assessment for a Lot on which Weekley Homes maintains a model home or show home, as designated by Developer in writing prior to the closing of the conveyance of such Lot from Developer to Weekley Homes. Upon Weekley Homes’ sale of a Lot to a third party Owner, each third party Owner shall be responsible for an Initial Operating/Reserve Fund Assessment and all Annual Assessments and Special Assessments commencing upon the closing of the conveyance of the Lot from Weekley Homes to each such third party Owner.

3.18 Unpaid Assessments. Any amount assessed or levied hereunder by the Master Association against an Owner shall become a lien on each Lot until paid. Any assessments which are not paid within thirty (30) day of the due date shall be delinquent. As long as an assessment remains delinquent, a late fee of twenty-five dollars (\$25.00) will be charged per month until the assessment is paid in full. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Master Association may file with the Hamilton County Recorder a Notice of Lien. The Notice of Lien shall contain a description of the Lot against which the lien exists, the name or names of the Owner or Owners thereof, and the amount of the unpaid portion of the assessment or assessments. The lien provided for herein shall remain valid for a period of five (5) years from the date a Notice of Lien is duly filed, unless sooner released or satisfied in the same manner provided for by Indiana law for the release and satisfaction of mortgages on real property or until discharged by the final judgment or order of the Court in an action brought to discharge the lien. The lien shall secure

not only the amount of the unpaid assessments and late fees, but also the costs incurred in collection of any amount assessed or levied hereunder, including, but not limited to interest, attorney's fees and court costs. The lien of the assessment provided for herein shall be subject and subordinate to the lien of any duly executed mortgage on any Lot recorded prior to the recording of the Notice of Lien. The holder of any such mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure shall take the property free of claims for unpaid installments of assessments or charges against the Lot which become due and payable prior to the time such holder or purchaser takes title to the Lot. In the event an Owner does not pay any assessment within six (6) months of the due date, the Master Association shall have the right to suspend that Owner's voting rights pursuant to this Declaration, the Articles of Association and the By Laws until any assessments and past due amounts are paid in full.

3.19 Director Liability. No member of the Board of Directors shall be liable to Developer, the Owner(s) or any other person for any error or mistake of judgment exercised in carrying out his duties and responsibilities as a director, except in the case of willful misconduct or gross negligence. Further the Master Association shall indemnify and hold harmless and defend each of the directors against any and all liability to any person, firm or corporation arising out of any contract made by the Board of Directors on behalf of the Master Association, unless any such contract shall have been made fraudulently. It is intended that no director shall have personal liability with respect to any contract made by any board member on behalf of the Master Association.

3.20 Indemnification. The Master Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he or she is or was a director of the Master Association, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him or her in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such director is liable for gross negligence or willful misconduct in the performance of his duties. The Master Association shall also reimburse to any such director the reasonable costs of settlement of, or judgment rendered in, any action, suit or proceeding, if it shall be found by a majority vote of Developer and the Owners that such director was not guilty of gross negligence or willful misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a director, no director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his or her duties where, acting in good faith, such director relied on the books and records of the Master Association or statements or advice made by or prepared by the managing agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Master Association to render advice or service, unless such director had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of, or liable for, negligence or misconduct by virtue of the fact that he or she failed or neglected to attend a meeting or meetings of the Board of Directors.

3.21 Developer Rights. Any and all of the rights, powers, duties and obligations assumed by, reserved to, created in or given to the Master Association may be exercised by



Developer until such time as the Master Association is formed and control thereof transferred to the Owners. At such time as control of the Master Association is transferred to the Owners, Developer may reserve the exclusive right to approve the plot plan, construction plans, color scheme and landscape plan associated with any structure on any Lot on which a Residence has not yet been completed and occupied, so long as Developer clearly identifies the Lots for which it is retaining such right at the time of the turnover. Developer shall maintain said right of approval for each Lot until such time as a Residence has been completed on that Lot and occupied by the homebuyer.

3.22 Rubbish Disposal. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and Residence construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and 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. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.

#### **Article 4. Architectural Control Committee**

An Architectural Control Committee (the "**Committee**") is hereby established as a standing committee of the Master Association to carry out the functions set forth for it in this Declaration. The Committee's procedures and duties shall be as follows:

4.01 The Committee shall be composed of between four (4) and eight (8) members. Developer shall appoint the initial members of the Committee.

4.02 Membership. The initial members of the Committee shall serve until expiration or sooner termination of the Development Period. Any subsequent members shall be appointed by the Master Association and shall serve for terms of four (4) years, except that the first appointed members of the Committee shall serve for staggered terms of two (2), three (3), and four (4) years as directed by the Board of Directors of the Master Association. All members of said Committee shall serve until the expiration of their terms or until their incapacity, resignation or death. Upon the incapacity, resignation or death of a member of the Committee, a successor, who shall serve the remaining term of the departed Committee member, shall be appointed by the Board of Directors of the Master Association within three (3) months after the incapacity, death or resignation of the departed member. After expiration or sooner termination of the Development Period, the Committee shall be comprised of three (3) lot Owners at all times.

4.03 Plans and Specifications. Section 1.02 hereof requires that detailed plans and specifications be submitted to the Committee for the Committee's review and written approval prior to the erection of, placement on, or alteration of any structure or improvement on any Lot. The intent is to achieve an architecturally harmonious, artistic and desirable residential subdivision and ensure compliance with PUD conditions and requirements. Therefore, while considering the approval or disapproval of any plans and specifications submitted, the Committee is directed to consider the zoning commitments for the Subdivision, appropriateness of the improvement contemplated in relation to the improvements on contiguous or adjacent lots, the artistic and architectural merits of the proposed improvement, the adaptability of the

proposed improvement to the Lot on which it is proposed to be made, the PUD conditions and requirements, and such other matters as may be deemed by the Committee members to be in the interest and benefit of the Owners in the Subdivision as a whole and consistent with PUD conditions and requirements. Notwithstanding anything herein to the contrary, during the Development Period, a third party builder shall not be required to obtain the Committee's prior approval of detailed plans and specifications for the initial construction of a Residence on a Lot on which no Residence previously existed if (a) the third party builder shall have obtained the Architectural Review Commission for Woodside at West Clay, or its successor's (the "ARC"), written approval of the detailed plans and specifications in accordance with the PUD conditions and requirements prior to the erection of such Residence or placement of such Residence on any Lot and (b) the third party builder shall have delivered to the Committee, prior to the erection of such Residence or placement of such Residence on any Lot, copies of the plans and specifications for such Residence as previously approved by the ARC, together with the ARC's written approval thereof.

4.04 Special Requirements. To assist it in making its determinations, the Committee may require that any plans and specifications submitted to the Committee be prepared by a registered architect or civil engineer. The Committee shall also have the right to require any other reasonable data including, but not limited to, grading or elevation plans, material lists, landscape plans and color scheme designations.

4.05 Binding Decision. The Committee's decisions shall be in writing and shall be binding upon all parties in interest. The Committee shall approve, disapprove or request additional information with respect to any submitted request for approval within thirty (30) days after said request shall have been properly submitted to the Committee for approval. A properly submitted request shall be in writing and shall comply with the provisions of Section 1.02 hereto. The failure of the Committee to approve, disapprove or request additional information within said time period shall be deemed an approval of any properly submitted request.

4.06 No Representations and Warranties. The approval of any plans and specifications by the Committee shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws.

4.07 Variance. If, in the opinion of the Committee, the enforcement of these restrictions would constitute a hardship due to the shape, dimension or topography of a particular Lot in the Subdivision, the Committee may permit a variation which will, in its judgment, be in keeping with the maintenance of the standards of the Subdivision.

4.08 Committee Deadlock. In the case of a tie vote by Members of the Committee on any matter, the matter shall be referred to the Board of Directors of the Master Association for final determination.

## **Article 5. Other Conditions**

5.01 All transfers and conveyances of each and every Lot in the Subdivision shall be made subject to these covenants and restrictions.

5.02 Any failure to enforce these restrictions shall not be deemed a waiver thereof or an acquiescence in, or consent to, any continuing, further or succeeding violation hereof.

5.03 If any covenant, condition or restriction hereinabove contained, or any portion thereof, is invalid, such invalidity shall in no way affect any other covenant, condition or restriction.

5.04 All costs of litigation and attorney's fees resulting from violation of this Declaration shall be the financial responsibility of the Owner or Owners found to be in violation.

5.05 Developer reserves the right to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any federal agencies, local governing authorities, governmental agency, public authority or financial institution (including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar entity) as a condition of the approval of this Declaration, by the execution and recordation of such amendment following notice to all Owners.

5.06 It shall be lawful for Developer, the City of Carmel, Hamilton County, the Master Association or any Owner within the Subdivision to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate any covenant or restriction contained herein. The proceeding may seek to prevent such person or persons from violating or continuing to violate the restrictions or to recover damages for such violation, seek restraining orders or other mandatory relief for the correction of any interference with or damage to the drainage and detention or retention system within the Subdivision, together with the costs incurred in enforcement of the restrictions.

5.07 Notwithstanding anything herein to the contrary, so long as Developer maintains control of the Master Association during the Development Period as set forth in Article 3 hereof, Developer hereby reserves the right unilaterally to amend, revise or clarify the standards, covenants and restrictions contained in this Declaration for any reason. No such amendment, however, shall restrict or diminish materially the rights or increase or expand materially the obligations of Owners with respect to Lots conveyed to such Owners prior to the amendment or adversely affect the rights and interests of mortgagees holding first mortgages on Lots at the time of such amendment. Developer shall give notice in writing to such Owners and mortgagees of any amendments. Developer shall not have the right at any time by amendment of this Declaration to grant or establish any easement through, across or over any Lot which Developer has previously conveyed without the consent of the Owner of such Lot. All amendments to this Declaration shall be in writing and recorded among the appropriate land records.

5.08 Upon expiration or sooner termination of the Development Period as set forth in Article 3 hereof, this Declaration may be amended by a majority vote of Developer and the Owners in the Subdivision so long as such amendment does not materially increase the obligation(s) of Developer or any Owner under any covenant, condition, term or provision without Developer's or such Owner's consent.

5.09 Only the Lots contained in the Subdivision shall be subject to and bound by the restrictions, covenants and conditions set out in this Declaration and none of said provisions shall in any manner affect or be operative in respect to any other land of Developer or its successors or assigns.

**Article 6. Property Rights**

6.01 Owners' Easement of Enjoyment of Common Areas. Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner and Developer for the use and enjoyment of the Common Areas. Such easements shall run with and be appurtenant to each Owner's and Developer's Lots, subject to the following provisions:

(i) the right of the Master Association to charge reasonable admission and other fees for the use of the recreational facilities, if any, situated upon the Common Areas;

(ii) the right of the Master Association to fine any Owner or make a special assessment against any Lot in the event a person permitted to use the Common Areas by the Owner violates any rules or regulations of the Master Association as long as such rules and regulations are applied on a reasonable and nondiscriminatory basis;

(iii) the right of the Master Association to make reasonable regular assessments for use and maintenance of the Common Areas and any services provided by the Master Association such as trash collection (at the Master Association's option), snow removal, grass mowing or like service;

(iv) the right of the Master Association to dedicate or transfer all or any part of the Common Areas or to grant easements to any public agency, authority or utility for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer;

(v) the right of the Master Association to enforce collection of any fines or regular or special assessments through the imposition of a lien;

(vi) the rights of Developer as provided in this Declaration and in the Plat;

(vii) the terms and provisions of this Declaration;

(viii) the easements reserved elsewhere in this Declaration and in the Plat; and

(ix) the right of the Master Association to limit the use of Common Areas in a reasonable nondiscriminatory manner for the common good.

6.02 Permissive Use. Any Owner and Developer may permit his or her family members, guests, tenants or contract purchasers who reside in the Lot to use his or her right of enjoyment of the Common Areas. Such permissive use shall be subject to the By-Laws of the Master Association and any reasonable nondiscriminatory rules and regulations promulgated by the Master Association from time to time.

6.03 Conveyance of the Common Areas. Developer shall convey all of its right, title, interest in and to the Common Areas to the Master Association by quitclaim deed, and such Common Areas so conveyed shall then be the property of the Master Association. Such conveyance shall be deemed to have been accepted by the Master Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying such Common Areas to the Master Association.

**Article 7. Maintenance**

7.01 Maintenance of Lots and Improvements. Except to the extent such maintenance shall be the responsibility of the Master Association under any of the foregoing provisions of this Declaration, it shall be the duty of each Owner, including any builder during the Development Period, to at all times maintain each Owner's respective Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly; and, specifically, such Owner shall:

- (i) Keep the grass on the Lot properly cut with such regularity as may be reasonably required in order to prevent unsightly growth of vegetation and noxious weeds.
- (ii) Keep the Lot, including any drainage, utility and sewer easements located on the Lot, free of weeds, trash or construction debris and otherwise neat and attractive in appearance, including, without limitation, the property maintenance of the exterior of any structures on such Lot.
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Subdivision.
- (iv) Cut down and remove dead trees.
- (v) Keep the exterior of all improvements in such a state of repair or maintenance to avoid becoming unsightly.

In the event that the Owner of any Lot in the Subdivision shall fail to maintain such Lot and any improvements thereon in accordance with the provisions set forth herein, the Master Association, after approval by a majority vote of the Board of Directors, shall have the right (but not the obligation), by and through its agents, employees and contractors, to enter upon said Lot and clean, repair, mow, maintain or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of this Declaration. The cost of any such work shall be and constitute a Special Assessment against such Lot and the Owner thereof, whether or not a builder, and may be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Master Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

7.02 Damage to Common Areas. In the event of damage to or destruction of any part of the Common Areas or any improvements which the Master Association is required to

maintain hereunder, the Master Association shall repair or replace the same to the extent of the availability of insurance proceeds. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Master Association may make a Special Assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds or against such Owners who benefit by the Special Assessments if less than all benefit. Notwithstanding any obligation or duty of the Master Association hereunder to repair or maintain the Common Areas, if, due to the willful, intentional or negligent acts or omissions of any Owner (including any builder) or of a member of the Owner's family or of a guest, tenant, invitee or other occupant of visitor of such Owner, damage shall be caused to the Common Areas, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then the Master Association shall cause such repairs to be made and such Owner shall pay for such damage and such maintenance, repairs and replacements, unless such loss is covered by the Master Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Master Association, the cost of repairing such damage shall be added to and constitute a Special Assessment against such Owner, whether or not a builder, and its Residence, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

7.03 Maintenance of the Pollinator Habitat and Native Plantings. The area surrounding the retention pond in the Subdivision has been designed and installed as a pollinator habitat with native plantings. These improvements were done to improve the ecology of the Subdivision and the surrounding community as well as reduce maintenance costs to the Master Association over time. The existence of this pollinator habitat and native plantings in the Subdivision was a material part of the City of Carmel's approval of the PUD and as such shall remain and be maintained according to the Pollinator Habitat Maintenance Plan on file with the Master Association, the City of Carmel Department of Community Services and the Developer. The pollinator habitat and native plantings shall be maintained as designed with a minimum area of fourteen thousand (14,000) square feet. The Pollinator Habitat Maintenance Plan shall be provided to the landscape maintenance contractor to the Subdivision and shall be followed as a part of the overall landscape maintenance of the Subdivision. Mowing shall be done only in accordance with the Pollinator Habitat Maintenance Plan. Enhancement or expansion of the pollinator habitat area utilizing native, pollinator friendly species and techniques is expressly permitted.

## **Article 8. Mortgages**

8.01 Notice to Association. Any holder of a recorded first mortgage lien on any Lot (hereinafter referred to as a "**Mortgagee**") may notify the secretary of the Master Association of the existence of such mortgage and provide the name and address of such Mortgagee. A record of such mortgage and name and address shall be maintained by the secretary of the Master Association and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or Articles of Incorporation of the Master Association or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the secretary, as herein provided, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or Articles of Incorporation of the

Master Association or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws or the Articles of Incorporation of the Master Association, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

8.02 Notice to Mortgagees. The Master Association, upon request, shall provide to any Mortgagee a written certificate or notice specifying unpaid assessments and defaults of the Owner of such Lot, if any, in the performance of such Owner's obligation under this Declaration or any other applicable documents, which defaults have not been cured within sixty (60) days.

**Article 9. Litigation and Arbitration**

9.01 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Master Association unless approved by a vote of at least seventy-five percent (75%) of the Class A Members and the Class B Members which approval must be accompanied by the approval of a reasonable litigation budget and the approval of a Special Assessment in an amount equal to the litigation budget to be levied equally among the Units and collected before commencement of any action at a special meeting of the Owners and, if applicable, Developer, held in accordance with the terms of this Declaration, the Articles of Incorporation or By Laws for the Master Association. This section, however, shall not apply to (a) actions brought by the Master Association against Owners to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition or collection of assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Master Association in proceedings instituted against it.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, Developer has caused this Master Declaration of Covenants, Conditions and Restrictions to be executed as of the date first written above.

**SNAP II PROPERTIES LLC**

By: [Signature]  
Printed Name: Steve A. Pittman  
Its: Manager

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public in and for the County and State referenced above, personally appeared Steve A. Pittman, the manager of SNAP II Properties LLC, an Indiana limited liability company, who, having been first duly sworn, acknowledged the execution of the foregoing Master Declaration of Covenants, Conditions and Restrictions in such capacity and stated that the representations contained therein are true.

WITNESS my hand and Notarial Seal this this 3rd day of November, 2017.

NOTARY PUBLIC

[Signature]

Printed: Nicholas J. Churchill

County of Residence: Marion

My Commission Expires: 5/19/2024



#685620

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Nick Churchill

This instrument prepared, and should be returned to, Nick Churchill, SNAP II Properties, LLC, PO Box 554, Carmel, IN 46082-0554.



## **EXHIBIT A**

A part of the Southwest Quarter of Section 21, Township 18 North, Range 3 East located in Clay Township, Hamilton County, Indiana, being bounded as follows:

Commencing at the northwest corner of the Southwest Quarter of Section 21, Township 18 North, Range 3 East; thence South  $00^{\circ}05'53''$  West (assumed bearing) 1,297.22 feet along the west line of said Southwest Quarter to the southwest corner of a 40 acre tract of land described in Instrument Number 5938 and recorded in Deed Record 300, page 505 in the record of Hamilton County, Indiana; thence South  $89^{\circ}58'53''$  East 672.44 feet along the south line of said 40 acre tract of land to the point of beginning of this description; thence South  $00^{\circ}10'27''$  East 1,335.15 feet to the south line of said Southwest Quarter; thence North  $89^{\circ}59'21''$  East 658.75 feet along the south line of said Southwest Quarter to the Southeast corner of the west half of said Southwest Quarter; thence North  $00^{\circ}15'40''$  East 1,334.82 feet along the East line of the West Half of said Southwest Quarter to the Southeast corner of said 40 acre tract of land; thence North  $89^{\circ}58'53''$  West 668.89 feet along the south line of said 40 acre tract of land to the point of beginning, containing 20.344 acres, more or less.