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Master Declaration of Easements, Restrictions and Protective Covenants for The Gardens of Danbury & The Estates of Danbury Subdivision

THIS MASTER DECLARATION OF EASEMENTS, RESTRICTIONS AND PROTECTIVE COVENANTS FOR THE GARDENS OF DANBURY & THE ESTATES OF DANBURY SUBDIVISION ("Declaration") is made this 21st day of September, 2020, by Danbury Oaks LLC, an Indiana limited liability company (the "Developer"), under the following circumstances:

I. RECITALS

- a. The Developer is the owner in fee simple of certain real estate located off of Aberdeen Lane in the City of Charlestown, Clark County, Indiana.
- b. The Developer intends to develop the real estate into two (2) subdivisions (each a "Subdivision" and collectively, the "Subdivisions") known as (i) The Gardens of Danbury Subdivision (the "Gardens Subdivision") and (ii) The Estates of Danbury Subdivision (the "Estates Subdivision").
- c. The Gardens Subdivision will consist of approximately 63 Lots for the development of single-family garden homes.
- d. The Estates Subdivision will consist of approximately 99 Lots for the development of single-family estate homes.
- e. The Developer intends to create (i) a master association, covering both Subdivisions, for the purpose of operating and maintaining the common areas within the Subdivisions and (ii) a separate association, covering only the Gardens Subdivision, for the purpose of maintaining the Lots in the Gardens Subdivision.
- f. The Developer intends to create a separate architectural control committee for each Subdivision to apply and enforce the design standards contained herein, as well as develop, apply and enforce additional standards for each Subdivision, as necessary.
- g. The Developer intends to develop the Subdivisions in sections. The first section to be developed will be the approximately 6.970 acres owned by the Developer and more particularly described on Exhibit A attached hereto (the "Gardens Subdivision Section One").
- h. The Developer desires and does hereby declare that the Property (hereinafter defined), including the Gardens Subdivision Section One, shall be held, sold, used and conveyed subject to the easements, restrictions, covenants and conditions contained in this Declaration for the mutual benefit of each Owner (hereinafter defined). The easements, restrictions, covenants and conditions contained in this Declaration shall run with the Property and be binding on all parties having any right, title or interest therein, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

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II. DEFINITIONS

- a. "Architectural Control Committee" shall mean the Estates Architectural Control Committee with respect to any matter concerning the Estates Subdivision and the Gardens Architectural Control Committee with respect to any matter concerning the Gardens Subdivision.
- b. "Association" or "Associations" shall mean the Master Association, as defined below, and/or the Gardens Subdivision Association, as defined below.
- c. "Common Areas" means all real property that is owned or leased by the Master Association, or property in which the Master Association has an interest such as an easement for the benefit of the Master Association and/or its members including, but not limited to, all entranceways, roadways, sidewalks, crosswalks, medians, street lights, parks, storm drains, berms and detention basins that are not dedicated to the public.
- d. "Default" means any violation or breach of, or any failure to comply with, this Declaration and/or any applicable rules or regulations set by the Master Association or the Gardens Subdivision Association.
- e. "Developer" means Danbury Oaks, LLC, an Indiana limited liability company, and any person, firm, corporation, or association to whom Developer may assign the right of approval.
- f. "Development Period" means the period commencing on the date when this Declaration is recorded and terminating on the earlier to occur of: (a) when Developer, in its sole discretion, so determines, or (b) when Developer no longer owns any Lots within either of one the Subdivisions.
- g. "Estates Architectural Control Committee" means the architectural control committee established pursuant to Section XIII(a) hereof.
- h. "Gardens Architectural Control Committee" means the architectural control committee established pursuant to Section XIII(b) hereof.
- i. "Gardens Development Period" means the period commencing on the date when this Declaration is recorded and terminating on the earlier to occur of: (a) when Developer, in its sole discretion, so determines, or (b) when Developer no longer owns any Lots within the Gardens Subdivision.
- j. "Gardens Subdivision Association" means an Indiana nonprofit corporation, comprised of the owners of the Lots in the Gardens Subdivision, and which maintains the Lots in the Gardens Subdivision, and any successor organization which maintains the Lots in the Gardens Subdivision.
- k. "Gardens Subdivision General Assessment" means the charge established by Section IV(c)(i) of this Declaration.
- l. "Gardens Subdivision Individual Assessment" means the charge established by Section IV(c)(ii) of this Declaration.
- m. "Gardens Subdivision Special Assessment" means the charge established by Section IV(c)(iii) of this Declaration.

n. "General Assessment" means the charge established by Section IV(b)(i) of this Declaration.

o. "Individual Assessment" means the charge established by Section IV(b)(ii) of this Declaration.

p. "Lot" or "Lots" means each of the parcels of land shown as such upon the Plat or Plats of the Property, other than Common Areas.

q. "Master Association" means an Indiana nonprofit corporation, comprised of the owners of the Lots in the Estates Subdivision and the Gardens Subdivision, and which owns, operates, governs and maintains the Common Areas, and any successor organization which owns, operates, and maintains the Common Areas.

r. "Owner" means as of any time, each fee owner (or owners) of a Lot at such time, including Developer.

s. "Plat" or "Plats" means individually, or collectively, any plat of the Property or portion of the Property recorded in the real estate records in the Office of the Recorder of Clark County, Indiana.

t. "Property" means the Gardens Subdivision Section One and such additional real property as may be subjected to this Declaration, together with all easements and appurtenances thereto.

u. "Special Assessment" means the charge established by Section IV(b)(iii) of this Declaration.

III. ASSOCIATIONS

a. Master Association

i. Formation of Master Association. Developer has caused or will cause the Master Association to be formed in accordance with applicable law. The purpose of the Master Association is to provide for the administration, governance, maintenance, management and upkeep of the Subdivisions and to promote the general health and welfare of the owners and occupants of the Subdivisions.

ii. Members. Every owner of a Lot in the Subdivisions shall be a member of the Master Association. Each member of the Master Association shall abide by the Master Association's Articles of Incorporation and Bylaws, shall pay assessments as provided for herein and shall comply with decisions of the Board of Directors of the Master Association. Membership shall be appurtenant to, and may not be separated from, ownership of a lot/parcel in the Subdivisions.

iii. Turnover to Master Association. After formation of the Master Association, the Board shall consist of three directors appointed by Developer, who shall serve until the earlier to occur of (a) expiration of the Development Period or (b) a successor is appointed by the Developer. A director appointed by Developer need not be a member of the Master Association. At the first meeting of the Master Association following the expiration of the Development Period, the members of the Master Association shall elect a new Board, consisting of at least (three) 3, but not more than (five) 5, directors who shall take office immediately upon election. After the

expiration of the Development Period, each director elected by the members of the Master Association must be an owner of a Lot or the spouse of an owner of a Lot, except if an owner of a Lot is an entity, in which case the owner of such Lot may appoint as its designee an officer, partner, joint venture, or like individual affiliated with such entity. Notwithstanding anything to the contrary above, Developer may, by written notice to the Board no less than fifteen (15) days prior to a duly called meeting of the Master Association, relinquish to the members of the Master Association the right to appoint one or more directors pursuant to this Section.

iv. Master Association Meetings and Governance. The Articles of Incorporation and Bylaws of the Master Association shall provide for, among other things, membership meetings, election of the Board of Directors, Board of Directors meetings, notice requirements and required quorums for meetings.

v. Maintenance of Common Areas. The Master Association shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency or another private maintenance association having jurisdiction thereof, the Common Areas located on the Property.

vi. Rules and Regulations. In addition to the restrictions set forth in this Declaration, the Master Association may adopt and enforce, and from time to time amend, reasonable rules and regulations regarding the administration, interpretation, and enforcement of the restrictions applicable to the Subdivisions, the use of the Property, and/or the conduct of the members of the Master Association. Such rules and regulations shall be consistent with and designed to further the purposes outlined in this Declaration

vii. Other Rights and Obligations. The Master Association shall have the rights and obligations more fully set forth in its Articles of Incorporation and Bylaws including, but not limited to, the right or obligation to provide and pay for utility service to any Common Areas including, but not limited to streetlights, to pay or contest real and personal property taxes and assessments, and to obtain insurance for any improvements that are a part of the Common Areas against loss or damage by fire, other hazards, including all risk coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Master Association may obtain additional insurance policies, including, without limitation, a public liability policy and/or directors' and officers' liability insurance, in commercially reasonable amounts with respect to the Subdivisions. The Master Association may exercise any other right or privilege reasonably to be implied from the existence of the rights and privileges given to it in this Declaration, its Articles of Incorporation and Bylaws or reasonably necessary to effectuate any of the express rights and privileges.

viii. Right and Easement of Entry. The Master Association, and during the Development Period, the Developer, through their respective authorized directors, officers, employees, and agents, shall have the right and easement to enter upon any Lot at all reasonable times for the purpose of (a) inspecting each Lot and the exterior of any improvements thereon to determine whether each complies with this Declaration, (b) ascertaining whether a Lot or the construction, erection, placement, remodeling, or alteration of any improvements on a Lot is in compliance with the provisions of this Declaration, or (c) doing anything thereon necessary to perform the action or actions specified in a notice to an owner of a Lot to abate, remedy, extinguish, remove or repair a Default.

ix. Default; Liens. In the event of any Default with respect to any Lot under this Declaration, the Master Association Board shall give written notice to the owner of such Lot, with a copy of such notice to any tenant in possession of such Lot, if any, and to any first mortgagee of the Lot, if such mortgagee has requested to receive such notices, setting forth with reasonable particularity the nature of such Default, the specific action or actions required to remedy the Default, and such reasonable time within which the Default may be corrected. The owner of such Lot shall cure, or cause to be cured, such Default within the time stated in the notice. If the owner, or tenant of such Lot if applicable, fails to cure such Default within such reasonable period as stated in the notice, the Master Association Board may, but shall not be required to, exercise any or all of its rights hereunder including without limitation taking such action as necessary to cure such Default on behalf of the owner of the Lot. The Master Association Board may, without notice, exercise any of its rights hereunder with respect to any Default if it determines that an emergency exists requiring immediate action.

Costs incurred by the Master Association in exercising any of its rights with respect to any Default shall be an Individual Assessment and a binding personal obligation of the owner of the subject Lot, which Individual Assessment shall be payable on written demand. If the owner of the subject Lot fails to pay such Individual Assessment within 30 days after written demand, the Master Association may record a lien on the subject Lot in accordance with Article IV(b)(ii) below.

x. Remedies. Nothing contained in this Section shall be deemed to affect or limit the rights of Developer, the Master Association, the Master Association Board, any Lot owner, or their legal representatives, heirs, devisees, successors or assigns, by appropriate judicial proceedings, to enforce the restrictions, or recover damages for any Default. It is hereby declared that irreparable harm will result to beneficiaries of this Declaration by reason of a Default and, therefore, each beneficiary shall be entitled to relief by way of injunction or specific performance to enforce the provisions of this Declaration, as well as any other relief available at law or in equity. The Master Association may, with respect to an Owner in Default under this Declaration, after written notice to such Owner detailing the nature of the violation and providing a time period established by the Master Association to cure or conform, disqualify such Owner's voting rights and right to hold office while the violation continues.

xi. No Waiver. The failure of the Developer, the Master Association, the Master Association Board, any Lot owner, or their legal representatives, heirs, devisees, successors or assigns, in any one or more instances, to insist upon compliance with any provision of this Declaration or applicable rules and regulations, or to exercise any right or privilege conferred in this Declaration, shall not constitute or be construed as the waiver of such or any similar restriction, right, or privilege, including the right to cure a Default, but the same shall continue and remain in full force and effect as if no such forbearance had occurred.

b. Gardens Subdivision Association

i. Formation of Gardens Subdivision Association. Developer has caused or will cause the Gardens Subdivision Association to be formed in accordance with applicable law. The purpose of the Gardens Subdivision Association is to provide for the maintenance and upkeep of the Lots in the Gardens Subdivision and to promote the general health and welfare of the owners and occupants of the Gardens Subdivision.

ii. Members. Every owner of a Lot in the Gardens Subdivision shall be a member of the Gardens Subdivision Association. Each member of the Gardens Subdivision Association

shall abide by the Gardens Subdivision Association's Articles of Incorporation and Bylaws, shall pay assessments as provided for herein and shall comply with decisions of the Board of Directors of the Gardens Subdivision Association. Membership shall be appurtenant to, and may not be separated from, ownership of a lot/parcel in the Gardens Subdivision Association.

iii. Turnover to Gardens Subdivision Association. After formation of the Gardens Subdivision Association, the Board shall consist of three directors appointed by Developer, who shall serve until the earlier to occur of (a) expiration of the Gardens Development Period or (b) a successor is appointed by the Developer. A director appointed by Developer need not be a member of the Gardens Subdivision Association. At the first meeting of the Gardens Subdivision Association following the expiration of the Gardens Development Period, the members of the Gardens Subdivision Association shall elect a new Board, consisting of at least (three) 3, but not more than (five) 5, directors who shall take office immediately upon election. After the expiration of the Gardens Development Period, each director elected by the members of the Gardens Subdivision Association must be an owner of a Lot in the Gardens Subdivision or the spouse of an owner of a Lot in the Gardens Subdivision, except if an owner of a Lot is an entity, in which case the owner of such Lot may appoint as its designee an officer, partner, joint venture, or like individual affiliated with such entity. Notwithstanding anything to the contrary above, Developer may, by written notice to the Board no less than fifteen (15) days prior to a duly called meeting of the Gardens Subdivision Association, relinquish to the members of the Gardens Subdivision Association the right to appoint one or more directors pursuant to this Section.

iv. Gardens Subdivision Association Meetings and Governance. The Articles of Incorporation and Bylaws of the Gardens Subdivision Association shall provide for, among other things, membership meetings, election of the Board of Directors, Board of Directors meetings, notice requirements and required quorums for meetings.

v. Maintenance of Lots. The Gardens Subdivision Association is responsible to provide or cause to be provided to the Lots located in the Gardens Subdivision, the following services to the level and extent deemed reasonably necessary, useful and desirable by the Gardens Subdivision Association Board in its sole and absolute discretion (the "Services"): (i) mowing, trimming, and fertilization and weed-prevention treatments of all grass and lawn areas on the Lots; (ii) mulch in all front-yard landscaped areas at least one (1) time per year; and (iii) snow removal and ice treatments on sidewalks and driveways, all of which shall be deemed "Gardens Common Expenses." Gardens Common Expenses also include the cost of reasonable reserves for contingencies and replacements and any other costs deemed reasonably necessary and proper by the Gardens Subdivision Association Board to fulfill the purposes of this Declaration. The Gardens Subdivision Association Board may fulfill its responsibility to provide the Services by contracting with any professional property maintenance company (hereinafter "Property Maintenance Company") upon such terms and conditions including terms as to reasonable compensation as shall be agreed upon by the Board and the Property Maintenance Company.

vi. Other Rights and Obligations. The Gardens Subdivision Association may exercise any other right or privilege reasonably to be implied from the existence of the rights and privileges given to it in this Declaration, its Articles of Incorporation and Bylaws or reasonably necessary to effectuate any of such express rights and privileges.

vii. Right and Easement of Entry. The Gardens Subdivision Association, through its authorized directors, officers, employees, and agents, shall have the right and easement to enter

upon any Lot in the Gardens Subdivision at all reasonable times for the purpose of performing and inspecting the Services.

IV. Assessments

a. Purpose of Assessments. The assessments are established for the benefit and use of the Associations, and shall be used in covering the costs of the Associations to promote the recreation, health, safety, and welfare of the residents of the Subdivisions and for the improvements and maintenance of the Common Areas, any taxes or assessments imposed upon the common grounds and as otherwise set forth herein. The assessments shall also include any and all costs for Common Area lighting (i.e. streetlights, landscape lights), including, but not limited to, utilities, lease and/or purchase of lighting fixtures and equipment.

b. Master Association Assessments

i. General Assessment. A General Assessment is hereby established for the benefit of the Master Association, its successors and assigns, and all Lot owners, as a charge on each Lot. The General Assessment shall be used in covering common expenses incurred by the Master Association in operating, insuring, maintaining, and repairing the Common Areas; real estate taxes and assessments on the Common Areas; the cost of reasonable reserves for contingencies, replacements and working capital; management fees; organizational costs; obligations and costs assessed under any applicable easements and all other costs incurred by Developer or the Master Association in the exercise of its powers and duties pursuant to this Declaration. The General Assessment shall be estimated based on an annual budget adopted by the Master Association. The obligation to pay the General Assessment shall not in any manner be dependent on or discharged or otherwise affected by the use or non-use of the Common Areas or the actual occupancy of any Lot in the Subdivisions. Each owner of a Lot, by acceptance of a deed for a Lot, covenants and agrees to pay such General Assessment, except as expressly set forth to the contrary herein. The General Assessment shall be effective as to each Lot on the date this Declaration is recorded in the official records of Clark County, Indiana or the date that a budget is established pursuant to this Section, whichever is later. Each third party purchaser shall pay to the Master Association, at the time of closing on the Lot, the annual General Assessment applicable to such Lot for such calendar year, prorated for the number of days remaining in such calendar year from the date of closing through the end of the year.

ii. Individual Assessment. The Master Association after written notice to the Lot owner, shall have the right to place an Individual Assessment on a Lot for costs incurred by the Master Association in connection with a Default by an owner or occupant of such Lot or for any other reason permitted by this Declaration, including without limitation:

1. any costs incurred for maintenance or repair caused through the willful or negligent act of an owner of a Lot or their occupants, family, tenants, guests, or invitees, including attorney fees, court costs, or other expenses incurred; and

2. any costs associated with the enforcement of this Declaration or any rules and regulations of the Master Association, including, without limitation, preparation, recording and enforcement of liens, and attorney's fees, witness fees and costs, and other court costs.

iii. Special Assessment. To the extent that the Master Association's reserve fund is insufficient, (i) during the Development Period, the Developer may (but is not required to) use its own funds to pay for any operating deficit or insufficiency in the budget, or (ii) at any time, including during the Development Period, the Master Association may levy a Special Assessment for the following reasons:

1. If there is an operating deficit in any calendar year, such deficit may be addressed with a Special Assessment sufficient in an amount so as to allow the Master Association to satisfy such deficit in part or in whole.

2. To the extent that the budget is insufficient, the Master Association may levy a Special Assessment in any fiscal year to construct, structurally alter, or replace capital improvements which are a part of the Common Areas.

3. Special Assessments shall be paid as determined by the Master Association, and the Master Association may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

iv. Exemption of Certain Lots. Notwithstanding any provision of this Declaration to the contrary, or applicable Master Association rules and regulations, the Developer shall not be required to pay an assessment for any Lot owned by the Developer unless a single family residence has been constructed and is occupied for residential purposes. All properties dedicated to and accepted by a local public authority, the common area shown on the plat or dedicated herein and all properties owned by the Developer shall be exempt from the assessment created herein, except no land or improvements devoted to dwelling use shall be exempt from the said assessments.

v. Lien for Assessments. The Master Association shall have a lien for any assessments levied against a Lot for fines imposed against a Lot owner or occupant, and for interest, costs, and reasonable attorney's fees.

1. Creation. The lien for assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot which shall run with the land. All persons or entities acquiring an interest in a Lot after the recording of this Declaration shall take such interest subject to the lien.

2. Effective Dates and Perfection. The lien for General Assessments shall be effective on the date this Declaration is recorded in the Clark County, Indiana real estate records. The lien for other assessments shall be effective on the first day notice is sent to the owner of the Lots affected. Recording of this Declaration constitutes notice and perfection of the lien for all assessments.

3. Notice of Lien. The Master Association may record a notice of lien with the Clark County, Indiana Recorder. Such notice shall not be required for the Master Association to enforce its lien.

4. Priority of the Lien. The lien for assessments created by this Declaration shall be prior to all liens and encumbrances recorded subsequent to this Declaration, except the lien for real estate taxes and assessments and the lien of any first mortgage on a Lot filed of record. Mortgagees shall have no obligation to collect assessments.

5. Subordination and Mortgagee Protection. Notwithstanding any of the provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration (and any late charges, interest, costs and reasonable attorney fees in accordance with the rules and regulations of the Master Association) shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments, or installments thereof, which have become due and payable prior to the date of a sheriff's sale of a Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

6. Extinguishment of the Lien. A lien for unpaid assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the assessment becomes due. If an owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Master Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy Code is lifted.

vi. Allocation of General and Special Assessments. The portion of the General Assessment and any Special Assessment chargeable to each Lot shall be a fraction, the numerator of which is one and the denominator of which is the total number of Lots subject to this Declaration, and the owner of each Lot shall be charged with the payment of such portion of the total General Assessment or Special Assessment.

vii. Payment. Unless otherwise established by the Master Association, the General Assessment shall be paid in annual installments due in advance twenty (20) days after the mailing of the notice of amount due to the owners of the Lots by United States mail. The Master Association shall have the power from time to time to adopt such billing, collection and payment procedures, late charges and other payment time schedules as it deems appropriate. Additionally, any Special Assessment or Individual Assessment imposed by the Master Association shall become due upon the date designated in the notice, but not less than thirty (30) days after the mailing of the notice of the amount due to the owner(s) of affected Lots by United States mail.

viii. Delinquency and Acceleration. Any installment of an assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Master Association. With respect to each installment of an assessment not paid within ten (10) days of its due date, the Master Association may, at its election, require the applicable owner to pay a reasonable late charge, costs of collection, reasonable attorney fees and interest at the rate determined in the rules and regulations of the Master Association (but not in excess of the maximum rate permissible under applicable law). Interest shall be calculated from the date of delinquency to the date full payment is received by the Maser Association. If any assessment is payable in installments and any installment is not paid within thirty (30) days of its due date, the Master Association may, at its election, declare all of the unpaid balance of the assessment for the then current fiscal year, attributable to that Lot, to be immediately due and payable without further demand. The Master Association may enforce the collection of the full assessment and all charges thereon in any manner authorized by law, this Declaration or the rules and regulations of the Master Association.

ix. Remedies Cumulative. A suit to recover money judgment for unpaid assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

x. Personal Obligation. The assessments, including fines, if any, payable by each owner of a Lot, together with any penalty, interest, costs and reasonable attorney fees, shall be the personal obligation of the owner of the Lot. The personal obligation shall not pass to any successors in title unless expressly assumed by them, although the lien on the Lot will continue until paid or until the lien expires.

xi. No Exemption for Liability for Assessments. No owner of a Lot is exempt from liability for payment of any assessments by waiving of the use or enjoyment of the Common Areas by abandoning the Lot against which the assessments are made, or any improvements made on such Lot.

xii. Except as otherwise provided in this Declaration, each owner of a Lot shall have a right and nonexclusive easement for use and enjoyment of the Common Areas, and such right and easement shall be appurtenant to, and shall pass with the title to such Lot. Such rights and privileges shall be subject to the restrictions set forth in this Declaration and any other rules and regulations of the Master Association.

c. Gardens Subdivision Association Assessments.

i. Gardens Subdivision General Assessment. A Gardens Subdivision General Assessment is hereby established for the benefit of the Gardens Subdivision Association, its successors and assigns, and all Lot owners in the Gardens Subdivision, as a charge on each Lot. The Gardens Subdivision General Assessment shall be used in covering the Gardens Common Expenses; the cost of reasonable reserves for contingencies, replacements and working capital; management fees; organizational costs; obligations and costs assessed under any applicable easements and all other costs incurred by Developer or the Gardens Subdivision Association in the exercise of its powers and duties pursuant to this Declaration. The Gardens Subdivision General Assessment shall be estimated based on an annual budget adopted by the Gardens Subdivision Association. The obligation to pay the Gardens Subdivision General Assessment shall not in any manner be dependent on or discharged or otherwise affected by the actual occupancy of any Lot in the Gardens Subdivision. Each owner of a Lot in the Gardens Subdivision, by acceptance of a deed for a Lot, covenants and agrees to pay such Gardens Subdivision General Assessment, except as expressly set forth to the contrary herein. The Gardens Subdivision General Assessment shall be effective as to each Lot on the date this Declaration is recorded in the official records of Clark County, Indiana or the date that a budget is established pursuant to this Section, whichever is later. Each third party purchaser shall pay to the Gardens Subdivision Association, at the time of closing on the Lot, the annual Gardens Subdivision General Assessment applicable to such Lot for such calendar year, prorated for the number of days remaining in such calendar year from the date of closing through the end of the year.

ii. Gardens Subdivision Individual Assessment. The Gardens Subdivision Association after written notice to the Lot owner, shall have the right to place a Gardens Subdivision Individual Assessment on a Lot for costs incurred by the Gardens Subdivision Association in connection with a Default by an owner or occupant of such Lot or for any other reason permitted by this Declaration, including without limitation:

1. any costs incurred for maintenance or repair caused through the willful or negligent act of an owner of a Lot or their occupants, family, tenants, guests, or invitees, including attorney fees, court costs, or other expenses incurred; and

2. any costs associated with the enforcement of this Declaration including, without limitation, preparation, recording and enforcement of liens, and attorney's fees, witness fees and costs, and other court costs.

iii. Gardens Subdivision Special Assessment. To the extent that the Garden Subdivision Association's reserve fund is insufficient, (i) during the Development Period, the Developer may (but is not required to) use its own funds to pay for any operating deficit or insufficiency in the budget, or (ii) at any time, including during the Development Period, the Gardens Subdivision Association may levy a Gardens Subdivision Special Assessment for the following reasons:

1. If there is an operating deficit in any calendar year, such deficit may be addressed with a Gardens Subdivision Special Assessment sufficient in an amount so as to allow the Gardens Subdivision Association to satisfy such deficit in part or in whole.

2. Gardens Subdivision Special Assessments shall be paid as determined by the Gardens Subdivision Association, and the Gardens Subdivision Association may permit Gardens Subdivision Special Assessments to be paid in installments extending beyond the fiscal year in which such assessment is imposed.

iv. Exemption of Certain Lots. Notwithstanding any provision of this Declaration to the contrary, the Developer shall not be required to pay an assessment for any Lot in the Gardens Subdivision owned by the Developer unless a single family residence has been constructed and is occupied for residential purposes. All properties dedicated to and accepted by a local public authority, the common area shown on the plat or dedicated herein and all properties owned by the developer shall be exempt from the assessment created herein, except no land or improvements devoted to dwelling use shall be exempt from the said assessments.

v. Lien for Assessments. The Gardens Subdivision Association shall have a lien for any assessments levied against a Lot for fines imposed against a Lot owner or occupant, and for interest, costs, and reasonable attorney's fees.

1. Creation. The lien for assessments is created by this Declaration and shall be a charge and a continuing lien on each Lot in the Gardens Subdivision which shall run with the land. All persons or entities acquiring an interest in a Lot in the Gardens Subdivision after the recording of this Declaration shall take such interest subject to the lien.

2. Effective Dates and Perfection. The lien for Gardens Subdivision General Assessments shall be effective on the date this Declaration is recorded in the Clark County, Indiana real estate records. The lien for other assessments shall be effective on the first day notice is sent to the owner of the Lots affected. Recording of this Declaration constitutes notice and perfection of the lien for all assessments.

3. Notice of Lien. The Gardens Subdivision Association may record a notice of lien with the Clark County, Indiana Recorder. Such notice shall not be required for the Gardens Subdivision Association to enforce its lien.

4. Priority of the Lien. The lien for assessments created by this Declaration shall be prior to all liens and encumbrances recorded subsequent to this Declaration, except the lien for real estate taxes and assessments and the lien of any first mortgage on a Lot filed of record. Mortgagees shall have no obligation to collect assessments.

5. Subordination and Mortgagee Protection. Notwithstanding any of the provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration shall be subordinate to, and shall in no way affect the rights of the holder of a first mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments, or installments thereof, which have become due and payable prior to the date of a sheriff's sale of a Lot pursuant to a foreclosure or the date of a deed in lieu of foreclosure. Such sale or transfer shall not relieve the mortgagee or the purchaser of a Lot at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

6. Extinguishment of the Lien. A lien for unpaid assessments is extinguished unless proceedings to enforce it are instituted within five (5) years after the full amount of the assessment becomes due. If an owner of a Lot subject to a lien files a petition for relief under the United States Bankruptcy Code, then the period of time to enforce the Gardens Subdivision Association's lien shall be tolled until thirty (30) days after the automatic stay under Section 362 of the Bankruptcy Code is lifted.

vi. Allocation of General and Special Assessments. The portion of the Gardens Subdivision General Assessment and any Gardens Subdivision Special Assessment chargeable to each Lot shall be a fraction, the numerator of which is one and the denominator of which is the total number of Lots in the Gardens Subdivision subject to this Declaration, and the owner of each Lot shall be charged with the payment of such portion of the total assessments.

vii. Payment. Unless otherwise established by the Gardens Subdivision Association, the Gardens Subdivision General Assessment shall be paid in monthly installments. The Gardens Subdivision Association shall have the power from time to time to adopt such billing, collection and payment procedures, late charges and other payment time schedules as it deems appropriate. Additionally, any Gardens Subdivision Special Assessment or Gardens Subdivision Individual Assessment imposed by the Gardens Subdivision Association shall become due upon the date designated in the notice, but not less than thirty (30) days after the mailing of the notice of the amount due to the owner(s) of affected Lots by United States mail.

viii. Delinquency and Acceleration. Any installment of an assessment provided for by this Declaration shall become delinquent if not paid on the due date as established by this Declaration or by the Gardens Subdivision Association. With respect to each installment of an assessment not paid within ten (10) days of its due date, the Gardens Subdivision Association may, at its election, require the applicable owner to pay a reasonable late charge, costs of collection, reasonable attorney fees and interest at the rate determined by the Gardens Subdivision Association (but not in excess of the maximum rate permissible under applicable law). Interest shall be calculated from the date of delinquency to the date full payment is received by the Gardens Subdivision Association. If any assessment is payable in installments and any installment is not paid within thirty (30) days of its due date, the Gardens Subdivision Association may, at its election, declare all of the unpaid balance of the assessment for the then current fiscal year, attributable to that Lot, to be immediately due and payable without further

demand. The Gardens Subdivision Association may enforce the collection of the full assessment and all charges thereon in any manner authorized by law.

ix. Remedies Cumulative. A suit to recover money judgment for unpaid assessments and charges may be maintained without foreclosing or waiving the right to enforce the lien. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

x. Personal Obligation. The assessments, including fines, if any, payable by each owner of a Lot, together with any penalty, interest, costs and reasonable attorney fees, shall be the personal obligation of the owner of the Lot. The personal obligation shall not pass to any successors in title unless expressly assumed by them, although the lien on the Lot will continue until paid or until the lien expires.

xi. No Exemption for Liability for Assessments. No owner of a Lot is exempt from liability for payment of any assessments by waiving the Services or by abandoning the Lot against which the assessments are made, or any improvements made on such Lot.

V. Easements

a. All property in the Subdivisions shall be conveyed subject to the easements shown or noted on the Plat(s). The easements created on the Plat(s) grant certain rights over and across the Lots and shall include, but not be limited to:

i. The right of ingress and egress over all Lots to and from the easements for construction, operation, and maintenance of applicable facilities over and under said land which is subject to said easements. This includes but is not limited to detention basins.

ii. The right to cut down or trim any trees within the easement.

iii. The right of any bona fide utility company or agency to enter upon valid easements and/or the Common Areas for the purpose of installing, repairing, and/or otherwise servicing any of its equipment or to remove permanent obstacles.

b. In addition to easements shown on the Plat(s), Developer reserves the right during the Development Period, to grant easements on, over and across certain Lots for landscaping and/or the installation, maintenance, use, repair and replacement of utilities, water detention basin, storm sewer, sanitary sewer and surface water drainage easements, water mains, preservation areas, private drainage easements, and other similar easements.

c. A non-exclusive easement is hereby reserved or granted, as applicable, in favor of the Developer and the Master Association, as applicable, in, on, over, and through the Common Areas and Lots for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing, and otherwise dealing with the Common Areas and Lots.

d. A non-exclusive easement is hereby reserved or granted, as applicable, in favor of the Developer and the Association, as applicable, in, on, over, and through any easements set forth on the Plat, including without limitation, any roadway and utility easements.

e. Subject to any drainage easements on the Plat(s) or otherwise recorded, every Lot and the Common Areas shall be burdened with drainage easements for the natural drainage of storm water runoff from other portions of the Subdivisions.

VI. Estates Subdivision; Lot Maintenance.

Duty to Maintain Lot. Each owner of a Lot in the Estates Subdivision shall at all times, at such owner's cost, maintain and keep such owner's Lot and all improvements thereon in good condition and repair, in accordance with any applicable rules and regulations and this Declaration. Before construction of a single-family residence is started, it shall be the duty of each owner of a Lot in the Estates Subdivision to keep and maintain the grass at a level not to exceed eight (8) inches in height. From and after the date construction of a single-family residence is started, it shall be the duty of each owner of a Lot in the Estates Subdivision to keep and maintain the grass on the Lot properly cut and trimmed, at a level not to exceed six (6) inches in height, and also, to keep the Lot free and clear from all weeds and trash, (other than normal useable building materials used during construction) and to keep it otherwise neat and attractive in appearance. Should any Lot owner fail to comply with this Section, then it shall be a Default hereunder and the Master Association may take such action as it deems appropriate, including mowing, in order to make the Lot neat and attractive and any costs incurred by Master Association shall be deemed an Individual Assessment with respect to such Lot.

VII. Construction Requirements.

a. Approval of Construction and Landscape Plans.

i. No structure may be erected, placed or altered on any Lot until the construction plans and building specifications and a plan showing the (a) location of improvements on the Lot, (b) the building elevation (including rear, front and side elevations); (c) the type of exterior material (including delivery of a sample thereof); (d) the location and size of the driveway (which shall be concrete); and (e) the grade elevation of the foundation; shall have been approved in writing by the applicable Architectural Control Committee.

ii. In addition to the plans referred to in the previous paragraph, a landscape plan shall be submitted to the applicable Architectural Control Committee for its approval in writing, which plan shall show trees, shrubs, and other plantings.

iii. The Architectural Control Committee for each Subdivision is hereby granted the right, but is not obligated, to approve or reject all plans and specifications for the erection and/or alteration of improvements on all Lots in the applicable Subdivision in accordance with this Declaration.

b. Building Materials; Roof; Builder.

i. The exterior building material of all structures shall be either brick, stone, stucco, fiber cement siding (Hardie) or combination of the same. When brick and /or stone is utilized as the final finished exterior building material(s), it shall extend to a minimum of three (3) inches above ground level for the final/finished grade. When any other approved exterior material is utilized as the final finished exterior building material(s), it shall extend to a minimum of nine (9) inches above ground level of the final finished grade. Developer recognizes that the appearance of other exterior building materials may be attractive and innovative and hereby reserves the right of the Architectural Control Committee for each Subdivision to approve in writing the use

of other exterior building materials. The structure shall in no way consist of more than 10% vinyl siding, vinyl siding will be used more as an accent rather than a staple of the façade.

ii. The roof pitch of any residential structure on a Lot shall not be less than eight/twelve (8/12) inches vertical for every twelve (12) inches horizontal.

iii. The general contractor / builder constructing the residential structure on any Lot shall have been in the construction business for a period of two (2) years and must have supervised the construction of or built a minimum of ten (10) homes. Developer makes this requirement to maintain high quality of construction within the subdivision and reserves the right to waive these standards of experience. Any general contractor / builder must be approved by the applicable Architectural Control Committee prior to starting any construction.

c. Setbacks.

i. No structures shall be located on any Lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the Plat. During the Development Period, the Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations.

ii. While the purpose of the setback line is to establish the closest distance a residential structure may be erected in relation to the right-of-way, it is also established as a line to determine the placement of the residential structures, as no residential structure may be placed further than eight (8) feet behind the minimum building set back lines shown on the Plat(s). Finally, to provide for access to and maintenance on any basins, if a Lot is adjacent to a detention basin, no fences will be allowed on the property line and all fences must be placed with a minimum of a 5' setback near the basin and a path to the basin.

d. Minimum Floor Areas in the Estates Subdivision.

i. The ground floor living area of a one-story house shall be a minimum of 1500 square feet.

ii. The ground floor living area of a two-story house shall be a minimum of 1000 square feet, with the total floor living area a minimum of 1600 square feet.

iii. Finished basement areas, garages and open porches shall not be included in the computing total floor area of any residential structures.

e. Minimum Floor Areas in the Gardens Subdivision.

i. The ground floor living area of a one-story garden home shall be a minimum of 1300 square feet.

ii. The ground floor living area of a two-story garden home shall be a minimum of 900 square feet, with the total floor living area a minimum of 1300 square feet.

iii. Finished basement areas, garages and open porches shall not be included in the computing total floor area of any residential structures.

f. Style of Home.

i. All houses to be constructed in the Estates Subdivision shall be one story ranches or conventional two-story houses, unless otherwise approved by the Estates Architectural Control Committee in accordance with Section VIII(a) hereof.

ii. All houses to be constructed in the Gardens Subdivision shall be one or two-story garden style homes, unless otherwise approved by the Gardens Architectural Control Committee in accordance with Section VIII(b) hereof.

iii. No underground homes or log cabins will be allowed.

iv. No mobile homes or manufactured homes will be allowed to be placed on any Lot.

g. Completion Time Requirements for Construction.

i. Once construction has commenced on a Lot within a Subdivision, it shall be completed within twelve (12) months.

ii. After the completion of a residence, the Lot owner (including builders building spec homes) shall grade and sod front yards, sod or seed side and rear yards and install landscaping within two (2) months, even if the residence is not yet occupied.

iii. Promptly upon completion of a residence, the Lot owner (including builders building spec homes) shall have the sidewalks and driveway paved in accordance with the specifications listed below.

iv. Upon the failure of a Lot owner to comply with the provisions of this Section, the Developer (during the Development Period) and the Associations may take action, as may be necessary, to force the owner to comply therewith, and the owner shall immediately upon demand, reimburse Developer and the Associations for all expenses incurred in so doing, including, but not limited to, reasonable attorneys' fees. All unpaid expenses incurred by the Developer or the Associations to cause such Lot to be in compliance with this Section will be deemed an Individual Assessment with respect to such Lot.

h. Garages and Driveways.

i. All Lots in the Estates Subdivision shall have at least a two (2) car attached (at ground level) or a two (2) car garage (at basement level), but not more than a four (4) car garage, unless otherwise approved in writing by Developer or, if after the Development Period, the applicable Architectural Control Committee.

ii. All Lots in the Gardens Subdivision shall have a two (2) car attached (at ground level) garage.

iii. Garages, as separate structures, and any other detached building, shall be subject to prior plan approval under this Section, and may be rejected by the Developer (during the Development Period) or the applicable Architectural Control Committee, as there is no absolute right to construct grades and/or outbuildings on the Lots.

iv. Driveways in the Estates Subdivision shall be double width, a minimum of sixteen (16) feet wide at its narrowest point or provide a turnaround or parking area for a minimum of two cars. The combination of driveway turnaround or parking area provided shall accommodate off street parking for a minimum of four (4) cars.

v. Driveways in the Gardens Subdivision shall be double width, a minimum of sixteen (16) feet wide at its narrowest point and provide a parking area for two cars.

vi. Prior to the start of construction on any Lot, the contractor and/or owner of such Lot will be required to install a gravel driveway so that it can be used during construction as a temporary construction entrance. The amount of gravel to be used by the contractor and/or owner shall be sufficient quantity to keep dirt and mud from leaving the confines of the Lot onto the streets.

i. Sidewalks. A four (4) foot wide concrete sidewalk, four (4) inches thick shall be constructed by the builder/owner within (1) month after completion of a residence on any Lot. Said sidewalk is to be placed four (4) foot from the back of the curb, or to be in a location directed in writing by the applicable Architectural Control Committee, and to line up with other sidewalks in the Subdivisions, and to be approved by the applicable Architectural Control Committee as to the quality and materials.

j. Underground Utility Service and Fuel Tanks.

i. All utility lines on any Lot shall be underground, subject to the requirements of relevant governmental authorities and utility companies.

ii. No tanks shall be permitted on any Lot, except for underground tanks in compliance with all applicable laws.

iii. The Subdivision will be served by the City of Charlestown Sanitary Sewer System. Each home in the Subdivision, will be required to (i) connect to the City of Charlestown Sanitary Sewer System and pay all associated fees required by the City of Charlestown, (ii) install and maintain, at the Owner's cost, an E/One grinder pump, and (iii) to install and maintain all sanitary sewer lines that connect from the home to the sanitary sewer main owned by the City of Charlestown.

iv. No individual water system shall be permitted on any Lot unless such system is located, constructed, and equipped in accordance with the requirements, standards, and recommendations of local and state public health officials.

k. Drainage. Drainage of each Lot shall conform to the engineered drainage plans of Developer for the Subdivisions. Under no circumstance shall a drainage ditch be filled, altered, or piped without prior written consent of the applicable Architectural Control Committee. All storm water runoff, downspout drain lines and sump pump drain lines shall be directed to the rear drainage ditch unless an alternative discharge point is approved in writing by the Developer. During construction, the general contractor shall conform to the standard of IDNR "Rule 5", a soil conservation law, effective November 1992, as such may be amended from time to time.

VIII. Architectural Control Committees.

a. Estates Subdivision Architectural Control Committee.

i. Architectural Control Committee Composition. During the Development Period, the Developer shall serve as the Estates Architectural Control Committee. Thereafter, the Estates Architectural Control Committee established and acting pursuant to this Declaration shall be composed of at least three (3) Lot owners from the Estates Subdivision, who shall be appointed by the Board of the Master Association, provided, however, the Estates Architectural Control Committee shall have the right to assign its responsibilities to the Board of the Master Association. Successor members shall be appointed by the Board of the Master Association in the event of the death, resignation, or incapacity of any member. The members of the Estates Architectural Control Committee shall not be entitled to any compensation for services performed pursuant to this covenant.

ii. Architectural Control Committee Approval.

1. No building shall be constructed, erected, placed on any Lot in the Estates Subdivision, nor shall any structure be remodeled, altered, painted or expanded in any way which changes the exterior appearance thereof until the construction plans and specifications showing the location of the structure shall have been approved by the Estates Architectural Control Committee. Such plans and specifications shall be in such form and contain such information as such committee may reasonably require including, without limitation, any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross sections, floor plans and elevations; and evidence of conformity with building codes. Additionally, no fence, hedge or wall shall be erected, placed, or altered on a Lot in the Estates Subdivision without the prior approval of the Estates Architectural Control Committee.

2. The ruling of the Estates Architectural Control Committee, upon any written application made under this provision, shall be given to the applicant in writing within two (2) weeks from the submission of the written application to any member of the committee. If the committee fails to respond within such two (2) week period, such application shall be deemed approved.

iii. An appeal board consisting of a majority of the property owners in the Estates Subdivision, or their designated representative, shall hold any appeal hearing, upon an appeal from the property owner, within 30 days after rejection by the Estates Architectural Control Committee, and the decision of a majority of the appeals board shall be binding. For as long the Developer owns a minimum of one Lot in the Estates Subdivision, the Developer shall (i) be a member of any appeal board and (ii) retain one vote per Lot in the Estates Subdivision, including sold Lots.

b. Gardens Subdivision Architectural Control Committee.

i. Architectural Control Committee Composition. During the Development Period, the Developer shall serve as the Gardens Architectural Control Committee. Thereafter, the Gardens Architectural Control Committee established and acting pursuant to this Declaration shall be composed of at least three (3) Lot owners from the Gardens Subdivision, who shall be appointed by the Board of the Gardens Subdivision Association provided, however, the Gardens

Architectural Control Committee shall have the right to assign its responsibilities to the Board of the Gardens Subdivision Association. Successor members shall be appointed by the Board of the Gardens Subdivision Association in the event of the death, resignation, or incapacity of any member. The members of the Gardens Architectural Control Committee shall not be entitled to any compensation for services performed pursuant to this covenant.

ii. Architectural Control Committee Approval.

1. No building shall be constructed, erected, placed on any Lot in the Gardens Subdivision, nor shall any structure be remodeled, altered, painted or expanded in any way which changes the exterior appearance thereof until the construction plans and specifications showing the location of the structure shall have been approved by the Gardens Architectural Control Committee. Such plans and specifications shall be in such form and contain such information as such committee may reasonably require including, without limitation, any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross sections, floor plans and elevations; and evidence of conformity with building codes. Additionally, no fence, hedge or wall shall be erected, placed, or altered on a Lot in the Gardens Subdivision without the prior approval of the Gardens Architectural Control Committee.

2. The ruling of the Gardens Architectural Control Committee, upon any written application made under this provision, shall be given to the applicant in writing within two (2) weeks from the submission of the written application to any member of the committee. If the committee fails to respond within such two (2) week period, such application shall be deemed approved.

iii. An appeal board consisting of a majority of the property owners in the Gardens Subdivision, or their designated representative, shall hold any appeal hearing, upon an appeal from the property owner, within 30 days after rejection by the Gardens Architectural Control Committee, and the decision of a majority of the appeals board shall be binding. For as long as the Developer owns a minimum of one Lot in the Gardens Subdivision, the Developer shall (i) be a member of any appeal board and (ii) retain one vote per Lot in the Gardens Subdivision, including sold Lots.

IX. Restrictions/Miscellaneous

a. Use. No Lot in the Subdivisions shall be used except for private single-family residential purposes and purposes customarily incidental to a single-family residence. No structure shall be erected, placed or altered or permitted to remain on any Lot except one single-family dwelling designed for the occupancy of one family (including domestic employees living on the premises), subject to the construction requirements set forth in Section VII of this Declaration.

b. Nuisances. No noxious or offensive activities shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the Subdivisions.

c. Hazardous Actions or Materials. Nothing shall be done or kept in or on any Lot or in or on any portion of the Common Areas that is unlawful or hazardous, that might reasonably be expected to increase the cost of casualty or public liability insurance covering the Common Areas or that might unreasonably disturb the quiet occupancy of any person residing on any other Lot. No owner of a Lot

shall keep or permit to be kept in the Subdivisions any hazardous materials in violation of applicable laws.

d. **Hotel/Transient Uses.** No Lot may be used for bed and breakfast, hotel or transient uses, including without limitation, uses in which the occupant is provided customary hotel services such as room service for food and beverage, maid service, laundry and linen service, or similar services. Further, no Lot shall be listed or rented pursuant to any short-term rental service such as or similar to Airbnb or VRBO.

e. **Seasonal Decorations.** Seasonal porch ornaments, such as door wreaths, must be appropriate to the season and may not be put up earlier than forty (40) days before the applicable holiday. Christmas lights and other exterior Christmas decorations must be removed by January 10, and other exterior holiday decorations must be removed promptly after the holiday.

f. **Use of Other Structures and Vehicles.**

i. No structure of a temporary character shall be permitted on any Lot except tool sheds or field offices used by a builder or developers, which shall be removed when construction or development on such Lot is completed.

ii. No outbuilding, trailer, basement, tent, shack, garage, barn, or structure other than the main residence erected on a Lot shall at any time be used as a residence, temporarily or permanently.

iii. No unlicensed or inoperable trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any Lot at any time unless housed in a garage or basement for a period in excess of 48 hours. No inoperable or junk automobiles shall be habitually or repeatedly parked or kept on any Lot (except in garage) or any street. No trailer, boat, truck, or other vehicle, except automobile, shall be parked on any street in the Subdivision for a period in excess of twenty-four (24) hours.

iv. No vehicle or trailer shall be continuously or habitually parked on any street or public right of way, except during periods of construction.

v. In addition to the restrictions relating to vehicles in this Declaration, the Master Association Board may create and enforce reasonable rules concerning the parking of vehicles in the Subdivisions in its bylaws or other rules and regulations.

g. **Business; Home Occupations.** No trade or home business of any kind shall be conducted on any Lot, nor shall anything be done thereon which is violative of the zoning regulations of the applicable governmental authority, or which becomes an annoyance or nuisance to the neighborhood or the neighbors.

h. **Basketball Equipment.** Basketball backboards and hoops may not be mounted to the front or side of a residence. Any basketball backboard and hoop on a Lot must be a permanent structure perpendicular to the street and shall be subject to the approval of the applicable Architectural Control Committee. Basketball backboards and hoops which are designed to be temporary and movable may not be installed on any Lot.

i. **Signs.** No sign for advertising or any other purpose shall be displayed on any Lot or on a building or a structure on any Lot, except a sign for advertising the sale or rent thereof and as may be

permitted under applicable law, which shall not be greater in area than six (6) square feet, provided however, Developer (1) shall have the right to erect larger signs when advertising the Subdivision, (2) to place signs on Lots designating the lot number of such Lot(s), and (3) following the sale of a Lot, to place signs on such Lot indicating the name of the purchaser. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulation.

j. Curb Protection and Damage. Lot owners and their building contractors must protect the concrete curbs from damage at all times by means applicable to each particular situation, which normally would be accomplished by means of a dirt or gravel bridging or overlay in the area where all construction deliveries and ingress and egress occur. Any and all damage that occurs to the concrete curbs in the Subdivisions must be repaired or replaced by the owner of the Lot fronting such curb to the satisfaction of the Developer, during the Development Period, and thereafter, the Master Association, and without cost or expense to the Developer or the Master Association and any costs incurred by the Developer or Master Association to repair such damage shall be deemed an Individual Assessment with respect to such Lot.

k. Disposal of Trash.

i. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash, garbage, or other waste shall not be kept on any Lot, except in sanitary containers to be picked up regularly by an approved service provider. Builders will be allowed to maintain dumpsters onsite while homes are being constructed.

ii. Trash will be picked up weekly by the City of Charlestown on a day designated by the city.

iii. All trash containers must be removed from public view by midnight of the day of pickup.

iv. Storage of trash containers in the common area is prohibited.

v. Residents are requested to pick up any blown or leftover trash to help keep the Subdivisions clean.

l. Erosion Control. Prior to the construction of single-family residence on each individual Lot, it shall be the responsibility of the Developer, or his assigns, to maintain erosion control on each Lot to prevent erosion slide into any road or curb improvements. After the transfer of ownership from Developer to a resident or builder, it shall be the duty of each individual Lot owner to prevent any erosion of earth onto said improvements. Should any Lot owner fail to do so, then Developer or the Master Association Board may take such actions as it deems appropriate, and immediately, upon demand, such Lot owner shall reimburse Developer or Master Association for all expenses incurred in so doing and any costs incurred by Developer or Master Association shall be deemed an Individual Assessment with respect to such Lot.

m. Animals. No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets in the geographic area may be kept provided they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pets.

n. Fences. No fence, wall or hedge of any nature may be extended toward the front property line beyond the front wall of the residence constructed thereon. Likewise, with respect to any corner lot, no fence, wall or hedge of any nature may be extended toward the side property line beyond the side wall of the residence constructed thereon. No fence taller than six (6) feet in height will be permitted on any Lot. The only fences allowed shall be black aluminum fencing. There shall be no wood privacy fences erected on any lot. **All fences, including replacements, require approval of the Architectural Control Committee prior to installation.**

o. Satellite Dishes. No satellite dish/special radio-telephone transmitting antenna may be constructed or placed on any Lot without prior written approval of the applicable Architectural Control Committee. Approval will be based on location and aesthetic and effective measures to screen such equipment from public view and safety. The maximum size satellite dish allowed shall be 30" diameter.

p. Clotheslines. No outside clotheslines shall be erected or placed on any Lot.

q. Tennis Courts. No tennis court(s) shall be erected on any Lot.

r. Carports. No carports shall be constructed on any Lot.

s. Swimming Pools. Any swimming pools must be fully in-ground and shall be to the rear of the Lot and screened from the street and have appropriate fencing as required by local and/or state laws.

t. Solar Units. No solar unit may be visible from the streets of the Subdivisions.

u. Mailboxes. No mailboxes or paper holders shall be placed on any Lot unless its design and placements are approved by the applicable Architectural Control Committee. All mailboxes and posts will be the same style, determined by the Developer.

v. Gardens. Vegetable gardens for private use shall be permitted only in the rear of a Lot, behind the residential dwelling and in no event shall be greater than three hundred (300) square feet.

w. Restrictions Run with Land. Unless altered or amended under the provisions of Article XI below, these covenants and restrictions are to run with the land comprising the Subdivisions and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten years. Failure of any owner of a Lot to demand or insist upon observance of any of these restrictions or to proceed for restraint of violation shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

X. Residential Offices.

Notwithstanding the restrictions set forth in IX(g) above, Danbury Oaks LLC or its designees may maintain a sales office on any Lot of which it is the owner. Other model home sales offices will be permitted only with prior written approval by the Developer during the Development Period and thereafter, by the applicable Architectural Control Committee.

XI. Amendment of Declaration.

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

b. Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy percent (70%) of the Owners of Lots in the Subdivisions.

c. 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 Clark County, Indiana, and such amendment shall not become effective until so recorded.

XII. Amendments by Developer Only.

a. Notwithstanding the foregoing or anything else contained herein, the Developer shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Associations, the Board of Directors of the Associations, any mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if Developer records the modification in the Office of the Recorder of Clark County, Indiana, and if such amendment or supplement is made:

i. to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities;

ii. to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots;

iii. to bring this Declaration into compliance with any governmental requirements;

iv. to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) function similar to those performed by such agencies or entities, to subject additional property to these restrictions;

v. to annex additional real estate to the Subdivisions;

vi. to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto;

vii. to clarify, further define or limit any easement, or otherwise exercise any rights reserved herein; or

viii. to change the substance of one or more covenants, conditions, terms or provisions hereof so long as such change (A) does not materially increase the obligation(s) of any Owner under any covenant, condition, term or provision without such Owner's consent or (B) is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations or orders of any municipality or court having jurisdiction.

b. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Developer to vote in favor of, make, or consent to any amendments described in this Article XII on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the

reservation of, the power to the Developer to vote in favor of, make, execute and record any such amendments. The right of the Developer to act pursuant to rights reserved or granted under this Article XII shall terminate when Developer no longer owns any Lots within either of the Subdivisions.

XIII. Invalidation.

Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

XIV. Obligation to Construct or Reconvey.

Each Lot owner shall within twelve (12) months after the date of conveyance of a Lot without a dwelling thereon, commence in good faith the construction of a single-family dwelling approved according to Section VIII above, upon each Lot conveyed; provided, that should said construction not commence within the specified period of time, if the Lot owner has not complied with all of the restrictions herein or from this time forth does not comply with such restrictions the Developer may elect to repurchase any and all Lots on which construction has not commenced for 90% of the agreed purchase price of said Lot or Lots hereunder, in which even said Lots or Lots shall be conveyed to the Developer by special warranty deed. Failure of the Developer to elect to repurchase any Lot on which construction has not commenced under the terms of this provision shall not be deemed a waiver of the Developer's rights to elect to repurchase in the future any or all of such Lots on which construction has not commenced.

XV. Waiver of Remonstrance.

By acceptance of a deed, or other means of transfer, to any residential lot, lots or parcel of real estate in either one of the Subdivisions, each owner waives all rights, both present and future, to remonstrate to any future development by Developer of additional sections of the Subdivisions.

XVI. Property Subject to this Declaration; Additions.

a. Property Subject to this Declaration. The Gardens Subdivision Section One described on Exhibit A attached hereto, each portion thereof, and all lots and improvements thereon are hereby declared subject to, and shall be held, transferred, sold, conveyed, leased, mortgaged and occupied subject to, the terms, provisions, covenants and conditions of this Declaration.

b. Additions in Accordance with a General Plan of Development. As the owner of additional real estate adjacent to the Gardens Subdivision, and in accordance with Developer's intention to develop both the Gardens Subdivision and the Estates Subdivision, Developer shall have the unilateral right, privilege and option to subject such additional lands to this Declaration in accordance with Article XII(a)(v). Developer may subject such additional real estate to this Declaration without modification, or Developer may supplement and amend this Declaration as it applies to such additional real estate.

c. Other Additions. Subject to the consent of the owner thereof, additional real property may be made subject to this Declaration by filing an amendment to this Declaration in the office of the Recorder of Clark County, Indiana. An amendment adding such additional property shall require the written consent of the Developer during the Development Period or, thereafter, the written consent or affirmative vote of a majority of the Master Association. Any such amendment shall be signed by the Developer, if Developer has adopted the Amendment, or by the President and Secretary of the Master Association, if the Master Association has adopted the amendment, and in each case, by the owner of

the real property being added, and any such amendment shall be effective upon filing, unless otherwise provided in the amendment.

d. Amendment. This Section shall not be amended without the written consent of the Developer so long as Developer owns one or more Lots in either of the Subdivisions.

XVII. Compliance with Indiana Code

To the extent that the covenants and restrictions set forth in this Declaration are inconsistent or not fully compliant with Indiana Code § 32-25.5-3-1 *et seq.*, this Declaration shall be interpreted to be in compliance therewith and the Associations shall be required to operate in compliance therewith in all respects.

EXECUTED AND DELIVERED in my presence:

Witness Signature: Amy J. Burnette

Witness Printed Name: Amy J. Burnette

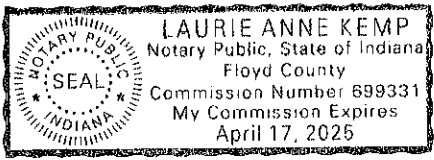
STATE OF INDIANA)
) SS
COUNTY OF CLARK)

Before me, a Notary Public in and for said County and State, personally appeared Amy J. Burnette being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being duly sworn by me, deposes and says that the foregoing instrument was executed and delivered by J. Ryan Hodskins in the above-named subscribing witness's presence, and that the abovenamed subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

Witness my hand and Notarial Seal this 24 day of September, 2020.

Laurie Anne Kemp
Notary Public

Printed Name: Laurie Anne Kemp



My commission expires: 04/17/2025
county of residence: Floyd

EXHIBIT A
LEGAL DESCRIPTION

GARDENS OF DANBURY SUBDIVISION, SECTION ONE

A part of Survey #135 of the Illinois Grant, Charlestown Township, Clark County, Indiana, more particularly described as follows:

Commencing at the South corner of said Survey #135; thence along the Southwest line of said Survey #135 North 35° 11' 20" West 1087.01 feet to the point of beginning; thence continuing along said Southwest line North 35° 11' 20" West 212.75 feet thence North 54° 48' 40" East 110.00 feet, thence North 35° 11' 20" West 22.10 feet, thence North 54° 53' 32" East 162.14 feet, thence North 35° 06' 28" West 35.00 feet, thence North 54° 53' 32" East 495.00 feet, thence North 35° 06' 28" West 110.00 feet, thence North 54° 52' 06" East 150.01 feet, thence North 54° 54' 33" East 135.93 feet, thence South 34° 58' 18" East 380.02 feet, thence South 54° 53' 32" West 1051.83 feet to the point of beginning, containing 6.970 Acres, more or less.

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