DECLARATION OF COVENANTS AND RESTRICTIONS

CARRIGAN AT THE LEVEE

This Declaration (hereafter "Declaration") made as of the 15th day of October, 2002, by HERITAGE Development of Indiana, LLC;

WITNESSETH: WHEREAS, the following facts are true:

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate;

WHEREAS, Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in Carrigan at the Levee for the maintenance of the Property and the improvements thereon, and to this end desire to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each of which is for the benefit of the Lots and lands in the Property and the future owners thereof,

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in Carrigan at the Levee to create an agency to which may be delegated and assigned the powers of owning, maintaining and administering the Community Area, administering and enforcing the Restrictions, collecting and disbursing the Assessments and charges hereinafter created, and promoting the health, safety and welfare of the Owners of Lots.

WHEREAS, Declarant will incorporate under the laws of the State of Indiana a not-for-profit corporation known as The Carrigan at the Levee Homeowner's Association, Inc. for the purpose of exercising such functions.

NOW, THEREFORE, Declarant hereby declares that all of the Lots and lands in the Property, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are subject to the following Restrictions, all of which are declared to be in furtherance of a plan for the improvement and sale of the Property and each Lot situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and of each of Residences, Lots and lands situated therein. The Restrictions shall run with the land and shall be binding upon Declarant, its respective successors and assigns, and upon the parties having or acquiring any interest in the Property or any part of parts thereof subject to such Restrictions. The Restrictions shall inure to the benefit of Declarant and its respective successors in title to the Property or any part or parts thereof.

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

   a) "Architectural Review Board" is the Board of Directors.

   b) "Architectural Improvement Request" is the form used by the Association to submit change to property deemed from these Covenants.

   c) "Articles" mean the Articles of Incorporation of the Corporation, as amended from time to time.

   d) "Assessments" means all sums lawfully assessed against the Members of the Corporation, as amended from time to time.

   e) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the By-Laws.

   f) "Bylaws" means the Code of By-Laws of the Corporation, as amended from time to time.

g) "Carrigan at the Levee" means the name by which the Property shall be known.

h) "Common Area" (C. A. #) means the area referred to on a Plat as a Common Area or Areas.

i) "Community Area" means (i) the Drainage System, (ii) any utility service lines or facilities not maintained by a public utility company or governmental agency that serve more than one Lot, and (iii) any area of land (1) shown on the Plat as a Common Area or Landscape Easement (2) described as Common Area in any recorded instrument prepared by Declarant or its agents, or (3) conveyed to or may be acquired by the Corporation, together with all improvements thereto, that are intended to be devoted to the use or enjoyment of all, of the Owners of Lots.

j) "Corporation" or "Association" means Carrigan at the Levee Homeowners Association, Inc., an Indiana not-for-profit, its successors and assigns.

k) "Declarant" means Carrigan at the Levee Homeowners Association.

l) "Drainage Board" means the Hamilton County Drainage Board of The City of Noblesville, its successors or assigns.

m) "Drainage System" means the open drainage ditches and swales, the subsurface drainage tiles, pipes and structures, the dry and wet detention areas, if any, and the other structures, fixtures, properties, equipment and facilities located in the Property and designed for the purpose of controlling, retaining or expediting the drainage of surface and subsurface waters from, over and across the Property, including but not limited to those shown or referred to on the Plat, all or part of which may be established as legal drains subject to the jurisdiction of the Drainage Board.

n) "Sign and Landscaping Easement" (S. L. E.) means a portion of the Easement Area as denoted on the Plat as an area to be landscaped with Entry Monuments and maintained by the Corporation.

o) "Sanitary Sewer Easement" (S. S. E.) Means the area designated on the Plat as a means of access for the purpose of maintenance of Sanitary Sewers.

p) "Drainage and Utility Easement" (D. U.) means an area designated on the Plat and designated as a means of access, for purposes of maintenance of storm water flow.

q) "Utility Easement" (U. E.) means an area designated on the Plat and designated as a means of access, for the purposes of maintenance for Telephone, Electric Service, Cable Service, Gas Service and other like services.

r) "Lot" means a platted lot as shown on the Plat.

s) "Lot Development Plan" means (i) a site plan prepared by a licensed engineer or architect, (ii) foundation plan and proposed finished floor elevations, (iii) building plans, including elevation and floor plans, (iv) all other data or information that the Architectural Review Board may request with respect to the improvement or alteration of a Lot (including but not limited to the landscaping thereof) or the construction or alteration of a Residence or other structure or improvement thereon.

t) "Maintenance Costs" means all of the costs necessary to keep the facilities to which the term applies operational and in good condition, including but not limited to the cost of all upkeep, maintenance, repair, replacement of all or any portion of any such facility, payment of all insurance with respect thereto, all taxes imposed on the facility and on the underlying land, leasehold, easement or right-of-way, and any other expense related to the continuous maintenance, operation or improvement of the facility.

u) "Mortgagee" means the holder of a first mortgage on a Residence.

v) "Owner" means and refers to the record title Owner of a Residence Lot Area in the Subdivision, and shall be all Owners, jointly and severally, if there is more than one Owner of record.

w) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

x) "Plat" means the final secondary plat of the Property recorded in the Office of the Recorder of Marion County, Indiana.

y) "Reserve for Replacements" means a fund established and maintained by the Corporation to meet the cost of periodic maintenance, repairs, renewal and replacement of the Community Area.

z) "Residence" means any structure intended for occupancy by a single family together with all appurtenances thereto, including private garage and outbuildings and recreational facilities usual and incidental to the use of a single family residential lot.

aa) "Restrictions" means the covenants, conditions, easements, charges, liens, restrictions, rules and regulations and all other provisions set forth in this Declaration and the Register of Regulations, as the same may from time to time be amended.

bb) "Register of Regulations" means the document containing rules, regulations, policies, and procedures adopted by the Board of Directors or the Architectural Review Board, as the same may from time to time be amended.

cc) "Roadway" means all or any part of a street, land or road (including the right-of-way) designated to provide access to one or more Lots which have not been accepted for maintenance by a public authority.

dd) "Zoning Authority" with respect to any action means the City of Noblesville Board of Zoning or, where it lacks the capacity to take action, or fails to take such action, the governmental body or bodies, administrative or judicial, in which authority is vested under applicable law to hear appeals, or review action, or the failure to act.

2) Common Area Easements and Common Area – The Corporation shall maintain the Landscaping Easements and all improvements including Fencing, Monuments, Buildings and Irrigation equipment installed by Declarant and plantings thereon, and the Maintenance Costs thereof shall be assessed as a General Assessment against all Lots subject to assessment. Grass, trees, shrubs, and other plantings located in a Landscaping Easement shall be kept neatly cut, cultivated or trimmed as reasonably required to maintain an attractive appearance.

3) Roadways

a. Cul-de-sac Parking – There shall be no weekday parking on the Cul-de-sacs shown on the Plat between the hours of 7 am and 5 pm due to school bus, garbage and delivery truck entrance and exit.

4) Construction of Residences

a. Land Use – Lots may be used only for single-family residential purposes and only one Residence not to exceed the maximum height permitted by and measured pursuant to the Zoning Ordinance of The City of Noblesville, Indiana without the written consent of the Declarant, No portion of any Lot may be sold or subdivided such that there will be thereby a

greater number of Residences in Carrigan at the Levee than the number of Lots depicted on the Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any "Special Use" that is not clearly incidental and necessary to single-family dwellings. No home occupation shall be incidental and necessary to single-family dwellings. No home occupation shall be conducted or maintained on any Lot other than one which does not constitute a "special use" and which is incidental to a business, profession or occupation of the Owner or occupant of such Lot. No signs of any nature, kind or description shall be erected, placed, or permitted to remain on any Lot advertising a permitted home occupation.

b. Size of Residence & Garage – Except as otherwise provided herein, no residence may be constructed on any Lot unless such Residence, exclusive of open porches, attached garages and basements, shall have total floor areas of at least 1800 square feet on single floor plans and 2000 square feet on multi level plans. All Residences shall have an attached garage capable of storing at least two (2) vehicles.

c. Temporary Structures – No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling.

d. Building Location, Set Back Minimums and Finished Floor Elevation - No building may be erected between the building line shown on the Plat and the front Lot line but in any event no building shall be erected nearer than thirty feet to the right of way of the street in front of the Lot, and no structure or part thereof may be built or erected nearer than nine feet to any side Lot line or nearer than twenty five feet to any rear Lot line. The side yards must aggregate eighteen feet at the building set back line. No accessory building may be erected in front of a main building or in the required front yard on the side of a corner lot unless the accessory building is attached to the main building by a common wall. A minimum finished floor elevation, shown on the development plan for Carrigan at the Levee, has been established for each Lot depicted on the Plat and no finished floor elevation with the exception of permitted basements shall be constructed lower than said minimum without the written consent of the Architectural Review Board. Demonstration of adequate storm water drainage in conformity with both on Lot and overall project drainage plans shall be a prerequisite for alternative finished floor elevations. Before construction commences, the finished floor elevation shall be physically checked on the Lot and certified by a licensed professional engineer or a licensed land surveyor.

e. Driveways – All driveways shall be paved with concrete and maintained dust free.

f. Yard Lighting – The builder on each Lot shall supply and install twin coach lights on the garage in operable condition on such Lot at a location, having a height and of a type, style and manufacture approved by the Declarant or Architectural Review Board prior to the installation thereof. Each such light fixture shall also have a bulb of a maximum wattage approved by the Architectural Review Board to insure uniform illumination on each Lot and shall be equipped with a photo electric cell or similar device to insure automatic illumination from dusk to dawn each day. The Lot Owner thereafter shall maintain the lights in proper working order.

g. Storage Tanks – All above or below ground storage tanks, with the exception of gas storage tanks used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and hereby are prohibited.

h. Construction and Landscaping – All construction upon, landscaping of and other improvements to a Lot shall be completed strictly in accordance with the Lot Development Plan approved by the Architectural Review Board. Landscaping shall include a minimum of two 1 and ¾" deciduous trees planted in the front yard. Street trees shall be planted per City of Noblesville requirements of 2" diameter trees planted between the curb and sidewalk

spaced 35' to 40' apart taking care to avoid easements and not to violate site distance requirements. At least eight shrubs in a ground covering shall be provided for each Lot in the front yard and adjacent to the foundation of the Residence. The front yard shall be sod to the front corners of the home with the side and rear seed or sod. The front and side yards adjacent to street as on corner Lots, shall be sod, with the balance seed or sod to the rear lot line or tree line whichever is first.

i. Masonry Requirement – All single story homes shall have a minimum of 100% brick or masonry on the face of the home. All two-story homes shall have a minimum of 8' high brick on the front face of the home excluding door and windows. On corner lots, the side of the home facing a public street shall have a minimum of 8' high brick. On single story homes front gables facing the street need not have masonry.

j. The failure of the Owner of a Lot to apply for approval of, or receive approval from the Architectural Review Board of a Lot Development Plan shall not relieve such Owner from his obligation to commence and complete construction of a Residence upon the Lot within the time periods specified herein. For the purposes of this sub-para. (j), the construction of a Residence will be deemed "completed" when the exterior of the Residence (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 Lot Development Plan.

k. Mailboxes – All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Architectural Review Board. Such mailboxes shall be installed upon posts approved as to type, size and location by the Architectural Review Board. The 6" x 6" Standard Painted Cedar Post as supplied by Otto's Street Scape or Mailbox Solutions is approved provided it is painted to the specifications. The paper holder is optional.

l. Septic Systems – No septic tank, absorption field or any other on-site sewage disposal system, other than a lateral main connected to a sanitary sewage collection system, shall be installed or maintained on any Lot.

m. Water Systems – Each Owner shall connect to such water line maintained by a private or public water utility to provide water for domestic use on the Lot and shall pay all connection, availability or other charges lawfully established with respect to connections thereto. Notwithstanding the foregoing, an Owner may establish, maintain and use irrigation water well on his Lot.

n. Drainage – In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of the other Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement for such flow of water is provided on the Plat. To the extent not maintained by the Drainage Board, "Drainage Easements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage. The elevation of a Lot shall not be changed so as to affect materially the surface elevation or grade of any drainage swale. Perimeter foundation drains and sump pump drains, shall be connected whenever feasible into a subsurface drainage tile or drainage swale. Downspouts and drains shall be designed to disperse runoff for overland flow to street or swale collection systems. Each Owner shall maintain the subsurface drains and tiles located on his Lot and shall be liable for the cost of all repairs thereto or replacements thereof.

o. Vacant Lots – It shall be the duty and obligation of the Owner of a vacant Lot to maintain such Lot and mow the lawn thereon. Declarant shall have the right, but not the obligation, to mow the lawn and maintain vacant Lots owned by others

p. Out buildings and sheds – These shall be subject to the approval of the Architectural Review Board.

9) Maintenance of Lots

a. Vehicle Parking – No camper, motor home, commercial truck, trailer, boat or disabled or unlicensed vehicle may be parked or stored over 48 hours on any Lot in open public view. No carports shall be installed on any Lot. No mechanical work shall be performed in the driveway of any Lot.

b. Signs – Temporary signs for the purpose of school support, garage sales, property sales, etc. are acceptable. The board does reserve the right however to ask a property owner to remove a sign that is offensive to neighbors. No more than two (2) signs of not more than four (4) square feet may be displayed at any time. All houses shall have uniform permanent house numbers visible from the street.

c. Fencing – No fence, wall, hedge or shrub planting higher than eighteen (18) inches shall be permitted between the front property line and the front building set-back line except where such planting is part of Residence landscaping and the prime root thereof is within four (4) feet of the Residence. Corner Lots shall be deemed to have two (2) front yards. Trees shall not be deemed "shrubs" unless planted in such a manner as to constitute a "hedge". No Chain Link Fence shall be erected upon a Lot. No fence shall be erected or maintained on or within any Landscaping Easement or Sign Easement except such as may be installed by Declarant and subsequently replaced by the Corporation in such manner as to preserve the uniformity of such fence. No fencing shall be erected on the street side of any perimeter landscaping and/or mounding. No fence may be erected on a Lot without the prior approval of the Architectural Review Board, which may establish further restrictions with respect to fences, including limitations on (or prohibition of) the installation of fences and design standards for fences. All fences shall be kept in good repair. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines, or in the case of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. All fencing along the perimeter of the Plat shall be of the same style, color and materials.

d. Vegetation – An Owner shall not permit the growth of weeds and volunteer trees and bushes on his Lot, and shall keep his Lot reasonably clear from such unsightly growth at all times. This includes weeds present in front of their property (i.e. sidewalk, where street meets curb, etc.). They are also responsible for maintaining the trees in the boulevard area in front of their property (i.e. tree trimming). If an Owner fails to comply with this restriction, the Architectural Review Board may (but shall not be obligated to) cause the weeds to be cut and the Lot cleared of such growth at the expense of the Owner thereof and the Association shall have a lien against the cleared Lot for the expense thereof.

e. Nuisances – No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Barking dogs shall constitute a nuisance.

f. Garbage and Refuse Disposal – No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garage or other waste shall be kept in sanitary containers out of public view. All equipment for storage or disposal of such materials shall be kept clean and sanitary.

g. Pets, Livestock and Poultry – No animals, livestock or poultry of any kind 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 any commercial purpose. The owners of such

permitted pets shall confine them to their respective Lots such that they will not be a nuisance. Barking dogs shall constitute a nuisance. Owners of dogs shall so control or confined them so as to avoid barking, which will annoy or disturb adjoining Owners. No exterior dog runs are permitted.

h. Outside Burning – 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.

i. Antennas and Receivers – No antenna, satellite dish, or other device for the transmission or reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, except for one satellite dish of no more than 2 feet (2') in diameter on each residential Lot and be subject to the written approval of the Board of Directors, provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from neighboring Lots, streets or common area; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots, or (c) the device is virtually indistinguishable from structures, devices or improvements, such as heat pumps, air conditioning units, barbeque grills, patio furniture, and garden equipment, which are not prohibited by these covenants or by-laws, or (d) it is a satellite dish two (2) feet or less in diameter and not affixed to the roof of a residence.

j. Exterior Lights – No exterior lights shall be erected or maintained between the building line and rear lot line so as to shine or reflect directly upon another Lot.

k. Electric Bug Killers – Electric Bug Killers, "zappers", and other similar devices shall not be installed at a location or locations which will result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously.

l. Tennis Courts – No tennis court shall be installed or maintained on any Lot.

m. Swimming Pools – No swimming pool or equipment or building related thereto shall be constructed without the prior approval of the Architectural Review Board. No above ground pools shall be permitted. If a variance permitting installation of a mechanical pool cover in lieu of fencing has been or may be obtained from the Zoning Authority, then the Architectural Review Board may require, as a condition to the location of a swimming pool on a Lot, that the Owner install a mechanical pool cover. If the Board imposes such requirement, then a mechanical pool cover of a type and manufacture approved by the Architectural Review Board shall be installed by the Owner in compliance with all applicable legal requirements established by the Zoning Authority as a condition to such variance, and all requirements established by the Architectural Review Board.

10) Carrigan at the Levee Homeowners Association, Inc.

a. Membership – Each Owner shall automatically be a Member and shall enjoy the privileges and be bound by the obligations contained in the Articles and By-Laws. If a Person holding a mortgage on a lot realize upon his security and come an Owner, he shall then be subject to all the requirements and limitations imposed by this Declaration on other Owners, including those provisions with respect to the payment of Assessments.

b. Power – The Corporation shall have such powers as are set forth in this Declaration and in the Articles and By-Laws, together with all other powers that belong to it by law.

c. Classes of Membership and Voting Rights – The Association shall have one class of voting membership: Class A

i. Class A – Class A members shall be all Owners. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for each Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

d. Reserve for Replacements – The Board of Directors shall establish and maintain the Reserve for Replacements by the allocation and payment to such reserve fund of an amount determined annually by the Board to be sufficient to meet the cost of periodic maintenance, repairs, renewal and replacement of the Community Area. In determining the amount, the Board shall take into consideration the expected useful life of the Community Area, projected increases in the cost of materials and labor, interest to be earned by such fund and the advice of Declarant or such consultants as the Board may employ. The Reserve for Replacements shall be deposited in a special account with a lending institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

e) Limitations on Action by the Corporation – Unless two-thirds (2/3) of the Class A Members have given their prior written approval, the Corporation, the Board of Directors and the Owners may not: (i) except as authorized by Paragraph 13(a), by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Community Area (but the granting or easements for public utilities or other public purposes consistent with the intended use of the Community Area shall not be deemed a transfer for the purposes of this clause); (ii) fail to maintain fire and extended coverage on insurable Community Area on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement cost); (iii) use hazard insurance proceeds for losses to any Community Area for other than the repair, replacement or reconstruction of the Community Area; (iv) change the method of determining the obligations, assessments, dues or other charges that may be levied against the Owner of a Residence; (v) by act or omission change, waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Residences, or the maintenance and up-keep of the Community Area; or (vi) fail to maintain the Reserve for Replacements in the amount required by this Declaration. Abstention or no response to a request for vote to approve any action noted in this paragraph shall not reduce the minimum number of votes necessary to approve the action (i.e. a minimum of 23 affirmative votes are necessary to approve any action noted in this paragraph, if 34 lots are owned). Acceptable communication methods for requesting approval of one of these actions include electronic mail, communication in person directly with the lot owner at the lot owner's residence if the lot owner occupies a home on the lot, mail via United States Postal Service, telephone call via last known telephone number, or other communication method if the lot owner provides an alternative communication method that is approved by the Board of Directors. If mailed, such request shall be deemed to be delivered when deposited in the United States mail, addressed to the property owner at his address as it appears on the records of the Corporation, with postage thereon prepaid. If a lot owner does not respond to a request within five calendar days of the request deadline, a member of the Board of Directors will attempt to contact the lot owner via at least one other mode of communication other than that which was originally used.

f. Mergers – Upon a merger or consolidation of another corporation with the Corporation, its properties, rights and obligations may, as provided in its articles of incorporation, by operation of law be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of another corporation may be operation of law be added to the properties, rights and obligations of the Corporation as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration within the Property together

with the covenants and restrictions established upon any other properties as one scheme. No other merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration within the Property except as hereinafter provided.

g. Board of Directors –The Owners shall elect a Board of Directors of the Association as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be members of the Association.

11) Assessments

a. Creation of the Lien and Personal Obligation of Assessments – Declarant hereby covenants, and each Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Corporation the following: (1) General Assessments, (2) Special Assessments, such Assessments to be established and collected as hereinafter provided. All Assessments, together with interest thereon and costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due.

b. General Assessment

i. Purpose of Assessment – The General Assessment levied by the Corporation shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of Lots and for the improvement, maintenance, and operation of the Community Area and all sign easements and landscape easements. The General Assessment shall also be levied for the payment of real estate taxes allocable to the Community Areas, which real estate taxes shall be paid by the Corporation from the date hereof, notwithstanding that the Declarant may retain title to all or part of the Community Area. It shall further be the obligation of the Corporation to (i) maintain and pay all costs of maintenance of all public lighting installed and existing in any right-of-way (ii) pay the costs of all electricity and energy usage attributable to public lighting installed and existing in any sidewalks which abut a right-of-way but are not within the right-of-way, and the General Assessment shall also be levied by the Corporation to comply and pay for with the foregoing maintenance requirements and obligations.

ii. Basis for Assessment

(1) Lots Generally – Each Lot owned by a person shall be assessed at a uniform rate without regard to whether a Residence has been constructed upon the Lots.

(2) Change in Basis – The basis for assessment may be changed with the assent of two-thirds (2/3) of the Class A Members (excluding Declarant)

iii) Method of Assessment – By a vote of a 2/3 majority of the Directors, the Board of Directors shall, on the basis specified in subparagraph (ii), fix the General Assessment for each assessment year of the Corporation at an amount sufficient to meet the obligations imposed by this Declaration upon the Corporation. The Board of Directors shall establish the date(s) the General Assessment shall become due, and the manner in which it shall be paid.

iv) Allocation of Assessment – Except as otherwise expressly provided herein, the cost of maintaining, operating, restoring or replacing the Community Area shall be allocated equally among owners of all Lots and shall be uniformly assessed.

c) Special Assessment – The Corporation may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four (4) succeeding fiscal years for the purpose of defraying, in whole or in part, the cost of any construction, repair, or replacement of a capital improvement upon or constituting a part of the Community Area, including fixtures and personal property relating thereto, provided that any such Assessment shall have the assent of a majority of the votes of the Class A members whose Lots are subject to assessment with respect to the capital improvement who are voting in person or by proxy at a meeting of such members duly called for this purpose.

d) Date of Commencement of Assessments – The General Assessment shall commence with respect to assessable Lots on the first day of the month following conveyance of the first Lot to an Owner who is not Declarant provided that, in the case of Lots conveyed to builders, the General Assessment shall commence as of the earlier of (1) the first day of the month following conveyance of the Lot by builder to Builder's customer who will occupy the residence, or (2) one year following the Lot is initially conveyed to Builder. The initial Assessment on any assessable Lot shall be adjusted according to the number of whole months remaining in the assessment year.

e) Effect of Nonpayment of Assessments, Remedies of the Corporation – Any Assessment not paid within thirty (30) days after the due date may upon resolution of the Board of Directors bear interest from the due date at percentage rate no greater than the current statutory maximum annual interest rate, to be set by the Board of Directors for each assessment year. The Corporation shall be entitled to institute in any court of competent jurisdiction any lawful action to collect the delinquent Assessment plus any expenses or costs, including attorneys' fees, incurred by the Corporation in collecting such Assessment. If the Corporation has provided for collection of any Assessment in installments, upon default in the payment of any one or more installments, the Corporation may accelerate payment and declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Community Area or abandonment of his Lot.

f) Subordination of the Lien to Mortgages – The lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

g) Certificates – The Corporation shall, upon demand by an Owner, at any time, furnish a certificate in writing signed by an officer of the Corporation that the Assessments on a Lot have been paid or that certain Assessments remain unpaid, as the case may be.

h) Exempt Property – The following property subject to this Declaration shall be exempt from the Assessments, charge and lien created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use and (2) the Community Area.

i) Annual Budget – By a majority vote of the Directors, the Board of Directors shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met.

12) Architectural Control

a) Purposes – The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such manner as to

preserve values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

b) Change in Conditions – Except as otherwise expressly provided in this Declaration, no improvements, alterations, change of colors, excavations, changes in grade, planting or other work that in any way alters any Lot or the exterior of the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be made or done without the prior approval by the Board of Directors of a Lot Development Plan. Therefore, prior to the commencement by an Owner other than Declarant of (i) construction, erection or alteration of any Residence, building, fence, wall, swimming pool, patio, pier, dock, recreational equipment, or other structure on a Lot or (ii) any plantings on a Lot, a Lot Development Plan with a completed Architectural Improvement Request form with respect thereto shall be submitted to the Architectural Review Board, and no building, fence, wall, Residence, or other structure shall be commenced, erected, maintained, improved, altered, made or done, or any plantings made, by any Person other than Declarant without the prior written approval by the Board of Directors of a Lot Development Plan relating to such construction, erection, alteration or plantings. Such approval shall be in addition to, and not in lieu of, all approvals, consents, permits and/or variances required by law from governmental authorities having jurisdiction over Carrigan at the Levee, and no Owner shall undertake any construction activity within Carrigan at the Levee unless legal requirements have been satisfied. Each Owner shall complete all improvements to a Lot strictly in accordance with the Lot Development Plans or otherwise obtain individual approvals from Declarant or the Architectural Control Board in order to offer, build and sell in Carrigan at the Levee floor plans and elevations that have been so pre-approved. As used in this subparagraph (c), "plantings" does not include flowers, bushes, shrubs or other plants having a height of less than 18 inches.

c) Procedures – In the event the Board of Directors fails to approve, modify or disapprove in writing a Lot Development Plan within thirty (30) days after such plan has been duly filed with the Board of Directors in accordance with procedures established by Declarant, the Board of Directors' approval will be deemed granted.

d) Guidelines and Standards – The Board of Directors and a 2/3 approval of all lot owners shall have the power to establish such architectural and landscaping design guidelines and standards as it may deem appropriate to achieve the purpose set forth in subparagraph (b) to the extent that such design guidelines and standards are not in conflict with the specific provisions of this Declaration.

13) Community Area

a) Ownership – The Community Area shall remain private, and neither Declarant's execution or recording of any instrument portraying the Community Area, nor the doing of any other act by Declarant is, or is intended to be, or shall be construed as, a dedication to the public of such Community Area. Declarant or the Corporation may, however, dedicate or transfer all or part of the Community Area to any public agency, authority or utility for use as roads, utilities, parks or other public purposes.

b) Density of Use or Adequacy – Declarant expressly disclaims any warranties or representations regarding the density of use of the Community Area or any facilities located thereon or the adequacy thereof for the purpose intended.

c) Obligations of the Corporation – The Corporation, subject to the rights of Declarant and the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Community Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the Community Area in good, clean, attractive and sanitary condition, order and repair.

d) Easements of Enjoyment – No Person shall have any right or easement of enjoyment in or to Community Area except to the extent granted by, and subject to the terms and provisions of, this Declaration or resolution adopted by the Board of Directors. Such rights and easements as are thus granted shall be appurtenant to and shall pass with the title to every Lot for whose benefit they are granted. Each Owner shall have the right to use such parts of the Community Area as are reasonably required to afford access to and from such Owner's Lot.

e) Extent of Easements – The easements of enjoyment created hereby shall be subject to the following:

i. The right of the Corporation to establish reasonable rules for the use of the Community Area.

ii. The right of the Corporation to mortgage any or all of the Community Area and the facilities constructed thereon for the purposes of improvements to, or repair of, the Community Area or facilities constructed thereon, pursuant to approval of (i) two-thirds (2/3) of the votes of the Class A members (excluding Declarant) or (ii) two-thirds (2/3) of the Mortgages (based on one vote for each first mortgage owned), voting in person or by proxy at a regular meeting of the Corporation or a meeting duly called for this purpose; and

iii. The right of the Corporation after the development period to dedicate or transfer all or any part of the Community Area to any public agency, authority or utility, but no such dedication or transfer shall be effective unless an instrument signed by (i) the appropriate officers of the Corporation acting pursuant to authority granted by two-thirds (2/3) of the votes of the Class A members (excluding Declarnt) or (ii) two-thirds (2/3) of the Mortgages *based on one vote for each first mortgage owned), agreeing to such dedication or transfer, has been recorded.

f) Additional Rights of Use – The members of the family and the guests of every Person who has a right of enjoyment to the Community Area and facilities may use the Community Area and facilities subject to such general regulations consistent with the provisions of this Declaration as may be established from time to time by the Corporation and included within the Register of Regulations.

g) Damage or Destruction by Owner – In the event the Community Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents, or member of his family, such Owner authorizes the Corporation to repair said damaged area; the Corporation shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Corporation in the discretion of the Corporation. The amount necessary for such repairs shall become a Special Assessment upon the Lot of said Owner.

14) Easements

a) Plat Easements – In addition to such easements as are created elsewhere in this Declaration and as may be created by Declarant pursuant to written instruments recorded I the Office of the Recorder of Hamilton County, Indiana. Lots are subject to drainage easements, sewer easements, utility easements, sign easements, entry way easements, landscaping easements, lake maintenance access easements and non-access easements, either separately or in any combination thereof, as shown on the Plat, which are reserved for the use of Owners, public utilities companies and governmental agencies as follows:

i. Drainage Easements (DE) – are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of Carrigan at the Levee and adjoining ground and/or public drainage systems; and it shall be the individual responsibility of each Owner not to divert, prevent, alter or

obstruct the drainage across his own Lot. Under no circumstance shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the water flow. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage, by Declarant, and by the Corporation, but neither Declarant nor the Corporation shall have any duty to undertake any such construction or reconstruction. In the event the Declarant or the Corporation undertakes any such construction or reconstruction, its obligations to restore the affected real estate after any such construction or reconstruction shall be limited to regarding and re-seeding. Under no circumstances shall the Declarant or Corporation be liable for any damage or destruction to any fences, structures, or other improvements, which are damaged, destroyed or remodeled by Declarant, or their respective agents or employees as a result of such construction or reconstruction. Said easements are for the mutual use and benefit of the Owners.

ii. Sewer Easements (SE) – Created for the use of the local government agency having jurisdiction over our storm and sanitary waste disposal system including the drainage system, which may be designed to serve Warren Pine for the Purpose of installation and maintenance of sewers that are a part of said system.

iii. Utility Easements (UE) – Created for the use of Declarant, the Corporation and all public utility companies, not including transportation companies, for the installation and maintenance of mains, ducts, poles, lines and wires, as well as for all uses specified in the case of sewer easements.

iv. Sign Landscape Easement (SLE) – Created in the area of the Entry Ways for the use of Declarant and the Corporation for the installation, operation and maintenance of the Entry Ways.

v. Landscaping Easements (LE) – Created for the use by Declarant and the Corporation for the planting and maintenance of trees, shrubs and other plantings and fence if constructed for screening in the development process.

vi. Non-Access Easements – Depicted on the Plat and created to preclude access from certain Lots to abutting rights-of-way across the land subject to such easements. No planting shall be done, and no hedges, walls, or other improvements shall be erected or maintained in the area of such easements except by the Declarant during the Development Period and, thereafter, by the Corporation. No fences shall be erected or maintained in the area of such easements.

b) General Easement – There is hereby created a blanket easement over, across, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of underground utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television, cable or communication lines and systems. By virtue of this easement it shall be expressly permissible for Declarant, the Corporation or the providing utility or service company or any of their respective agents, employees or designees to install and maintain facilities and equipment on the Property and to excavate for such purposes if Declarant or such company restores the disturbed area. All such restoration shall be limited to re-seeding and re-grading only and Declarant or such company shall be under no obligation to repair or replace any improvements or landscaping. No sewers, electrical lines, water lines, or other utility service lines or facilities for such utilities may be installed or relocated in the Property except as proposed and approved by Declarant prior to the conveyance of the first Lot in the Property to an Owner or by the Corporation thereafter. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by recordable document, Declarant or the Corporation shall have the right to grant such easement on the Property without conflicting with the terms thereof.

This blanket easement shall in no way affect any other recorded easements on the Property, shall be limited to improvements as originally constructed, and shall not cover any portion of a Lot upon which a Residence (but, for purpose of this Section 14(b), only, including driveway or walks and mailboxes associated with the normal construction of a Residence) which has been constructed.

c) Public Health and Safety Easements – An easement is hereby created for the benefit of, and granted to, all police, fire protection, ambulance, delivery vehicles, and all similar persons to enter upon the Community Area in the performance of their duties.

d) Drainage Board Easement – An easement is hereby created for the benefit of, and granted to, the Drainage Board to enter the Property and all Lots therein to the extent necessary to exercise its rights with respect to all or any part of the Drainage System or Lake Control Structures which are included within any drain.

e) Crossing Underground Easements – Easements utilized for underground service may be crossed by driveways, walkways and Lake Access Easements provided prior arrangements are made with the utility company furnishing service. Such easements as are actually utilized for underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossings, driveways, walkways or Lake Access Easements, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, agents, employees, or servants to buildings, patios or other pavings, shrubbery, trees, flowers or other improvements of the Owner located on the land covered by said easements.

f) Water Retention – The Owner of each Lot, by acceptance of a deed thereto, consents to the temporary storage (detention) of storm water within the drainage easements (DE) on such Owner's Lot.

15) Declarant's Use During Construction – Notwithstanding any provisions to the contrary contained herein or in any other instrument or agreement, Declarant, any builder or their respective sales agents or contractors may maintain during the period of construction and sale of Lots and Residences in the Property, upon such portion thereof as is owned or leased by Declarant, such facilities as in the sole opinion of Declarant or builder, may be reasonably required, convenient or incidental to the construction and sale of Lots and Residences, including, but without limiting the generality thereof, a storage area, construction yards, signs, trash bins, construction trailer, porta-potties, and model Residences.

16) Enforcement – The Corporation, any Owner or Declarant shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, but neither Declarant nor the Corporation shall be liable for damage of any kind to any Person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any Person to enforce any of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that Person of the right to do so thereafter, or an estoppel of that Person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In any action by Declarant, the Corporation or an Owner to enforce this Declaration, such party shall be entitled to recover all costs of enforcement, including attorneys' fees, if it substantially prevails in such action.

Below is an outline of the Grievance Resolution process (**HOUSE ENROLLED ACT 1286 (HEA 1286), IC 32-25.5-5 (Homeowners Associations)**:
1. Board receives a complaint from a fellow HOA member.
2. The board verifies it is a valid complaint that goes against Carrigan at the Levee's Covenants.

3. A letter is mailed to the member with the violation which states the nature of the claim, the basis, or reason for the claim, including the provision of the governing documents, the corrective action to be taken within 14 days, and notification of the right to a face-to-face meeting with the Board of Directors to discuss the claim (meeting is requested in writing within 10 business days).
4. If the violation is removed, then that takes care of the claim.
5. If a face-to-face meeting is requested, the parties will meet at a mutually agreed time and place to try and resolve the claim by good faith negotiation.
6. If the violation is not removed, or a face-to-face meeting is not requested in writing within 10 business days of the letter, then an impasse (deadlock) exists. A second letter will be sent by the board.
7. The member with the claim will have 10 business days of reaching impasse to request in writing to the Board of Directors that the claim or dispute be submitted to mediation or binding arbitration. The party requesting the mediation or arbitration will be fully responsible for the costs of the mediator or arbitrator.
8. If the violation is still not removed after 2nd letter and no mediation or arbitration is requested, Carrigan at the Levee may file a lawsuit.

Attorney Fees: Except for a party's request to mediate or arbitrate a claim or dispute, each party to a claim or dispute shall bear its own costs for the application of this law, including attorney fees. Once turned over to the attorney, the attorney can then start seeking reimbursement for his work. If legal action is taken and the HOA wins, our attorney is entitled to recover from the member in violation 1) Court fees; 2) Attorney fees; and 3) All other reasonable costs incurred in enforcing the settlement agreement. There is no retainer fee.

Please note that if a member is notified of a violation and you comply, this process wouldn't go past step 4 above.

17) Amendments

a) Effective Date – Any amendment shall become effective upon its recordation in the office of the Recorder of Hamilton County, Indiana.
b) Approval and Frequency – Any amendment to these Covenants and Restrictions may be requested by any member but must be approved by two-thirds (2/3) of all Class A members. Amendments may be made no more often than twice in any calendar year.

i. Communication of Possible Amendments and Request for Approval of Amendments - Acceptable communication methods for requesting approval of an amendment include electronic mail, communication in person directly with the lot owner at the lot owner's residence if the lot owner occupies a home on the lot, mail via United States Postal Service, telephone call via last known telephone number, or other communication method if the lot owner provides an alternative communication method that is approved by the Board of Directors. If mailed, such request shall be deemed to be delivered when deposited in the United States mail, addressed to the property owner at his address as it appears on the records of the Corporation, with postage thereon prepaid. If a lot owner does not respond to a request within ten (10) calendar days of the request, the requesting member or a member of the Board of Directors will attempt to contact the lot owner via at least one other mode of communication other than that which was originally used. A member will be considered to have voted "No Response" if a response is not received by the request deadline and has been contacted through at least two approved methods of communication.
ii. Vote Collection – Votes in response to a request to amend these Covenants and Restrictions must be in writing and must be received by at least two members of the Board of Directors.

iii. Abstention from Voting to Amend These Covenants and Restrictions - A member may choose to abstain from voting to amend. If a member chooses to abstain, they must inform at least two members of the Board of Directors of that abstention in writing and that member's lot(s) will be excluded from the total number of lots, thereby reducing the number of votes necessary for 2/3 approval. However, the total number of affirmative votes necessary for approval of an amendment may not be less than 12.

iv. No Response to a Request to Vote to Amend - If no response is received from a member when a request to amend these Covenants and Restrictions is submitted, that non-response shall in no way reduce the minimum number of votes necessary to approve the amendment.

18) Interpretation – The underlined titles preceding the various paragraphs and subparagraphs of this Declaration are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any work shall be taken to mean or apply to the plural, and the masculine from shall be taken to mean or apply to the feminine or to the neuter.

19) TERMINATION – These covenants, conditions and restrictions and all other provisions of this Declaration (as the same may be amended from time to time as herein provided) shall run with the land and shall be binding on all persons and entities from time to time having any right, title or interest in the Real Estate or any part thereof; and on all persons claiming under them, until terminated or modified by vote of a 2/3 majority of all Owners at any time; provided, however, that no termination of this Declaration shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

20) Severability – Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

21) Non-Liability of Declarant – Declarant shall not have any liability to an Owner or to any other Person with respect to drainage on, over or under a Lot. Such drainage shall be the responsibility of the Owner of the Lot upon which a Residence is constructed, and an Owner, by an acceptance of a deed to a Lot, shall be deemed to agree to indemnify and hold Declarant free and harmless from and against any and all liability arising from, related to, or in connection with drainage on, over and under the Lot described in such deed. Declarant shall have no duties, obligations or liabilities hereunder except such as are expressly assumed by Declarant, and no duty of, or warranty by, Declarant shall be implied by or inferred from any term or provision of this Declaration.

22) Applicable Law – The laws of the State of Indiana shall govern this Declaration.

- This document was originally prepared by Dean P. McFarland on October 15, 2002.
- This document was amended on September 26, 2010 by the Board of Directors: Tammy Hines, Jay Jennings, and Stacy Keller.
-This document was again amended on January 31, 2011 by the Board of Directors: Andrew Wishart, Eric Hendrich, Jay Jennings, Monte Nicholls, Ryan Farrell, and Tammy Hines.
- This document was again amended on January 30, 2022 by the Board of Directors: Tammy Hines, Jay Jennings, Lynda Jennings, Scott Springer, and Bill Thompson.