

**FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF KETCHAM RIDGE
RECORDED WITH THE MONROE COUNTY RECORDER
AS DOCUMENT NUMBER 2006003825 ON FEBRUARY 17, 2006**

WHEREAS, Moore Development LLC (“Declarant”) caused the *Declaration of Covenants, Conditions and Restrictions of Ketcham Ridge* to be recorded with the Monroe County Recorder on February 17, 2006 as Document Number 2006003825 (“Declaration”); and

WHEREAS, Declarant did reserve the right under Article 4 of the Declaration to amend the Declaration; and

WHEREAS, the Declarant desires to amend the Declaration;

THEREFORE, Declarant does hereby declare the property which is the subject matter of the Declaration shall be transferred, held, sold, conveyed and occupied subject to the provisions of the Declaration as amended by the provisions set forth herein.

1. Article 1 of Addendum A, CONSTRUCTION GUIDELINES of KETCHAM RIDGE ARCHITECTURAL CONTROL COMMITTEE GUIDELINES ADDENDUM A is amended and restated to read as stated in the attached ADDENDUM EXHIBIT A which is attached hereto and incorporated herein by this reference.

This First Amendment applies to the real estate described in REAL ESTATE EXHIBIT A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this First Amendment to the Declaration is executed on the _____ day of March, 2009.

DECLARANT

MOORE DEVELOPMENT, LLC

By: _____
Brian Moore, Member

STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

Before me, a Notary Public, in and for said County and state, personally appeared Brian Moore, known by me to be a Member of Moore Development, LLC, an Indiana limited liability company, who acknowledged the execution of this *First Amendment to the Declaration of Covenants, Conditions and Restrictions of KETCHAM RIDGE recorded with the Monroe County Recorder as Document Number 2006003825 on February 17, 2006.*

Dated this _____ day March, 2009.

Notary Public

Name Printed

I reside in _____ County, Indiana.

My commission expires: _____.

I affirm under penalties for perjury that that I have taken reasonable care to redact each social security number in this document unless required by law.

James F. Bohrer
4023-53

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THIS INSTRUMENT PREPARED BY JAMES F. BOHRER, MALLOR CLENDENING GRODNER & BOHRER, LLP, 511 WOODSCREST DRIVE, P.O. BOX 5787, BLOOMINGTON, IN 47407 (812) 336-0200.

Exhibit A

One half (1/2) acre, more or less, lying on the North side of the Fluck Cut Stone Road as it now runs through a Forty-five (45) acre tract off the Southeast quarter of Section 6, Township 7 North, Range 1 West, which said Forty-five (45) acre tract is bounded as follows: Beginning at a point Fifty (50) rods West of the Northeast corner of said Southeast quarter, running thence West Forty-five (45) rods, thence South One Hundred Sixty (160) rods to the South line of said quarter, thence East Forty-five (45) rods to a point Fifty (50) rods West of the Southeast corner of said Southeast quarter, thence North One Hundred Sixty (160) rods to the place of beginning. EXCEPTING FROM THE 0.5 acre tract as described in Deed Book 422, page 213, in the Office of the Recorder of Monroe County, Indiana. Being in a part of the East Half of Section 6, Township 7 North, Range 1 West, being more particularly described as follows: Commencing at a railroad spike at the Southeast corner of the Northeast quarter of said Section 6; thence South 88 degrees 52 minutes 43 seconds West 1561.50 feet; thence South 01 degree 08 minutes 57 seconds East, 118.68 feet to the point of beginning, being marked by a 5/8-inch rebar with yellow cap stamped "Bledsoe Tapp PC 50920004" (BT rebar); thence North 88 degrees 52 minutes 43 seconds East. 25.00 feet to a BT rebar; thence South 01 degree 08 minutes 57 seconds East 97.88 feet to a railroad spike in the center of Ketcham Road; thence along said centerline South 58 degrees 06 minutes 06 seconds West, 29.09 feet to a railroad spike at the Southwest corner of said 0.5 acre tract; thence North 01 degree 08 minutes 57 seconds West along the West line of said 0.5 acre tract, 112.71 feet to the point of beginning, containing 0.06 acres, more or less.

Excepting therefrom a 40 foot right of way for a railroad along the South line of the Northeast quarter.

ALSO, a part of the Northeast quarter of Section 6, Township 7 North, Range 1 West, bounded and described as follows, to-wit: Beginning at the Northeast corner of said quarter section, running thence West on the section line, ninety-four (94) poles; thence South, parallel with the East line of said section to the South line of said quarter section; thence East on the South line of Said quarter section, ninety-four (94) poles to the Southeast corner of said quarter section; thence North to the place of beginning containing ninety-five (95) acres, more or less, EXCEPTING THEREFROM a right-of-way forty (40) feet in width for a railroad track extending along the South side of said above-described land.

ALSO, a part of the East half of Section 31, Township 8 North, Range 1 West, bounded as follows, to wit: Commencing ten (10) chains West of the Southeast corner of said Section 31, running thence West ten and five hundredths (10.05) chains, thence North three and twenty-three hundredths (3.23) chains, thence East ten and five hundredths (10.05) chains thence South to the place of beginning, containing 3.25 acres, more or less.

More Particularly Described in Boundary Survey dated October 21, 2003 performed by Ben E. Bledsoe, Indiana Registered Land Surveyor No. S0559, as follows:

A part of the East half of Section 6, Township 7 North, Range 1 West and a part of the Southeast quarter of Section 31, Township 8 North, Range 1 West, described as follows: Beginning at the Southeast corner of the Northeast quarter of said Section 6; thence North 00 degrees 58 minutes 07 seconds West along the East line of Section 6 a distance of 2680.31 feet to the Northeast corner of Section 6; thence along the North line of Section 6 South 89 degrees 41 minutes 22 seconds West 756.10 feet; thence North 00 degrees 09 minutes 09 seconds West 211.53 feet; thence South 89 degrees 45 minutes 12 seconds West 663.84 feet; thence South 00 degrees 11 minutes 01 second East 212.27 feet to the North line of Section 6; thence along said North line, South 89 degrees 41 minutes 22 seconds West 131.17 feet; thence South 00 degrees 58 minutes 14 seconds East 2703.26 feet; thence South 82 degrees 32 minutes 05 seconds West 16.70 feet; thence South 01 degree 08 minutes 57 seconds East 116.68 feet; thence North 88 degrees 52 minutes 43 seconds East 25.00 feet; thence South 01 degree 08 minutes 51 seconds East 97.88 feet to the centerline of Ketcham Road; thence along said centerline the following (3) courses 1.) North 52 degrees 55 minutes 09 seconds East 269.19 feet; 2.) North S3 degrees S3 minutes 55 seconds East 53.53 feet; 3.) North 83 degrees 10 minutes 27 seconds East 281.74 feet to the South line of the Northeast quarter of Section 6; thence along said South line, North 88 degrees 50 minutes 30 seconds East 1000.22 feet to the point of beginning, containing 99.95 acres, more or less.

KETCHAM RIDGE
ADDENDUM EXHIBIT A
AMENDED & RESTATED CONSTRUCTION GUIDELINES

ARTICLE 1
CONSTRUCTION GUIDELINES

In order to create and maintain a high quality residential development on the subject property, the Committee has established certain criteria for all construction. The Owner and the Owner's general contractor shall ensure that all construction and improvements complies with all applicable building and zoning codes.

Section 1. General Requirements for All Residences.

- A. **Square Footage.** Single family residence of one story shall have a ground floor area not less than 2000 square feet. Single family residence of one and one-half stories shall have a ground floor area of not less than 1800 square feet, with total finished area of not less than 2300 square feet. Single family with two stories in height shall have a ground floor area of not less than 1400 square feet, with the finished area of not less than 2300 square feet. The ground floor area for the purpose of these restrictions shall be determined from the area of the Residence measured from the outside of the building foundation exclusive of open porches, breezeways, garages, carport, chimney, eaves, and basements.
- B. **Sidewalks.** The Declarant will not install sidewalks on any Lot. Following completion of a Residence on the Lot, the Owner shall, at the Owner's expense, install any required sidewalks to County standards on that Lot from property line to property line. Sidewalks are required along west side of National Point Rd. (primary street), and north side of

Dowden Creek Rd. and Dark Hollow Rd. After the initial installation, the Owner shall comply with all applicable ordinances and regulations pertaining to sidewalk maintenance and repair for all sidewalks located on the Owner's Lot.

Section 2. Specific Requirements.

- (A) **Colors and materials of Residences.** The finished exterior of every Residence and other Building constructed or placed on any Lot shall be of material other than aluminum siding, rollbrick siding or any other similar artificial material (i.e. traditional brick, stone, plank cement siding, patterned or spirality vinyl siding may be acceptable in some styles, and other natural materials are to be utilized). The Lot Owner shall use thirty percent (30%) or more stone or masonry facades (exposed concrete block is not permitted above grade) on the front of the Residence unless the stone or masonry façade is not comparable with the architectural state of the Residence and the Owner obtains a written waiver of this requirement from the Committee prior to the start of construction. All materials used on the exterior of any Residences and any other building improvements on a Lot shall be subject to the approval of the Committee. All exterior veneer colors are generally to be subdued earthen tones. All roofing material must be architectural grade with a minimum rating of 25 years. All outbuildings or accessory structures shall be of similar design and material as the Residence. No log homes shall be permitted. All roof pitches shall be a minimum ratio of 8 feet of rise to 12 feet of run (8/12).
- (B) **Fences, walls, and screening.** It is the goal of the Committee to keep all fencing or screening as harmonious as possible with the architectural character of the community. No fence or screen will be approved if its installation will obstruct necessary sight lines for vehicular traffic. The Committee when reviewing fences for approval will take undue

obstruction of view or other amenities from adjoining properties into consideration. Except for decorative fences, fences shall not be nearer to the front of a home than the front foundation line of a home. The Committee shall have the right to require landscaping of the exterior side of all solid fencing on a Lot (i.e., on the sides of such fencing facing away from the Residence on such lot.) Fences may be privately installed but must be constructed to professional levels of quality. The Committee will inspect all fences after completion in order to insure that the final product is of professional quality, and final approval of the fence shall be deemed withheld until successful completion of this final review.

1. Height restriction. The Committee is of the opinion that the environmental integrity of KETCHAM RIDGE will be materially lessened if the open nature of KETCHAM RIDGE is damaged by a proliferation of fences of excessive height. The Committee, therefore, will approve fences up to 6 feet in height that otherwise meet these guidelines. The Committee shall give consideration, however, to a variance in this height limit where clearly unique circumstances exist. The use of 6-foot fences around small patio areas of a backyard of a Residence in order to secure privacy for the immediate patio area will be permitted. The specific fence height restrictions are as follows:

- (a) Property fencing and walls above grade shall not exceed 6 feet above grade unless otherwise approved by the Committee.
- (b) The Committee will not ordinarily approve any proposed fence that exceeds 6 feet in height unless that Lot offers some circumstance clearly unique to that Lot.
- (c) Patio screens/privacy fences shall not exceed 6 feet in height.

2. Materials and finish.

- (a) Wood fencing or screening, brick or stone will be approved if the design is in conformity with the architectural design of KETCHAM RIDGE, subject to the Committee's right to require landscaping on the exterior sides thereof.
 - (b) The Committee will not approve an application for the installation of a chain link or other galvanized metal fencing. No barbed wire or electrically charged above-ground fences shall be used anywhere in KETCHAM RIDGE.
 - (c) All fencing or screening should preferably have finished material on both sides. If only one side has finished materials, that side must face the public side or adjoining property.
 - (d) Walls above grade should be constructed of natural stone or equivalent, masonry, or attractive timber.
- (C) **Landscaping.** Within sixty (60) days following completion of a Residence, the Owner shall landscape the Lot from at least the rear foundation line forward, weather permitting. As part of this landscaping, the Owner of each Lot shall establish a satisfactory lawn by seeding or laying sod on the Lot. The Owner's landscaping shall comply with all applicable ordinances concerning erosion control and drainage.
- (D) **Exterior Antennas.** Unless specifically authorized by the Committee, no television, radio or other antennas may be erected by any Owner on the exterior of a Residence or on a Lot. No satellite dishes larger than 24" may be installed, and, regardless of size, no dish is to be installed beyond the back corner of the Residence or where the dish can be seen from any street.

- (E) **Swimming pools, Spas, and Jacuzzis.** Swimming pools, spas, and Jacuzzis must have the approval of the Committee before any work is undertaken. The Committee will approve permanent in-ground pools, spas, and Jacuzzis only after careful consideration of the potential effect of such a pool, spa, or Jacuzzi on neighboring properties. An application for the construction of a swimming pool, spa, or Jacuzzi on a Lot will not be considered unless the application is accompanied by an application for acceptable fence and landscape design. The design of such fence shall conform to county or municipal regulations for such fencing; a fence or pool cover that meets all county or municipal requirements is required. Use of plantings in the vicinity of the proposed pool, spa, or Jacuzzi will be required to soften the effect of sound and the required pool fencing on adjacent properties. No above-ground swimming pools are permitted in KETCHAM RIDGE.
- (F) **Tennis courts, racquetball courts, paddle ball courts, etc.** Tennis courts, racquetball courts, paddle ball courts, squash courts, basketball courts, and other recreational or sporting facilities will be approved by the Committee only after thorough consideration of the potential effect of such a structure or use on neighboring properties. The Committee will not approve non-baffled lighted courts or facilities. An application for the construction of any such facility will not be considered unless the application is accompanied by an application for an acceptable fence and landscape design. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.
- (G) **Driveways and patios.** For every Residence, there must be a driveway with a minimum width of ten (10) feet extending from the public road in front of the Residence to a point at least as far back to the closest point in front of the Residence. The driveway shall be paved

with either concrete or hot mixed bituminous asphalt materials and must provide parking for all of the Owner's Vehicles. No on-street parking is permitted overnight... Extensions, widening or rerouting of existing driveways and patios must have the approval of the Committee prior to construction.

- (H) **Solar heating systems.** The Committee acknowledges the increased use of residential solar heating systems utilizing solar heating panels and related equipment. The Committee will carefully review solar heating plans to insure that their use and location have a minimum detrimental effect on adjoining properties. No solar energy collector panels or other energy conservation device or attendant hardware shall be installed or constructed unless it is integral and harmonious part of architectural design of a structure that has been approved by the Committee.
- (I) **Play equipment.** Children's play equipment such as sandboxes, swing and slide sets, playhouses and tents shall not require approval by the Committee provided such equipment is located behind the rear foundation line of the home, is not more than 8 feet high, is maintained by the Lot Owner in good repair (including painting, staining, or weather sealing), and every reasonable effort has been made by the Lot Owner to screen or shield such equipment from view. Equipment higher than 8 feet shall require approval of the design, location, color, material and use by the Committee.
- (J) **Garages.** Every Residence located on the Real Estate must have at least a two-car garage, attached to the Residence and of the same architectural design and materials as the Residence. All garage doors must have automatic closing devices.
- (K) **Fuel Tanks.** Tanks for the storage of fuel installed outside any Building will not be allowed.

- (L) **Garbage Disposal.** All Residences are to be built with a garbage disposal.
- (M) **Mailboxes.** To obtain continuity, all mailboxes of consistent shape and design shall be approved by the Declarant, including the newspaper delivery boxes.
- (N) **Windows.** All windows will be of architectural quality, weather-stripped, thermo pane or double-glazed.
- (O) **Accessory outbuildings.** No accessory outbuildings or other accessory uses or improvements shall be erected on any of the Lots prior to the erection thereon of a single family Residence, and in no event shall any such accessory outbuilding that may be constructed upon a Lot subject to these Restrictions ever be used as a Residence or place for human occupancy or habitation provided, however, that, if and to the extent specifically permitted and approved by the Committee, accessory buildings on a Lot may include living quarters for guests and invitees of the Owner of said Lot, but such quarters shall not be used by the Owner of said Lot as a rental unit or for rental purposes. The accessory outbuildings must comply with all relevant zoning codes. No metal outbuildings shall be permitted on any Lot. All outbuildings must be of the same design and materials as the primary structure and shall be subject to the approval of the Committee.
- (P) **Prohibition of used structures.** All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot. The Committee may approve historic structures or building components.
- (Q) **Ditches and swales.** As the *Declaration* makes it the duty of every Owner of every Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements

and plant material) and in good repair, the Owner is expected to provide for the installation of such culverts upon said Lot as may be reasonably necessary.

Section 3. General Construction Requirements.

- (A) **Tree protection and erosion control measures.** During periods of construction of a Residence or improvements on a Lot, the builder shall provide adequate physical barriers such as straw bales or snow fencing in order to protect trees from damage by construction equipment and related activities. In addition, builders shall be required to exercise erosion control measures to prevent silt transportation to the main drainage ways. Builders shall provide appropriate temporary seeding of disturbed areas and temporary wood or straw bale dams to restrict silt-sediment transportation. The Owner of a Lot shall be responsible for the performance of all requirements of these guidelines by builders and contractors employed or engaged by or through such Owner.
- (B) **Storm Water Drainage.** To aid in the efficient operation of the storm water drainage system of the entire property subject to the *Declaration*, all water discharged from improvements on such Lot, including, but not limited to, water discharged from or through roofs, downspouts, sump pumps, gravity drains, water treatment and geothermal devices, patios, pool decks and tennis courts, shall be directed and controlled so that such water does not discharge toward, onto, over, across or under the No Build Areas. The site plan or plot plan for a Lot submitted to the Committee for its approval shall reflect compliance with the foregoing provisions.
- (C) **Occupancy and residential use of partially completed residence prohibited.** No Residence constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The Committee shall

make the determination of whether the Residence has been substantially completed and such decision shall be binding on all parties.

- (D) **Diligence in construction.** Every Residence or other structure whose construction or placement on a Lot is begun shall be completed within twelve (12) months after the beginning of such construction or placement. No improvement that has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.
- (E) **Maintenance shall continue during construction.** The site and street shall be cleaned on a daily basis. The Owner of the Lot is financially responsible for clean up expense and/or street repair. Materials used for Construction may be kept on the Lot during construction. Construction equipment and materials may not be stored on the Lot prior to the Commencement of Construction or after Construction is complete.
- (F) **Outside toilets.** No outside toilets shall be permitted on any Lot. During construction of the Residence commercial port-a-lets are allowed.
- (G) **Rules governing building on several contiguous Lots having one Owner.** Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Residence, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Residence shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Residence and permitted accessory outbuildings, uses or improvements. No later subdivision of the newly created Lot will be allowed.

(H) **Permits and Indemnification.** Builder, at the Builder's expense, shall obtain all required permits prior to beginning construction on any Lot. The Builder and Owner shall jointly and severally indemnify and hold Declarant and the Committee harmless from any liability or loss incurred as a result of any earth-moving construction begun without proper permit.