

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS
AS PART OF THE PLAT OF CROSS CREEK SUBDIVISION
AN ADDITION TO THE CITY OF DECATUR
ADAMS COUNTY, INDIANA

Biggs, Inc., an Indiana Corporation, by Ralph E. Biggs, it's president and Bonnie J. Urick, it's secretary, treasurer, hereby declare that they are the owners of the real estate shown and described in this plat and do hereby layoff, plat and subdivide said real estate in accordance with the information shown on the plat, being the certified plat attached hereto and incorporated herein. The subdivision shall be known as Cross Creek Subdivision, an Addition to the City of Decatur, Adams County, Indiana.

The lots numbered from 1 to 25, shall be known as the Woodlands at Cross Creek and lots 26 to 162 shall be known as The Highlands of Cross Creek, inclusive, and all dimensions are shown in feet and decimals of feet. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purpose.

1. Definitions. The terms hereinafter set forth shall have the following meanings:

- a. "Developer" shall mean Woodlands Limited an Indiana Limited Partnership, Biggs, Inc., General Partner.
- b. "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 dwelling or other structure may be erected in accordance with the restrictions hereinafter set forth.
- c. "Living Unit" shall mean any portion of a building designated and intended for use and occupancy as a residence by a single family.
- d. "Owner" shall mean and refer to the holder, whether one or more persons or entities, of the fee simple title to any lot or living unit situated in the Addition.
- e. "Lessee" shall mean and refer to a person leasing from an Owner, whether one or more persons or entities, of any "Living Unit" situated in the Addition.
- f. "Association" shall mean and refer to the duly established Community Association.
- g. "Member" shall mean any person who may be entitled and obligated to hold one or more memberships in the Community Association.
- h. "Membership" shall mean any membership in the Community

Association entitled to one vote and one assessment as hereinafter set forth. A member may hold one or more memberships.

- i. "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat and intended to be devoted to the common use and enjoyment of the Owners and Lessees in the Addition.
- j. "Street" shall mean any street, avenue, roadway, cul de sac or boulevard of whatever name which is shown on the recorded plat of said Addition, and which has been heretofore and is hereby, dedicated to the public for the purpose of a public street or boulevard purposes.
- k. "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain other approvals in connection with improvements and developments.

2. Use. Lots numbered 4 through 25 and 26 through 66 and 145 through 162 are zoned R-1 and to be used for single family residences only. Lots numbered 67 through 117 and 121 through 144 are zoned R-2. Lots 1 through 3 and 118 through 120 are zoned B-1. All single family dwellings must have an attached two car garage with minimum width of 20 feet.

3. Driveways. All driveways from the street to the garage shall be of hard surface and not less than sixteen (16) feet in width.

4. Minimum Area. No dwelling shall be erected or permitted on lots 26 through 117 and 121 through 162 having a ground floor area upon the foundation, exclusive of open porches, breezeways or garage, of less than 1400 square feet in the case of a one-story dwelling, nor less than 850 square feet for a dwelling of more than one story. No dwelling shall be erected or permitted on lots 4 through 25 having a ground floor area upon the foundation, exclusive of open porches, breezeways or garage, of less than 1800 square feet in the case of a one story dwelling, nor less than 1000 square feet for a dwelling of more than one story. Any exceptions from above may be approved by the Architectural Control Committee.

5. Building Lines. No dwelling or structure (including a fence or wall) 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 attached plat. No dwelling or structure shall be located nearer than 8 feet to any side lot line. No dwelling or structure shall be located on any interior lot nearer than 30 feet to the rear lot line. On a corner lot, no building or structure shall be located nearer than 8 feet to the in-

terior lot line. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.

6. Further Subdivision. No lot shall be further subdivided without prior approval of the Decatur Plan Commission.

7. Yard Lights. Each dwelling will cause an automatically controlled yard light or other illumination device to be installed in front yard fifteen (15) feet (plus or minus one foot) from the road right-of-way. Such yard lights or illuminating devices will be of such design and construction as shall be approved by the Architectural Control Committee; said Committee shall also have the authority to approve a change in the location of said yard lights or illuminating devices.

8. Signs. No sign shall be erected or permitted, except subdivision designation and informational signs located in the commons area, one professional sign of not more than one foot square, one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

9. Fences: No wire, metal or chain link fences will be permitted on any lot. Chain link back stops for play areas owned and maintained by the Community Association will be permitted. No man made fence will be allowed in the back 25 feet of lots numbered 12 through 22, 26 through 32, 48 through 66, 69 through 82, 121 through 138, 141 through 143 and 145 through 162. No landscaping in the back 25 foot of said lots without the approval of Architectural Control Committee.

10. Each home when completed must have lot landscaped with the minimum of 6 trees (with two (2) 2½" diameter hard wood trees) and 10 shrubs located on front yard between street and house.

11. Nuisances. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise, or pollution or which constitutes a nuisance or which is hazardous by reason of fire, explosion or in violation of the laws of the State of Indiana or any subdivision thereof. No lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except as household pets, providing the same are not kept, bred or maintained for any commercial purpose. All fuel or oil storage tanks shall be installed underground or located within the main structure of the dwelling, its basement or attached garage. No radio or television antenna or satellite receiver

(dish) nor solar panels or similar structures shall be allowed on any lot or attached to any residential structure located on any lot unless specifically approved by the Architectural Control Committee. No swimming pool, hot tub or fixture containing more than 150 gallons of water shall be permitted above ground level on any lot. No unlicensed or unregistered automobiles or motorized vehicles may be parked or maintained on any lot. No motor vehicle may be disassembled or be allowed to remain in a state of disassembly on any lot but, instead, shall be equipped at all times for on-road driving.

12. No Temporary Dwelling. No structure of a temporary character, trailer, motor home, basement, tent, garage, barn, tool shed, or other outbuilding shall be either used or located on any lot or used as a residence either temporarily or permanently.

13. Approval of Improvements by Architectural Control Committee. In order to maintain harmonious structural design and lot grades, no dwelling building or improvements shall be erected, permitted or altered on any lot (and construction shall not be commenced) until the construction plans and specifications, and a site plan showing the location of the structure on said lot and grade elevations, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be comprised of three (3) members to be designated by the Developer initially. The Developer shall have the right, at such time as it may elect, to relinquish its right to designate the members of the Architectural Control Committee to the Association. Two sets of plans of each improvement, with detailed front, side and rear elevations and floor plans showing square footage and grade elevations, shall be submitted to the Architectural Control Committee at the Developer's office or such other place as may be designated. The Committee's approval or disapproval of said plans shall be in writing; in the event the Committee, or its designated representative, shall fail to approve or disapprove said plans within thirty (30) days after all necessary instruments, documents and other information have been submitted, then approval to the request as submitted shall be substantially completed before said building shall be used or occupied as a dwelling. All improvements shall be constructed in accordance with the plans and specifications as approved by the Architectural Control Committee and any improvements not so

constructed shall be subject to immediate removal at Owner's expense. The provisions hereinbefore provided for violation or attempted violation of any of these covenants and restrictions shall be applicable hereto. In addition, before any lot or tract within the Addition may be used or occupied, said user or occupier shall first obtain the Improvement Location Permit and Certificate of Occupancy required by the Decatur Zoning Ordinance. Further, before any living unit within the Addition shall be used and occupied, the Developer shall have installed all improvements serving the lot whereon said living unit is situated, as set forth in Developer's plans filed with the Decatur Plan Commission.

14. Easements. Easements are hereby expressly reserved and dedicated with dimensions, boundaries and locations as designated on the attached plat for the installation and maintenance of public utilities (including but not limited to, water, gas, telephone, electricity, cable T.V., and any other utilities of a public or quasi-public nature) and sewer and drainage facilities.

a. Any utility company and the Developer, their successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of permanent structures except improvements installed by an authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by an authorized utility.

b. No buildings or structures located in the Addition shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Addition, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for individual lot owners.) Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.

c. The utility operating the sewer lines and sewage disposal plant for said subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to the property lines of each lot by the developers. No individual water supply system, or individual sewage disposal system, shall be installed, maintained or used in the Addition with the exception of a well or other water system that may be used for maintaining the quality and quantity of the water in the Lakes. No rain or storm water runoff from roofs, street pavements or otherwise, or any other surface water, shall at any time be discharged into, or permitted to flow into, the sanitary sewer

system, which shall be a separate sewer system from the storm water and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water run-off sewer system.

16. Sidewalks. Plans and specifications for this subdivision, on file with the Decatur Plan Commission, require the installation of concrete sidewalks within the street rights-of-way in front of Lots 1 thru 162 all inclusive. Installation of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Developer, shall be completed in accordance with said plans and specifications and prior to the issuance of a Certificate of Occupancy for any such lot, and the cost of said installation shall be a lien against any such lot enforceable by the Decatur Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to the Developer, said individual or corporation shall be considered an owner for the purposes of the enforcement of this covenant.

17. Flood Protection Grade. Parts of this subdivision is within a defined flood hazard area, however, to minimize potential damages from surface water, protection grades are established as set forth below. All dwellings shall be constructed at or above the minimum protection grades; such grades shall be the minimum elevation of a first floor or the minimum elevation of any opening below the first floor. The construction of basements shall be waterproofed to protect them against the infiltration of groundwater. All basement drains below the elevation of 788 feet above Mean Sea Level shall be constructed in such a manner that the discharge shall be lifted to an elevation sufficient to prevent back-up in the basement. The protection grades for Lots 1 thru 162 inclusive is 788 feet above Mean Sea Level.

18. Community Association. The Developer shall cause to be incorporated CROSS CREEK COMMUNITY ASSOCIATION, INC., a not-for-profit association. Only one such association shall be recognized and approved by the Developer.

a. Membership. One membership shall be created for each lot or living unit planned in the Addition. Membership shall be comprised of owners of lots in all sections of CROSS CREEK.

b. Membership Transfer. Memberships will transfer from the Developer to his grantee upon delivery of the deed.

c. Continuing Membership. The purchaser of any lot or living unit in the Addition shall be a member of said Association and shall continue to be a member of said Association so long as he continues to be the owner of a lot or living unit in the Addition for the purposes

herein mentioned. Membership shall pass with the ownership of the land or living unit.

d. Transfer of Membership Rights and Privileges to Lease. Each owner or in lieu thereof each Lessee of a living unit (with the written consent of such owner to the Association,) shall be a member of the Association and have the right to the owner's vote and privileges. Membership, where assigned to a Lessee, will pass with the lease except if the owner may withdraw his membership assignment to the Lessee at his discretion by a sixty (60) day notice in writing to the Association.

19. Assessments. Developer, for each lot and/or living unit owned by it within the Addition, hereby covenants, and each owner of any lot or living unit, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Community Association the Maintenance Fund assessments and charges, as hereinafter provided.

a. Maintenance Fund. The "Maintenance Fund" assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Addition and in particular, for the improvement and maintenance of the lakes, sidewalks, surface drainage system, playgrounds, and all other Common Areas, including but not limited to, repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes, and all other things necessary or desirable in the opinion of the Members of the Association in connection therewith. Each lot not built on will be assessed an annual mowing fee. The following assessments will be assessed to all lots that have improved streets.

The amount of said Maintenance Fund Assessment is established as follows:

(i) An annual assessment fee for the calendar year starting January 1, 1989, shall be ten dollars (\$10.00) per assessable membership.

(ii) Mowing fee will be assessed October 1, 1989 for previous season. Mowing fee will be charged only to lot owners who have not built on their lots and have improved streets to said lot.

(iii) For each year thereafter, the Board of Directors of the Association shall establish a budget for such calendar year and shall determine the annual membership assessment required to meet said budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then mail to all Association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable.

(iv) The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as hereinafter provided. The President or Secretary of the Association shall call a meeting of the

membership of the Association, to be held prior to December 31st of the year prior to the year to which the assessment is applicable. Upon receipt, prior to November 30th, of a written petition for assessment review bearing the signatures of at least twenty percent (20%) of the memberships of the Association. The President or Secretary of the Association shall give at least fifteen (15) days written notice of such meeting to all members.

(v) Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent of two-thirds (2/3) of the memberships of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any meeting, a quorum of not less than fifty percent (50%) of all membership shall be required.

b. Collection. Such Maintenance Fund Assessment, together with interest thereon and costs of collection as hereafter provided shall be a lien upon the property against which each assessment is made. Each such assessment, together with interest thereon and costs of collection, shall be the personal obligation of the person or persons who was the owner of such property at the time the assessment fell due. The obligation of the assessment is upon the owner of the property or the living unit and is not transferred, even though the owner may have transferred the membership and voting rights in the Community Association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the then owner to pay such assessment shall remain a personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within sixty (60) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action against the owner personally obligated to pay the same, or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing such action. The lien of the assessments as provided for herein shall be subordinated to the lien of any mortgage or mortgages now or hereafter placed upon the property, taxes and assessments for public improvements.

20. Duration and Alteration. These protective covenants, restrictions and limitation shall be construed as, and shall be covenants running with the land and shall be binding upon all Owners and Leasees of land in said Addition and all persons claiming under them. They shall continue in existence for a period of fifty (50) years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each. The protective covenants, restrictions and limitations (but not the easements) may be changed, abolished or altered in part by written instrument signed by the owners of not less than seventy-five (75%) percent of the memberships of the Community Association; and may be

changed, altered or amended by the Developer within two (2) years from and date of recording hereof: All said amendments, changes, or alterations, however, shall have the prior approval of the Decatur Plan Commission or its successors.

21. Waiver. The failure of either the Developer or an owner to enforce any covenant contained herein or right arising from any covenant contained herein shall in no case be deemed a waiver of that right or covenant.

22. Severability. Invalidation of any one of these provisions shall in no way affect any of the other provisions which shall remain in full force and effect.

23. The Association, Plator, The Decatur Plan Commission, or 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 covenants and restriction.

24. Amendment of Restrictions: Prior to January 1, 2020, said restrictions, covenants and limitations may be altered or amended by the owners of 65% of the lot in said addition at the time the alteration or amendment of restrictions and covenants are made; provided, however, Adams County Realty, Inc., its successors or assigns shall have the exclusive right within two years from the date of recording of this plat to amend any of the covenants or restrictions. The term "Owners" shall be a person, firm or corporation the recorder of Adams County, Indiana.

25. Restrictions Separately Enforced: Invalidation of any one of these covenants by judgement of court order shall in no way affect any of the other provisions, which shall remain in full force and affect.

26. Enforcement: Enforcement shall be by proceedings at law or in equity against any person, or persons, violating, or attempting to violate, any covenants, either to restrain violation or to recover damages. These covenants shall run with the land and be enforceable by the City of Decatur, State of Indiana, or by any aggrieved lot owner in this subdivision.

27. No trees will be planted in the twenty (20) foot utility easement along the western boundary of the Cross Creek Subdivision which would include lots 1 through 10, 92 through 94, 104 through 106, and 108 through 120.

IN WITNESS whereof, Biggs, Inc. an Indiana Corporation, by Ralph E. Biggs, its president and Bonnie J. Urick, its secretary, treasurer, owners of the real estate described in said plat, has hereunto set its hand and seal by its duly authorized officers, this 8th day of June, 1988.

BIGGS, INC.

BY: Ralph E. Biggs
Ralph E. Biggs, President

BY: Bonnie J. Urick
Bonnie J. Urick,
Secretary, Treasurer

Subscribed and sworn to before me, a Notary Public, this 8th day of June, 1988.

Sharon D. Barger
Sharon D. Barger Notary Public

Resident of Adams County

My commission expires:

10-31-88

DULY ENTERED
FOR TAXATION

JUN 15 1988

Daniel J. Kuchner
AUDITOR ADAMS COUNTY

7429
RECEIVED FOR RECORD
The 15 day of June A.D. 1988 at
U.S. County of Adams and recorded in
Book 11 Page 431-440
GLENDA S. INNIGER
Recorder of Adams County

This instrument prepared by Biggs, Inc.

AMENDED
DECLARATION OF COVENANTS FOR CERTAIN LOTS IN
THE HIGHLANDS OF CROSS CREEK
IN CROSS CREEK SUBDIVISION

THIS DECLARATION, made on the day hereinafter set forth by the Undersigned as the owner in fee simple of Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision, an addition to the City of Decatur, Adams County, Indiana, according to the recorded Plat thereof (hereinafter referred to as "DECLARANT"), WITNESSETH THAT:

WHEREAS, Declarant is the owner in fee simple of Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision, an addition to the City of Decatur, Adams County, Indiana, according to the recorded Plat thereof of record in Plat Book 11 at Pages 431-441 of the records of Adams County, Indiana, and desires to impose upon each and all of said Lots the covenants hereinafter set forth:

NOW THEREFORE, Declarant hereby declares that all of the aforesaid Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision, an addition to the City of Decatur, Adams County, Indiana, shall be impressed with and shall be held, sold, and conveyed subject to all of the following covenants 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.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to CROSS POINTE, INC., an Indiana Not-For-Profit Organization, its successors and assigns. The membership of this association

includes in addition to the members of the above described lots, owners of Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or part thereof which is a part of the properties hereinafter defined including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the aforesaid Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision, an addition to the Decatur, Adams County, Indiana, according to the recorded Plat thereof and such other Lots in said subdivision, the Owners of which shall elect, as hereinafter provided, to adopt this Declaration of Covenants.

Section 4. "Plat" shall mean and refer to the aforesaid recorded Plat of The Highlands of Cross Creek in Cross Creek Subdivision, recorded in the Office of the Recorder of Adams County, Indiana.

Section 5. "Lot" shall mean and refer to either or any part of Lots Numbered Sixty-five (65) through Sixty-eight (68), Lots Numbered One Hundred Seven (107) through One Hundred Nine (109), Lots One Hundred Forty-five (145) through One Hundred Fifty-one (151), and Lots One Hundred Fifty-three (153), One Hundred Fifty-four (154), One Hundred Fifty-six (156) and One Hundred Fifty-seven (157), consecutive and inclusive, in The Highlands of Cross Creek in Cross Creek Subdivision.

Section 6. "Living Unit" shall mean and refer to the portion of a building erected on any Lot which is described and intended for the use and occupancy as a residence by a single family which portion of said building is divided by a common wall from another like portion of said building.

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

ARTICLE II

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Upon the sale of any Lot the purchaser and owner thereof shall immediately become a member of the Association on the date of said conveyance. Upon becoming a member of the Association, a member shall be obligated to contribute to the maintenance assessments in accordance with Article III of this Declaration, and shall be bound by all of the other terms of this Declaration. Membership shall be appurtenant to and may not be separated from the ownership of any Lot. The purchaser/owner must join the CROSS POINTE ASSOCIATION.

Section 2. Classes of Membership. The Association shall have one (1) class of voting membership:

Class A. Class "A" members shall be all members of the Association and shall be entitled to one (1) vote for each lot owned. When more than one (1) 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 (1) vote be cast with respect to any lot.

Section 3. Board of Directors. The Owners of Lots 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.

Section 4. Woodlands Limited. Until such time as a Board of Directors is elected for the Association, Woodlands Limited shall act as the Board of Directors and have all of the powers and duties granted to the Board of Directors.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot 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:

- (a) monthly assessments or charges; and
- (b) special assessments for improvements and operating deficits; and
- (c) special assessments, as provided in Articles IV and V; such assessments to be established and collected as hereinafter provided. The monthly and special 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 assessments is made. Each such assessments, 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 fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless such successors expressly assume the same.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the improvement and maintenance of the properties and the living units situated thereon, payment of insurance premiums, and for other purposes as specifically provided herein.

Section 3. Maximum Monthly Assessments.

(a) Until January 1, 1997, the maximum monthly assessment on any living unit shall be Forty-five Dollars (\$45.00) per living unit.

(b) From and after January 1, 1997, the maximum monthly assessments may be increased each calendar year not more than twelve per cent (12%) above the maximum assessment for the previous year without a vote of the membership.

(c) From and after _____, 199__, the maximum monthly assessment may be increased above twelve per cent (12%) by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board of Directors of the Association may fix the monthly assessments at an amount not in excess of the maximum.

(e) A portion of such monthly assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and maintenance of the properties and the living units thereon.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessments shall have the assent 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 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in

advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership 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.

Section 6. Uniform Rate of Assessments. Both monthly and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments provided for herein and the insurance assessments provided for in Article V shall commence as to each Lot on the first day of the first month following the conveyance of such Lot by Declarant. The Board of Directors shall fix any increase in the amount of the monthly assessments at least thirty (30) days in advance of the effective date of such increase. No special assessments shall be made against any Lot prior to the aforesaid date on which monthly assessments against it first commence. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for 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 Associations. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such lot assessed, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve per cent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the Lot, or both, and there shall be added to the amount of such assessments the costs of preparing and filing the Complaint in such action; and in the event a Judgment is obtained such Judgment shall include interest on the assessments as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his 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 first lien mortgage and any purchase money mortgage. Sale or transfer of any Lot shall not affect the assessment 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 said mortgage on such lot (without the necessity of joining the Association 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 IV

MAINTENANCE

Section 1. Maintenance by Owners. The Owner of each Lot shall furnish and be responsible for, at his own expense, all the maintenance, repairs, decorating and replacements within his living unit, including the heating and air conditioning system and any partitions and interior walls. Each Owner shall repair any defect occurring within his living unit which, if not repaired, might adversely affect the adjoining living unit. He also shall be responsible for the maintenance, repair and replacement of all windows in his residence and also the doors leading into the residence, including garage doors, and any and all other maintenance, repair and replacements of the improvements on his Lot which the Association is not required to perform; provided, that any change in the color of exterior doors and garage doors, window frames and other exterior of a living unit which is the Owner's obligation to maintain must be first approved in writing by the Board of Directors of the Association. No Owner shall make any alterations or additions to the exterior of his living unit nor perform exterior maintenance thereof required to be performed by the Association without the prior written approval of the Board of Directors of the Association. Further, no Owner shall make any alterations to and within his respective living unit which would affect the safety or structural integrity of the building in which the living unit is situated or to which it is attached.

To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to any equipment, facilities or fixtures affecting or serving other Lots.

Section 2. Maintenance of Driveways. The Association shall be responsible for the maintenance, repair and repaving of all driveways and service walks within the boundaries of each

Lot subject to assessments hereunder.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the driveways and service walks provided in Section 2 above, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces of living units, and other exterior improvements, lawns, shrubs, trees, trash removal and snow removal from the paved portions of said driveways and service walks. Such exterior maintenance shall not include glass surfaces, doors and doorways, windows, and window frames.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Section 4. Damage from Golf Play. Owners of lots in the Cross Creek Subdivision should be aware that their homes and improvements may be subject to damage from golf play, including damage from golf balls striking walls and windows. There shall be no liability upon Cross Pointe, Inc., Woodlands Limited, or Cross Creek Golf Course, the developer, builder or their successors and assigns for any such damage or injury to property or person. The owner shall be responsible for any and all repairs caused by such damage.

Section 5. Easement Across Lots Adjacent to Golf Course. Until such time as a Dwelling Unit is constructed on a Lot which borders a fairway area of the Cross Creek Golf Course, the operator of Cross Creek Golf Course shall have a license to permit and authorize their agents and registered golf course players and their caddies to enter upon a Lot to recover a ball or play a ball subject to the official rules of the course, without such entering and playing being deemed a trespass.

Section 6. Interference with Play on Golf Course. Owners of Lots bordering on fairways of the Cross Creek Golf Course shall be obligated to refrain from any actions which would detract from the playing qualities of the course.

ARTICLE V

INSURANCE

Section 1. Casualty Insurance. Each Owner of a Lot shall be responsible for, shall purchase and continuously maintain a casualty insurance policy or policies affording fire and extended coverage insurance insuring such Owner's properties and all living units thereon, in an amount equal to the full replacement cost.

Certificates or evidence of such insurance coverage shall be filed with and be kept on file with the Association. The Association will at least annually review the amount and type of such insurance and upon written notice and request each Owner shall purchase such additional insurance as the Board of Directors of the Association in its discretion deems necessary to provide the insurance coverage herein required. If an Owner fails to provide such requested additional insurance coverage, the Association shall cause such full replacement value to be determined by a qualified appraiser and shall purchase any required additional insurance and the cost of such appraisal and additional insurance shall be levied against and included in the monthly maintenance assessments for such Lot.

Section 2. Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association, all Owners and all other persons entitled to occupy any Lot.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 3. Fidelity Bond. The Association shall further purchase and continuously maintain a fidelity bond containing errors and omission coverage, for the benefit of all Owners and their mortgagees protecting them against any and all damages, costs and expenses, including reasonable attorneys' fees, which they or any of them may suffer or incur by reason of:

(a) The defalcation, misapplication or conversion of monies paid by Owners to the Association or its Board of Directors or of monies received by the Association, its Board of Directors, or any officers, employee or agent thereof to be held in trust for owners and/or their mortgagees; and

(b) The failure of the Association, its Board of Directors, any officer, employee or agent to faithfully perform all of the Association's duties and responsibilities hereunder, including, but not limited to, failure to maintain casualty insurance as herein required on any living unit.

Section 4. Monthly Assessment for Insurance. The premiums for all such insurance and bonds hereinabove described shall be paid by the Association and the pro rata cost thereof shall

become a separate monthly assessment to which each Lot owned by Association members shall be subject under the terms and provisions of Article III. Each Owner of a Lot conveyed to him by Declarant shall prepay to the Association at the time his Lot is conveyed to him an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided or shall use such funds to prepay the premiums of the required insurance. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of obtaining the same and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner and mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

Section 5. Distribution to Mortgagee. In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and his mortgagee jointly.

Section 6. Additional Insurance. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property and the contents of his living unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him), and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his Lot but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

Section 7. Casualty and Restoration. Damage to or destruction of any living unit, lot or other improvements due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association under no lien construction contracts and the proceeds of insurance, if any, shall be applied for that purpose.

Section 8. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty are not adequate to cover the costs of repair and reconstruction of any living unit suffering casualty damage, or in the event there are no proceeds, the costs of restoring the damage and repairing and reconstructing any living unit so damaged or destroyed shall be borne by the respective Owner or Owners of such living unit to the full extent of the additional costs and expenses of such restoration, repair or reconstruction over

and above the insurance proceeds allocable to said living unit. If any Owner refuses or fails to make the required repairs necessary to restore any casualty damage, and shall leave his living unit in a state of disrepair, the Association shall complete the restoration and pay the cost thereof through an assessment against the other Owners which assessment shall be considered a special assessment constituting a lien on the living units of that Owner or those Owners who refuse or fail to make such repairs or restoration at the time required by the Association's Board of Directors and the Association may, in the same manner as provided for the collection of other assessments, foreclose such lien or otherwise proceed to collect the amount thereof from said defaulting Owners for the benefit of and on behalf of the other Owners who have paid such additional costs of restoration or repair.

For purposes of Section 7 above, repair, reconstruction and restoration of any living unit shall mean construction or rebuilding as it existed immediately prior to the damage or destruction and with the same or similar type of architecture.

Section 9. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used, in the maintenance of the properties, or, in the discretion of the Board of Directors, may be distributed to the Owners of the living units affected and their mortgagees who are the beneficial Owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

ARTICLE V

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a living unit upon the properties and placed on or abutting upon the dividing line between the Lots, as such dividing line was created by the conveyance of said unit, shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. Subject to the provisions of Article IV hereof, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall

contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE VII

ENCROACHMENTS AND EASEMENTS

Section 1. Encroachment. If, by reason of the location, construction, settling or shifting of a building, any part of a building consisting of a living unit appurtenant to a Lot (hereinafter in this Article VII referred to as the "encroaching lot") now encroaches or shall hereafter encroach upon any minor portion of any other adjacent Lot, then in such event, an exclusive easement shall be deemed to exist and run to the Owner of the encroaching Lot for the maintenance, use and enjoyment of the encroaching Lot and all appurtenances thereto.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in or on any other Lot and serving his Lot.

Section 2. Easement for Maintenance. The Association shall have the irrevocable right to have access to each living unit (servient unit) from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any wall, roof or other structural component of an adjacent living unit (dominant unit) which shares a common roof or common wall with the servient unit and is accessible from or through such servient unit.

The Association shall also have such irrevocable right of access to each living unit for the purpose of making emergency repairs therein necessary to prevent damage to an adjacent living unit. In the event that the Association is not required under the terms of these covenants to perform the necessary repair, maintenance or replacement of the wall or other structural component of a dominant unit or it fails to commence the work of such repair, maintenance or replacement within a reasonable time after demand therefor by the Owner of the dominant unit, then the Owner of said dominant unit shall have for the purposes of performing such work the same irrevocable right of access to the servient unit as is granted herein to the Association.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants herein enumerated, Declarant, any persons in ownership from time to time of the Lots and all parties claiming under them shall have the right to enforce the covenants contained herein, 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, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time by an instrument recorded in the Office of the Recorder of Adams County, Indiana, signed by the then Owners of at least Sixty per cent (60%) of the Lots; provided, however, none of the rights of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Declaration may also be amended by Declarant, if it then has any ownership interest in the properties, at any time within two (2) years after the recordation hereof, except that Declarant shall not effect any of the following changes without the approval of Sixty per cent (60%) of the first mortgagees of the Lots (based upon one (1) vote for each mortgage) or Sixty per cent (60%) of the Owners of the Lots:

(a) change in the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(b) change the provisions herein governing the exterior maintenance of living units, walks, lawns, etc.;

(c) allow the Association to maintain fire and extended insurance coverage on living units in an amount less than the full insurable value thereof (based on current replacement cost).

This Declaration shall be effective and binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Adams County, Indiana, and shall automatically extend for successive period 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. Invalidity of any of the covenants, conditions and restrictions of this Declaration 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 3. Mortgagee Rights. Any lender or lenders holding a first mortgage or purchase money mortgage upon any Lot or Lots may, jointly or singly, pay any overdue premiums on any hazard, casualty, liability or other insurance policies, or secure new insurance coverage on the lapse of any policies for any living units mortgaged to them. Any such lender or lenders making

payments in accordance with this section shall be entitled to immediate reimbursement therefor from the Association along with any costs incurred, including reasonable attorneys' fees.

Section 4. Notice to Mortgagees. The Association upon request, shall provide written notification to any lender holding a first mortgage or purchase money mortgage upon any Lot specifying the defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, which default has not been cured within sixty (60) days.

IN WITNESS WHEREOF, the undersigned, representing ownership of more than sixty per cent (60%) of the original lots, have caused this Amended Declaration of Covenants for Certain Lots in the Highlands of Cross Creek in Cross Creek Subdivision to be executed on this 11th day of January, 1996.

WOODLANDS LIMITED

BY: Ralph E. Biggs
Ralph E. Biggs, General Partner

BY: Steven J. Kreigh
Steven J. Kreigh, General Partner

BY: Marcia Kay Landrum
Marcia Kay Landrum

BY: _____

STATE OF INDIANA, COUNTY OF ADAMS, SS:

Before me, the undersigned Notary Public, in and for said County and State, this 11th day of January, 1996, personally appeared Ralph E. Biggs, General Partner and Steven J. Kreigh, General Partner of Woodlands Limited, each over the age of eighteen (18) years, and acknowledged the execution of the foregoing Declaration of Covenants for the uses and purposes therein contained.

IN WITNESS WHEREOF I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

August 23, 1996



Regina L. Glover
Regina L. Glover Notary Public
Resident of Allen County, In.

STATE OF INDIANA, COUNTY OF ADAMS, SS:

Before me, the undersigned Notary Public, in and for said County and State, this 11th day of January, 1996, personally appeared Marcia Kay Landrum, over the age of eighteen (18) years, and acknowledged the execution of the foregoing Declaration of Covenants for the uses and purposes therein contained.

IN WITNESS WHEREOF I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

August 23, 1996



Regina L. Glover
Regina L. Glover Notary Public
Resident of Allen County, In.

STATE OF INDIANA, COUNTY OF ADAMS, SS:

Before me, the undersigned Notary Public, in and for said County and State, this ____ day of _____, 1996, personally appeared _____, over the age of eighteen (18) years, and acknowledged the execution of the foregoing Declaration of Covenants for the uses and purposes therein contained.

IN WITNESS WHEREOF I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

_____, Notary Public
Resident of _____ County, In.

This instrument prepared in the law offices of
SMITH, BURRY, HERMAN & MILLER, P.C., by: Adam T. Miller
113 North Second Street, P.O. Box 470
Decatur, Indiana 46733