

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE LAKES AT SHADY NOOK**

The undersigned, Langston Residential Development, LLC, an Indiana Corporation (hereinafter referred to as the "Developer"), the owner of the real estate plated as The Lakes at Shady Nook and recorded as Instrument # 2015014 367 in the Office of the Hamilton County Recorder. Developer does hereby certify that they have laid off, platted and subdivided and do hereby lay off, plat and subdivide said real estate in accordance within recorded plat(s). The following restrictions, limitations and covenants are hereby imposed upon, shall be run with the land contained in such plat(s), with the exception of the portion of land contained within Block "A" which said land shall be exempt from these Covenants, Conditions and Restrictions.

This Development shall be known and designated as The Lakes at Shady Nook, a development in Hamilton County, Indiana (hereinafter referred to as the "Development"). All streets shown and not heretofore dedicated are hereby dedicated to the public.

DEFINITIONS. The following are the definitions of the terms as they are used in this Declaration:

- A. "Committee" shall mean The Lakes at Shady Nook Architectural Control Committee, composed of and operated under the terms of Article II herein.
- B. "Association" shall mean The Lakes Of Westfield Property Owners' Association, Inc., An Indiana not-for-profit corporation, the membership and powers of which are more fully described in Article IV herein and in the Association's By-Laws and Articles of Incorporation which are incorporated herein by this reference.
- C. "Builder(s)" shall mean one who acquires a Lot directly from the developer for the purpose of building a single family Home on it for immediate re-sale of Lot and Home together or one who is contracted by the Lot Owner to construct a Home for the Lot Owner.
- D. "Developer" shall mean Langston Residential Development, LLC or its assigns.
- E. "Lot(s)" shall mean the numerically numbered parcels within the plat(s) of The Lakes at Shady Nook designed for the exclusive use of the construction of a single-family residence thereon.
- F. "Common Areas" shall mean the alphabetically numbered parcels within the plat(s) of The Lakes at Shady Nook designed for the mutual use and enjoyment of all Lot Owners of The Lakes of Westfield.
- G. "Right of Way Enhancements" shall mean the property located between the street curb and the sidewalk along both sides of all internal City of Westfield's streets in The Lakes at Shady Nook and all the improvements located thereon including but not limited to grass, plants and trees.
- H. "Owner(s)" shall mean the person or persons that have been deeded and hold ownership in any Lot within The Lakes at Shady Nook.

- I. "Covenants" shall mean the recorded terms and conditions of this Declaration of Covenants, Conditions and Restrictions for The Lakes at Shady Nook together with the Association's By-Laws, any rules and regulations adopted by the Board of Directors.
- J. "Applicable Date" shall mean the date of the first meeting of the members of the Association occurring on or after the first of the following 1) Developer relinquishes its power to appoint the Board of Directors or 2) Developer no longer owns any of the Lots in The Lakes at Shady Nook.
- K. "Development" shall mean The Lakes at Shady Nook Development and all real estate contained therein as shown on the recorded plat(s) recorded in Hamilton County.
- L. "Home" shall mean a building erected on a Lot within the Development for residential living purposes.
- M. "By-Laws" shall mean the written Code of By-Laws of The Lakes of Westfield.
- N. "External Streets" shall mean Shady Nook Road and Grassy Branch Road.

ARTICLE I GENERAL RESTRICTIONS, OBLIGATIONS, AND RIGHTS

Section 1. Lot Use and Maintenance.

A. All Lots in this Development are reserved for residential use and no building other than a single-family Home shall be erected thereon. All plans for such Homes are to be submitted to the Developer for approval prior to any construction.

B. Not more than one Home shall be erected or used for residential purposes on any Lot in this Development. No trailer, tent, shack, attached shed, basement, garage, barn, or other out-building or temporary structure shall be used for temporary or permanent residence on any Lot in this Development.

C. No Lot or any part thereof be sublet, assigned or suffered to be used for transient occupancy.

D. No Lot in this Development shall be used or maintained as a dumping ground for trash, grass clippings, garbage or other waste and such shall not be kept, except in sanitary containers. It shall be the duty of the Owner of each Lot to maintain the same in a good, clean and sanitary condition, to keep the grass on the Lot and adjacent right of way properly cut and keep the Lot free of weeds, trash or other debris and otherwise neat and attractive in appearance, including, without limitation, the proper and customary maintenance of the exterior of any structures on such Lot. The Lot Owner or Builder shall also be obligated to maintain the Lot in accordance with the erosion control guidelines as set forth by the City of Westfield throughout all construction activity on the Lot. If the Owner of any Lot fails to maintain the Lot in a manner satisfactory to the Developer or Association, the Developer or Association shall have the right (but not the obligation), to take action as set forth herein Section 26. Enforcement.

Section 2. Lot Lines and Lot Dimensions. The front and rear building setback lines are denoted on the recorded plats; between the front setback line and the property lines of the street, there shall be erected or maintained no building or structure. Side setbacks shall be a minimum of eight (8) feet each side excluding elements such as drives, fences, walls, and trellises. These set back requirements are the minimum required and the Developer may require the Home to be located beyond the minimum requirements for aesthetic harmony or preservation of natural features.

No Lot or combination of Lots may be further subdivided until approval therefore has been obtained from the City of Westfield Planning Commission; excepting, however, the Developer and its successors in title shall have the absolute right to increase the size of any Lot by joining to such Lot a section of an adjoining Lot (thereby decreasing the size of such adjoining Lot) so

long as the effect of such joining does not result in the creation of a "Lot" with less than the requirements set forth in the Andover PUD Ordinance.

Section 3. Home Dimensions. The living area, exclusive of one-story open porches, terraces and garages, shall not be less than Two Thousand Two Hundred (2,200) square feet in the case of a one-story Home, nor less than Two Thousand Four Hundred (2,400) square feet, with a minimum of One Thousand (1,000) Square Feet on the first floor, in the case of a two story Home.

Section 4. Exterior Materials. No vinyl or aluminum siding shall be used on the exterior of any individual façade of any home; however vinyl soffits shall be permitted. Exterior materials shall generally be brick, other masonry material, cultured stone, EIFS, synthetic stucco, wood, wood equivalent, or other material approved by the Developer or the Committee. The Developer, or Committee prior to construction, must approve colors of all exterior materials, including but not limited to shingles, paint, and masonry.

Section 5. Architectural Requirements. All Homes shall have at least three of the following features listed as Primary Architectural Features:

- A. Roof design featuring hip roof, a reverse gable, shed roof accent or covered front entry.
- B. Covered front stoop/steps with pathway leading from sidewalk or driveway.
- C. Bay window.
- D. Architecturally-treated entranceway for homes with front porch.
- E. Two or more roof planes.
- F. Exterior fireplace chase.
- G. Two or more dormers.

All Homes shall have at least one of the following features listed as Secondary Architectural Features:

- A. Thirty-two (32) inch or more brick or stone plinth with water table or full brick/stone on all sides.
- B. Architectural treatment on gable ends.
- C. Transom windows.
- D. Architecturally-enhanced articulated trim moldings, (i.e. fypons above windows).
- E. Decorative shutters or other enhanced architectural window treatment.
- F. Garage doors containing windows of high standard and quality.

Homes with identical or similar elevations shall be separated by at least two (2) lots and shall not be directly across the street from one another. No two (2) adjacent Homes shall be the same exterior siding color, does not apply to brick or other masonry material.

All Homes located on corner Lots shall include on the side elevations facing the street a minimum of (i) two (2) windows, or (ii) one (1) window and one (1) door, or (iii) one (1) window and one (1) chimney chase.

All Homes whose sides face an External Street shall have at least one (1) of the Architectural Features listed above on the side of the Home facing the External Street.

All Homes on Lots that back up to or adjacent to Lots located in The Lakes at Grassy Branch shall be designed in a manner such that they meet all of the Home requirements in the Covenants of The Lakes at Grassy Branch with the exception to size and number of garage bay requirements.

Section 6. Roofs. Roof materials must be asphalt/fiberglass dimensional or architectural shingle. All primary roofs shall generally have a minimum pitch of 6/12. All overhangs shall be a minimum of eight (8) inches.

Section 7. Windows. All windows and window treatments must generally be high-grade vinyl or wood with aluminum, high-grade vinyl, or pvc clad and approved by Developer. Any variation shall require written developer approval.

Section 8. Garages. All garages must be finished and conform to the above exterior material requirements and must have automatic garage door openers for each garage door. All homes

must have a minimum of a two (2) car attached garage. All garages shall be angled, side load or when aesthetically designed "L" shaped with at least 50% of the doors being side load. Garages with all doors located perpendicular to the street will generally not be permitted excepting garages located on Homes on corner Lots.

Section 9. Foundations. All residences shall be constructed on poured concrete foundations and shall contain either a partial basement with adjoining crawl space or a full basement on all areas of the home other than the garage.

Section 10. Deck/Patio. All residences shall have a deck or patio of at least 12 feet by 16 feet installed at the main exit door of the rear of the residence.

Section 11. Accessory Structures. No detached structures, mini-barns, tree houses, docks, or other similar structures shall be permitted on any Lot in The Lakes At Shady Nook. No clothesline or clothes poles, or any other free-standing semi-permanent poles, rigs or devices, regardless of purpose (with the exception of recreational equipment permitted herein), shall be constructed, erected or located or used on any Lot. No radio or television antenna shall be permitted on any Lot, with the exception of a television reception disk thirty (30) inches or less in diameter meeting FCC standards upon approval of the location by the Committee. No solar heat panels shall be permitted in the Development.

Section 12. Drives. Each driveway on a Lot shall be of concrete or asphalt material.

Section 13. Swimming Pools. No aboveground swimming pools shall be permitted in the Development. No in ground swimming pool shall be permitted without prior written approval of Developer or Committee.

Section 14. Fences. No fence shall be erected in this Development without prior written approval of the Developer or Committee. No fences shall be constructed in areas designated for Retention or Detention nor shall fences be constructed in any Easements. No fences shall be constructed in front of the building line on any Lot. In general, all fencing must be ornamental iron, its aluminum equivalent, or other such style designated by the Developer or Committee and must not be higher than forty-eight (48) inches with the exception of fencing around swimming pools which shall be no higher than the minimum required by City or State requirements. In no event will any stockade, horizontal wood, galvanized chain link, wire, and solid aluminum or PVC fences be permitted on Lots within the Development.

Section 15. Sidewalks. Plans and specifications for this Development, on file with the City of Westfield, require the installation of five (5) foot wide concrete sidewalks within the street rights-of-way in front of all Lots as shown on the approved plans. Installation of said sidewalks shall be the obligation of the Builder or Owner of any such Lot, not of the Developer, and shall be completed within Thirty (30) days of Home completion or within twelve (12) months of the purchase of the Lot, whichever occurs first. In the event the Owner has not installed the sidewalk within the time period allotted, the cost of said installation shall be the personal obligation of the Owner and a lien against any such Lot enforceable by the Westfield Planning Commission or the Developer or their successors.

Section 16. Exterior Lights and Mailboxes. All homes shall have a minimum of two exterior light fixtures attached to the home as a carriage lights to the residence and shall be installed with a photo cell to ensure automatic illumination from dusk to dawn. Illumination intensity for fixtures without shielding shall be limited to 160 watts for incandescent bulbs or the equivalent for other types of bulbs. It shall be the homeowner's responsibility to maintain the exterior lights and to replace burned out bulbs or make any other necessary repairs immediately upon failure of the lights to illuminate properly. The mailbox shall be purchased from the Developer at Lot Closing. Each Owner shall thereafter maintain the mailbox so that they operate properly and are attractive in appearance.

Section 17. Landscaping. All Lot Owners will be required to submit a landscape plan to the Developer or Committee which shall be approved in writing by the same prior to installation. Landscaping shall be designed to include at a minimum the number of trees and bushes listed below and; sod to the back corners of the Home. Hydro-seed or seed when accompanied with fertilizer and straw with tacking shall be permitted in rear yards. Regardless of the manner in

which the yards are treated, the end result shall be a good stand of grass as determined by the Developer. The Builder/Lot Owner may be required to re-seed or hydro-seed, contract with a lawn care service provider, or take other measures Developer deems appropriate to ensure a good stand of grass.

Installation of sod in the right-of way in front of each Lot (the area located between the sidewalk and street curb) shall be the obligation of the Builder or Owner of any such Lot, not of the Developer. The maintenance of this area shall be the continued responsibility of the Lot Owner.

Minimum planting requirements:

1. 2 Shade Trees, 2" caliper (Including required street trees which shall be installed at the locations and be of the types designated by the Developer)
2. 2 Ornamental/Evergreen Trees, 1" caliper (Ornamental) 5' tall (Evergreen)
3. 12 Bushes, 15" in height excluding ornamental grasses.

All trees and bushes must meet the City of Westfield's Landscaping Standards and shall be maintained in an appropriate manner by the Lot Owner. In the event any trees or bushes die shall be replaced with the same or equivalent.

All landscaping shall be the obligation of the Builder or Owner of any such Lot, not of the Developer, and shall be completed within Thirty (30) days of home completion weather permitting.

Section 18. Flag Poles and Signs. No free standing flag poles or signs of any kind shall be displayed to the public view on any Lot except one (1) professional sign or licensed Real Estate Agent sign of not more than six (6) square feet advertising the home for sale. Signs or flag poles used by the Builders, Developer or their Realtors to advertise the Home or Lot during the construction and sales periods shall be exempt from these requirements.

Section 19. Recreation Equipment. No temporary basketball goals shall be permitted within The Lakes at Shady Nook. All basketball goals must be installed in a permanent manner. The Developer or Committee shall approve all basketball goals prior to their installation.

Recreation equipment such as swing sets and play sets shall be submitted to Developer or Committee prior to installation on any lot. Said structures shall be in good condition and appearance and shall be placed in areas designated by Developer or Committee.

Section 20. Down Spouts. No down spouts shall be tied to the sub-surface drains. Sump pump lines are to be connected to the available sub-surface drains provide for each Lot.

Section 21. Vehicles. No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description (other than normal passenger vehicles), shall be permitted, parked or stored anywhere within The Lakes at Shady Nook Development; provided, however, that nothing herein shall prevent the parking or storage of such vehicles completely enclosed within a garage, the temporary parking of said vehicles for periods less than 48 hours, and the driving or using of such vehicles solely for the purpose of ingress and egress to and from the Development. No Owners or other residents shall repair or restore any vehicle of any kind within the Development, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Development. Street parking shall be limited to guests and temporary parking only. Any vehicle in violation of the above shall be subject to being towed at the expense of the owner thereof.

Section 22. Unacceptable Activities. No noxious, unlawful or other offensive activity shall be carried out on any Lot in this Development, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 23. Animals. No animals, livestock or poultry of any description shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes and do not unreasonably disturb other Owners or residents.

Section 24. Remonstrations. Lot owners, upon taking title, agree to waive all rights to oppose and or remonstrate against annexation and any future zoning changes and special permits necessary to complete the Master Plans of The Lakes of Westfield what so ever.

Section 25. Time Period to Commence and Complete Construction and Landscaping. All construction upon, landscaping of and other improvement to a Lot shall be completed strictly in accordance with the plans approved by the Developer or Committee. All landscaping specified on the landscaping plan approved by the Developer or Committee shall be installed on the Lot strictly in accordance with such approved plans within thirty (30) days following substantial completion of the Home unless the Developer or Committee agrees to a later landscaping completion date. Unless a delay is caused by strikes, war, court injunction or act of God, the Owner of any Lot shall commence construction of a Home upon the Lot within one (1) year from the date the owner acquired title thereto, unless written extension by Developer is given or unless such Lot is adjacent to a Lot upon which the Owner has constructed a Home in which such owner permanently resides. If the Owner fails to commence or complete construction of a Home within the time periods specified herein, Developer may:

- (i) Re-enter the Lot and divest the Owner of title thereto by tendering to the Owner or to the Clerk of the Circuit Court of Hamilton County the lesser of (i) the same net dollar amount as was received by Developer from such Owner as consideration for the conveyance by Developer of the Lot, together with such actual costs, if any, as the Owner may prove to have been incurred in connection with the commencement of construction of a Home on the Lot, and (ii) the then fair market value of the Lot, as determined by averaging two (2) appraisals made by qualified appraisers appointed by the Judge of the Hamilton County Circuit or Superior Court;
- (ii) Obtain injunctive relief to force the Owner to proceed with construction of any Home, a plan for which has been approved by the Developer or Committee upon application by such Owner; or
- (iii) Pursue other remedies at law or in equity as may be available to Developer.

The failure of the Owner of a Lot to apply for approval of, or receive approval from, the Developer or Committee of a plan shall not relieve such Owner from his obligation to commence and complete construction of a Home upon the Lot within the time periods specified herein. For the purposes of this Section, construction of a Home will be deemed "completed" when the exterior of the Home (including but not limited to the foundation, walls, roof, windows, entry doors, gutters, downspouts, exterior trim, paved driveway and landscaping) has been completed in conformity with the submitted plans.

Section 26. Enforcement. If the Owner of any Lot fails to; 1) maintain the Lot or 2) Complete the Home per the requirements and within the time frames set forth herein or 3) install the sidewalk, landscaping, or mailbox per the requirements and within the time period allotted in a manner satisfactory to the Developer or Association, the Developer or Association, after approval by two-thirds (2/3) of the Board of Directors, shall have the right (but not the obligation), through its agents, employees and contractors, to enter upon the Lot and to clean, repair, complete, maintain or install the Lot, Home, sidewalk, landscaping, or mailbox, as the case may be. The cost of any such work shall be the personal obligation of the Owner and a lien against any such Lot enforceable by the Developer or Association. If the Owner fails to reimburse Developer or Association for these costs within Thirty (30) days, the Developer or Association is hereby authorized to place a lien against the Lot. In addition, interest on those expenditures shall accrue at a rate of twelve percent (12%) per annum and Developer or Association shall be entitled to recover in an action at law or in equity from the Owner of the Lot, all of the attorneys' fees and related costs and expenses it incurred pursuant to the collection of the above funds.

ARTICLE II ARCHITECTURAL CONTROLS

Section 1. The Lakes at Shady Nook Architectural Control Committee. Until the Developer resigns its position as the Architectural Control Committee or until the Developer no longer owns any of the Lots in The Lakes at Shady Nook, the Developer shall serve as the Architectural Control Committee. After one of the above events occurs, the members of the Architectural Control Committee ("Committee") shall be appointed by the Board of Directors of the Association. The Developer shall always have the sole authority to approve the original Home and Landscaping on any Lot within the Development regardless if the Developer is serving as the Architectural Control Committee or not.

Section 2. Purpose. The Committee shall regulate size, type, external design, appearance, use, location and maintenance of any change or addition to the original Home placed on any Lots subject to these Covenants and improvements thereon, in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures.

All fences, walls or other construction or improvements of any kind shall not be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made without the prior approval of the Committee. Such approval shall be obtained only after the Owner of the Lot has made written application to the Committee. The manner of application shall be in the form as prescribed from time to time by the Committee, and shall be accompanied by two sets of plans and specifications. Such plans shall include plot plan showing location of proposed improvements, specification of all exterior materials and colors and any proposed landscaping. In the event said Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required as long as said design meets all other requirements of the Covenants herein, and this Section II will be deemed to have been fully complied with.

ARTICLE III. OTHER RESTRICTIONS, GUIDELINES AND RIGHTS

Section 1. Sanitary Sewer, Drainage and Utility Easements. There are strips of ground as shown on the plat(s) and marked Sanitary Sewer, Drainage, and Utility Easements both solely and in combination with other easements, which are reserved for the use of public utilities for the installation of water, sewer, and storm sewer mains, detention and retention areas, poles, ducts, lines and wires, subject at all times to the proper agencies and authorities and to the easement herein reserved. No structures of any kind are to be erected or maintained upon said strips of land, but Owners of Lots in this Development shall take their titles subject to the rights of public utilities. The Developer, Utility Companies, City and County authorities reserve the right to enter said easements at any time and perform work deemed necessary. These areas shall be maintained free of weeds, trash or other obstruction, and in the event the easement is a Drainage Easement, proper drainage as outlined in the development plan shall be maintained at all times by the Owner of each applicable Lot or Association as owner of the Common Areas. Within Drainage Easements there shall be located no structures which may impede proper drainage including but not limited to landscape mounds, fences, out buildings, swing sets, play equipment, docks, decks, boats, etcetera and shall be maintained with a properly cut stand of grass at all times. No change of grade that adversely impairs storm water drainage shall be permitted within Drainage Easements.

Section 2. Drainage of Storm or Other Water. In the event storm water drainage from any Lot flows across another Lot, provisions shall be made to permit such drainage to continue without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, even in the event no specific drainage easement for such flow of water is provided on said plat(s).

No rain or storm water runoff or such things as roof water, street pavement or surface water caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewer System, which shall be a separate sewer system from the Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or

permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

Section 3. Common Areas. There are strips of ground as shown on the plat(s) and marked as Blocks and or Common Areas, which are reserved for the use and enjoyment of the residents of The Lakes of Westfield. Said areas may also contain or consist of drainage, sewer, utility, and or other easements which are reserved for the use of public utilities and government authorities for the installation of water, storm water, and sewer mains, poles, ducts, lines and wires, subject at all times to the proper authorities and to the easement herein reserved. Any Common Areas depicted on the recorded plat(s) of the Development shall remain private, and neither the Developer's execution nor recording of the plat(s) nor the doing of any other act by the Developer is, or is intended to be, a dedication to the public of the Common Areas. Ownership of any of the Common Areas shall be conveyed in fee simple title, free of financial encumbrances to the Association upon their completion. Such conveyance shall be subject to easements and restrictions of record, and such other conditions, as the Developer at the time of conveyance deems appropriate. Such conveyance shall be deemed to have been accepted by the Association and those persons who shall be members thereof from time to time.

Developer shall be responsible for improving all Common Areas (including the required landscape plantings within them) until such time as the Common Areas are conveyed to the Association at which time the Association shall be responsible for the maintenance and repair of the Common Areas including the required landscaping plantings as presented in the Primary Plat of The Lakes of Westfield.

Section 5. Buffer, Landscape, and Pathway Easements. There are strips of ground as shown on the plat(s) as Buffer, Landscape, and or Pathway Easements both solely and in combination with other easements. The Association shall be solely responsible for maintenance and upkeep of the plants and trees within these areas to the standards set forth in the City of Westfield's Landscape Ordinance only in the event these areas are located in Common Areas. In the event that these areas are located within a Lot, then it shall be the Lot Owner's responsibility to maintain these areas as set forth above.

Section 6. Right of Way Enhancements. Association shall be solely responsible for maintenance, replacement and upkeep of the grass, plants and trees within Right of Way Enhancements to the standards set forth in the City of Westfield's Landscape Ordinance only in the event these areas are located adjacent to Common Areas. In the event that these areas are located adjacent to a Lot, then it shall be the Lot Owner's responsibility to maintain these areas as set forth above and as set forth in Article I, Section 12 of these covenants.

Section 7. Street Signs, Traffic Control Signs, and Street Light Fixtures. If other than the standard City Street Signs and Traffic Control Signs are installed, it shall be the Developer's responsibility to install said items and the Association's responsibility to maintain them. All Signs shall meet and be maintained to all of the City of Westfield's minimum safety standards. The Association shall be solely responsible for the maintenance of all the street lights within the Development including fixtures and lamps.

Section 8. Enforcement of Covenants. The Developer, Association, and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Covenants. Failure by the Developer, Association, or by any Owner to enforce any Covenant shall in no event be deemed a waiver of the right to do so thereafter.

In the event the Developer, Association, or any Owner shall be successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien or charge now or hereinafter imposed by the provisions of the Covenants, limitations, easements and approvals appended to and made a part of the plat(s) of the community, it shall be entitled to recover from the party against whom the proceeding was brought all of the reasonable attorneys' fees and related costs and expenses it incurred in such proceeding.

The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law, any structure or part thereof erected without proper approval or

maintained in violation hereof, is hereby reserved to the Developer, the Association and to the Owners of the Lots in this Development and to their heirs successors, and assigns.

Section 9. Invalidation of Covenant. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 10. Term of Covenants. The foregoing Covenants is to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date of these plat(s), at which time said Declaration shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then Owners of the Lots in whole or in part. The Developer may amend the Covenants for, in the Developer's sole opinion, the betterment of the Development at any time prior to the Applicable Date. After the Applicable Date the Covenants may be amended by a favorable vote of the Owners of at least 2/3 of the total number of Lots.

Section 11. Waiver of Rights to Remonstrate. Lot Owners, upon taking title, agree to waive all rights to oppose future zoning changes and special permits necessary to complete the Master Plan of The Lakes of Westfield.

Section 12. Development and Sale Period. Nothing contained in Articles I, II & III shall be construed or interpreted to restrict the activities of the Developer and Builders in connection with the development and sale of the Development and the Construction and sale of Homes on said Development. The above shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Development at any time owned or leased by the Developer or Builder(s) as, in the sole opinion of the Developer or Builders, may be reasonably required, or convenient or incidental to, the development of The Lakes at Shady Nook and sale of the Lots and Homes on said Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sale offices and business offices.

ARTICLE IV.

THE LAKES OF WESTFIELD PROPERTY OWNERS' ASSOCIATION

There is or shall be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as the "The Lakes of Westfield Property Owners' Association, Inc.

Section 1. Membership in Association. Each Lot Owner shall automatically upon taking deed to a Lot in the Development become a member of the Association and agree to abide by these Covenants and By-Laws of the Association and shall remain an abiding member until such time as their ownership of a Lot ceases. Membership in the Association shall terminate when such Owner ceases to be an Owner and will be transferred to the new Owner of his Lot; provided, however, that any person who holds the interest of an Owner in a Lot in this Development merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Association.

Section 2. Voting Rights. The Association shall have the following classes of membership, with the following voting rights:

A. 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 the 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 have only one (1) vote for 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. The membership in the Association shall only be transferred by the transfer of the record title of a Lot.

B. Class B. Class B members shall be the Developer and all successors and assigns of Developer designated by Developer as Class B members in a written notice mailed or delivered to the President of the Association. Each Class B member shall be entitled to five (5) votes for

each Lot of which it is the Owner and five (5) votes for each individually numbered parcel of land shown upon, and identified as a Lot on, any Development plat(s) of the Development, or any part thereof, of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this declaration of Covenants, Conditions and Restrictions, on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate upon the Applicable Date.

Section 3. Functions.

A. The Association shall maintain the Common Areas shown on the plat(s) including the improvements thereon and shall keep such area in a neat, clean and presentable condition at all times.

B. The Association shall be responsible for the maintenance of street signs, traffic control signs, and street lights to the standards set by the City of Westfield.

C. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance and such other insurance, as it deems necessary or advisable.

D. The Association may contract for such service as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

E. Owning all Common Areas when deeded to it and paying taxes and assessments levied and assessed against, and payable with respect to, the Common Areas paying any other necessary expenses and costs in connection with the Common Areas

Section 4. Assessments.

A. **Authority to Create Lien.** The Association and or Developer are hereby empowered to cause a lien to be placed against any Lot for the purposes of (1) recovering any funds due for annual assessments, special assessments, or recovering any funds expended by the Developer or the Association in maintaining any Lot in a neat and attractive condition as contemplated by Article 1, Section 1 and for the installation of sidewalks and or street trees as required within these Covenants, together with interest on those expenditures accruing at a rate of twelve percent (12%) per annum, or (2) recovering any attorneys' fees and related costs and expenses incurred by either the Developer or the Association in any proceeding initiated pursuant to the collection of the above funds or any proceeding initiated pursuant to Article 3, Section 5. No private individual Owner shall have such a right to create a lien against a neighboring Lot pursuant to the terms of this Section. No liens shall be created on any Lot or Common Area owned by the Developer.

B. **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot in the Development, except the Developer, by acceptance of a deed or other conveyance therefore, whether or not it shall be expressed in such a deed, is deemed to covenant and agree to pay to the Developer or Association: (1) annual assessments or charges; (2) special assessments for capital improvements and operating deficits; such assessments to be established and collected as hereinafter provided; and (3) assessments or charges for expenditures by the Developer or the Association in maintaining the Lot in a neat and attractive condition as contemplated by Article 1, Section 1. The annual, special assessments, and maintenance assessments together with interest, costs, late fees, and reasonable attorney's fees, shall be a charge on the land until paid in full and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment was due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them or unless, prior to such transfer, a written notice of the lien for such assessments shall have been recorded in the office of the Recorder of Hamilton County, Indiana. No charge, lien, or assessment shall ever be levied by the Association or individual Lot Owner against the Developer.

C. Date of Commencement of Annual Assessment. Annual Assessments shall be set for each calendar year and due and payable in one lump sum in advance on the first day of March each year or, if so determined by the Association's Board of Directors or Developer, in such other periodic installments or due dates as may be specified by the Board of Directors or Developer. If ownership of a Lot is conveyed after the first of January, the Annual Assessment shall be paid at closing and the Annual Assessment shall be pro-rated, based on the calendar year, as of the date of closing. Without any approval or vote by the Owners, the Board of Directors shall fix the amount of the Annual Assessment in advance of the effective date of such assessment. Written notice of Annual Assessments and such other assessments as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates for all assessments. The Association shall, at any time and for a reasonable fee of up to and including \$75.00, furnish a certificate in writing signed by an officer of the Association stating that the assessments on a specific Lot have been paid or that certain assessments or other charges against said Lot have not been paid, as the case may be.

Annual Assessments shall not commence for any Lot until the date the Lot is first sold or conveyed by the Developer to any person or entity. Prior to such time, the Developer shall not be liable for paying any assessments to the Association.

D. Special Assessments. In addition to the annual operating assessment, the Board of Directors or Developer may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have an assenting vote of the majority of the members who are voting in person or by proxy at a meeting duly called for this purpose. Written notices for such meetings shall be sent and voting quorums required as set forth in the By-Laws of the Association.

E. Failure of Owner to Pay Assessments. No Owner may exempt himself or herself from paying Annual or Special Assessments or any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas, or by abandonment of the Lot belonging to such Owner. Each Owner shall be personally liable for the payment of all Annual and Special Assessments. Where the 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 Annual or Special Assessments when due, the lien for such assessment on the Owner's Lot may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Annual or Special Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) suspend such Owner's right to use the recreational facilities within the Development as provided in the Indiana Nonprofit Corporation Act of 1991, as amended; and
- (3) suspend such Owner's right to vote as provided in the Indiana Nonprofit Corporation Act of 1991, as amended.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits there from for the benefit of the Association to be applied to the unpaid Annual or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Annual or Special Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Annual or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorney's fees, from the Owner of the respective Lot.

F. Notification. Every Owner of a Lot in the Development and any person who may acquire any interest in any Lot in the Development, whether as Owner or otherwise, is hereby

notified, and by acquisition of such interest agrees, that any such liens which may exist upon said Lot at the time of acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in the Development is hereby notified that by the act of acquiring, making such purchase or acquiring such title, such person shall be conclusively held to have covenanted to pay the Association and Developer all charges that the Association or Developer shall make pursuant to this Article 4 of the Covenants.

G. Subordination of Assessment Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Notwithstanding anything contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a first 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 Annual Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishments of such lien cannot relieve the prior owner from personal liability therefore. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Annual Assessments or Special Assessments thereafter becoming due or from the lien therefore. Such unpaid share of any Annual 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).

Section 5. Management of Board of Directors. 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 he is, or is deemed in accordance with this Declaration to be, an Owner.

Section 6. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated or to be designated by the Developer. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration or these Articles, (a) the Initial Board shall hold office until the first meeting of the members of the Association occurring on or after the Applicable Date or until Developer no longer owns any of the Lots, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Developer, who shall thereafter be deemed a member of the Initial Board.

Each Owner, by acceptance of a deed to a Lot with, or by acquisition of any interest in a Home house by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Initial Board of Directors as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as the Initial Board of Directors determines, on all matters as to which members of the Association are entitled to vote under the Declaration, these Articles or otherwise.

This appointment of the Initial Board of Directors as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Developer to fill a vacancy, shall be deemed a Special member of the Corporation 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 either a member of the Association or an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a member of the Association).

Section 7. Additional Qualifications of Board of Directors. Where 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 or an officer or trustee, shall be eligible to serve on the Board of Directors, except that no single Lot or Home house may be represented on the Board of Directors by more than one person at a time.

Section 8. Term of Office and Vacancy of Board of Directors. Subject to the provisions of Section 6 of this Article IV, the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date each member of the Board of Directors shall be elected for a term of two (2) years, such terms shall be staggered. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 6 of this Article IV 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 Section 9 of this Article IV. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified.

Section 9. 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 cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 10. Duties and Powers of the Board of Directors. The duties and powers of the Board of Directors shall be set forth in the By-Laws.

Section 11. Limitation of 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 less than \$5,000.00 without obtaining the prior approval of a vote of the Owners, except that in the following cases such approval shall not be necessary:

- a. Contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;
- b. Proposed contracts and proposed expenditures expressly set forth in the annual budget as approved by the Board of Directors; and
- c. Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 12. Compensation of Board of Directors. No Director shall receive any compensation for his services as such, except to such extent as may be expressly authorized by a 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.

Section 13. Non-Liability of Directors and Officers. The Directors and officers of the Association 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 and officers, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors and officers 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 and officers shall have no personal liability with respect to any contract made by them on behalf of the Association.

Section 14. Additional Indemnity of Directors and Officers. The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director or Officer of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director or officer is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director or Officer the reasonable

costs of settlement of or judgment rendered in any action, suite or proceeding, if it shall be found by a vote of the Owners that such Director or officer was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director or officer, no Director or Officer shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director or officer relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any other officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a Director or officer be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 15. Bond of Board of Directors. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Association, and any other officers as the Board deems necessary, to provide surety bonds, 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 and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 16. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Developer shall have, and Developer hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Corporation, until the Applicable Date. Developer may, at its option, engage the services of a Managing Agent affiliated with it to perform such functions and, in either case, Developer or such Managing Agent shall be entitled to reasonable compensation for its services.

Section 17. Termination of the Initial Board of Directors. The Initial Board of Directors shall hold office until the first meeting of the members of the Association occurring on or after the Applicable Date. At least Thirty (30) days prior to the Applicable Date the Association shall have a meeting of the Lot Owners at which a new Board of Directors shall be elected pursuant to the guidelines of the By-Laws. In the event that a Board of Directors have not been voted in by the Association by the Applicable Date, the Developer shall hire a Professional Property Agent which shall serve as the Board of Directors until such time as the Association elects a Board of Directors.

This Declaration of Covenants, Conditions and Restrictions is executed this 27th day of March 2015.

Langston Residential Development, LLC

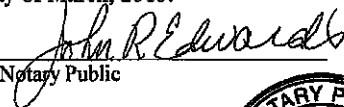
By: 
James R. Langston, Member

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared James R. Langston, an authorized member of Langston Residential Development, LLC, an Indiana Corporation, who acknowledged the execution of the foregoing Covenants, Conditions and Restrictions for and behalf of said Corporation, and who, having duly sworn, stated that the representations therein contained are true.

WITNESS MY HAND and Notarial Seal this 27th day of March, 2015.

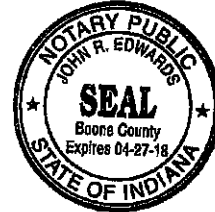
My Commission Expires:


Notary Public

April 27, 2018

Printed: John R. Edwards Notary Public

Resident of Boone County, Indiana.



This instrument prepared by James R. Langston, Langston Residential Development, LLC, 1132 South Rangeline Road, Suite 100, Carmel, Indiana 46032; Telephone (317) 846-7017

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. James R. Langston

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2000

2015063400 AMENDMENT \$16.00
12/11/2015 11:20:14A 2 PGS
Jennifer Hayden
HAMILTON County Recorder IN
Recorded as Presented

Cross-Reference: The Declaration of Covenants, Conditions and Restrictions for The Lakes At Shady Nook recorded with the Recorder of Hamilton County, Indiana, on March 27, 2015 as Instrument No. 2015014368.

FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE LAKES AT SHADY NOOK

This is the First Amendment (the "First Amendment") to The Declaration of Covenants, Conditions and Restrictions for The Lakes At Shady Nook;

WITNESSETH:

WHEREAS, The Declaration of Covenants, Conditions and Restrictions for The Lakes At Shady Nook recorded with the Recorder of Hamilton County, Indiana, on March 27, 2015 as Instrument No. 2015014368(the "Declaration");

WHEREAS, The Developer is desirous in amending the Declaration as herein set forth.

NOW, THEREFORE, the Declaration is hereby amended as set forth in this First Amendment:

1. The minimum side yard building setback line for a single-family detached dwelling may be reduced to five (5) feet for dwellings with a side or courtyard loading garage; however, the lot's aggregate building setback lines shall be sixteen (16) feet and the minimum building separation shall be ten (10) feet.
2. The Association shall be perpetually responsible for maintaining all walls, columns, fencing and required buffer landscaping within the Common Areas that are installed by the Developer.

Langston Residential Development, LLC

By: _____

James R. Langston, Member

Date: December 3rd, 2015

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

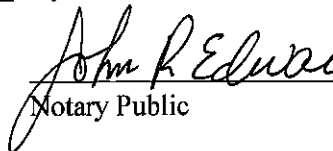
Before me the undersigned, a Notary Public in and for said County and State, personally appeared James R. Langston, an authorized member of Langston Residential Development, LLC, an Indiana Corporation, who acknowledged the execution of the foregoing First Amendment for and behalf of said Corporation, and who, having duly sworn, stated that the representations therein contained are true.

WITNESS MY HAND and Notarial Seal this 3rd day of December, 2015.

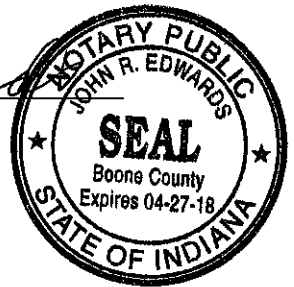
My Commission Expires:

April 27, 2018

Resident of Boone County, Indiana.


Notary Public

Printed: John R. Edwards



This instrument prepared by and return to: James R. Langston, Langston Residential Development, LLC, 1132 South Rangeline Road, Suite 100, Carmel, Indiana 46032; Telephone (317) 846-7017

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. James R. Langston