DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

OF

WATER'S EDGE

3300 S. Morgantown Road

Greenwood, Indiana 46143
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DECLARATION OF COVENANTS, CONDITIONS,

EASEMENTS AND RESTRICTIONS OF

WATER'S EDGE

THIS DECLARATION made this 24th day of November 1997, by WATERS EDGE DEVELOPMENT CO., an Indiana corporation ("Declarant")

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title to certain real estate located in Johnson County, Indiana, more particularly described in the attached Exhibit A, which is incorporated herein by reference (hereinafter referred to as the "Initial Real Estate").

B. Declarant, by execution of this Declaration, assures that all properties which are conveyed which are a part of the Real Estate (as defined herein) shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Real Estate and be binding upon all parties having any right, title or interest in the Real Estate, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

   (a) "Additional Real Estate" means the real estate described in the attached Exhibit B, which is incorporated herein by reference, and any real estate adjacent thereto or to the Initial Real Estate that is subsequently acquired by Declarant.

   (b) "Applicable Date" means the date determined pursuant to paragraph 9 of this Declaration.

   (c) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association (as hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time. The Articles of Incorporation are incorporated herein by reference.

   (d) "Association" means Water's Edge Homeowners' Association, Inc., a formed or to-be-formed Indiana nonprofit corporation, its successors and assigns, whose members shall be the Owners of Lots, or appointees as provided in Paragraph 9 of this Declaration, such Association being more particularly described in Paragraphs 9 and 10 of this Declaration.

   (e) "Board of Directors" or "Board" means the governing body of the Association elected by the Members in accordance with the By-Laws of the Association.
(f) "Builder" means an Owner that has acquired a Lot for the purpose of constructing a building thereon for sale to another person, except to the extent the Builder owns the Lot for a period of longer than one (1) year.

(g) "Building" means any one of the separated structures which has one Dwelling Unit.

(h) "By-Laws" shall mean the By-Laws of the Association and shall provide for the election of directors and officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.

(i) "Common Areas" mean those portions of the Real Estate, if any, designated on the Final Plat as Common Area.

(j) "Common Expense" means expenses for administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Members of the Association.

(k) "Declarant" shall mean and refer to Waters Edge Development Co., an Indiana corporation, and its successors and assigns as declarant.

(l) "Dwelling Unit" means a living unit located upon a Lot.

(m) "Final Plat" means any plat or plats of the Real Estate, including the plat prepared by Going & Gibson Corp., certified by a registered land surveyor, under date of 24th day of November 1997 and recorded in the Office of the Recorder of Johnson County, Indiana, as Instrument No. 97026772, and any subsequently prepared plat or plats recorded in the office of the Recorder of Johnson County, Indiana, with respect to the Real Estate.

(n) "Lake" means any body of water designated on a Final Plat as a Common Area.

(o) "Lot" means any plot of ground designated as such upon any recorded Final Plat of Water's Edge, or any part thereof, and upon which one (1) Dwelling Unit is constructed, is to be constructed or has existed. When a "Lot" is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(p) "Member" means a member of the Association.

(q) "Mortgagee" means the holder of a first mortgage lien on a Lot who has given the Secretary of the Association notice of the existence of its mortgage lien in accordance with paragraph 17(a).

(r) "Owner" means a person, firm, corporation, partnership, association, limited liability company, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot, but excluding any party holding the fee simple title merely as security for the performance of an obligation.

(s) "Water's Edge" means the name by which the Real Estate, as described in Recital above, which is the subject of this Declaration, and which the Association manages, shall be known.
(t) "Real Estate" means the Initial Real Estate and portions of the Real Estate annexed thereto for which a Final Plat has been or will be recorded in the Office of the Recorder of Johnson County, Indiana, pursuant to this Declaration, as amended or supplemented.

2. **Declaration.** Declarant hereby expressly declares that the Real Estate shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. **Description of Water's Edge.** Water's Edge consists of three (3) sections having a total of one-hundred and six (106) lots numbered 1 through 106, inclusive, and the Common Areas as designated on any Final Plat. The Common Area and the size of the Lots are as designated on such Final Plat(s). The legal description for each Lot in Water's Edge shall be as follows:

   Lot ___ in Water's Edge, Section ____, a subdivision in Johnson County, Indiana, as per the plat thereof which plat was recorded ____________, 199_ as Instrument No. ____________, in the Office of the Recorder of Johnson County, Indiana.

4. **Lots.** The boundaries of each Lot in Water's Edge shall be as shown on the Final Plats.

5. **Common Areas.** The Common Areas shall be, subject to the rights granted to public utilities under the Final Plats, for the common use and enjoyment of the Members, as provided herein, but not for use by the general public.

6. **Owners' Easements of Enjoyment of Common Areas.** Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to the Common Areas, which right and easement shall be appurtenant to and shall pass with title to every Lot. Notwithstanding the foregoing or any other provision of this Declaration to the contrary, the rights and easements granted to the Owners in the Common Areas shall be subject to the rules and regulations established by the Association.

7. **Delegation of Use of the Common Areas.** Any Member may delegate, in accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, such Member's right of enjoyment and use of the Common Areas to family members, guests, tenants or contract purchasers who reside on any Lot.

8. **Conveyance of Common Areas.** Upon final completion of the Common Areas, Developer shall convey all of its right, title and interest in and to such areas to the Association by quitclaim deed, and such areas shall then be the property of the Association.

9. **Association; Membership; Voting; Functions**

   (a) **Membership in Association.** The person who serves as incorporator of the Association shall be the initial member (the "Initial Member"). Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Association and shall remain a Member until such time as his ownership of a Lot ceases. Membership shall terminate when any Owner ceases to be an Owner, and membership will transfer to the new Owner of the Lot; provided, however, that any person or entity who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless such person or entity
realizes upon its security, at which time such person or entity shall automatically be and become an Owner and a Member of the Association.

(b) **Voting Rights.** The Association shall have two (2) classes of membership, with the following voting rights:

(i) **Class A.** Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Association, but all of such persons shall collectively only have one (1) vote for each such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) **Class B.** Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the resident agent of the Association. Each Class B Member shall be entitled to ten (10) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of the Association. The Class B membership shall cease and terminate upon the Applicable Date, which shall be the first to occur of (i) the date upon which the written resignation of the Class B Members as such is delivered to the resident agent of the Association, (ii) when the total number of votes outstanding in the Class A membership is equal to or exceeds the total number of votes outstanding in the Class B membership, or (iii) December 31, 2006.

(c) **Functions.** The Association has been or will be formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Areas.

10. **Board of Directors**

(a) **Management.** The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless such person is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in subparagraph (b) of this Paragraph 10.

(b) **Initial Board of Directors.** The Initial Board of Directors shall be composed of Dennis E. Copenhaver and William F. Roberts, Jr. (herein referred to as the “Initial Board”), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Paragraph 10 or any other provisions of this Declaration, the Articles or the By-Laws (i) the Initial Board shall hold office until the Applicable Date, and (ii) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a Member of the Associa-
tion nor an Owner of a Lot for any other purpose (unless such director is actually the Owner of a Lot and thereby a Member of the Association).

(c) Additional Qualifications. If an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner, an officer or trustee, respectively, shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

(d) Term of Office and Vacancy. Subject to the provisions of subparagraph (b) of this Paragraph 10, one (1) member of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and reelected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one-third of the members of the Board of Directors shall be elected for a three (3) year term, one-third for a two (2) year term and one-third for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at the first election after the Applicable Date. Each Director shall hold office throughout the elected term and until a successor is elected and qualified. Subject to the provisions of subparagraph (b) of this Paragraph 10 as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this Paragraph 10. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

(e) Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, a successor or successors shall be elected at the same meeting from eligible Owners nominated at the meeting. The Director or Directors so elected shall serve until the next annual meeting of the Owners and until a successor or successors is duly elected and qualified.

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and be responsible for the functions and duties of the Association, including, but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility or duty of Owners), and the collection of all Regular and Special Assessments and disbursement of the Common Expenses. The Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the “Managing Agent”) upon such terms as the Board shall find, in its discretion, reasonable and customary; provided any such management agreement shall be for a term of three (3) years or less and shall provide that any such agreement may be terminated, without penalty or premium, by the Managing Agent upon ninety (90) days written notice to the Association, and by the Association upon thirty (30) days written notice to the Managing Agent. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:
(i) repair, maintenance, protection and surveillance of the Common Areas; provided, however, this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(ii) assessment and collection from the Owners of each Owner's respective share of the Common Expenses;

(iii) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(iv) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

(v) keeping a current, accurate and detailed record of receipts and expenditures affecting the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, By-Laws and Rules) shall be available for examination by an Owner or any Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours; and

(vi) procuring and maintaining for the benefit of the Association and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

(g) **Powers of the Board of Directors.** The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(i) to employ a Managing Agent to assist the Board in performing its duties;

(ii) to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(iii) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;

(iv) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;

(v) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
(vi) to open and maintain a bank account or accounts in the name of the Association;

(vii) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners;

(h) Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of amounts consistent with the then current approved budget or of less than $2,500.00 without the Board amending the budget, after notice to (but not approval of) the Owners, except that in the following cases such amendment and notice shall not be necessary:

(i) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

(ii) expenditures necessary to deal with emergency conditions in which the Board reasonably believes there is insufficient time to call a meeting of the Owners.

(i) Compensation. No Director shall receive any compensation for such person's services as a Director except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(j) Non-Liability of Directors. The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. To the extent permitted by law, the 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 contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

(k) Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend the Directors as provided in the Articles of Incorporation of the Association.

(l) Bond. The Board of Directors may provide blanket fidelity bonds for the Managing Agent (if any), the treasurer of the Association, and such other officers of directors of the Association that handle or are responsible for funds indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors (provided, however, in no event shall the aggregate amount of the bond be less than a sum equal to three (3) months aggregate assessments on all Dwelling Units) and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. Fidelity bonds shall name the Associa-
tion as an obligee and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. Such bonds shall provide that they may not be canceled or substantially modified for any reason without at least thirty (30) days prior written notice to the Association. The expense of any such bonds shall be a Common Expense.

11. **Initial Management.** The Board of Directors has entered or may hereafter enter into a management agreement with Declarant or with a corporation or other entity affiliated with Declarant or designated by Declarant for a term not to exceed three (3) years with Declarant having the right to terminate upon ninety (90) days' notice and the Association having the right to terminate upon thirty (30) days' notice under which Declarant (or such other corporation or entity as appropriate) will provide supervision, management and maintenance of the Common Areas, and in general perform all of the duties and obligations of the Association. Such management agreement may be renewed by the parties for additional terms of three (3) or less years or a new management agreement with different parties may be executed under similar terms and conditions. Any management agreement is or will be subject to termination by Declarant (or such other corporation or entity as appropriate) at any time prior to expiration of its term, in which event the Association shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Association and Declarant (or such other corporation or entity as appropriate) is in effect, Declarant (or such other corporation or entity as appropriate) shall have and Declarant hereby reserves to itself (or such other corporation or entity as appropriate), the exclusive right to manage the Real Estate and perform all the functions of the Association.

12. **Real Estate Taxes.** Real estate taxes are to be separately assessed and taxed to each Lot. Any real estate taxes or other assessments which are chargeable against the Common Areas shall be paid by the Association and treated as a Common Expense.

13. **Utilities.** Utilities serving the Common Areas shall be treated as and paid as part of the Common Expense unless otherwise determined by the Association.

14. **Maintenance, Repairs and Replacements.** Maintenance, repairs, replacements and upkeep of the Common Areas shall be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses. In addition to the maintenance of the Common Areas, the Association, as part of its duties, and as part of the Common Expenses, shall provide for maintenance of the storm water drainage system for the Real Estate, including but not limited to, the maintenance of all lakes, inlets, open ditches, pipes, swales, manholes and detention ponds. The cost and expenses of such maintenance of the storm water drainage system shall be assessed as part of the general assessment against the Owners as provided in the Declaration and shall be secured by a lien against all Lots in the Real Estate. Sump pumps, gravity drains and all other drains serving individual residences on Lots shall outfall only into drainage swales included in the storm water drainage system for the Real Estate.

15. **Architectural Control**

(a) **The Architectural Review Board.** As a standing committee of the Association, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more persons as may, from time to time, be provided in the By-Laws. Until the Declarant no longer owns any Lots, the Architectural Review Board shall be appointed by the Declarant. Once the Declarant no longer owns any Lots, or earlier, if the Declarant so chooses in its sole and absolute discretion, the Architectural Review Board shall be appointed
by the Board of Directors or if not so appointed the Architectural Review Board shall be the
same as the Board of Directors.

(b) **Purpose.** The Architectural Review Board shall regulate the external design,
appearance, use, location and maintenance of residences, structures or other improvements
on the Real Estate in such manner as to preserve and enhance values and to maintain a
harmonious relationship among structures, improvements and the natural vegetation and
topography.

(c) **Conditions.** No dwelling unit, building, structure, fence, wall or other im-
provement shall be commenced, erected, maintained, improved, altered, made or done on any
Lot without the prior written approval of the Architectural Review Board. The Architectural
Review Board shall approve or disapprove any such request within forty-five (45) days of its
receipt of a complete set of plans and specifications for any such improvement or alteration.

(d) **Procedures.** A decision of the Architectural Review Board (if different than
the Board of Directors) may be appealed to the Board of Directors which may reverse or
modify such decision by at least one-half (1/2) vote of the Directors then serving. The
Architectural Review Board may establish committees consisting of two (2) or more of its
members, which committees shall exercise such powers of the Board as may be delegated to
them.

(e) **Liability of Committee.** Neither the Architectural Review Board, Declarant,
the Association nor any agent of any of the foregoing shall be responsible in any way for any
defects in any plans, specifications or other materials submitted to it, nor for any defects in
any work done according thereto.

(f) **Inspection.** The Architectural Review Board may inspect work being per-
formed to assure compliance with this Declaration and the materials submitted to it pursuant
to this Paragraph 15. However, no such inspection, or failure to inspect, by the Architectural
Review Board shall result in any liability on the part of the Architectural Review Board, nor
shall the Owner be relieved of any obligation regarding painting, construction or any other
aspect of the improvements in accordance with the approved plans therefor.

(g) **Non-Application to Declarant.** Notwithstanding the provisions of this Para-
graph 15 or any other provisions of this Declaration requiring the approval of the Architec-
tural Review Board, Declarant and any entity related to Declarant shall not be required to
apply for or secure the approval of the Architectural Review Board in connection with any
construction, installation, painting or repainting by Declarant, or any entity related to
Declarant of any residence, building, structure, or other improvement on the Real Estate or
the installation or removal of any trees, shrubs or other landscaping on the Real Estate.

16. **Assessments**

(a) **Annual Accounting.** Annually, after the close of each fiscal year of the Asso-
ciation and prior to the date of the annual meeting of the Association next following the end
of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a
financial statement which statement shall show all receipts and expenses received, incurred
and paid during the preceding fiscal year.
(b) **Proposed Annual Budget.** Annually, before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of a quorum of the Owners; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget, either the proposed annual budget or the proposed annual budget as amended, is approved and adopted at such meeting.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such next fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) **Replacement Reserve Fund for Capital Expenditures.** The annual budget and the Regular Assessments shall, in addition, be established to include the creation and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Johnson County, Indiana selected from time to time by the Board.

(d) **Regular Assessments.** The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the next fiscal year as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against such Owner's Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as provided herein. The Regular Assessment against each Lot shall be paid in advance in equal monthly installments commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of such fiscal year. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay assessments quarterly, semi-annually or annually in advance. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget, then the following shall apply:
(i) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the fiscal year to which such temporary budget was applicable to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(ii) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment either quarterly, semiannually or annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

At least fifteen percent (15%) of the Regular Assessment (excluding any amount assessed by Water's Edge Homeowners Association, Inc.) shall be designated as a reserve fund for maintenance, repairs or replacement of any Common Areas that must be repaired and replaced on a periodic basis.

That portion of the Regular Assessment collected by Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board and, if required, applied to the replacement of Common Areas. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Association at the Applicable Date.

Payment of the Regular Assessment prior to the Applicable Date with respect to each Lot (that is not owned by Declarant) shall commence on the date of conveyance by Declarant to such new owner. The first payment shall be payable on the date of conveyance and shall be payable for the period from the date of conveyance through the end of the calendar year (the Regular Assessment for a partial month shall be prorated based upon the number of days the Lot is owned by the Owner). Thereafter, payment of the Regular Assessment shall be paid the first day of each calendar month during the period prior to the Applicable Date.

(e) Lien and Liability for Payment. The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Lot subject to assessment as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association prior to the final determination and adoption of the
annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

(f) **Special Assessments.** From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that the Declarant shall not be any Owner’s agent, attorney-in-fact or proxy in this vote, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares except as hereinafter provided with respect to Owners of Lots in the Real Estate and Additional Real Estate (herein called “Special Assessment”). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures, operating deficits and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(g) **Regular Assessments Prior to the Applicable Date.** During the period that Dwelling Units are being constructed within the Real Estate or any Additional Real Estate, it is difficult to accurately allocate the Common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the Association to perform its duties and functions. Accordingly and notwithstanding any other provision contained in the Declaration, the Articles or the By-Laws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without any meeting or concurrence of the Owners; provided, however, the Regular Assessments shall be determined in accordance with the provisions contained in this Paragraph 16.

Until December 31, 1998, the monthly Regular Assessment shall not exceed Twelve Dollars and 50/100 ($12.50). After December 31, 1998, the monthly Regular Assessment shall not increase by more than fifteen percent (15%) over the Regular Assessment for the previous calendar year without approval of two-thirds (2/3) of those members of the Association who cast votes or person or proxy at a meeting of the members of the Association called for such purpose. Notwithstanding the foregoing, only the Board of Directors, by a two-thirds (2/3) vote, may increase the Regular Assessment above Twenty Dollars ($20.00) per month.

(h) **Failure of Owner to Pay Assessments.** No Owner may exempt itself from paying Regular Assessments or Special Assessments, or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Areas or by abandonment of its Lot. Each Owner shall be personally liable for the payment of all Regular Assessments and Special Assessments. If an Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or
Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due, the Board may in its discretion accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any assessments the Owner and any occupant of the Lot and Dwelling unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may at its option bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Association shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including, but not limited to, reasonable attorneys' fees) and interest from the date such assessments were due until paid at the rate equal to the Indiana statutory interest rate on judgments. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage.

(i) Subordination of Assessment Lien to Mortgage. Notwithstanding anything to the contrary contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

(j) Declarant Exemption. Notwithstanding anything contained herein to the contrary, the Declarant shall not be liable for Regular Assessments or Special Assessments with respect to Lots they own, nor shall such lots be subject to the lien for such assessments.

17. Mortgages.

(a) Notice to Corporation. Any Owner who places a first mortgage lien upon such Owner's Lot, or the Mortgagee, shall notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to
any Mortgagee as may be otherwise required by this Declaration, the By-Laws 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, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Paragraph 16 hereof.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Areas which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Areas or to secure new hazard insurance for the Common Areas on the lapse of a policy. Any Mortgagee making such payment shall be immediately reimbursed by the Association.

(d) Notice of Condemnation or Casualty Loss. Mortgagees shall be timely notified of any condemnation loss or casualty loss which affects a material portion of the Common Areas or buildings or improvements on any Lot securing its mortgage. Mortgagees shall also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Association.

(e) Notice to Insurers and Guarantors. Any guarantor of a first mortgage or any insurer shall, upon notification and request to the Association, receive the same notices as are required to be given to Mortgagees.

18. Insurance.

(a) Casualty Insurance. The Association shall purchase a casualty insurance policy affording fire and extended coverage insurance insuring all of the Common Areas, as applicable, in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts, they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of insurance and shall purchase such additional insurance as is necessary to provide the insurance required above.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board of Directors, who shall use or disburse such fund as appropriate.
(b) Public Liability Insurance. The Association shall also purchase a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time but not less than $1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover the Association, the Board of Directors, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association and all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Such public liability insurance policy shall contain a provision that such policy shall not be cancelled or substantially modified without at least thirty (30) days written notice to the Association.

(c) Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association.

(d) General Provisions. The premiums for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses.

(e) Condemnation. In the event of condemnation of all or any part of the Common Areas, the Association, as owner of the Common Areas, shall represent the Owners in any negotiation or settlement regarding such condemnation. No Owner or any other party shall have priority over any rights of a Mortgagee pursuant to its mortgage in the case of distribution to such Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards as relates to the Common Areas be made by the Association to any Owners or Mortgagees if to do so would be in violation of the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17-1-1 et seq., or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

19. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Areas shall be in addition to any other covenants or restrictions contained herein and in the Final Plat, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:
(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family, and for such accessory uses, including home occupations, as may be permitted by and subject to the provisions of applicable zoning ordinances.

(b) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot. No dumping shall be permitted on any Lot or in any storm or sanitary sewer.

(c) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of such Owner's Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Architectural Review Board. No satellite dishes/discs, having a diameter exceeding twenty-four inches (24”), above-ground pools, or chain link fences shall be permitted. All fences shall be wrought iron or similar material, except as otherwise provided herein. Approved wood fences and free-standing basketball goals with clear acrylic backboards may be constructed upon approval of the Architectural Review Board. Basketball goals attached to garages shall not be permitted. No air conditioning unit shall be located in the front of a Dwelling Unit and no window/thru-the-wall air conditioners of any kind shall be permitted.

(d) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance, and further provided that no pet houses may be constructed or maintained on a Lot outside of the Dwelling Unit. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Real Estate within ten (10) days after written notice from the Board to the respective Owner to do so. Any “pet droppings” shall be promptly removed from a Lot, Common Areas or the streets and roadways of Water's Edge and properly disposed of by the owner of the pet or the Owner of the Lot responsible therefor.

(e) All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage, shall be stored in closed sanitary containers in areas designated by the Association, shall be regularly removed from the premises, and shall not be allowed to accumulate on any part of the Real Estate. No clotheslines shall be permitted. No exterior gym sets, trampolines, swing sets, jungle gyms, playpens, or the like shall be permitted without Architectural Review Board approval.

(f) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate, except for home occupations permitted by and subject to the provisions of the applicable zoning ordinance.

(g) No signs or banners, other than “for sale” signs or “for lease” signs, or other window or advertising display shall be maintained or permitted on any part of the Real Estate, any Lot or any Dwelling Unit without the prior consent of the Board.
(h) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board.

(i) No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles or trucks (larger than 3/4 ton) shall be permitted, parked or stored anywhere within the Real Estate except as otherwise specifically permitted by the Board. No repair work shall be done on the Real Estate on any vehicles, including passenger automobiles.

(j) No Owner may rent or lease his Dwelling Unit for transient or hotel purposes.

(k) Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease which shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(l) All Lots shall have matching mailboxes and house number identification. Mailboxes and house number identification plaques shall be supplied by the Declarant, at Owner’s expense. House number identification plaques shall be installed by the Owner on the Dwelling Unit so as to be highly visible from the street. All Lots shall have dusk to dawn coach lights installed as approved by the Declarant, the maintenance of which shall be the responsibility of the Owner.

(m) No trash, leaves, or other materials shall be burned upon a Lot if smoke therefrom would blow upon any other Lot and, then, only in acceptable incinerators and in compliance with all applicable legal requirements.

(n) Electric bug killers, “zappers” and other similar devices shall not be installed at a location or locations which would result in the operation thereof being a nuisance or annoyance to other Owners and shall only be operated when outside activities require the use thereof and not continuously.

(o) No tennis court shall be installed or maintained on any Lot which abuts a Lake.

(p) No athletic goal posts shall be located in the front or side yards of any Lot so as to be viewable from the public street, except with the prior written approval of the Architectural Review Board.

(q) Garage sales shall not be held on any Lot, except that the Association may designate no more than two (2) weekends each calendar year in which garage sales may be held.

(r) Minimum roof pitches shall be no less than 9/12 unless prior written consent is obtained from the Architectural Review Board. No mechanical penetrations to the roof shall be located on the front or any side of the home which faces a street.

(s) All decks and patios shall be constructed within the building setback lines set forth on the Final Plats. For purposes of determining building setback lines, a Dwelling Unit located on a corner lot shall be considered to have two “fronts” and two “sides.”
(i) No structures of any kind shall be constructed or placed on a Lot as an improvement to the Dwelling Unit or as a separate structure without the prior written approval of the Architectural Review Board.

(u) No structure of a temporary character, trailer, basement, tent, shack, garage, barn, pet house or other accommodations shall be used on any Lot at any time as a residence, either temporarily or permanently.

(v) The Association shall have an access and maintenance easement around each Lake which will extend approximately fifteen (15) to twenty (20) feet from the edge of the Lake at "normal" lake water elevation as established on the engineering design plans for the Lake, as more particularly set forth on the Final Plat ("Access and Maintenance Easement"). The Access and Maintenance Easement shall not be for the personal use of any Owner except for the Owner of such Lot. The Owner of any Lot burdened by the Access and Maintenance Easement shall not construct any improvements in the Access and Maintenance Easement area which would hinder access to the Lake by the Association for maintenance thereof. Additional easements are as set forth on the plat, which shall include a hard pipe sump line which runs to the designated drainage area from each Dwelling Unit.

(w) No retaining wall or sea wall shall be constructed without the prior approval of the Architectural Review Board.

(x) There shall be no swimming permitted at any time in any Lake. Boating and fishing shall be allowed in any Lake by Owners and their guests, provided that the only boats allowed in any Lake shall be paddle boats, shall not exceed eight (8) feet in length and may contain an electric trolling motor.

(y) No boat shall be permitted on any Lake unless it belongs to an Owner and is registered and bears such identification as the Association may require.

(z) Owners whose Lots are not contiguous to a Lake may only access such Lake through Common Area A, B, or C.

(aa) No chimney on any Dwelling Unit shall have an exterior construction of wood. Architectural Review Board approval shall be required to construct the exterior of any chimney on a Dwelling Unit of any material other than brick, Dri-Vet or stone.

(ab) No swimming pool shall be located on a Lot within twenty-five (25) feet from the edge of a Lake at "normal" lake water elevation as established on the engineering design plans for such Lake.

(ac) All piers, docks or other intrusions into a Lake from a Lot shall conform to uniform standards for style, size and material established by the Architectural Review Board. No boat houses shall be permitted. A boat dock or pier may extend into a Lake a maximum distance of fifteen (15) feet providing that it does not interfere with the access to the Lake from another Lot and shall be no greater than six (6) feet wide. In addition, a boat dock or pier may extend twenty (20) feet parallel to the shore line. However, the total square footage of boat dock and pier shall not exceed 210 square feet per Lot. Docks or piers located on an inlet or cove shall not occupy more than fifty percent (50%) of the width of that inlet or cove in cases where the water frontages of other Lots are on that inlet or cove. This limitation includes space used for mooring of boats. Docks and piers shall not exceed two (2) feet in
height above “normal” lake water elevation. All installation of docks and piers shall be subject to the approval of the Architectural Review Board. The Owner of the adjacent Lot shall maintain any such boat dock or pier.

(ad) Fishing in any Lake is reserved for Owners and their invited guests. Taking of fish by nets or traps of any sort or by spearing is strictly prohibited. No gold fish, carp or other rough fish minnow may be used as bait in any Lake at any time. The minimum size bass of any kind which may be removed from the Lake is fourteen (14) inches in length. The daily bag limit of bass per person is six (6) fish.

(ae) The Association may establish additional rules and regulations for boating and fishing on any Lake from time to time.

(af) No herbicides or chemicals of any kind to control weeds or algae growth in the water or on the land within twenty (20) feet of the shoreline are to be used without the express permission in writing from the Board of Directors.

(ag) The Real Estate is also subject to that certain Commitment Concerning the Use and Development of Real Estate Made in Connection with a Petition for Rezoning recorded as Instrument No. 95015115 in the office of the Recorder of Johnson County, Indiana on August 24, 1995 (“Zoning Commitments”) which contains covenants, restrictions and limitations which, as expanded and further restricted, are set forth below;

(i) No residence shall be erected, placed, or permitted to remain on the Real Estate unless said residence shall have a minimum ground floor area of 2,200 square feet in the case of a ranch (one-story) structure, exclusive of porches or garages; in the case of a multi-story structure the ground floor area shall no less than 1,400 square feet with a total living floor area of 2,800 square feet, exclusive of porches or garages.

(ii) All residences shall be constructed with an attached garage being a minimum of two-and-one-half (2 1/2) cars in size. A two-and-one-half car garage shall be a minimum of twenty-three (23) feet by twenty-three (23) feet with two (2) garage doors which are a minimum of nine (9) feet by seven (7) feet each. Three car garages shall be a minimum of twenty-three (23) feet by thirty-two feet (32) and shall have three (3) garage doors that are a minimum of nine (9) feet by seven (7) feet each. A four (4) car garage shall be a minimum of twenty-three (23) feet by forty (40) feet and shall have two (2) garage doors which are a minimum of sixteen (16) feet by seven (7) feet each.

(iii) All ranch residences shall be constructed with masonry or brick exterior, excluding gables and front porches; all multi-story residences shall be constructed of either fifty percent (50%) masonry or brick exterior, or have the ground floor level one hundred percent (100%) masonry or brick, excluding the front porch.

(iv) No modular homes shall be permitted upon the Real Estate. Any home or homes constructed shall be custom built with substantially new materials. No used structures shall be relocated or placed on any such lot. No residence shall be constructed on a slab foundation.
(v) The landscape plan ("Landscape Plan") attached as Exhibit B to the Zoning Commitments shall be adhered to with the development in which it is proposed and constructed. The existing tree lines along the property lines shall be kept and maintained in their current condition with exception for normal routine clearing or debrushing associated with common upkeep of residential lots. This commitment does not include the areas adjacent to the existing dam on the north side of the existing lake. Any vegetation or trees in that area are under the jurisdiction of the Indiana Department of Natural Resources. All Lots shall have an underground sprinkling system on the front and side yards. All Lots shall have the following landscaping package:

<table>
<thead>
<tr>
<th>Type of Landscaping</th>
<th>Number</th>
<th>Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciduous Shade Trees</td>
<td>3</td>
<td>2&quot; to 2½&quot; caliper</td>
</tr>
<tr>
<td>Flowering Tree</td>
<td>1</td>
<td>1&quot; to 1½&quot; caliper</td>
</tr>
<tr>
<td>Conifer Trees</td>
<td>3</td>
<td>8' to 10' in height</td>
</tr>
<tr>
<td>Shrubs</td>
<td>6</td>
<td>3' to 4' in height</td>
</tr>
<tr>
<td>Shrubs</td>
<td>10</td>
<td>18' to 24' spread</td>
</tr>
</tbody>
</table>

(vi) All Lots shall have concrete sidewalks as shown on Exhibit C to the Zoning Commitments.

(vii) The Real Estate shall not be used for any purpose other than single-family dwellings and the essential services or accessory uses associated with single-family dwellings. This does not prohibit the Declarant or its assigns from constructing and occupying model homes during the construction and development of the Real Estate. This shall not prohibit the Declarant or the Association from constructing a clubhouse or community building and other facilities associated with a clubhouse or community building on the Remaining Tract (as depicted on the site plan attached to the Zoning Commitments as Exhibit D (the "Site Plan")) upon the vacating of said tract by the current owner, to the extent the Remaining Tract is owned by the Declarant, its assigns or the Association.

(viii) In addition to the Landscape Plan, a thirty (30) foot building restriction area/landscape buffer shall be created along the common line between Water's Edge and Golden Grove Subdivision and the adjoining land along the East border of Water's Edge, south of Golden Grove Subdivision. This line is shown on the Site Plan. Within the thirty (30) foot building restriction area/landscape buffer there shall not be permitted any buildings or structures. The building restriction area is intended to be maintained as a landscape buffer, and any landscaping improvements within the building restriction area shall take into consideration the existing trees and vegetation with an intent to preserve the trees and vegetation. This commitment does not prohibit routine and normal maintenance and upkeep of the 30 foot area normally associated with single-family residential homes.

(ix) The area north of the existing lake labeled the "Remaining Tract" on the Site Plan shall not be subject to the commitments contained in this Section 19(a) as long as the land is owned and occupied by the current owner. Upon transfer of ownership from the current owner, the Remaining Tract shall be subject to the commitments contained in this Section 19(a).
Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by Owners other than Declarant), in any manner that as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the sale of Lots or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all such facilities so used or maintained by Declarant and such facilities shall not be or become part of the Common Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real Estate at any time.

20. Amendment of Declaration

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

(i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(iii) Meeting. The resolution concerning a proposed amendment must be adopted by vote, as set forth in the By-Laws, at a meeting duly called and held in accordance with the provisions of the By-Laws.

(iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(v) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner’s liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration of Paragraph 18 with respect to casualty insurance or fidelity bonds to be maintained by the Association, (3) the provisions of Paragraph 15 of this Declaration establishing the Architectural Review Board and providing for its functions, or (4) the provisions of Paragraph 16 of this Declaration with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.
(vi) Additional Special Amendments. No amendment to this Declaration shall be adopted which imposes a right of first refusal or similar restriction or which changes (1) the method of voting, or (2) reserves for and responsibility for maintenance, repair and replacement of the Common Areas or (3) rights to use the Common Areas, or (4) annexation of property to Water's Edge (other than as provided in Paragraph 21), or (5) the boundaries of any Dwelling Unit, or (6) the leasing of Dwelling Units, or (7) termination of the applicability of this Declaration, or (8) any provisions which are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after the recording of this Declaration and thereafter at least seventy-five percent (75%) of the votes of Owners and the consent of Mortgagees holding mortgages on fifty percent (50%) of the Dwelling Units subject to mortgages.

(vii) Amendments Requiring FHA/VA Approval. As long as there is a Class B membership, the following action will require the prior approval of the Federal Housing Administration or the Veterans Administration, if required by applicable law: Annexation of additional properties (other than the Additional Real Estate), dedication of Common Areas and amendment of this Declaration.

(viii) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Johnson County, Indiana, and such amendment shall not become effective until so recorded.

(ix) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time 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, 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 and Dwelling Units, (iii) to bring this Declaration into compliance with any statutory requirements, (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto or (v) during the first five (5) years after the recording of this Declaration to make any changes that the Declarant determines are necessary or desirable in its sole and absolute discretion. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph 20 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 or Dwelling Unit 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 Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Paragraph 20 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

(c) Amendment Prior to the Application Date. Notwithstanding anything to the contrary contained herein or in the By-Laws, there shall be no amendment of the Declaration prior to the Applicable Date without the consent and approval of Declarant.

(d) Annexation of Additional Real Estate. In addition to Water’s Edge, Declarant may acquire the right to purchase any real estate which is located contiguous to Water’s Edge (“Additional Real Estate”).

21. Annexation of Additional Real Estate. At any time prior to December 31, 2007, Declarant, without the consent of the Owners, may, but is not obligated to, develop the Additional Real Estate or any part thereof, in substantially the same manner as Water’s Edge and file one or more Supplemental Declarations and Final Plats for such Additional Real Estate or part thereof as it desires and convey the Common Areas thereof to the Association; provided, however, that the maximum number of Dwelling Units which may be contained in the total development shall not be substantially more than the number of Dwelling Units per acre in Water’s Edge and such units shall be consistent with the quality of construction of previous units.

Regardless of the method of development of the Additional Real Estate and whether or not all or any part of the Additional Real Estate comes within the jurisdiction of the Association or subject to the Declaration, Declarant reserves unto itself, its successors and assigns, for the use and benefit of that part of the Additional Real Estate not coming within the jurisdiction of the Association or subject to the Declaration, the right and easement to enter upon the streets of Water’s Edge to provide ingress and egress to the Additional Real Estate and to extend utilities to such Additional Real Estate.

Declarant hereby grants to the Owners in Water’s Edge the right and easement to enter upon any streets and roadways that may exist in the Additional Real Estate to provide ingress and egress to Water’s Edge as may be necessary.

It is the purpose and intent of the easements herein granted and reserved to provide free and unrestricted use and access across the roadways and streets of the Real Estate and Additional Real Estate, no matter how developed, for the owners of the Real Estate and Additional Real Estate, their guests, invitees, and all public and quasi-public vehicles, including, but not limited to, police, fire and emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles.

The assessment which the Owner of each Lot in the Additional Real Estate or part thereof, if within the jurisdiction of the Association, shall be obligated to pay shall be equal to that paid by any Owner herein and shall commence on the date of conveyance of such Lot by Declarant. No assessment (Regular, Special or otherwise) on any Lot in the Additional Real Estate shall be due until such Lot has been conveyed by Declarant or the Dwelling Unit thereon is occupied for residential purposes.

22. Contraction of Declaration. The Declarant hereby reserves the unrestricted option, with respect to real estate owned by the Declarant at such date, to contract the real estate subject to this Declaration at any time prior to the Applicable Date by recording an instrument with the office of the Recorder of Johnson County, Indiana which contains the legal description of that portion of the Initial Real Estate which shall no longer subject to the covenants and other provisions of this Declaration and the legal description of that portion of the Initial Real Estate which shall continue to be bound by the covenants and other provisions of this Declaration. This option may be exercised
on more than one occasion. This option shall expire ten (10) years after the date of recording of this Declaration or at such earlier time as Declarant records a termination of this option with the office of the Recorder of Johnson County, Indiana.

23. Acceptance and Ratification. All present and future Owners, Mortgagors, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the Real Estate as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, limited liability companies or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Real Estate in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

24. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by such Owner’s negligence or by that of any member of such Owner’s family or its guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Each Owner shall pay the amount of any increase in insurance premiums occasioned by such Owner’s use, misuse, occupancy or abandonment of his Lot or its appurtenances or of the Common Area.

25. Costs and Attorneys’ Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys’ fees incurred in connection with such default or failure.

26. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Lot.

27. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles, or the By-Laws, and each shall be enforced to the greatest extent permitted by law.

28. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.

29. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.