

**DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS  
AS PART OF THE PLAT OF 'BORDERMEN CROSSING', AN ADDITION TO  
THE TOWN OF CONVERSE, MIAMI COUNTY, INDIANA**

THIS DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS AS PART OF THE PLAT OF 'BORDERMEN CROSSING' ("Dedication"), made on the day hereinafter set forth by the Town of Converse Neighborhood Development Corporation, an Indiana corporation, as the owner in fee simple of Lots Numbered One (1) through Thirty-Seven (37) , consecutive and inclusive, an addition to the Town of Converse, Miami County, Indiana ("Converse") according to the Plat thereof recorded on \_\_\_\_\_, in the Office of the Miami County, Indiana, Recorder as Bordermen Crossing ("Plat").

WHEREAS, the Town of Converse Neighborhood Development Corporation, desires to impose upon each and all of said Lots in Bordermen Crossing with the protective restrictions, covenants and easements hereinafter set forth:

NOW THEREFORE, the Town of Converse Neighborhood Development Corporation hereby declares that all of the aforesaid Lots Numbered One (1) through Thirty-Seven (37), as originally platted and as may be further divided, amended or re-platted, in Bordermen Crossing shall be impressed with and shall be held, sold, and conveyed subject to all of the following protective restrictions, covenants and easements which shall run with said Lots and be binding on all parties now having or hereafter acquiring any right, title or interest in the same or any part thereof, their heirs, successors and assigns and shall inure to the benefit of and be enforceable by each Owner thereof, the Developer, and/or the Association.

**ARTICLE I**

**DEFINITIONS**

Section 1. "Developer" shall mean the Town of Converse Neighborhood Development Corporation, an Indiana not-for-profit corporation, its successor(s) and assign(s).

Section 2. "Lot" or "Lots" shall mean and refer to any or all of Lots One (1) through Thirty-Seven (37), as shown on the Plat.



Section 3. "Owner" and "Owners" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Association" shall mean and refer to "Bordermen Crossing Homeowners Association, Inc." (or other name allowed under Article III, Section 1 of this Dedication), an Indiana not-for-profit corporation, its successors and assigns. The membership of the Association shall consist of the Owners of the Lots in Bordermen Crossing, as well as the owners of other lots in other future sections, if any, in the Bordermen Crossing subdivision as permitted under Article III, Section 3 hereof.

Section 5. "Plat" shall mean and refer to the plat of Bordermen Crossing, including any and all amendments and/or re-plats thereof, as recorded in the Office of the Recorder of Miami County, Indiana.

Section 6. "Living Unit" and/or "Dwelling Unit" shall mean and refer to the portion of a building, including the attached garage, erected on any Lot which is constructed and intended for the use and occupancy as a single-family residence.

Section 7. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 8. "Bordermen Crossing Homeowners Association, Inc. Board of Directors" shall mean and refer to the Board of Directors of the Bordermen Crossing Homeowners Association, Inc.

Section 9. "Street" shall mean any street, avenue, roadway, cul-de-sac or boulevard of whatever name which is shown on the Plat and which has been heretofore and is dedicated to the public for use as a public street.

Section 10. Other capitalized terms shall have the meaning(s) assigned to them in the remainder of this Dedication.

## **ARTICLE II**

### **DEDICATION AND PERMITTED LOT USE**

We, the Town of Converse Neighborhood Development Corporation, by Joe Lenon President, owner of the real estate shown and described herein, do hereby lay out, plat and subdivide said real estate in accordance with the within plat.

This subdivision shall be known and designated as Bordermen Crossing. All streets shown and not heretofore dedicated are hereby dedicated to the public.

Front building minimum and maximum setback lines are hereby established as shown on this plat, between which lines and property lines of the streets there shall be erected or maintained no buildings or structures. The strips of ground shown on this plat and marked "easements" are reserved for the use of the public utilities for the installation of water and sewer mains, poles, ducts, line and wires, drainage facilities. The strips of ground are subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained on said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities, and to the rights of the owners of the other lots in this subdivision.

This subdivision shall be subject to the following restrictions which shall operate as perpetual covenants.

1. Drainage Swales: (Ditches) along dedicated roadways and within the right of way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed. Property owners must maintain these swales as sodded grassways or other non-eroding surfaces. Water from roof or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. No trees planted, fences erected or any obstructions to the Drainage Swales.
2. Altering Drainage Swales: Any property owner altering, changing or damaging the drainage swales or ditches will be held responsible for such action and will be given 10 days' notice by registered mail to repair said damage, after which time, if no action is taken, the Bordermen Crossing Homeowners Association will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owner for immediate payment.
3. Drains: No sump pump drains or other drains shall outlet on to the street or in the sanitary sewer. No drainage structures shall be located within driveway limits.
4. Right of way: No trees shall be planted in the right of way, or any other obstruction other than approved utility or right of way improvements.
5. Driveways: All driveways from the street to the garage of each Living Unit shall be poured concrete and not less than twenty (20) feet in width.
6. Minimum living space areas: The minimum square footage of living space of dwellings constructed on various residential lots in the development, exclusive of porches, terraces, garages, carports, accessory building, or basements below ground level shall contain a minimum square footage for lots numbered 12, 13, 15, 16, 17, 18, 25, 26, 33 and 34 of 1700 square feet for a one-story home and 2100 square feet for a two-story home. The remaining lots shall contain no less than 1400 square feet of ground floor living area for a one-story home and 2100 total square feet for a two-story home. All homes must have at least a 2-car attached garage.
7. Residential Use Only: All lots in this subdivision shall be used solely for residential purposes except for residences used as model homes during the sale and development of this subdivision. No motor home, trailer, tent, shack, basement, boat, camper, or other

outbuildings shall be used for temporary or permanent residential purposes on any lot in the subdivision. No dog kennel, junk yard or commercial business will be permitted in the subdivision.

8. Building Location: No living Unit, garage or other building of any kind (collectively "Building"), fence or wall of any type shall be erected, placed or located on any Lot nearer to the front lot line (or nearer to the side lot line on corner lots) than the minimum building set-back line as shown on the Plat. No Building shall be located nearer to any side yard or rear yard than permitted by applicable zoning requirements and as may be further restricted by the plat. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections. The Plat sets forth utility, drainage and other easements and set back requirements that may impose other restrictions on the location of Buildings, fences, walls or other improvements on Lot.

9.. Health Concerns: All water systems and methods of sewage disposal in this subdivision are to be in compliance with the regulations or procedures by the State Board of Health, any public utility, or other civil authority having jurisdiction.

10. Nuisances: No noxious or offensive trade, pornographic, prostitution, or any other illegal conduct shall be permitted upon any lot in this subdivision nor shall anything be done thereon which may be a nuisance or annoyance to the neighborhood. No refuse will be maintained on the lot. No noxious fumes or smells will be permitted.

11. Limitation On Time: All residential construction must be completed within one year after the starting date, including the final grading.

12. Parking Limitations/ Outside Storage: No trailer of any type, boat, camper, recreational vehicle, motor home, four- and three- wheeler, ATV, motorcycle, commercial vehicle, truck, or any other similar wheeled vehicle (excepting passenger cars, pick-up trucks, passenger vans and similar vehicles designed primarily for the non-commercial transportation of passengers) shall be permitted to be parked ungaraged of a Lot except (i) entirely on the concrete driveway; and (ii) for a period not to exceed 24 hours, provided that it does not interfere with the control of traffic or present a traffic hazard. The term 'truck 'as used in this Section means every motor vehicle designed, used, or maintained primarily for commercial purposes or the transportation of property, which is rated one (1) ton or more. Passenger cars, pick-up trucks, passenger vans and similar vehicles designed primarily for the non-commercial transportation of passengers may be parked on a Lot only in the garage or entirely on the concrete driveway.

13. Storage Tanks: No fuel or oil storage tanks in excess of six (6) gallons may be maintained on any Lot. No underground tanks of any kind shall be permitted on a Lot.

14. Fencing: No fencing of any type shall be permitted on any Lot except that a vinyl, wrought iron or similar style fence shall be allowed provided it is approved by the Association's Architectural Control Committee.

15. Signs: No sign shall be erected or permitted on any Lot or in any common areas as shown on the Plat, except (i) subdivision designation and subdivision informational signs

(owned by the Developer or the Association) located in the common area, (ii) one professional sign of not more than one (1) foot square, (iii) one sign of not more than five (5) square feet advertising the property for sale, (iv) one security sign (such as ADT) of not more than one (1) foot square, and (v) signs used by a builder to advertise the property during the construction and sales period.

16. Mailboxes: Mailboxes shall all be uniform to the standards set out and approved by the Association.

17. Free- Standing Poles: No clothes lines or clothes poles, or any other free-standing, semi-permanent or permanent poles, rigs, or devices, shall be permitted on any Lot or attached to any Structure (as defined in # 22) or Living Unit, regardless of purpose, except that, subject to review and approval by the Association, the following may be permitted; (i) a pole located behind the Living Unit that only supports bird or other animal feeder(s) or house(s), provided any feeder or house does not exceed two (2) cubic feet in size; (ii) a single flag pole post; (iii) a basketball goal with post; and (iv) and Antenna/Panel (as defined in #18).

18. Antennas/ Solar Panels: No radio, or satellite receiver dish, solar panel(s) or similar structures (collectively "Antenna/Panels") shall be allowed on any Lot, or attached to any home, building or structure of any kind, that attains a height of more than three (3) feet above the highest portion of the Living Unit on the Lot. All television antennas shall be no higher than thirty (30) feet from ground level. In addition, the Antenna/Panel, individually or in combination with all other Antenna/Panels that are a part of a system, shall not be larger than five (5) feet in height, width and total square footage without approval of the Association.

19. Porches: Porches and their contents are uniquely important in Bordermen Crossing; therefore, they may only contain furniture suitable for outdoor weather and is to be kept neat and orderly. Furniture design and color must be harmonious in color and/or style with the respective home that coordinates with the architectural and/or color and theme. Disputes shall be settled by the Association Architectural Control Committee.

20. Architectural Design: No building, fence, walls or other structure shall be erected, placed or altered on any building lot in this subdivision until the building plans, specifications and plot plan showing the location of such structures have been approved by the Association. The purpose of the Association and architectural theme, shall be to enhance and protect the value, desirability, and attractiveness of the development as a whole and to ensure that all buildings, fences, walls or other structures are harmonious with the overall Architectural Character of the subdivision. The destruction of trees and vegetation and any other matter as may affect the environment and ecology of this subdivision shall be proper concern of the Committee. The Town of Converse Neighborhood Development Corporation and any successors in interest will have sole authority in matters of architectural design, interpretation, and approval of homes constructed in Bordermen Crossing. All homes will need to be constructed by a builder on the Approved Builder List. The Association will be controlled initially by The Town of Converse Neighborhood Development Corporation, until the project has homeownership of 50% of the total lots developed.

A) Except for Farmhouse style homes and Colonial style homes, the front of all homes, shall be 40% brick or stone, except for windows, doors, gables, and areas, regardless of whether it is a one-story or two-story home.

B) All one-story homes shall have a minimum of an 6/12 roof pitch and all two-story homes shall have a minimum of an 6/12 roof pitch, excluding porch roofs.

C) Upon completion of the original construction of a Living Unit, the applicable Lot landscaping will be approved by the Association.

Prohibited Shrubs: Bicolor Lespedeza, Black Alder, Buckhorn, Bush Honeysuckle (Amur, Morrow, Tartarian), Privet, Multiflora Rose, Winged Burning Bush.

Prohibited trees: American Elm, Apple, Ash, Austrian (Black) Pine, Autumn Olive, Black Locust, Boxelder, Bradford Pear, Buckeye, Butternut, Carolina Poplar, Cherry, Chinese Elm, Cottonwood, European White Birch, Ginko (female), Lombardy Poplar, Mimosa, Mulberry, Norway Maple, Peach, Pear, Princess Tree, Russian Olive, Siberian Elm, Silver Maple, Sycamore, Tree of Heaven, Thorn, White Poplar, Walnut, Willow.

21. Construction Methods: No modular, concrete, manufactured, log cabins, pole barn or post frame homes will be permitted in this subdivision. No wood foundations shall be permitted. No steel or metal roofs will be permitted in this subdivision except for decorative accents on bump outs, and with approval of the Association.

22. Outbuildings: No free-standing shed, garden house, un-attached garage or any other type of outbuilding that is not otherwise structurally attached to a Living Unit (collectively "Structure") shall be allowed on any Lot without the approval of the Association. All structures otherwise approved by the Association must have the same style and color of siding and roof as the Living Unit on the Lot and cannot exceed 10'X14'.

23. Homeowners Association: Each lot owner shall be required to join the Mandatory Association for the purposes outlined in the Homeowners Association By laws and timely pay any and all dues and assessments.

24. Swimming Pools and Hot Tubs: No above- ground pool, except for spas, hot tubs, whirlpools and similar facilities that do not exceed a 400-gallon capacity, shall be commenced, erected or maintained on any Lot. Swimming pools must be placed behind the residents. All in-ground pools and spas, hot tubs, whirlpools, and similar facilities are subject to Association Architectural Control Committee approval.

25. Pets: No animals, livestock, or poultry of any kind shall be raised bred or kept on any lot, except dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes. Any animal so kept will not be permitted to roam at large within the subdivision and shall be confined to the owner's premises. Animals shall be leashed in accordance with local ordinance.

26. Lot Maintenance: All lots on which construction has not begun must be mowed and maintained by the lot owner. After construction, the structure, grounds and recreational equipment shall be maintained in a neat and attractive manner.

27. Utility Easements: There are strips of property as shown on the recorded plat which are hereby designated and reserved for use of the public utilities for the installation and maintenance of utilities and drainage facilities (hereinafter referred to as Utility Easements). No permanent structure or other obstruction shall be erected or maintained on such Utility Easement comprising a part of his lot, subject to the rights of such public utility for ingress and egress in and along, across, through, and over the Utility Easement.

28. Individual Utilities: No individual water supply system or individual sewage disposal system shall be installed, maintained, or used on any Lot.

29. Enforcement of Covenants: The right to enforce these covenants by injunction, fines, and/or cost together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby reserved to any owner of any of the real estate in this subdivision, including the developer and the Association. However, such time as the developer no longer owns any property contained in this subdivision Section, the developer no longer has any right, obligation or standing to enforce any covenant. The cost of enforcement of any violation of the Covenants contained herein, including any costs, expenses and reasonable attorneys' fees, shall be charged to the property owner in violation, and such costs, expenses and fees shall be collectible in the same manner as assessments as provided herein.

30. Duration of Covenants: These Covenants are to run with the land, and shall be binding on all parties and all persons claiming under them. At any time, a Covenant may be changed in whole or in part upon i) an affirmative vote of seventy percent (70%) of the then owners of lots in the subdivision, and ii) with the consent of the Developer. If the Developer does not own one or more lots in the subdivision, the consent of the Developer shall not be required. Invalidity of any of the foregoing Covenants, provisions, restrictions or conditions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

31. Yard Lights: Each Owner of a Lot shall install and maintain an automatically controlled (photocell) post yard light or similar illumination device ("Yard Light") in the front yard fifteen (15) feet (plus or minus one foot) from the road right-of-way. The Yard Light shall be kept operational and illuminated during all non-daylight hours. The Yard Light design, wattage and location shall be submitted to, and approved by, the Association.

32. Sidewalks: Each Owner subsequent to the Developer shall provide and maintain a concrete public sidewalk across the front of each Lot (and along the side(s) of each corner Lot). Sidewalks shall be five (5) feet in width. All sidewalk mats and ramps shall be constructed in compliance with prevailing Americans with Disabilities Act of 1990 ("ADA") requirements and as it is amended from time-to-time.

33. Dumping: No Lot shall be used or maintained as dumping as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. All sanitary containers must be removed from the street within twenty-four(24) hours after collection of trash and/or recycling. No incinerators shall be allowed on a Lot.

34. Pond Usage: No swimming, ice skating, ice fishing, boating, canoeing, kayaking, spearing, or net casting

35. Right to Farm Deed Restriction: The Owners of the herein described real estate, for themselves, and for all future owners and occupants of said real estate, or any parcel or division thereof, for and in consideration of the right to develop the real estate for other than agricultural uses, hereby:

i) Acknowledges and agrees that the real estate is adjacent to an area zoned or used for agricultural purposes, which uses include, but are not limited to:

- 1) production of crops;
- 2) animal husbandry;
- 3) land application of animal waste;
- 4) raising, breeding and sale of livestock and poultry, however excluding confined feeding operations ("CFO");
- 5) use of farm machinery; and/or
- 6) the sale of farm products.

ii) Waives any and all objections to any agricultural uses within two miles of any boundary of the real estate.

iii) Agrees that agricultural uses do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties or directly endanger human health.

iv) Agrees that this covenant is for the benefit of the Town of Converse, Indiana, and for all persons engaged in agricultural uses within two miles of any boundary of the real estate and is enforceable by any of the foregoing.

We, the Town of Converse Neighborhood Development Corporation, do hereby certify that we are the Owners and Developer of the property described in the above caption and that as such owner have caused the said above property to be surveyed and subdivided as shown on the herein drawn plat, as our own free and voluntary act and deed this real estate as set forth in the Plat attached hereto.

### **ARTICLE III**

#### **COMMUNITY ASSOCIATION - GENERAL**

Section 1. Association. At a time deemed appropriate by the Developer, the Developer shall cause the Association to be incorporated. At a time deemed appropriate by the Developer, the Developer shall cause to be conveyed to the Association, and the Association shall accept, ownership of all common area within Bordermen Crossing, and all fixtures located thereon owned by Developer, all detention ponds and areas, subdivision entrance ways and signage, and associated lighting, if any. In the event that the name "Bordermen Crossing Homeowners Association, Inc." is not readily available for use, as determined by the Indiana Secretary of State or for any other reason, Developer may choose a different name for the Association.

Section 2. Membership. One membership shall be created for each Lot in Bordermen Crossing. Upon the initial sale of each Lot by the Developer, the purchaser and all subsequent owners thereafter shall become a member of the Association effective on the date of ownership thereof. An Owner's membership shall transfer to the subsequent purchasers on the effective date of the conveyance of the Lot. Upon becoming a member of the Association, a member shall be obligated to pay assessments to the Association in accordance with Article IV of this Dedication and shall be bound by all of the other terms of this Dedication. Membership shall be appurtenant to and may not be separated from the ownership of any Lot. The Owner of a Lot must be a member of the Association.

Section 3. Other Members. Developer reserves the right to (i) include and burden other real estate ("Other Real Estate") that it may develop as a part of the Bordermen Crossing subdivision with similar covenants, restrictions and limitations as are contained in this Dedication, and (ii) include the owners of said other real estate ("Other Owners") in the Association as equal members with the same rights (voting and otherwise), privileges and obligations (including without limitation the payment of Assessments in the same manner as set forth in this Dedication). In the event that Other Owners are included in the Association pursuant to this section, the number of memberships and votes in the Association shall be increased by the number of lots added from the Other Real Estate.

Section 4. Continuing Membership. The Owner of a Lot shall be a member of the Association and shall continue to be a member of the Association so long as he/she continues to be the Owner of a Lot. Membership shall pass with the ownership of the Lot.

Section 5. Purpose of Assessments. The Assessments (as defined in Article IV below) shall be used exclusively to effectuate the duties and purposes of the Association as set forth in this Declaration, its Articles of Incorporation and/or By-Laws, including without limitation, for the purpose of promoting the recreation, health, safety and welfare of residents of the Bordermen Crossing Homeowners Association, Inc. including, without limitation, to pay the cost of improvement, maintenance and repair of all common areas in Bordermen Crossing, the entrance ways, lights and signs, detention ponds or areas, and all other things necessary or desirable in

the opinion of the Association in connection therewith such as securing insurance and/or accounting and legal services for the Association. Notwithstanding the foregoing, in the event that Other Owners are included as Members in the Association as provided in Section 3 above, this Section 5 shall be deemed amended to include the use of the Assessments for the additional purpose of promoting the recreation, health, safety and welfare of the residents of the Other Real Estate including, without limitation, to pay the cost of improvement, maintenance and repair of all common areas in the Other Real Estate, the entrance ways, lights and signs, detention ponds or areas, and all other things necessary or desirable in the opinion of the Association in connection therewith.

Section 6. Board of Directors. The Members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. Until such time as the Association is incorporated by the Developer and a Board of Directors is elected for the Association, the Developer shall have all the powers and duties granted to the Association and the Board of Directors in this Dedication.

## **ARTICLE IV**

### **COMMUNITY ASSOCIATION - COVENANT FOR ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. Except the Developer, each Owner of a Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, or to the Developer prior to the formation of the Association, annual assessments or charges ("Annual Assessment"), and any Special Assessment under Section 4 below, to be paid on January 1 of each year (hereinafter called "Annual Payment Date") or otherwise as the Association may elect from time-to-time. The Annual Assessments and any Special Assessment (collectively "Assessment" or Assessments"), together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to any successor-in-title unless such successor(s) expressly assumes the same.

Section 2. Purpose of Assessments. The Assessments shall be used exclusively to effectuate the duties and purposes of the Association as set forth in Article III, Section 5 above.

Section 3. Maximum Annual Assessment.

- a. Until January 1, 2023, the maximum Annual Assessment on any Lot shall be Ninety-Five Dollars (\$95.00).
- b. From and after January 1, 2023, the maximum Annual Assessment may be increased each calendar year by the Board of Directors (or by the Developer if the Association is not yet formed) by a percentage that is not more than twelve percent (12%) above the Annual Assessment that was charged during the

previous calendar year, without a vote of the membership.

- c. From and after January 1, 2023, the maximum Annual Assessment may be increased by a percentage in excess of twelve percent (12%) above the Annual Assessment that was charged during the previous calendar year only upon approval of the Board of Directors (or by the Developer until the Association is formed) and a majority of the votes of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- d. As determined by the Board of Directors from time-to-time, a portion of the Annual Assessments may be set aside or otherwise allocated to a reserve fund for the purpose of providing funds for future repairs and maintenance.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the Annual Assessment authorized above, the Association may levy a special assessment ("Special Assessment") for any capital improvement(s) within the powers or duties of the Association or for the purpose of paying, in whole or in part, any operating deficit(s) which the Association may from time-to-time incur, provided that any Special Assessments shall have the approval of a majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting or as otherwise required by the Articles of Incorporation and By-Laws of the Association. At the first such meeting called, the presence of members, in person or by proxy, entitled to cast fifty percent (50%) or more of all the votes of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event of a conflict between (i) the provisions of this Dedication and (ii) the Articles of Incorporation and/or By-Laws of the Association, the Articles of Incorporation and By-Laws shall control.

Section 6. Uniform Rate of Assessments. Except as provided below, Annual and Special Assessments must be fixed at a uniform rate for all Lots. Assessments shall be collected on an annual basis unless otherwise determined by the Board of Directors from time- to-time. Notwithstanding the foregoing, there shall be no Annual Assessments or Special Assessments assessed against any Lot owned by the Developer and the Developer shall not owe any Assessment at any time to the Association.

Section 7. Date of Commencement of Assessments. The due dates for all Assessments shall be established by the Board of Directors. The Association (or the Developer until the Association is formed) shall upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an authorized representative setting forth whether the Assessments on a specified Lot have been paid or are delinquent. A properly executed certificate from the Association regarding the status of Assessments chargeable against any Lot shall be binding

upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If any Annual Assessment or Special Assessment (or installment if applicable) is not paid on the date when due, then the entire unpaid Assessment shall become delinquent and shall become, together with interest thereon and cost of collection, including reasonable attorney's fees, a continuing lien on the applicable Lot assessed and it shall be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The personal obligation of the Owner to pay such Assessments shall remain the Owner's personal obligation and shall not pass to successors in title unless expressly assumed.

If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum, and the Association (or the Developer until the Association has been commenced) may (i) record a Notice of Lien against the Lot in the office of the Recorder of Miami County, Indiana, which Notice of Lien shall perfect the lien of the Association and have the same force and effect as, and shall be enforced in the same manner as, a mortgage lien under Indiana law, and shall include the right to recover attorney's fees, title expenses, interest and all other costs of collection; and/or (ii) bring legal action against the Owner to collect all sums due and/or to foreclose the lien against the Lot. In any successful legal proceeding, the Association and/or the Developer that brought the legal proceeding shall be entitled to recover all its reasonable attorney's fees, costs and expenses incurred.

No Owner may waive or otherwise escape liability for the Annual Assessment and/or Special Assessment provided for herein by non-use of the Common Area, refusal to allow the Association to perform any action or by abandonment of the Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any prior lien, mortgage and purchase money mortgage. Sale or transfer of any Lot shall not affect the Assessments' lien. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any prior mortgage on such Lot (without the necessity of joining the Association or the Developer in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all Assessments becoming due prior to the date of such sale or transfer.

## **ARTICLE V**

### **COMMUNITY ASSOCIATION - ARCHITECTURAL CONTROL COMMITTEE**

Section 1. Applicability. This Article V shall apply to only Lots One (1) through Thirty- Seven (37), in Bordermen Crossing (collectively "Single-Family Lots").

Section 2. Composition. The Architectural Control Committee ("Committee") shall be composed of three members. During the time that the Developer owns any Single-Family Lot, the Architectural Control Committee ("Committee") shall be appointed by the Developer; provided, however, Developer may by written notice to the Association transfer its power of appointment of the Committee to the Association at any time. Thereafter, the members shall be

appointed by the Board of Directors of the Association. The Committee may appoint one member to act for it in any or all matters, as the Committee may in its absolute discretion decide from time-to-time.

Section 3. Authority. No Living Unit, Building, Structure, Antenna/Panel, fence, wall, pole, pool, trampoline, or other improvement or structure of any kind, temporary or permanent, ("Improvement") shall be constructed or placed on any Single-Family Lot or attached in any manner to a Living Unit, Building or Structure thereon, nor shall any exterior addition, change or alteration ("Alteration") be made to an existing Living Unit, Building, Structure or Improvement on a Single-Family Lot until plans and specifications ("Plans") for the Improvement and/or Alteration showing the nature, kind, shape, dimensions, height, materials, color and location (collectively "Specifications") are submitted to and approved by the Committee in writing as to the harmony of the Improvement's/Alteration's Specifications with Bordermen Crossing, in general, and, more specifically, to the other Living Units therein. The Committee may not approve any Improvement or Alteration that is otherwise specifically prohibited by the terms of this Dedication without properly amending the Dedication according to the provisions of Article VII.

Section 4. Timing. Within thirty (30) days after receipt of written Plans that clearly set forth all of the information required to be submitted under section 3 above, the Committee must approve or reject the Plans in writing delivered to the Owner requesting the approval. In the event that the Committee fails to act within the thirty (30) daytime-frame, no approval will thereafter be required for the exact Plans submitted, provided that the Owner who submitted the Plans has an appropriately dated delivery receipt signed by a current member of the Committee and a copy of such receipt is delivered to the Association prior to beginning the Improvement or Alteration. Notwithstanding the foregoing, the Committee's failure to act shall not permit an Improvement or Alteration that is otherwise prohibited by the terms of this Dedication.

## ARTICLE VI

### COMMUNITY ASSOCIATION - INSURANCE

Section 1. Liability Insurance. The Association (once formed) may purchase and maintain comprehensive liability insurance policy(ies) in such amount or amounts as the Board of Directors shall deem appropriate from time-to-time. Such comprehensive liability insurance may provide coverage to the Association, its Board of Directors, any committee of the Association or Board of Directors, the Architectural Control Committee and all persons acting as agents or employees of any of the foregoing with respect to the Association.

Section 2. Other Insurance. The Association (once formed) may obtain all insurance required by law to be maintained and such other insurance as the Board of Directors shall from time-to-time deem necessary, advisable or appropriate. Such insurance coverage may also provide for and cover cross liability claims of one insured party against another insured party. Such insurance may insure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association.

Section 3. Monthly Assessment for Insurance. The premiums for all such insurance maintained by the Association shall be paid from the Annual Assessment or Special Assessment

permitted by this Dedication.

## **ARTICLE VII**

### **GENERAL PROVISIONS**

Section 1. **Right of Enforcement.** In the event of a violation, or threatened violation, of any of the covenants, restrictions or other provisions set forth in this Dedication, the Developer, the Association, and/or any Owner shall have the right to enforce the terms of this Dedication and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief. In any such successful legal proceeding, the Association, the Developer and/or the Owner bringing the successful action shall be entitled to recover from the party against whom the successful action was brought reasonable attorney's fees and the costs and expenses incurred.

Section 2. **Amendment.**

- a. Except as provided in subparagraph (c) below, Articles I through VI, inclusive, and Sections 1, 2(a), 3, 4 and 5 of Article VII of this Dedication may be amended at any time by an instrument recorded in the Office of the Recorder of Miami County, Indiana, signed by the Owners (as of the date of the recording) of at least Seventy (70%) of the Lots.
- b. Notwithstanding the provisions of subparagraphs (a) and (b) above, during the time that Developer owns any Lot, Sections 3, 4 and 5 of this Article VII, as well as any other provision of this Dedication that establishes any of the rights, interests, benefits, and/or obligations of the Developer, or the Association, may be amended or changed in any manner without also having the Developer's written consent on the amending instrument that is recorded with the Recorder of Miami County, Indiana.
- c. Any part of this Dedication may be amended by the Developer acting alone at any time within thirty (30) months from the date of the recordation of the Dedication - provided Developer has an ownership interest in any Lot at the time the amending instrument is recorded.

Section 3. **Effective Period.** This Dedication shall be effective and binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Miami County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Dedication by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 4. **Permission.** Each Owner by accepting a deed for a Lot hereby covenants and

agrees to grant permission to such companies, and their respective employees, hired or engaged by the Association, or the Developer to access the Owner's Lot for any purpose that is the responsibility of the Association or pursuant to this Dedication.

Section 5. Conflict of Provisions. In the event that any provision of this Dedication conflicts with the Plat, the Plat shall control. In the event that any provision of this Dedication conflicts with any law, ordinance, statute or similar public requirement, the law, rule, ordinance or similar public requirement shall control. In the event that any provision of this Dedication conflicts with the Articles of Incorporation or By Laws of the Association, the Articles of Incorporation or By Laws shall control.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed on this 27<sup>th</sup> day of September 2022.

**Town of Converse Neighborhood Development Corporation**

By: \_\_\_\_\_

Joe Lenon, President

STATE OF INDIANA    )  
                                  )    SS  
COUNTY OF MIAMI    )

Before me, the undersigned Notary Public, in and for said County and State, this 27 day of SEPTEMBER, 2022, personally appeared Joe Lenon, President of the Town of \_\_\_\_\_ Converse Neighborhood Development Corporation, who is over the age of eighteen (18) years, and acknowledged the execution of the foregoing Dedication, Protective Restrictions, Covenants & Easements as his voluntary act and deed on behalf of said limited liability company for the uses and purposes set forth in this document.

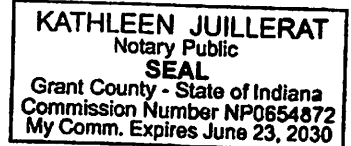
Witness my hand and notarial seal this 27 day of SEPTEMBER 2022

KATHY JUILLERAT

KATHY JUILLERAT

Printed Name

My Commission Expires: / JUNE 23, 2030



Approval by the Town of Converse Planning & Zoning Board on this 27 date of September, 2022.

Andrew S. Horner

Attested by: Andrew S. Horner Secretary

Laure Lenon

Board Member

Edmond W. Ash

Board Member

[Signature]

Board Member

Vicki E. Spat

Board Member

Jenna B. Thomas

Board Member

Jenny A. Hutchings  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

\_\_\_\_\_  
Board Member

STATE OF INDIANA    )  
                              )    SS  
COUNTY OF MIAMI    )

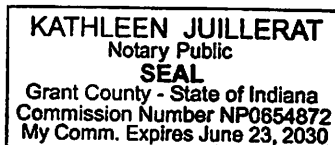
Before me, the undersigned Notary Public, in and for said County and State, this 27<sup>th</sup> day of September 2022, personally appeared the foregoing Board Members, who are over

the age of eighteen (18) years, and acknowledged the execution of the foregoing Dedication, Protective Restrictions, Covenants & Easements as their voluntary act and deed on behalf of said limited liability company for the uses and purposes set forth in this document.

Witness my hand and notarial seal this 27 day of September 2022.

Kathy Juillerat  
KATHY JUILLERAT  
Printed Name

My Commission Expires: JUNE 23, 2030



Pursuant to IC 36-2-11-15(d): 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.

Anthony R. Spahr  
Anthony R. Spahr

**This Instrument Prepared by:** Anthony R. Spahr, Attorney-at-Law, 55 S. Broadway, PO Box 145, Peru, IN 46970; (T) 765-472-1201; (F) 765-473-4693; E-mail: arspahrlaw@hotmail.com