

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS
AS PART OF THE PLAT OF CERTAIN LOTS IN THE
MEADOWS OF CROSS CREEK
AN ADDITION TO THE CITY OF DECATUR
ADAMS COUNTY, INDIANA
OLDE COURSE VILLAS
PHASE I, SECTION I

THIS DECLARATION, made on the day hereinafter set forth by the Undersigned as the owner in fee simple of Lots Numbered One Ninety Seven (197) through Two Hundred Nine (209), consecutive and inclusive, in the The Meadows of Cross Creek, an addition to the City of Decatur, Adams County, Indiana, according to the Plat thereof (hereinafter referred to as "DECLARANT"), WITNESSETH THAT:

WHEREAS, Declarant is the owner in fee simple of Lots Numbered One Hundred Ninety Seven (197) through Two Hundred Nine (209), in the The Meadows of Cross Creek, an addition to the City of Decatur, Adams County, Indiana, according to the Plat 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 One Hundred Ninety Seven (197) through Two Hundred Nine (209), in the The Meadows of Cross Creek, 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. "Developer" shall mean Fairway Lakes Limited Liability Company, Ralph E. Biggs and Steven J. Kreigh, managers.

Section 2. "Association" shall mean and refer to The Meadows of Cross Creek, Inc., an Indiana Not-For-Profit Organization, its successors and assigns. The membership of this association includes Lot # One Hundred Ninety Seven (197) through Two Hundred Nine (209) in the The Meadows of Cross Creek to the members of the above described lots.

Section 3. "Owner" shall mean and refer to the record owner, whether on 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 4. "Properties" shall mean and refer to the aforesaid Lots Numbered One Hundred Ninety Seven (197) through Two Hundred Nine (209), the The Meadows of Cross Creek, an addition to the Decatur, Adams County, Indiana, according to the 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 5. "Plat" shall mean and refer to the aforesaid Plat of the The Meadows of Cross Creek and will be recorded in the Office of the Recorder of Adams County, Indiana.

Section 6. "Lot" shall mean and refer to either or any part of Lots One Hundred Ninety Seven (197) through Two Hundred Nine (209), in the The Meadows of Cross Creek Subdivision.

Section 7. "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 8. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 9. "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.

ARTICLE II

PERMITTED LOT USE

Section 1. Permitted Lot Use. All lots will be zoned R-1 and developed under a Planned Unit Development (P.U.D.)

Section 2. Driveways. All driveways from the street to the garage shall be of hard surface and not less than sixteen (16) feet in width.

Section 3. Minimum Area. No dwelling shall be erected or permitted on any lots or portion of a lot having a ground floor area up on the foundation, exclusive of open porches, breezeways or garage, of less than 1200 square feet in the case of a one-story dwelling, nor less than 850 square feet for a dwelling of more than one story or 1,000 square feet of living area with a three car attached garage.

Section 4. 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 25 feet as shown on the attached plat. No dwelling or structure shall be located nearer than 8 feet to any side lot line. Buildings may be located 20 feet to the rear lot line. On a corner lot, no building or structure shall be located nearer than 8 feet to the interior lot line. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.

Section 5. 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.

Section 6. 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 for rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 7. Fences. No wire, metal or chain link fences will be permitted on any lot.

Section 8. Landscaping. Each home or unit when completed must have lot landscaped with a minimum of 10 shrubs and trees located in the front yard between street and house. Each living unit will have at least one tree planted between sidewalk and street.

Section 9. 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 house hold pets, providing the same are not kept, bred or maintained for any commercial purpose. No 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 that is more than 2 feet in diameter. No above ground swimming pool, containing more than 150 gallons of water shall be permitted 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.

Section 10. 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.

Section 11. 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 anytime 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.

Section 12. 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 197 thru 209 all inclusive.

Section 13. Mailboxes. Mailboxes will be located at the location(s) that the developer along with the U.S. Postal Service designates. No individual mailboxes, and or newspaper boxes will be allowed without the Board of Directors approval.

ARTICLE III

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 The Meadows of Cross Creek 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 determined, 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. Fairway Lakes L.L.C. Until such time as a Board of Directors is elected for the Association, Fairway Lakes L.L.C. shall act as the Board of Directors and have all of the powers and duties granted to the Board of Directors.

Section 5. Purpose

- (a) To establish an association of home owners located on Lots numbered One Hundred Ninety Seven (197) through Two Hundred Nine (209) in the The Meadows of Cross Creek Subdivision, an addition to the City of Decatur, Adams County, Indiana.
- (b) To provide snow removal, yard care and exterior yard light maintenance. Developer will deposit \$500.00 into a separate account in the name of the association and add \$100.00 per unit when each unit is sold and transferred.

The foregoing clauses shall be construed as powers as well as purposes, and the matters expressed in each clause shall, unless otherwise expressly provided, be in no way limited by reference to our inference from the terms of any other clause, but shall be regarded as independent powers and purposes. The numeration of specific powers and purposes shall not

be construed to limit or restrict in any manner the meaning of general terms or the general powers of the corporation nor shall the expression of one thing be deemed to exclude another not expressed although it be of like nature.

The developers will establish a corporation that shall be authorized to exercise and enjoy all the other powers, rights and privileges granted by the Indiana Not-for-Profit Corporation Act of 1971 and all Acts amendatory thereof or supplemental thereto to Corporations organized thereunder and all powers conferred upon such corporations by the laws of the State of Indiana enforced from time to time insofar as not in conflict therewith or which may be conferred by all acts heretofore amendatory of and supplemental to said act or said laws. The enumeration of certain powers as herein specified, is not intended to be exclusive or as a waiver of any of the powers, rights or privileges granted or conferred by the aforesaid Act.

However notwithstanding, any purchase of any of the above designated lot's may request from the Developer to not be in the Association and subject to the covenants of said Association. This Waiver of Compliance will run with the lot. Further the Developer withholds the right to include or burden other lots with these attached covenants and to include said lots in the Association.

ARTICLE IV

CONVENANT 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, 2007, the maximum monthly assessment on any living unit shall be Fifty-Five Dollars (\$55.00) per living unit.
- (b) From and after January 1, 2007, the maximum monthly assessments may be increased each calendar year not more than twelve percent (12%) above the maximum assessment for the previous year without a vote of the membership.
- (c) From and after January 1, 2007, the maximum monthly assessment may be increased above twelve percent (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 of 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 to the monthly assessments authorized above, the Association may levy a special addition 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 proxies entitled to cast fifty percent (50%) 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 percent (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 form 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 V

MAINTENANCE

Section 1. Maintenance by Owners. All maintenance except maintenance to yard light will be the responsibility of the owner.

Section 2. Damage from Golf Play. Owners of lots in the The Meadows of Cross Creek 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 Fairway Lakes, L.L.C., The Olde Course Villas Association, The Meadows of Cross Creek Association, 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 3. 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 4. Interference with Play of 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 VI

INSURANCE

Section 1. Casualty Insurance. Each Owner of a Villa 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.

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 may purchase a fidelity bond containing errors and omission coverage, for the benefit of all Owners 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 mortgages; 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 be made part of the monthly assessment to which each Lot owned by Association members shall be subject under the terms and provisions of Article IV.

Section 5. 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. Each Owner must obtain casualty insurance at his own expense upon his Lot.

ARTICLE VII

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 attorney's 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 Fifty per cent (50%) 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 thirty (30) months after the recordation hereof, except that Declarant shall not effect any of the following changes without the approval of Fifty per cent (50%) of the first mortgagees of the Lots (based upon one (1) vote for each mortgage) or Fifty per cent (50%) 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 the Owners;
- (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. Invalidation 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. Permission. Each owner gives permission to workers hired by The Board of Directors of said Association access to their property for lawn care, snow removal and maintenance of yard light.

Section 4. Community Association. The Meadows of Cross Creek Association will bill Olde Course Villas annually for each completed villa in the villa project.

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Covenants to be executed on this 6th day of December 2005.

FAIRWAY LAKES, L.L.C.

BY: Ralph E. Biggs
Ralph E. Biggs, Manager

BY: Steven J. Kreigh
Steven J. Kreigh, Manager

STATE OF INDIANA, COUNTY OF ADAMS, SS:

Before me, the undersigned Notary Public, in and for said County and State, this 6th day of December, 2005, personally appeared Ralph E. Biggs, Manager and Steven J. Kreigh, Manager of Fairway Lakes, L.L.C., 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.



Regina L. Glover
Regina L. Glover, Notary Public
Resident of Adams County, Indiana

My Commission Expires: 8/23/08