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TERESA K. PETRO
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2013-023401

AMENDMENTS TO AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
EAGLE TRACE SUBDIVISION

These Amendments to the Amended and Restated Declaration of Covenants and Restrictions of Eagle Trace Subdivision were made as of the date set forth below.

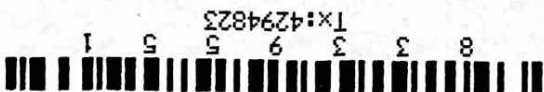
WITNESSETH:

WHEREAS, the Eagle Trace subdivision located in Johnson County, Indiana was established by a "Declaration of Covenants and Restrictions of Eagle Trace Subdivision," recorded on September 23, 1988, at **Book 60, Page 726**, in the Office of the Recorder of Johnson County, Indiana as **Instrument No. 88-31305**, said Declaration together with all amendments and/or supplements thereto being hereafter referred to as the "Original Declaration"; and

WHEREAS, plats filed with the Office of the Recorder of Johnson County, Indiana established residential Lots and Common Areas comprising the Eagle Trace subdivision in accordance with the Original Declaration and all amendments and/or supplements thereto; and

WHEREAS, the original developer of Eagle Trace provided for the preservation of the values and amenities in said community and for the maintenance of the Common Areas therein; and, to this end, subjected the Eagle Trace real property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which was, is and are for the benefit of said property and each Owner thereof; and

WHEREAS, the plats filed with the Office of the Recorder of Johnson County, Indiana included "Plat Restrictions, Easements and Development Standards for Eagle Trace Subdivision" (hereafter, "Plat Covenants"), which incorporated the terms of the Original Declaration and were imposed upon all real estate located within the Eagle Trace subdivision; and



WHEREAS, the Owners in Eagle Trace previously voted to terminate the Plat Covenants, amend the Original Declaration, and approve a new "Amended and Restated Declaration of Covenants and Restrictions of Eagle Trace Subdivision," which was recorded in the Office of the Recorder of Johnson County, Indiana on September 20, 2013 as **Instrument No. 2013-023401** (hereafter, the "Amended Declaration"), the intent being that the Amended Declaration shall serve as the full set of covenants and restrictions applicable to Eagle Trace; and

WHEREAS, to govern the affairs of Eagle Trace, the subdivision's developer caused to be incorporated under the laws of the State of Indiana a nonprofit corporation under the name Eagle Trace Homeowners Association, Inc. ("Association"); and

WHEREAS, the Amended Declaration may be amended at any time upon approval of the Owners representing 50% of the Lots in Eagle Trace; and

WHEREAS, at least 50% of the Owners in Eagle Trace have approved the following Amendments.

NOW, THEREFORE, the Amended and Restated Declaration of Covenants and Restrictions of Eagle Trace Subdivision is hereby amended as follows:

A new Article XVIII is hereby added to the Declaration, which shall read, in its entirety, as follows:

ARTICLE XVIII

Section 18.1. General Prohibition of Leased Lots ("Rental Ban"). The Association's Members recognize that Owner-occupants are both psychologically and financially invested in a home to a greater extent than a renter, and thus Owner-occupants maintain their property better than renters generally. The Association's members wish to insure that the residents within Eagle Trace share the same proprietary interest in and respect of the Lots and the Common Areas, and to encourage residents to not only maintain property values but also to improve them by recognizing that Owner-occupants have more incentive to do so compared to non-Owner Occupants. Thus, there shall be no leasing or rental of any Lot except as otherwise provided in this Article XVIII.

Section 18.2. "Rental" and "Lease" Defined. The "Rental Ban" described in this Article XVIII is intended to apply to all forms of non-Owner occupancies, except as specifically provided herein. For the purposes of this Article XVIII, "rented" or "leased," as used interchangeably herein, shall mean leased or rented or occupied, whether or not for compensation of any kind, by anyone other than an Owner of the Lot together with members of his or her household. However, the "Rental Ban" will not apply to any situation where a Lot is occupied by members of the Owner's immediate family, or where the Owner continues to live in the Dwelling as his or her principal place of residence. For purposes of this Article XVIII, "immediate family" shall only include the Owner's parents, children, step-parent, step-child grandparent, grandchild, sibling, step-sibling or spouse. This kind of "family" occupancy will

not be considered to be a "rental" in the context of the Rental Ban; provided, however, the Owner and occupants will still be subject to the remaining provisions and requirements of this Article XVIII.

Any Lot owned by a Trustee or by a Fiduciary shall not be deemed to be a rental, provided that the resident is the Trustee, the Fiduciary of an Estate, or a beneficiary of the Trust or Estate, and further provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other party in connection with that occupancy. The Trustee or Fiduciary shall submit a certificate to the Association indicating who is authorized to reside in the Dwelling.

If the Dwelling is occupied by a manager of an Owner that is a limited liability corporation, or a shareholder of an Owner that is a corporation, it will not be deemed a rental, provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other person or party in connection with that occupancy. All other occupancies of a Dwelling by representatives, employees, agents, guests, or lessees of a corporation, partnership or other entity shall be considered rentals for the purpose of this Rental Ban and are therefore prohibited. Any Unit owned by a corporate entity shall submit a certificate of designated representative to the Association. This certificate will indicate both who is authorized to vote on behalf of the corporation as well as who is authorized to reside in the Unit.

Section 18.3. Effective Date of "Rental Ban." As of the date on which this Amendment is recorded in the Office of the Recorder of Johnson County (the "Recording Date"), these rental restrictions shall be deemed effective. Within thirty (30) days after the Recording Date, the Board shall provide written notice to all Owners setting forth the Recording Date. The Rental Ban shall not apply to any existing lease or rental in place as of the Recording Date, so long as the Owner-landlord mails or otherwise delivers to the Board (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Owner-landlord's Lot which is in effect as of the Recording Date. However, when the non-Owner occupants of any of the pre-Recording Date rented Lots move out of such Lot(s), or at such time as the Owner transfers or conveys such Lot(s) to another Owner after the date of recording of this Amendment, such Lot(s) shall immediately become subject to the Rental Ban. Pre-Recording Date leases shall not be subject to the Rental Ban, but shall be subject to the remaining provisions of this Article XVIII. These "grandfathered" Owners are only exempt from the Rental Ban for such time as their Lots are occupied by one or more of the non-Owner occupants in possession of the Lots as of the Recording Date.

Section 18.4. Hardship Exceptions and Waiver. The Owner may request the Board of Directors to waive the Rental Ban if the Owner establishes to the Board's satisfaction that the Rental Ban will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner's request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of Article XVIII. Such decision shall be at the sole discretion of the Board and shall be subject to further conditions and

limitations as the Board may deem appropriate. An "undue hardship" is defined as:

- (a) Temporary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Eagle Trace made necessary due to a change of employment of at least one (1) of such Owners, which must be documented by written confirmation from the Owner's employer; and
- (b) Necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners; and
- (c) The Owner is a reservist in the United States Armed Forces who is called to temporary active duty, or is active duty personnel in the United States Armed Forces who is temporarily deployed more than fifty (50) miles from the Lot.

If an Owner desires to request an exception based upon hardship circumstances other than those specifically defined in Section 18.4 (a), (b) and (c) above, the Owner must submit a written request describing, with reasonable particularity, the nature of the alleged hardship and need to rent. The Board may approve or deny such requests as it deems appropriate, and such decisions shall be final and binding.

Section 18.5. General Lease Conditions. All permitted leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Lot other than the entire Lot shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the Bylaws, and any rules and regulations promulgated by the Board, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board shall have power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the Dwelling shall provide the Board with the name of the tenant(s) and any other residents living in the Dwelling.

Section 18.6. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association for compliance with the provisions of this Declaration, the By-Laws, and any rules and regulations promulgated by the Board, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 18.7. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Board of Directors by the Owner within thirty (30) days after execution.

Section 18.8. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Article XVIII is voidable at the election of the Board of Directors, except that neither party to such lease may assert this provision of this Article XVIII to avoid its obligations thereunder. In the event of a violation, the Association, or any Owner, shall have the right to exercise any available remedies at law or equity.

Section 18.9. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Lot is not occupied by one of the Owners thereof, there shall be a presumption that the Lot is being leased and subject to the provisions of this Article XVIII and the Owners shall have the burden of proving to the satisfaction of the Board that the occupancy is not in violation of the terms of this Article XVIII, including but not limited to the delivery to the Board of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Article XVIII and this Section 18.9, any occupancy (including occupancy pursuant to a rent-to-buy contract or similar arrangement or pursuant to any option to purchase) by anyone other than an Owner shall be deemed to be a lease, rental or other similar arrangement, unless the Owner delivers to the Board a written purchase contract, conditional sales contract or similar contract whereby the occupant is unconditionally and presently legally obligated to purchase the Lot. Any purported land contract, contract for deed, or similar agreement must be recorded with the Johnson County Recorder to be deemed valid. If such land contract, or a validly-executed memorandum thereof, is not recorded at the time of execution, it will be considered a rental agreement for purposes of this Article XVIII.

Section 18.10. Short-Term Rentals. Owners shall not lease, rent, or otherwise operate their home or Lot on a hotel, transient or short-term rental basis. For the purpose of Article XVIII, "short-term rental" is defined as any term of less than one (1) year. This short-term rental prohibition includes, but is not limited to, the use of a short-term rental platform through which unaffiliated parties offer to rent a dwelling or portion thereof to an occupant and collects consideration for the rental from the occupant.

Full Force and Effect. All other provisions of the Amended and Restated Declaration of Covenants and Restrictions shall remain in full force and effect.

Certification. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to these Amendments to the Amended and Restated Declaration of Covenants and Restrictions of Eagle Trace Subdivision have been fulfilled and satisfied.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, we, the undersigned, hereby execute these Amendments to the Amended and Restated Declaration of Covenants and Restrictions of Eagle Trace Subdivision, and certify the truth of the facts herein stated this 6th day of April, 2020.

EAGLE TRACE HOMEOWNERS ASSOCIATION, INC.

Jeanine L. Isham
Signature of President

Jeanine L. Isham
Printed

ATTEST:

Brian M. Spencer
Signature of Secretary

Brian M. Spencer
Printed

STATE OF INDIANA)
)
COUNTY OF IN)

Before me a Notary Public in and for said County and State, personally appeared Jeanine L. Isham and Brian M. Spencer, the President and Secretary, respectively, of Eagle Trace Homeowners Association, Inc., for and on behalf of said corporation, and who, having been duly sworn, stated that the representations herein are true.

Witness my hand and Notarial Seal this 6th day of April, 2020.

My Commission Expires:
12/17/2021

Residence County:
Johnson

Sarah Eder
Notary Public

Sarah Eder
Signature

"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." Gregory A. Chandler, Esq.

This instrument prepared by, and should be returned to, Gregory A. Chandler, Esq.
Eads Murray & Pugh, P.C., Attorneys at Law, 9515 E. 59th St., Suite B, Indianapolis, IN 46216

