

RESTRICTIONS, RESERVATIONS, CONDITIONS, AND PROTECTIVE COVENANTS
AFFECTING TITLE TO SADDLE CREEK ESTATES SECTION 2

CWK Investments-McCutchanville, LLC, an Indiana Limited Liability Company, (hereinafter, the “Developer”), is the owner of all of that real estate which has been platted by Developer as Saddle Creek Estates Section 2, the plat of which subdivision was recorded on October 12, 2021 in Plat Book V, Page 102, in the office of the Recorder of Vanderburgh County, Indiana (hereinafter referred to as the “Subdivision”). Developer does hereby make, impose and establish the following restrictions, reservations, conditions, and protective covenants (hereinafter, the “Restrictions”) for the use and occupancy of the lots, common areas, and other grounds comprising the Subdivision in the manner and to the extent herein set forth.

1. **Land Use.** All lots in this Subdivision shall be known, described, and used only for single-family residential purposes. The “lots” or “lot” shall mean “parcels” or “parcel” as used herein and on the plat of the Subdivision. No lot contained within this Subdivision shall be used for any commercial, business, or industrial purpose. In particular, no guesthouse or lodge, no church or school, or daycare shall be permitted on any lot within this subdivision. However, notwithstanding the foregoing, owners of residences on lots in the Subdivision shall have the right to maintain a home office within their residence for whatever business or activity they may care to conduct within said office which is clearly incidental and secondary to the use of the residence for dwelling purposes and does not change the character thereof provided that there are no employees and that not more than two (2) persons other than the owner or the occupant use the premises in any one (1) hour; further provided, however, no business activity may be conducted within such home office which would cause delivery of any merchandise for resale in the Subdivision or cause any type of customer traffic or service traffic to the premises located in this Subdivision. Further, in no event shall a barber shop, hair styling salon, beauty parlor, tea room, fortune telling parlor, licensed child care center or other licensed or regulated babysitting service, animal hospital, or any form of animal care or treatment, such as dog trimming, be construed as a permitted home occupation in this Subdivision. No sign shall be displayed on the exterior of any house or other building or in any yard to indicate the presence of any business activity on any lot in this Subdivision. Notwithstanding the foregoing, any or all lots may be used for model homes and/or temporary construction buildings or trailers for the Developer.

2. **Standards for all Structures and Lots.** No structure of any kind shall be placed, erected, or constructed upon any lot in this Subdivision, nor shall any structure be altered or changed without the prior written approval of the Committee (as defined in Section 3 below). Violation of this provision as well as the minimum standards herein, in addition to legal remedies, may subject the lot owner to monetary penalties as hereinafter provided. Notwithstanding the power and authority of the Committee, the following shall serve as minimum standards for all lots in this Subdivision:

- a. Except as provided herein, no structure shall be erected, altered, placed, or permitted to remain on any lot in the Subdivision other than one (1) single family dwelling not to exceed two (2) stories in height, which structure shall:
 - i. Contain a total living area of not less than 2,400 square feet for a one (1) story dwelling (exclusive of open porches, basements, and garages).
 - ii. Contain a total living area of not less than 3,000 square feet for a one and one-half (1-1/2) or a two (2) story dwelling (exclusive of open porches, basements, and garages) with the first floor containing at least 2,200 square feet.
 - iii. Contain a roof pitch of not less than 5:12 pitch, to be used on the front elevations of the home and all roofs are to have dimensional shingles.
- b. No Dwelling shall contain less than a 2.5 (3 preferred) car garage.
- c. Swimming pools must be of a permanent in-ground type. No above-ground pools will be allowed. Fences for swimming pools shall be at such height as required by applicable governmental ordinances.
- d. No trailer, mobile home, tent, shed, barn, modular house, log house or any other structure which may be of a temporary character shall be permitted upon any lot in this Subdivision. Pole barn construction or prefabricated structures are strictly prohibited.
- e. Detached buildings, such as a pool house, may be permitted providing the design and location are approved by the Committee and is in architectural conformity with the residential structure that will be built on the lot.
- f. No previously existing structures shall be permitted to be moved onto any lot in the Subdivision. All structures must be newly constructed.
- g. Cement block foundations shall not be exposed on any structure. The exposed foundations must be of brick veneer, dryvit, or stone.
- h. The exterior must be composed of at least eighty percent (80%) brick, cement board, stone, or stucco-type materials. Composite polymer or wood cannot compose more than twenty percent (20%) of the exterior finish unless it has been approved by the Committee.
- i. All driveways shall be subject to the approval of the Committee and constructed from the street right-of-way to the garage. Driveways constructed of concrete, aggregate (provided, however in the case of aggregate use the property owner and home builder shall be responsible for

meeting all environmental guidelines, whether local, state or federal), brick conjoined in concrete, bituminous asphalt shall be permitted.

- j. There shall be no wooden or chain link fencing on any lot, nor shall any privacy fencing be permitted. All fencing shall be ornamental aluminum, wrought iron, or vinyl with open visibility and shall be subject to the approval of the Committee, which shall include review and approval of its location. Except as hereinafter provided in (n), below fences shall not be located across any lake maintenance easements, storm drainage easements or utility easements. No fences shall be located closer to streets than the front and side setback lines. No chain link or wire fences are allowed unless enclosed by an approved fence. All approved fences are to be installed with the finished side of the fence to face adjoining Lots or adjoining streets.
- k. All storm water drainage tiles must be run from the home to street or drainage easements at back of Lots, and not to side yards. All storm water drainage from each individual Lot must be sent to the street and/or rear yard drainage easements. Swales between Lots must be maintained by homeowners to keep water from entering homes.
- l. All fireplace flues, whether they be masonry or metal are to be wrapped with an approved exterior veneer, such as brick, wood, aluminum, stucco or vinyl siding. The flue liners are to have no more than 16" exposed above top of chimney.
- m. All homes are to have a lamp post, to be located in the front yard 5 feet inside the front property line. Lamp posts are to be 5' to 6' in height and to be operated by a photo cell. Lamp posts are required to be maintained at all times and to be lit from dusk to dawn. No Lot is to have outdoor light with more than 200 watts. There shall be no high intensity lights directed toward the street or adjacent lots.

To ensure consistency, the Developer and/or Committee shall determine and/or approve the type and style of mailbox and post to be used within the Subdivision and at the location approved by or designated by the Committee. All mailboxes shall be constructed of brick and shall be built during the construction of the dwelling on the Lot. All mailboxes shall not exceed a height of 5' and are to be placed and maintained according to the specifications shown on the information and exhibits provided to the owner and approved by the Review Committee and are to be located so as not to obstruct the view or create a safety hazard.

- n. A Lot owner must obtain prior written approval of the Vanderburgh County Drainage Board before constructing any pipe, wall, building, pool, patio, planting, stored material, excavation, fill, or other construction, improvement, addition to, or alteration of any land within a drainage easement in the Subdivision

- o. All lawns in the Subdivision shall be sodded in front, seeded, and strawed in the back and sides. Each front yard shall be landscaped with trees, bushes and other decorative plantings. All sodding, seeding, strawing, and landscaping must be completed within one hundred twenty (120) days from the earlier of occupancy or completion of the dwelling and thereafter maintained in a healthy and good condition. All lawn ornaments and/or decorations should not exceed 18” in height.
- p. No oil, gas, or other fuel tank shall be allowed in this Subdivision or placed in the basement or garage of any dwelling unless approved in writing by the Committee and constructed and maintained in compliance with all governmental rules and regulations. Gas barbecue grillers with LP tanks are permitted.
- q. All gas and electrical power, cable television, telephone service and other utilities shall be carried underground from the public utility easement located on the lot to the dwelling. No overhead utility service, visible antennas, wire to poles or poles to dwellings will be permitted. All utility meters, compressors, air conditioners and other like equipment shall be screened or enclosed so as not to be visible from the street.
- r. All house numbers must be approved by the Committee and conform to the standards and guidelines established by the Committee.
- s. Outside clothes lines and clothes hanging devices shall not be permitted.
- t. Sales of personal property on the premises by garage sales, patio sales, estate sales, and similar sales to the general public are prohibited unless approved by the Developer or Committee.
- u. No electric bug killer, zapper, or other similar device shall be installed at any location on a lot which would result in the operation thereof becoming a nuisance or annoyance to the other owners and shall be operated only when outside activities require the use thereof and not continuously.
- v. Any outbuildings on any lot shall be constructed using the same building material as the primary residence on the same lot, including no more than twenty percent (20%) of the exterior finish consisting of composite polymer or wood unless it has been approved in writing by the Committee.
- w. All personal property of a nature to be located outdoors (i.e. playhouses, trampolines, toys, sports equipment, etc.) shall be located in such a manner to shield the view from adjoining neighbors.

3. **Building Committee.** A Building Committee (hereinabove and hereinafter, the “Committee”) is hereby established, which shall consist of three (3) members, which shall be C. Wayne

Kinney, Keith Kinney and Ryan Burczyk, and/or such other members as the Developer may appoint. Until such time that all lots that are platted in the total development of the Subdivision, and all of said lots have been sold and conveyed by the Developer, the Committee shall retain its power herein granted and fulfill its responsibilities as herein contemplated.

No dwelling, outbuilding, television, or radio antenna, or other structure shall be commenced, erected, or placed on any lot, nor shall any addition to or change, or alteration therein be made, until the building plans, specifications and plat together with other information showing the nature, kind, shape, height, materials, floor plans, location, and approximate cost of such structure, and the grading plan of the lot to be built upon, shall have been submitted to and approved in writing by the Committee; provided, however, no satellite dish shall be directly visible from the front of the dwelling. The Committee shall have the right to refuse to approve any such plans or specifications or grading plan which are not suitable or desirable in its own opinion for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plan shall have the right to take into consideration the materials to be used for the external finish of the of the proposed structures, the ultimate aesthetic appearance of the Subdivision, the harmony of the external design of the proposed structure with existing structures and other planned structures in the Subdivision, the location of the structure upon each lot and the proposed topographical appearance of the land and structure, and the fixed ground elevation of the proposed structure.

The Committee shall have the right to make on-site inspections of any and all structures during the construction period. If the construction is not consistent with the plan as approved by the Committee, then the Committee may at its option halt construction of the structure until there is conformity with the approved plan.

No lumber, brick, veneer, stone, blocks, concrete, or other building materials nor any other building materials nor any other thing used for building purposes shall be stored outside on any lot except for the purpose of the construction of an approved structure on such lot and then only for such a length of time as is reasonably necessary for the construction of the said structure then in progress.

No builder or general contractor shall be allowed to build or otherwise construct upon a lot in this Subdivision, unless such other builder or general contractor is approved in writing by the Committee. The Committee shall have the right, in its absolute discretion, to request additional information on the proposed builder or general contractor, credit references, references for prior residences or other construction projects, and other reasonably pertinent information concerning said proposed builder or general contractor, and to refuse to approve any proposed builder or general contractor that does not meet the standards of the Committee in its sole discretion.

4. **Construction of Dwelling.** Upon commencement of the construction of any dwelling, the owner shall diligently pursue completion and said dwelling shall be completed within one (1) year from and after the date of commencement of such construction. Provided, however, notwithstanding the foregoing, the Committee may extend the time for commencement of the construction and/or completion of construction if, in its sole opinion, construction cannot be commenced and/or completed within said applicable restrictive time period due to causes beyond the reasonable control of the owner.

Each lot owner shall be responsible to see that its builder or contractor confines all building materials, equipment, and excavated soil within the boundaries of the lot, and exercises good erosion control practices during construction of the dwelling or at any other time of ownership. Said builder,

contractor, and/or the owner of said lot shall finish grade, seed, and mulch the lot as soon as possible. Straw bale dams for runoff control during construction or ownership shall be used if necessary and all streets shall be kept free of transported soil. The lot owner and/or his builder, contractor or agent shall be liable for any damages resulting from the failure to comply with the terms and provisions of this paragraph. Upon completion of construction a good turf shall be established and thereafter the dwelling, permitted structures, and yard shall be maintained in good condition and state of repair.

All lots in this Subdivision are subject to the Indiana Department of Environmental Management's General Permit Rule No. 327 I.A.C. 15-5. This regulation, in general, provides that no sediment (dirt) may be transported off any lot to adjacent property, roadway, or waterway by means of erosion, carried by vehicle tires, or any other such means. Before any construction of any kind may begin, the builder or lot owner is responsible for installing a temporary gravel construction entrance/exit pad of 2-3 inches in thickness and a minimum of twelve (12) feet wide and fifty (50) feet in length or the distance to the foundation.

In compliance with this provision, a plan has been submitted to the Vanderburgh Soil and Water Conservation District, which plan and its terms shall be binding upon all owners of Lots within the Subdivision. Said plan requires the construction of appropriate driveways for ingress and egress during construction and the implementation of measures to minimize sediment laden water from being discharged into streets and drainage ways.

The provisions of rule 327 I.A.C. 15-5 and the plan for erosion control submitted to the Vanderburgh Soil and Water Conservation District shall become a part of these covenants and restrictions and shall be binding on all Lot owners as it pertains to their individual Lots, and said Lot owners shall hold the Developer harmless in connection with any and all violations thereof. Furthermore, all Lot owners shall be responsible for compliance with this provision and the referenced administrative rules and erosion control plans within the boundaries of each Lot owner's real estate. The Developer shall not be responsible and shall have no liability for silt or debris flowing into the lakes, whether common or private, and the owners, together with their agents and builders, shall hold harmless, indemnify and defend the Developer from and against any and all costs and expenses in connection with any violation thereof, including, but not limited to, attorney's fees and court costs.

5. **Building Sites.** Except lots owned by the Developer, no platted lot in this Subdivision shall be subdivided and only one single-family dwelling may be erected or placed on a platted lot in the Subdivision; provided, however, all or a portion of an abutting platted lot may be used in conjunction with a full platted lot as one building site upon which one-single family dwelling may be located.

6. **Changing of Lot Dimensions and Easements.** Developer shall have the right to change and alter the dimensions and boundaries of any lot or easements owned by Developer situated in the Subdivision until such time as said lot has been conveyed by Developer.

7. **Passageway.** No owner shall permit or authorize anyone to use a portion of any lot for passageway or means of ingress and egress to and from any contiguous lot nor shall any owner grant or convey without the approval of Developer any utility easements affecting the owner's lot.

8. **Building Lines.** All buildings shall comply with the standard setbacks as provided in the Vanderburgh County Zoning Code, without variance, unless such variance is approved in writing by the Committee. No residence or other building structure in the Subdivision shall be constructed nearer to the

front or side property line of a Lot than the building setback lines as shown on the recorded plat of the Subdivision and shall be constructed in a manner that also conforms to the Vanderburgh County side and rear Lot setback lines. Any residence constructed in the Subdivision shall be constructed so that the front elevation of the residence is facing the side of the Lot identified on the Subdivision plat as having a 25' setback line.

9. **Easements.** Certain strips of real estate shown on the recorded plat of the Subdivision are reserved for the use of public utilities and for the installation of water, sewer and gas mains, above or underground electric facilities and surface water drainage, subject at all times to the proper authorities. No structure or other improvements, planting or other materials shall be erected or permitted to remain within said easements which may damage or interfere with the installation and maintenance of utilities. The easement area of each lot shall be maintained continuously by the owner of said lot so as not to change the intended direction of flow of surface water within said easement as said direction of flow is set forth in a site plan for said subdivision filed with the Area Plan Commission of Evansville and Vanderburgh County and the drainage plan approved by the Vanderburgh County Commissioners and the Vanderburgh County Surveyor.

10. **Mowing and Appearance.** All lots shall be kept clean and free of weeds and other objectionable matters at all times. Each owner shall cut the grass located in the boundaries of its property. If a lot or pond is not kept and maintained in an orderly manner free of weeds and debris, the Association shall have the right to cut the grass and maintain said lot in a proper manner free of weeds, and the owner of said lot shall be required to reimburse the Association for said cutting, treatment, and maintenance within ten (10) days from the date said lot owner is presented with a statement therefor, which statement shall be payable with interest at the rate of eighteen percent (18%) per annum and with attorneys' fees.

11. **Tree Preservation.** Existing mature trees having a trunk in excess of twelve (12) inches in diameter at a point of three (3) feet from undisturbed ground shall be preserved to the extent that removal thereof is not mandatory in connection with the construction of an approved dwelling unless the removal thereof is otherwise specifically approved by the Committee or any such tree is decayed, dead, or dangerous.

12. **Signs.** No signs shall be permitted in the Subdivision except for the following:

- a. Signs by Developer to advertise the development of the Subdivision.
- b. Signs identifying the Subdivision located on the entranceway.
- c. One (1) sign of not more than five (5) square feet advertising the sale or rental of a dwelling or lot.
- d. One (1) sign on any one (1) lot which may include all or part of the following:
 - i. Designation of the lot number.
 - ii. Address of the lot.
 - iii. Name of the owner or purchaser or occupant of the lot, which shall not exceed five (5) square feet.

- e. Builders/Contractors may place one (1) sign not more than five (5) square feet identifying the name of Builder/Contractor. Said sign must be removed immediately upon completion of presold dwelling or upon sale of dwelling which means execution of written purchase agreement.

The Committee may approve exceptions to the provisions set forth in this Section for special events such as the Parade of Homes.

13. **Temporary Structures.** Except for a detached accessory building approved pursuant to Section 2 of these Restrictions, no structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Lot in this Subdivision or any part thereof at any time as a residence or otherwise, either temporary or permanently. No structure shall be moved onto any Lot; all structures shall be newly erected thereon. All yard barns, sheds or similar out buildings MUST be approved in advance by the Developer, as long as it owns any lots in the Subdivision, and the Association. If any yard barn, shed or similar structure is placed on any Lot without first obtaining the required approvals, the Lot owner will be required to remove the structure at the sole cost of the owner.

14. **Drainage of Water; Vanderburgh County Drainage Board Requirements.** Water from down spouts, foundation tile or other surface water drainage systems shall not be drained or guided into the sanitary sewer. The down spout drains can be drained into the street or drainage swales. Water must be discharged at a level above the street to prevent erosion under the street. The existing natural and manmade drainage courses shall not be altered without the approval of the Developer or his appointee. All Lot owners and/or their homebuilder or general contractor are responsible for achieving proper grading and slopes of their respective Lots, so as to achieve a positive drainage flow away from foundations and homes and into the drainage easements or streets. A drainage swale will be required between Lots, the construction of which shall be the responsibility of Lot owner and his or her homebuilder or general contractor. Such swale shall be constructed correctly before the landscaping of the yard is completed, and maintained correctly thereafter by Lot owner of record.

In accordance with the requirements of the Vanderburgh County Drainage Board, any Lot owners and/or their homebuilder or general contractor are hereby informed that:

- (a) the standard grading plan sheets prepared by Sitecon may be obtained from the Vanderburgh County Recorder's Office;
- (b) such Lot owner, home builder and/or general contractor are hereby directed to achieve positive storm water drainage away from all building foundations in accordance with the standard grading plan referred to in (a) above; the homebuilder or general contractor shall be determined by whose name appears on the building permit;
- (c) it shall be the responsibility of the Lot owner of record to maintain a positive drainage away from all building foundations in accordance with the standard grading plan referred to in (a) above; the homebuilder or general contractor shall be determined by whose name appears on the building permits;
- (d) the adverse drainage conditions caused by any alterations of the Lot grades and/or drainage system after the initial Lot grading and/or drainage system is accomplished in conformance with

the standard grading plan and the approved final drainage plan are totally the responsibility of the Lot owner of record to correct at his or her cost; and

(e) the maintenance and repair of the storm water drainage system that is designed and constructed outside the rights-of-way of the County accepted streets is solely the responsibility of the Lot owner of the record for the individual property on which the system or part thereof exists, except as provided in the County Drainage Ordinance, and these covenants and restrictions.

While the foregoing drainage requirements are the initial responsibility of the Lot owners and their homebuilders or general contractors, see Section 30 of these Restrictions, which provisions make it the ultimate responsibility of the Association to maintain and repair such drainage facilities and common areas. The Association shall also be responsible for easements within or attached to this Subdivision and outside of the County-accepted roads and rights-of- way.

15. **Utility Tap-In Fees.** All utility tap-in and installation fees whether for water, sewage, telephone, electric, gas, cable television or any other shall be the responsibility of and shall be paid for by the individual lot owners.

16. **Antennas and Receivers.** Satellite receiver, downlink, or antenna shall be permitted for internet and/or television reception provided it is no larger than twenty-four (24) inches in diameter, is not visible or an impediment to a neighbor. Its placement on the lot and total number permitted shall be subject to approval by the Committee. No other satellites or antennas shall be permitted on a lot.

17. **Firearms.** There shall be no discharge of any firearms and there shall be no hunting with firearms nor bows and arrows upon or within the Subdivision.

18. **Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept upon any lot, except dogs, cats, or other household pets may be kept provided that they shall not exceed an aggregate total of four (4) in number and are not kept, bred, or maintained for commercial purposes, but in no event shall animals be maintained primarily for exhibition purposes or as a zoo. Any permitted animals shall not be permitted to be closer than fifteen (15) feet from the front line of the respective lot. Said permitted animals shall not be allowed to run loose and must be on leashes or otherwise confined on owner's lot. Any lot owner who fails to confine the permitted pets to their respective lots as herein provided may be required by the Association to have installed around the owner's lot an approved fence or an invisible fence for dogs, all at the owner's expense. In the event that the lot owner installs such an invisible fence, the transmitter must be attached to the dog at all times that the dog is outside the residence.

19. **Parking and use of Vehicles.** Except as hereinafter provided, only non- commercial vehicles, automobiles and private/personal vans shall be parked or located on any Lot. All commercial, service and delivery vehicles owned, used or leased by the owners (or owner's lessee of Lots or residences in this Subdivision) that are parked in this Subdivision must be parked in an enclosed garage. No camper, motor home, recreational vehicle, truck, motorcycle, trailer, two (2) or four (4) wheeled vehicles or other similar vehicles or boats or other items used for water activity shall be parked or located on any Lot unless parked or located within an enclosed garage, and they also shall not be parked or left overnight on a street in the Subdivision.

20. **Waste Disposal.** All lots shall be free of garbage, sewage, ashes, rubbish, bottles, cans, waste matter, and other refuse. Trash, garbage, or other waste or debris accumulated by the owner of any lot shall be kept in sanitary containers out of sight and shall be disposed of in a timely manner. Any and all equipment, wood piles, garbage cans, refuse, or storage piles placed on any lot (whether temporary or permanent) shall be walled in to conceal their view from neighboring lots, streets, and open areas. Incinerators for garbage, trash, or other refuse shall not be used or permitted to be erected or placed on any lot. No trash, leaves, or other materials shall be burned upon any lot.

21. **Solid Waste Collection.** The Association and/or Committee shall procure the services of a fully licensed and permitted solid waste collection contractor to act as the exclusive solid waste contractor for the Subdivision. In entering such contract, the Association and/or Committee will solicit competitive bids but shall not necessarily be required to select the lowest bid. No contract shall be entered into for a period in excess of one (1) year. No individual resident may procure the services of any other contractor.

22. **Occupancy or Residential Use of Partially Completed Dwellings Prohibited.** No dwelling shall be occupied or used for residential purposes or for human habitation until it has been substantially completed. The determination of whether a dwelling has been substantially completed shall be made by the Committee in its sole discretion and such decision shall be binding upon all parties affected thereby.

23. **Sidewalks.** Sidewalks are not required in the Subdivision by virtue of a Waiver obtained from the Vanderburgh County Commissioners.

24. **Nuisance.** No owner shall cause or permit any nuisance to be maintained on any lot. No activity which violates any applicable statute, ordinance, regulation, or law shall be conducted on any lot. No lot shall be used for the storage of any property or thing that will cause such lot to appear in an uncleanly or untidy condition or that will be obnoxious to the eye. No noxious fumes or odors shall be permitted to emanate from any lot. No noxious or offensive activities shall be carried out upon any lot in this Subdivision nor shall anything be done thereon which may be or may become an annoyance or nuisance to the residents of this Subdivision. Barking dogs will be considered a nuisance should they disturb the quiet enjoyment of the residents of this Subdivision.

25. **Acceptance of Deed.** Acceptance of a deed of conveyance to any lot in this Subdivision by any person shall be construed to be acceptance and an affirmation by such person of each and all of the Restrictions herein set forth, whether or not the same be set out or specified in such conveyance, including specifically the grant of limited power of attorney set forth herein.

26. **Amendment.** The Developer reserves and shall have the sole right to amend this instrument and the Restrictions herein set forth for the purpose of curing any ambiguity in or any inconsistency between the provisions hereof; to include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to the Subdivision; to amend the restrictions set forth herein so long as the same do not substantially alter the standards of the Restrictions contained herein; and/or to release any residential lot or lots from any part of the Restrictions violated if Developer, in its sole and subjective judgment, determines such violation to be minimal in nature and not detrimental to the Subdivision and/or its residents. Notwithstanding anything contained herein, the

Developer reserves and retains the right to amend and modify the Restrictions of this instrument for a period of two (2) years after the initial recording of this instrument in the Developer's sole discretion.

27. **Enforcement of Restrictions.** Each and all of the Restrictions contained herein shall inure to the benefit of all owners of lots in Subdivision jointly and severally, and may be enforced by any one (1) or more of the following:

- (a) Any Lot owner in the Subdivision;
- (b) The Developer;
- (c) The Subdivision Review committee; and
- (d) The Association

Enforcement shall be available in any court of competent jurisdiction by injunction or other appropriate remedy. The party adjudged to have violated any of the restrictions shall be liable to the aggrieved party for reasonable attorneys' fees, which shall be fixed by the court hearing said matter. The owner of any lot in the Subdivision and/or the Committee will have the right to enforce the Restrictions without proof of pecuniary damage to his property in this Subdivision, or otherwise.

28. **Invalidation of a Restriction.** Invalidation of any of the foregoing Restrictions by judgment or order of a court shall in no way affect any of the other Restrictions, all of which shall remain in full force and effect.

29. **Waiver.** Following any breach of any of these Restrictions herein, no delay or omission in exercising any right, power or remedy herein provided shall be construed as a waiver thereof.

30. **Association.** Developer has caused to be incorporated under the provisions of Indiana Code 23-17-1-1 **et seq.**, a non-profit corporation known as Saddle Creek Estates Homeowners' Association, Inc. (Association). The Association has entered into a lease with Developer covering the recreation facilities and common areas which have been, or may be, constructed in the Subdivision by Developer and presently owned by Developer (including drainage facilities), which lease shall impose the obligation upon the Association to maintain said recreational facilities and common areas subject to such other terms and conditions as set forth in said lease. After all sections have been duly platted, including all of the areas above designated, and a minimum of eighty percent (80%) of the Lots that are platted in the total development of the Subdivision have been sold and conveyed by Developer, or at such earlier time as Developer may designate, Developer will convey the common areas and facilities to the Association, free and clear of any liens or encumbrances. The Association hereby agrees to accept such conveyance and to assume, at such time, the supervision, repair, maintenance and replacement of any common areas or recreational facilities contained within the Subdivision.

All owners of Lots, which include the Developer and any purchaser of any Lot, consent to be automatic members of the Association, which membership shall continue so long as their Lot ownership continues, subject to the conditions and provisions of the Indiana Non-Profit Corporation Act, to-wit: Indiana Code 23-17-1-1, et seq. No Lot owner can elect not to be a member of the Association unless his or her or their Lot ownership is discontinued. Further, no Lot owner or member can exempt himself, herself, or themselves from their pro-rata share of the expenses which are reasonably necessary to

maintain the common areas, recreational facilities and drainage facilities which may now or hereafter be constructed within the Subdivision for the use and benefit of the homeowners thereof.

The Developer and each member of the Association shall each have one vote for each Lot in the Subdivision owned by the Developer and each member (e.g. if the Developer or a member owned one (1) Lot in the Subdivision, the Developer or that member would have 1 vote.)

All members and owners shall be subject to the terms and provisions of the Articles of Incorporation and By-laws of the Association and the rules, regulations, restrictions, obligations and assessments provided for therein, including the payment of assessments and charges. Initially, the assessments and charges shall be One Hundred Dollars (\$100.00) per year for each Lot which shall not commence until January 1, 2021. Whenever Developer sells a Lot, the purchaser will make one (1) payment pro-rating the remaining monthly charges to the end of the calendar year.

Until such time as the common areas and the recreational facilities have been conveyed to the Association, the Association will not charge for any special assessments. In addition, in the event the monthly assessments are increased, such shall not be increased more frequently than annually and any such increase shall not be more than Ten Percent (10%) above the amount that was being charged to the owners at the time of the increase. To the extent that charges and assessments collected by the Association on an annual basis are insufficient in amount to maintain the common areas, recreational facilities and drainage facilities and until such are conveyed to the Association, Developer shall be responsible for and shall pay for all expenses and costs required to fulfill the obligations of the Association and shall not be entitled to reimbursement for such expenses. However, Developer shall not be obligated to pay any dues, charges or assessments for unsold and unimproved Lots.

The Association shall ultimately be responsible to pay for the maintenance and care of all common areas. This maintenance shall include but not be limited to grass cutting, upkeep of landscaping, and signage at entrance. In addition, the Association shall be responsible for the payment of common area insurance and taxes.

Streets shall be maintained by Developer until such time as such are accepted for maintenance by appropriate governmental authority.

Any charges and assessments of the Association against any Lot or Lots shall be a lien against such Lot or Lots enforceable by the Association by foreclosure in the same manner as mechanic's liens are recoverable in the State of Indiana, if not timely paid, together with interest thereon at the rate of Eighteen Percent (18%) per annum and reasonable attorney fees on foreclosure; provided, however, that such lien or liens shall be secondary and inferior to the lien of any bona fide mortgage of record at any time against such Lot or Lots.

In addition to the foregoing obligations, except as provided to the contrary herein or in the recorded plat of the Subdivision, the Association shall ultimately be financially responsible for the maintenance and repair of the entire storm water drainage system, its parts, and easements within or attached to the Subdivision and outside of county accepted road rights-of-way including:

- (a) Mowing grass, controlling weeds and maintaining the designated cover of the waterways, storage basins, and easements in accordance with applicable ordinances.
- (b) Keeping all parts of the storm water drainage system operating at all times as designed and as constructed; and free of all trash, debris, and obstructions to the flow of water.

(c) Keeping the channels, embankments, shorelines, and bottoms of waterways and basins free of all erosion and sedimentation.

(d) Maintaining and repairing the storm water drainage system in accordance with the conditions described on the approved street and/or drainage plans on file in the County Surveyor's Office, and/or the County Engineer's Office; and in compliance with the County Drainage Ordinance.

(e) Preventing all persons or parties from causing any unauthorized alterations, obstructions, or detrimental actions from occurring to any part of the storm water drainage system and easements within or attached to this Subdivision.

(f) NOTICE: Any pipe, wall, building, pool, patio, planting, stored material, excavation, fill, or other construction, improvement, addition to, or alteration of the land within a drainage easement in this subdivision requires the prior written approval of the County Drainage Board.

Notwithstanding the provisions of paragraphs 30(a)-(f), above, the individual Lot owners shall bear responsibility, financially and otherwise, for maintaining in working order the portion(s) of the storm water drainage system which exists on said Lot owner's property, including the duties described in paragraphs 30(a)-(e), above."

31. **Lakes.** The Developer, in its sole discretion, may develop one or more lakes within the Subdivision which are intended for either: the common use and benefit of all owners of Lots within the Subdivision (hereinafter "common lakes"); or the sole, exclusive, private use and benefit of the owners of Lots which adjoin or lie under portions of such lakes (hereinafter "private lakes").

32. **Common Lakes.** Common areas of all common lakes are to be maintained by the Association. Lot owners with Lots that adjoin such lakes shall be responsible for mowing the grass to the water line for their Lot. Docks will be permitted to be installed by owners of Lots adjoining such lakes. Docks shall not be extended into the water further than eight (8) feet from the normal high water line. Notwithstanding the foregoing, no docks may be constructed without prior written consent of the Subdivision Review Committee, or the Association, as the case may be. There shall be no usage of any motorized watercraft that can expel any oil or gas products, including but not limited to "Personal Watercraft" as defined by applicable Indiana law (i.e. "waverunners/jet skis" or their equivalent). No more than one (1) non-motorized watercraft belonging to any lake Lot owner or his or her guests shall be permitted upon any common lake at any time. All Association members, Lot owners, and their respective families and guests shall be entitled to the use of the common lakes constructed in the Subdivision; provided however Lot owners must accompany their guests at all times when using such lakes. Access to the common lakes will be over common areas associated with such common lakes only and no access to a common lake shall be permitted within twenty (20) feet of any plotted adjoining Lots. Access during development will be over necessary temporary easements. Piping water from any common lake within the Subdivision by any Lot owner other than the Developer, to any Lot within the Subdivision is prohibited.

33. **Private Lakes.** Private lakes shall be designated as such on the applicable plat or plats. Private lakes shall be for the sole, private use and benefit of the owners of Lots which adjoin or lie under portions of such private lakes, and their respective families and guests. Such private lakes are not part of the common areas of the Subdivision and shall not be governed by the Association.

Ownership of a Lot adjoining a private lake within the Subdivision (hereinafter "Private Lake Lot") automatically includes ownership of an undivided interest in the right to use such private lake as a tenant in common with all other owners of such adjoining Private Lake Lots. Except as otherwise

provided, no owner of any Private Lake Lot shall have the right to partition this tenancy in common or otherwise appropriate to himself any rights in such private lake not enjoyed by all owners of such adjoining Private Lake Lots.

Each owner of a Private Lake Lot, and their respective families and guests, shall have a non-exclusive right, subject to these Restrictions, to reasonably use and enjoy the entire surface, lake bed and water of such adjoining private lake in common with all other owners of such adjoining Private Lake Lots, for recreational purposes only, including, without limitation, boating, fishing and swimming; these private lake use rights do not include use of the shoreline or docks owned by other Private Lake Lot owners. Lot owners must accompany their guests when they use such private lake or lakes. A Private Lake Lot owner's access to a particular private lake shall be through that owner's Private Lake Lot. No access to any private lake through or over any portion of any Private Lake Lot may be sold, leased, rented or otherwise transferred to any other person by the owner of a Private Lake Lot, separate from the sale of the entire Private Lake Lot. Access during development will be over necessary temporary easements.

A committee formed by the owners of the Private Lake Lots adjoining a given private lake shall be responsible for the maintenance and upkeep of that private lake. In the absence of such a committee, the owners of all Lots that adjoin a private lake within the Subdivision shall be equally responsible for: the maintenance, care, repair and general upkeep of any such private lake; all real estate taxes and assessments assessed against such private lake; and the public liability insurance for such private lake. The cost of such real estate taxes, public liability insurance and maintenance, care, repair and general upkeep of any private lake shall be the responsibility of and shall be equally shared and promptly paid by the owners of all Lots that adjoin such private lake. The amount and type of such maintenance, care, repair and general upkeep and public liability insurance shall be determined by the committee or, in the absence of such a committee, agreed upon by a majority of the Lot owners responsible therefore and the cost thereof shall be divided equally and promptly paid by the responsible Lot owners.

The owner of each Private Lake Lot shall be required to mow the grass to the water line for that owner's respective Lot and maintain, at that owner's expense, a clean and uncluttered waterfront and shore line. In providing such maintenance, the original shore line shall not be changed by the removal of said dirt, gravel or other material of which the shore line is formed. No Private Lake Lot shall be increased in size by filling in the water it adjoins.

Owners of Private Lake Lots may construct and maintain a dock, diving board, swimming raft or platform only within their own property lines as shown on the recorded plat of the Subdivision; which shall not extend into the water more than eight (8) feet from the normal high water line; and only in such a manner that such structure will not become hazardous to others using such private lake. Notwithstanding the foregoing, prior to construction of any boat docks, diving boards, swimming rafts or platforms, the owner of the Private Lake Lot must obtain the written consent of the committee formed by the owners of the Private Lake Lots or, in the absence of such a committee, a majority of the Private Lake Lot owners who own Lots adjoining said Private Lake. There shall be no usage of any motorized watercraft that can expel any oil or gas products, upon such private lakes, including, but not limited to, "Personal Watercraft" as defined by applicable Indiana law (i.e. "waverunners/jet skis" or their equivalent). No more than one (1) non-motorized watercraft belonging to any lake Lot owner or his or her guest shall be permitted upon any common lake at any time. No more than one (1) boat belonging to any Lot owner or his or her guests shall be permitted upon such private lake at any time. Piping water from any private lake within the Subdivision by any Lot owner, other than the Developer, to any Lot within the Subdivision Phase Two-A is prohibited. Use of the lake shall also be subject to and governed by any additional rules and regulations that may be promulgated by the Developer, in its discretion. After Eighty Percent (80%) of the Private Lake Lots adjoining a particular private lake have been sold and conveyed

by the Developer, the rules and regulations governing the usage of that particular private lake shall be determined by a majority of the owners of the Private Lake Lots that adjoin such private lake, or a committee formed by such Lot owners.

Use of any private lake within the Subdivision shall be at the risk and liability of the owners, other than the Developer, of the Lots which adjoin such private lake. The owners of such Private Lake Lots shall, to the fullest extent permitted by law, indemnify, defend and hold harmless each and every other owner of a Private Lake Lot and the Developer from any and all liabilities, obligations, indebtedness, costs, expenses, attorney fees or judgment arising out of, resulting from, related to or connected with any use, whether authorized or unauthorized, of any private lake which adjoins their Private Lake Lots.

Each Private Lake Lot owner shall secure and maintain public liability insurance and property damage insurance of combined single, limits in a minimum amount of \$1,000,000.00.

34. **Drainage of Water from Adjoining Real Estate.** All owners of Lots in the Subdivision, including, without limitation, its future expansions, are hereby notified that due to the topography of portions of the real estate which lie adjacent to or nearby the Subdivision and any future expansions which may be included within the Subdivision, it may be necessary to drain surface water, including storm water, from such real estate located outside the Subdivision across common areas of the Subdivision and into common or private lakes of the Subdivision, including but not limited to future expansions of the Subdivision. All such Lot owners agree that such drainage shall be permitted

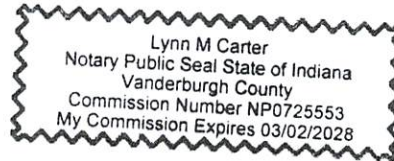
35. **Binding Effect.** Each and all of the Restrictions herein contained shall be deemed covenants running with the title to the land and shall be binding upon all parties for a period of twenty-five (25) years from the date of the recording of this instrument, after which time the Restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument executed by a majority of the then owners of lots in this Subdivision has been recorded agreeing to change, modify, or eliminate said Restrictions in whole or in part. Notwithstanding the foregoing, termination of these Restrictions, in the absence of release of the rights of the respective lot owner to the private roadways, shall not terminate the access rights on the private roadways by the lot owners and shall not terminate the right of the lot owners to access public utilities in place.

IN WITNESS WHEREOF, DEVELOPER has caused these RESTRICTIONS, RESERVATIONS, CONDITIONS AND PROTECTIVE COVENANTS to be executed in its name and on its behalf by its duly authorized officers this 16TH day of SEPTEMBER, 2021.

CWK Investments-McCutchanville, LLC

By: C. Wayne Kinney, MANAGER
C. Wayne Kinney, Manager

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)



Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named C. Wayne Kinney, as Manager of CWK Investments-McCutchanville, LLC, who acknowledged the execution of the foregoing for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 16th day of September, 2021.

Lynn M Carter
Notary Public

Lynn Carter
Printed Name
My County of Residence: Vanderburgh
My Commission Expires: 3.2.2028

This instrument was prepared by: Krista B. Lockyear, Stoll, Keenon, Ogden, PLLC, Evansville, Indiana,

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. /s/ Krista B. Lockyear