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RECORDED
10/02/2003 08:36:19
RECORDER
PATRICIA J CRICK
ALLEN COUNTY,IN

Doc. No. 203103252
Receipt No. 36082

DCFD	3.00
PLAT	56.00
PLAT	9.00
Total	68.00

PRIMARY DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS AND APPROVALS APPENDED TO AND AS PART OF THE DEDICATION AND PLAT OF CREEKSIDE AT TWIN EAGLES, A SUBDIVISION IN PERRY TOWNSHIP, ALLEN COUNTY, INDIANA

Plat Cabinet E Page 173

Twin Eagles Development, LLC, an Indiana limited liability company, hereby declares that it is the owner and developer of the real estate shown and described in the Plat, as defined herein, and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final Plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be known and designated as Creekside at Twin Eagles, a Subdivision in Perry Township, Allen County, Indiana.

The Lots are numbered from 75 to 109, inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to the Twin Eagle Community Association, Inc., or a name similar thereto, its successors and assigns.

Section 2. "Bylaws" shall mean the Bylaws initially adopted by the Association and all amendments and additions thereto.

Section 3. "Committee" shall mean the Architectural Control Committee, composed of three (3) members appointed by the Developer and who shall be subject to removal by the Developer at any time with or without cause. Any vacancies from time to time shall be filled by appointment of the Developer. Prior to the appointment of the members of the Committee by the Developer, the Developer shall possess the authority of the Committee as set forth herein.

AUDITOR'S OFFICE
Duly entered for taxation. Subject to final acceptance for transfer.

OCT 01 2003

Elizabeth A. Glover
AUDITOR OF ALLEN COUNTY

03 16695
ALLEN COUNTY AUDITOR'S NUMBER

ALLEN COUNTY PLAN COMMISSION CORPORATE

T:\- O\Oakmont Development\Creekside at Twin Eagles\CRP Restrictions.doc

Section 4. "Common Areas" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Creekside at Twin Eagles" shall mean and refer to the name by which the real estate which is the subject of this Declaration shall be known.

Section 6. "Developer" shall mean and refer to Twin Eagles Development, LLC, its successors and assigns.

Section 7. "Dwelling Unit" shall mean and refer to the structure used as a residential living unit located upon a Lot, including the garage and any appurtenances.

Section 8. "Lot" shall mean either any of said Lots as platted or any tract or tracts of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance.

Section 9. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Properties" shall mean and refer to that certain real property hereinbefore described, any additions made thereto, or any sections developed and added to Creekside at Twin Eagles by the Developer in the future.

Section 11. "Restrictions" shall mean and refer to the Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to and made a part of the Dedication and Plat of Creekside at Twin Eagles.

Section 12. "Subdivision" shall mean Creekside at Twin Eagles, a part of the Twin Eagles residential development, a subdivision located in Perry Township, Allen County, Indiana.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

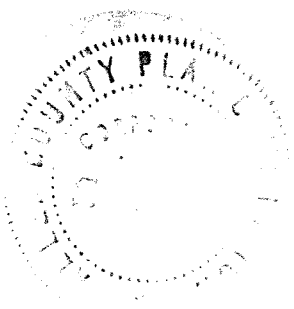
(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(b) the right of the Association to suspend the voting rights and right to the use of the recreational facilities by an Owner for any period during which any assessments against his Lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;

(c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Class B members. At such time as the Class B membership ceases in accordance with Section 2 of Article III hereof, no further dedication or transfer by the Association of any part of the Common Areas to any public agency, authority or utility shall be effective unless an instrument signed by two-thirds (2/3) of the Class A members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Additions to Common Areas. The Developer reserves the right, so long as Class B members of the Association exist, to convey and transfer to the Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Association shall accept such transfer and shall hold such property as part of the Common Areas of the Subdivision.



Section 4. Title to and Maintenance of the Common Areas. The Developer may retain the legal title to the Common Areas until such time as it has completed such improvements thereon as it may elect to make and until such time as, in the opinion of the Developer, the Association is able to maintain the same but, notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns, that it shall convey the Common Areas to the Association not sooner than January 1, 2004. Upon receipt of title to the Common Areas from the Developer hereunder, the Association shall become and remain responsible for the regular and ongoing care, preservation, supervision, improvements and maintenance of the Common Areas, unless and until the Association shall dedicate or transfer all or any part of the Common Areas pursuant to Article II, Section 1(c) of these Restrictions.

Section 5. Use of Common Area Ponds. No motorized vehicle or vessel shall access or use at any time any Pond, as shown and described on the Plat and contained in the Common Areas (the "Ponds"), except the Developer or the Association for the purpose of maintenance, upkeep and/or repair of said Ponds. No Owner shall place, construct or otherwise locate any pier, dock or other similar structure on, in or around any Pond, nor make, construct or otherwise add any improvements contiguous to any Pond, including, without limitation, the laying of rocks or landscaping, without receiving the approval of the Developer and/or the Architectural Control Committee pursuant to Article V prior to the commencement of any construction of said pier, dock, structure or improvements.

ARTICLE III
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting memberships:

Class A. Class A members shall be all Owners of Lots in Creekside at Twin Eagles (except Twin Eagles Development, LLC) and such members shall be entitled to one 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 such Lot shall be exercised as they

among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. Class B member(s) shall be Twin Eagles Development, LLC, and such member(s) shall be entitled to three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots in all sections of Creekside at Twin Eagles have been conveyed, or

(b) on December 31, 2013.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting Twin Eagles Development, LLC, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges, (2) Special Assessments for capital improvements, and (3) Tax Recoupment Assessments (collectively, the "Assessments"); such assessments to be established and collected as hereinafter provided. Any assessments or any installments thereof which are not paid when due shall bear interest at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the Board of Directors of the Association, or the Developer, where appropriate, may, in its discretion, declare the entire balance of unpaid Assessments to be due and payable, with interest as aforesaid, and file a written Notice of Lien against said Owner's Lot in the office of the Recorder of Allen County, Indiana, which Notice of Lien shall perfect the lien of the Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney fees, title expenses, interest and any costs of collection.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association hereunder shall be exclusively for the regular and ongoing care, preservation,

supervision, improvement, and maintenance of the Common Areas and the improvements situated thereon, including, but not limited to, (i) the Common Area incorporating the pool, parking lot and tennis court; (ii) the payment of taxes on and insurance in connection with the Common Areas and the repair, replacement and making of additions thereto; (iii) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management, supervision, maintenance and repair of, the Common Areas; (iv) carrying out the duties of the Board of Directors of the Association as set forth in Article VI hereof; and (v) carrying out the purposes of the Association as stated in its Articles of Incorporation.

Section 3. Basis and Amount of Annual Assessments.

(a) Until the year beginning January 1, 2003, there shall be no Annual Assessment under this Article IV.

(b) Commencing with the year beginning January 1, 2003, and each year thereafter, the Board of Directors, at its annual meeting immediately following the aforementioned January 1, 2003, or the Developer prior to the formation of the Association, and each January 1 thereafter, shall set the amount of the Annual Assessment for the following year for each Lot, taking into consideration the current maintenance costs and future needs of the Association. The Annual Assessment may be increased each year not more than 15% above the Annual Assessment for the previous year without a vote of the membership. Any increase of the Annual Assessment above 15% from the previous assessment year shall be subject to the affirmative vote or written assent of a minimum of 51% of all members.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of construction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such Assessment shall have the vote or written assent of a minimum of 51% of all members.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Any action authorized under Section 3 or 4 and requiring a vote or written assent of a certain

percentage of the Association membership shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite 51% of all members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or yearly basis.

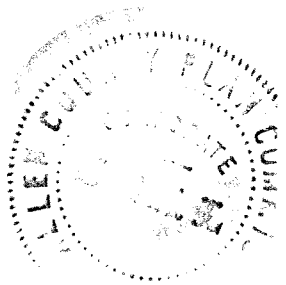
Section 7. Date of Commencement of Annual Assessments: Due Dates. The Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Areas by the Developer to the Association. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessment, or any other Assessment, against each Lot at least 30 days in advance of each Assessment period. Written notice of an Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

Section 8. Tax Recoupment Assessments. In addition to all other Assessments provided for in this Article IV, the Association may levy in any assessment year an assessment ("Tax Recoupment Assessment") applicable to that year only for the purpose of defraying, in whole or in part, any cost or expense incurred by the Association in the form of a tax and/or penalty and/or interest on a tax imposed upon, assumed by, or assessed against the Association or its Properties, and arising out of or in any way related to the acceptance of title to, the ownership of, and/or operation or maintenance of any plant or equipment (including utility lines, lifting stations and other property) for the transmission, delivery or furnishing of water, or for the collection, transmission and disposal of liquid and solid waste and sewage, and/or the ownership of any real estate or easements or other rights with respect to real estate owned and/or possessed in connection with such plant or equipment.

Section 9. Improvement and Maintenance of Other Common Areas Prior to Conveyance to the Association. Until such time as the Developer has conveyed all of the Common Areas to the Association (and thereafter as additional Common Areas are added hereunder and not conveyed to the Association) and/or dedicated all the streets to the appropriate public agency, authority or utility, the Developer shall have, at its election, the sole responsibility and duty of improving and maintaining the Common Areas (or such portion thereof that has not been conveyed to the Association), including, without limitation, the payment of taxes on and insurance in connection with the Common Areas (or such portion thereof that has not been conveyed to the Association) and the cost of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Areas. In this regard, and during such period, all Assessments, both Annual and Special, collected by the Association shall be forthwith paid by the Association to the Developer, to the extent that such Assessments are required by the Developer to improve and maintain the Common Areas as set forth in this paragraph. The Association shall rely upon a certificate executed and delivered by the Developer with respect to the amount required by the Developer to improve and maintain the Common Areas hereunder. Any sums required by the Developer to improve and maintain the Common Areas, in excess of the Assessments collected by the Association, shall be borne and paid exclusively by the Developer.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within 30 days after the due date shall bear interest from the due date as provided in Section 1 of this Article IV. The Association may bring an action at law against the Owner personally obligated to pay the same; may foreclose the lien against the property in accordance with the provisions of Section 1 of this Article IV; or may do both. No Owner may waive or otherwise escape personal liability for the Assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to a judgment and court order on a foreclosure of any first mortgage shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.



Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein:

(a) all properties dedicated and accepted by the local public authority and devoted to public use;

(b) all Common Areas as defined in Article I hereof;

(c) all areas reserved by the Developer on the recorded Plat of the Properties;

(d) all Lots owned by the Developer;

(e) all Lots owned by a residential contractor licensed in Allen County, Indiana as such and who holds title to a Lot for the purpose of constructing a Dwelling Unit on said Lot but not residing thereon.

ARTICLE V
ARCHITECTURAL CONTROL

No building, shed, fence, wall, swimming pool or spa, or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until two sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. The Committee's approval or disapproval as required in these covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, placed or maintained upon any Lot, and no changes or deviations in or from such plans as approved shall be made without the Committee's prior written consent. Neither the Developer, the Committee, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting

therefrom. Every person and entity who submits plans to the Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or the Developer to recover any damages or to require the Committee or the Developer to take, or refrain from taking, any action whatever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete sets of plans to the Developer's office for review by the Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent Lot Owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

Notwithstanding any provision to the contrary, at any time prior to the appointment by the Developer of the members of the Committee, the Developer shall have the exclusive right to waive any architectural restrictions set forth in these Restrictions, including, without limitation, the provisions included in Article VI of these Restrictions.

ARTICLE VI
GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 1. Powers and Duties. The Board of Directors, for the benefit of the Properties and the Owner, shall provide, and shall pay for out of the Annual Assessment fund provided for in Article IV, Sections 1 and 2 above, the following:

(a) taxes and Assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners;

(b) care and preservation of the Common Areas and full maintenance of a utility service for the Common Areas, including the furnishing and upkeep of any desired personal property for use in the Common Areas;

(c) care and preservation of any bike lanes and the striping associated therewith upon and after the dedication of the streets located in and servicing the Subdivision by the Developer to the appropriate public agency, authority or utility;

(d) the services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board of Directors, and the services of such other personnel as the Board of Directors shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board of Directors or by the manager;

(e) legal and accounting services;

(f) a policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants), incident to the operation of the Association, in an amount not less than $100,000.00 to indemnify against the claim of one person, $300,000.00 against the claim of two or more persons in any one occurrence, and property damage insurance in an amount not less than $100,000.00 per occurrence; which policy or policies shall contain an endorsement providing that the rights of the named insureds shall not be prejudiced with respect to actions against other named insureds;

(g) workers' compensation insurance to the extent necessary to comply with any applicable laws;

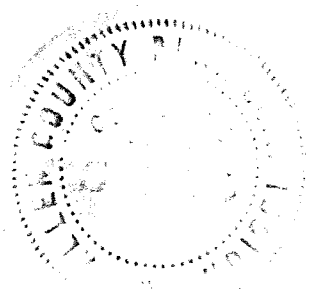
(h) such fidelity bonds as the Board of Directors may determine to be advisable;

(i) any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or Assessments (including taxes or Assessments assessed against an individual Owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board of Directors shall have the following additional rights, powers and duties:

(j) to execute all declarations of ownership for tax assessment purposes with regard to the Common Areas on behalf of all Owners;

(k) to borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board of Directors sees fit;



(l) to enter into contracts, maintain one or more bank accounts (granting authority as the Board of Directors shall desire to one or more persons to sign checks) and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(m) to protect or defend the Common Areas from loss or damage by suit or otherwise, and to provide adequate reserves for replacements;

(n) to make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time, provided that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the members (without limiting the generality of the foregoing language, the rules and regulations may provide for limitations on use of the swimming pools or other common recreational areas during certain periods by youthful persons, visitors or otherwise);

(o) to make available to each Owner within 60 days after the end of each year an annual report and, upon the written request of 1/10 of the members, to have such report audited by an independent, certified public accountant, which audited report shall be made available to each member within 30 days after completion;

(p) to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the members in proportionate amounts to cover the deficiency;

(q) to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

Section 2. Board Powers, Exclusive. The Board of Directors shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made by the Association, and the exclusive right and obligation to perform the functions of the Board of Directors, except as otherwise provided herein.

Section 3. Owner's Obligations to Repair. Each Owner shall, at his sole cost and expense, maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair. In the event that any Owner shall fail to maintain and repair his Lot and the improvements thereon as required hereunder, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative

remedies, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and exterior of the buildings and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any Assessment hereunder when due.

ARTICLE VII
PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration (hereinabove defined as the "Existing Property"), located in Allen County, State of Indiana, is described on Exhibit "A" attached hereto, and is designated Creekside at Twin Eagles and more particularly described on a subdivision Plat (the "Plat") thereof recorded as Plat Record E, Cabinet E, page 173, in the Office of the Recorder of Allen County, Indiana.

Section 2. Additions to Existing Property. If the Developer is the owner of any property which it desires to add to the concept of this Declaration, it may do so by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions, which shall extend the concept of the covenants, conditions and restrictions of this Declaration to such property, PROVIDED, HOWEVER, that (i) such additional property shall be contiguous (as hereafter defined) to the Properties subject to this Declaration at the time, and (ii) such Supplementary Declaration may contain such complimentary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept of this Declaration. In no event, however, shall such Supplemental Declaration modify or add to the covenants established by this Declaration for the Existing Property. Any additions made pursuant to this Section 2, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added. For the purposes hereof, the term "contiguous" shall mean adjoining; provided, that any tracts or parcels of land which are separated by a street, road, sidewalk, right-of-way, easement or other thoroughfare shall be deemed to be contiguous.

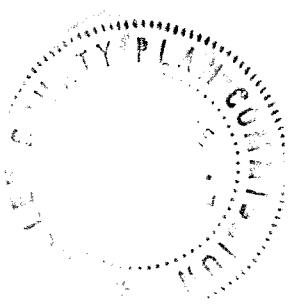
ARTICLE VIII
STORM WATER DETENTION SYSTEM
AND POND MAINTENANCE ASSESSMENT

Section 1. Maintenance Obligation. The Association shall be obligated to maintain, repair and/or replace, as necessary, the storm water drainage system and the storm water detention system contained in the Common Areas and shown on the Plat, together with outlets and water control structures, the cost of which shall be borne by all of the Owners in Creekside at Twin Eagles and subsequent Owners of Lots in any and all additional Properties.

Section 2. Right to Enforce. The Owner of any Lot in this section, or any future sections, of Creekside at Twin Eagles, and/or the Allen County Drainage Board, shall have the right to order the Association to carry out its obligation to maintain, repair and/or replace the Ponds and storm water detention system improvements, as above provided, and to assess the Owners of all Lots in this section and future sections of Creekside at Twin Eagles with the cost thereof.

Section 3. Annual Assessment. Until the year beginning January 1, 2003, the Annual Assessment for Pond maintenance shall be $25.00 per Lot. Commencing with the year beginning January 1, 2003, and each year thereafter, the Developer, if appropriate, or the Board of Directors of the Association, at its annual meeting next preceding, and each January 1 thereafter, shall set the amount of the Annual Assessment for the maintenance of the Ponds in addition to the regular annual maintenance fee for the Common Areas as set forth in Article IV, provided that the Annual Assessment for the Ponds under this Article VIII shall never be less than $25.00.

Section 4. Amendment. Notwithstanding any provision to the contrary contained in this Article VIII, any alteration or amendment of this Article VIII must be made with the prior approval of the Allen County Plan Commission, and further that the Restrictions and Covenants contained in this Article VIII, and only as they relate to the storm water detention system and the maintenance and repair thereof, shall be in continuous effect for an indefinite period, except as amended with the prior approval of the Allen County Drainage Board.



ARTICLE IX
GENERAL PROVISIONS

Section 1. Residential Purposes.

(a) Subject to the provisions set forth in subsection (b) below, no Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling Unit not to exceed two and one-half stories in height. Each Dwelling Unit shall include an attached garage for not less than two (2) automobiles.

(b) A certain buffer area (the "Buffer Area") shall be provided by the Developer consisting of the east 40 feet of Block "R" within the Common Area, as designated on the Plat. Within the Buffer Area, no Dwelling Unit, garage, storage shed, or other building or structure, temporary or permanent, shall be constructed, nor any clearing of any vegetation shall occur at anytime within the Buffer Area, except for the removal of fallen or displaced limbs, as necessary.

Section 2. Home Occupations. No Lot shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no mechanical or electrical equipment is used; provided that, in no event shall a barber shop, 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 home occupation.

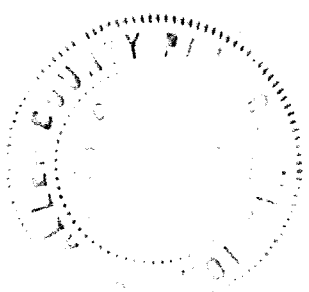
Section 3. Building Sizes. No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, breezeways or garages of less than 1,600 square feet for a one-story Dwelling Unit, not less than 1,850 square feet for a

one and one-half story Dwelling Unit, and not less than 2,100 square feet for a two-story Dwelling Unit.

Section 4. Side Line and Front Line Setback Restrictions. No Dwelling Unit shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines as shown on the recorded Plat. In any event, no Dwelling Unit shall be located nearer than a distance of seven (7) feet to an interior Lot line. No projection of any Dwelling unit shall be permitted to extend into or encroach upon the space between said building line and the street adjacent thereto, except that the steps and platforms of the main door may extend over said line not to exceed five (5) feet. No Dwelling Unit shall be located on any of such Lots nearer than 25 feet to the rear Lot line, subject to Allen County Subdivision Control Ordinance 4-2-3-4(p)(4).

Section 5. Utility and Drainage Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. No Owner of any Lot shall erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, telephone or television service (except such poles and overhead facilities enter and leave at those places where distribution facilities enter and leave the subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any Dwelling Unit or other structure connecting the same to the electrical distribution system of any electric public utility shall be provided by the Owners of all Lots and shall carry not less than three wires and have a capacity of not less than 200 amperes. Any electric public utility charged with the maintenance of any underground installation shall have access to all easements in which said underground installations are located for operation, maintenance and replacement of service connections. Any such electric public utility shall not be liable for damage to walks, driveways, lawn or landscaping which may result from installation, repair or maintenance of such service.

Section 6. Surface Drainage. Surface Drainage Easements and Common Areas used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to



repair and maintain or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 7. 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.

Section 8. Temporary Structures and Storage. No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV) camper shell, all terrain vehicle (ATV), camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way within the Subdivision at any time, or used as a residence, either temporarily or permanently.

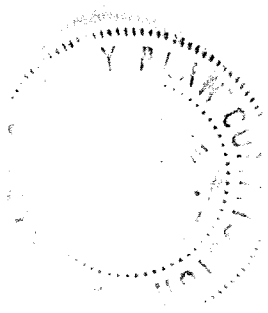
Section 9. Storage Sheds. No storage sheds of any type shall be allowed on any Lot, subject to the provisions of Section 35 of this Article IX.

Section 10. Clotheslines. No clothes, linens, or the like shall be hung in any manner outside a Dwelling Unit. No clotheslines or poles shall be permitted on any Lot.

Section 11. Signs. No sign of any kind shall be displayed to the pubic view on any Lot except one sign used by a realtor of not more than five square feet advertising the property for sale, and one sign used by a builder to advertise the property during the construction and sales period which shall be not more than five square feet.

Section 12. Radio and Television Antennas. No radio or television antenna with more than 30 square feet of grid area or which attains a height of six feet above the highest point of the roof shall be attached to any Dwelling Unit. No freestanding radio or television antenna or receiving disk or dish shall be permitted on any Lot. No solar panels attached or detached shall be permitted.

Section 13. Drilling, Refining, Quarrying and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.



Section 14. Animals. 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. Any such pet kept by an Owner hereunder shall be kept primarily indoors and within the confines of the Dwelling Unit a majority of the time. Further, should any pet kept hereunder cross the boundary lines of its Owner's Lot for any reason, said Owner shall keep the pet on a leash, or like harness, maintain control over said pet at all times, and immediately tend to the cleanup of any bodily or other waste left by said pet outside the boundary of said Owner's Lot.

Section 15. Waste. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are not visible from the front of any residence. No outside incinerators shall be kept or allowed on any Lot.

Section 16. Building Materials. All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other permitted structure on any Lots of said Subdivision and no roll roofing of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots. All house fronts shall be of natural material, except sophits, and all other sides shall be of natural material, vinyl, or wood grain siding.

Section 17. Driveways. All driveways from the street to the garage shall be poured concrete and not less than 16 feet in width but not exceed 16 feet in width at the curb.

Section 18. Individual Water and Sewage Systems Servicing Dwelling Unit. Except for any Lot or Lots owned by the Developer, or for purposes of servicing a model or speculative home with the consent of the Developer, no individual sewage disposal system shall be installed, maintained or used to service a Dwelling Unit on any Lots in this Subdivision. In addition, except for any Lot or Lots owned by the Developer, any Common Area, and as provided in Section 19, no individual water supply system shall be installed, maintained or used on any Lots in this Subdivision.

Section 19. Individual Water Supply Systems for Irrigation. Any Lot Owner may install, maintain or use an individual water supply system for the sole and exclusive purpose of supplying irrigation to and for said Owner's Lot or Lots. Two (2) sets of the plans and specifications showing the nature, materials and location of the individual water supply system and the source of the water supply shall be submitted to and approved in writing by the Architectural Control Committee prior to construction. No deviations or changes in or from said plans and specifications as approved shall be made without prior written consent from the Architectural Control Committee.

Section 20. Use of Public Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this Plat, are hereby reserved and granted to the Developer, the Association, and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 5 and 6 or this Section 20 of Article IX, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets. All such easements dedicated on the face of the Plat shall be kept free of shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain or place their utility or sewage facilities, and that the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form, subject to Allen County Subdivision Control Ordinance 4-2-3-4(p)(4).

Section 21. Sanitary Sewer Restrictions. No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

Section 22. Improvements. Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot provided in said plans and specifications

for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize or require. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, or by any aggrieved Lot Owner in this Subdivision.

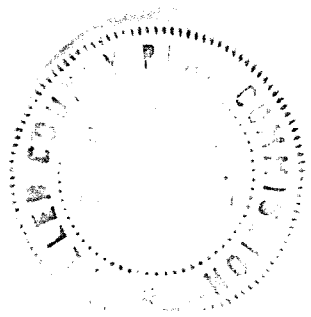
Section 23. Permits and Certificates. Before any Dwelling Unit on any Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator an Improvement Location Permit and a Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 24. Fencing. The plans and specifications for any fencing to be constructed on any Lot shall be submitted to the Developer, or to the Committee at any time after the appointment of the members of the Committee by the Developer, for approval prior to construction in accordance with Article V hereof. Any fencing shall be approved in writing by the Developer, or Committee where appropriate, and shall also meet the requirements of the pertinent provisions of the Allen County Zoning Ordinance.

Section 25. Mailboxes. The initial type of mailboxes shall be the Twin Eagle Design and the location and installation of mailboxes shall be the responsibility of the Developer.

Section 26. Time for Building Completion and Restoration. Every Dwelling Unit on any Lot in the Subdivision shall be completed within 12 months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three months from the time of such destruction or damage.

Section 27. Single Owner Continuous or Multiple Lots. Whenever two (2) or more Lots in the Subdivision shall be owned by the same person, contiguously situated or otherwise, such Owner shall be subject to and agree to pay to the Association for each Lot owned by said Owner all assessments and other charges collectible by the Association pursuant to Article IV of these Restrictions. The Owner of any Lot or Lots in addition to that Lot upon which said Owner's Dwelling Unit shall be constructed shall be responsible for providing yard-quality grass seeding and appropriate maintenance thereof for each additional Lot. Any proposed use of said additional Lot or Lots shall be consistent with and not violate the provisions of Article IX, Section 1 and Section 8 hereof. Any proposed temporary or other use of any additional Lot or



Lots inconsistent with or in violation of Article IX, Section 1 and/or Section 8 hereof, shall be approved by the Committee pursuant to Article V.

Section 28. Flood Protection Grades. In order to minimize potential damages from surface water, flood protection grades are established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of a first floor or the minimum sill elevation of any opening below the first floor of any dwelling. The flood protection grades shall be Mean Sea Level Datum and shall be specifically set forth in the secondary plat of Creekside at Twin Eagles as approved by the Allen County Plan Commission.

The flood protection grades for Creekside at Twin Eagles are as follows:

- Lots 75-84 = 848.4 feet
- Lots 101-103 = 833.0 feet

Inclusive are feet Mean Sea Level.

Section 29. Subdivision of Lots. No Lot or combination of Lots may be further subdivided subject to the Allen County Subdivision Control Ordinance 4-2-3-4(p)(1), as may be amended from time to time.

Section 30. Exterior Building Surfaces. All exterior building surfaces, materials and colors shall be approved by the Committee, or the Developer if appropriate.

Section 31. Landscaping. All Owners shall landscape, or cause to be landscaped, their Lot, at a minimum, in a manner so as to remain consistent with the aesthetic integrity of the landscaping contained on the Properties, as defined by the Developer. Said landscaping shall be completed, or caused to be completed, by each Owner within one (1) year after the date of said Owner's certificate of occupancy, as issued by the Allen County Building Department, authorizing the Owner's occupancy of the house. The foregoing landscaping requirements shall not apply to the Developer nor to any Common Area or Lot owned by the Developer.

Section 32. Yard Lights. An automatic dusk to dawn light of type and location approved by the Committee shall be installed by the builder or Lot Owner on each Lot in front of the front building line.

Section 33. Fires. No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street roadway or Lot in this Subdivision, other than that as related to the construction of a Dwelling Unit.

Section 34. Chimneys. All fireplace chimneys shall be of natural material construction, if located on the front of the house. If on sides or rear, the chimney may be vinyl wood grain siding.

Section 35. Pools and Hot Tubs. No above-ground pool which requires a filtration system or other above-ground pool which is more than six (6) feet in diameter and 18 inches deep shall be placed or maintained on any Lot. No in-ground swimming pool, hot tub or spa, or any fence proposed to contain said pool, hot tub or spa, may be placed or maintained on any Lot without the prior written approval of the Committee, or the Developer, at any time prior to the appointment of the members of the Committee by the Developer, in accordance with Article V and shall be subject to the pertinent portions of the Allen County Zoning Ordinance. Any Owner of a Lot containing a swimming pool, hot tub or spa must cover said swimming pool, hot tub or spa with a cover that, at a minimum, will supersede any fencing required under the pertinent portions of the Allen County Zoning Ordinance. Notwithstanding the prohibition of storage sheds under Section 9 of this Article IX, sheds, buildings, or other structures may be constructed for the sole purpose of containing all mechanical equipment and other apparatus necessary to operate an in-ground swimming pool, hot tub or spa allowed hereunder. However, the construction of any shed, building, or other structure hereunder shall not be commenced without the prior written approval of the Committee, or the Developer, if appropriate, in accordance with Article V, and shall be subject to the pertinent portions of the Allen County Zoning Ordinance.

Section 36. Enforceability. The Association, the Developer, and any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Association, the Committee, the Developer, or by any Owner to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 37. Partial Invalidation. Invalidation of any one of these Restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

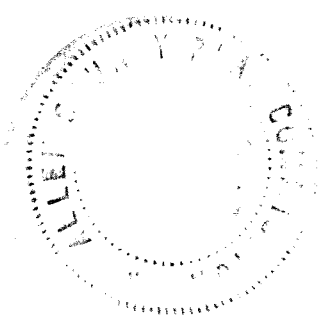
Section 38. Covenants, Restrictions and Extensions. The Covenants and Restrictions herein contained shall run with the land and be effective for a term of 20 years from the date these Restrictions are recorded, after which time they shall automatically be extended for successive periods of 10 years. However, these Restrictions may be amended by an instrument signed by not less than 75% of the Lot Owners, or by the Developer, its successors or assigns, with the approval of the Allen County Plan Commission, for a period of two years from the date of recording of the Plat.

Section 39. Termination or Amendment by Declarant. Until such time as the last Lot is sold by the Developer, or two (2) years from the date of these Restrictions, whichever is later, the Developer, at its discretion, may abolish or amend these Restrictions or change them in whole or in part, subject, however, to approval of the Allen County Plan Commission.

Section 40. Rights of Ingress and Egress. The rights of ingress and egress to the Subdivision shall only be in such locations as shown on the plans and specifications of the Subdivision.

Section 41. Sidewalks. Each Owner shall provide and maintain a concrete public sidewalk across the front of each Lot prior to and throughout occupancy. All concrete sidewalks required hereunder shall be four (4) feet in width.

Section 42. Enforcement. In addition to the provisions contained in Article IV, Section 1, should any Owner violate any provision of these Restrictions, said Owner shall pay all costs and expenses incurred by the Association and/or the Developer, or its successors and assigns, in connection with the enforcement of these Restrictions, including, without limitation, all attorney fees and expenses, interest, and any cost of collection.



IN WITNESS WHEREOF, Twin Eagles Development, LLC, owner of the real estate described in said Plat, has set its hand and ~~seal~~ this 9th day of Sept., 2003.

JMT

TWIN EAGLES DEVELOPMENT, LLC
A Limited Liability Company

By: _____
Jeffrey M. Thomas, Member

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, this day personally appeared Jeffrey M. Thomas, known to me to be the person, and Member, whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said Twin Eagles Development, LLC, a limited liability company, and that he executed the same as the act of such Twin Eagles Development, LLC for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 9th day of September, 2003.

Joyce L. Wade

Joyce L. Wade, Notary Public
A resident of Allen County

My Commission Expires:
February 25, 2008

This instrument prepared by:
J. Rickard Donovan
ROTHBERG LOGAN & WARSCO LLP
110 West Berry Street, Suite 2100
Fort Wayne, IN 46802
Telephone: (260) 422-9454

MAIL TO: Twin Eagles Development, LLC
1020 East Dupont Road
Fort Wayne, IN 46825