

**PROTECTIVE RESTRICTIONS, COVENANTS
AND EASEMENTS FOR THE PLAT OF
THE PATHS OF DEERFIELD
A RESIDENTIAL ADDITION TO THE
CITY OF WARSAW, INDIANA**

LOTS' 1 - 46

PLAT BOOK 13 Pg 40

The undersigned, Biggs, Inc., owners in fee simple of the real estate known as The Paths of Deerfield, do now and hereby cause said real estate to be platted into lots, streets and easements in accordance with the plan and plat attached hereto, subject to the covenants, restrictions, and limitations hereinafter set forth.

1. Plat. The lots in said The Paths of Deerfield are designated by numbers on said Plat from one (1) to forty-six (46) consecutively and inclusive and dimensions in feet and decimal parts thereof are noted on the face of the plat. All lots in this Addition shall be subject to the provisions of building setback lines, covenants, easements, restrictions, conditions, and limitations as hereinafter set out which shall be binding upon the purchasers of any of said lots, their heirs, executors, administrators, grantees and assigns, and said covenants, agreements, easements, restrictions, conditions, and limitations shall run the land and shall be binding upon all owners of said lots, present and future, and upon any and all persons claiming under them until twenty years from recordation hereof, at which time said covenants shall be automatically extended for successive periods of ten years unless by a vote of the majority of the then owners of the lots, it is agreed to change the said covenants in whole or in part.

2. Use of the Land. All lots in The Paths of Deerfield Addition shall be used for residential purposes only and no noxious or offensive trade or commercial activity may be conducted on any of said lots, particularly home beauty shops and garage repair. No obnoxious animals shall be kept on any of said lots, provided that, this shall not prohibit the keeping of dogs, cats, and birds as pets if the keeping of same is not commercial enterprise. No building or structure other than residential structures shall be erected, altered, placed or permitted to remain on any of said lots, nor shall any part or portion thereof be used or occupied for any purpose except residential, provided, however that this restriction shall not exclude the erection of one (1) proper outbuilding for use as a tool or garden house, covered summer-house, playhouse, barbecue, storage or general utility building with approval of the Architectural Control Committee. In no case shall any structure, yard fence, or private convenience place upon any of said lots encroach upon easements indicated on the plat or herein set out, or obstruct the front view at the set back line. All final yard work and or grading shall conform to the necessary grades to enable storm water swales to function properly. Each lot shall have a hard surface driveway minimum of 18 feet in width.
3. Easements. Easements as shown on the plat are hereby expressly reserved and dedicated for the installation, erection, construction and maintenance of sewers, drains, pipe lines, conduit, poles, wires and the necessary and proper attachment in connection therewith and for any other public utility furnished beneath the surface of the ground. Any individual or corporation engaged in the installation or maintenance of any sewers, drains, pipe lines, conduit, poles, wires, etc., for furnishing any utilities will have the right to enter upon said easements for any purposes for which easements are reserved, using care however to restore the said premises as nearly as possible to the same condition which existed at the time of such entry. All utility easements as

dedicated on the face of the plat shall be kept free of all permanent structures and the removal of any obstructions such as structures, trees, shrubbery, fences, or other installation thereon, whether temporary or permanent, by a utility company shall in no way obligate the utility company in damages, or, to restore the obstruction to its original form.

4. No Temporary Dwellings. No trailers, basement, tent, shack, garage, barn or other outbuildings on any lot shall not at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Nor shall any buildings be moved onto any lots from any off-site lot.
5. Signs and Billboards. No billboards or other advertising signs or devices shall be placed or maintained on any lot other than one (1) sign having not more than four (4) square feet of surface advertising the lot or dwelling house for sale or lease; provided, that such billboards or other advertising sign or devises may be erected and maintained as are deemed necessary for the original sale of said lots and new homes during development except as otherwise directed by the Architectural Control Committee.
6. Building Permit. Before any lot or tract located within the subdivision may be used and occupied, such use or occupier shall first obtain from the Zoning Administrator the Improvement Location Permit required by the Kosciusko County Zoning Ordinance.
7. Completion. Before any house or building on any lot or tract in the subdivision shall be used and occupied as a dwelling or as otherwise provided in subdivision restrictions, the developer or any subsequent owner of said lot or tract shall install all improvements serving said lot or tract as provided in said plans and specifications filed with the Commission.
8. Occupancy Permit. Before any house or building on any lot or tract in the subdivision shall be used or occupied as a dwelling or as otherwise provided in the subdivision

restrictions and zoning ordinance, the developer or any subsequent owner of said lot or tract shall first obtain from the Zoning Administrator the Certificate of Occupancy as required by the Warsaw Building Department.

9. Subdividing. The further subdividing of any lot or combination of lots, within the subdivision previously approved by the Commission is prohibited unless and until the Commission has reviewed and approved the change.
10. Minimum Area. No dwelling shall be erected on any of the said lots with a living space exclusive of open porches, breezeways or garage with square footage of less than 1100 Sq. Ft.
11. Trash Storage. Equipment for the storage or disposal of rubbish, trash, garbage, or other waste shall be kept clean and sanitary.
12. Community Association. The Developer shall cause to be incorporated THE PATHS OF DEERFIELD HOMEOWNERS ASSOCIATION, INC., a not-for-profit association. Only one such association shall be recognized and approved by the Developer. Said association shall:
 - A. Be formed at the discretion of the developer after a reasonable number of lots are transferred to the new owners.
 - B. Be the overall governing body of the subdivision.
 - C. Select officers and set annual dues per lot owner.
 - D. Be responsible for all common areas of the subdivision encompassing all open areas, water detention areas, and entrance areas.
 - E. The annual fee to the Association shall be \$50.00 and may be changed by the Association Officer's as necessary.
13. 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 THE PATHS OF DEERFIELD.

- A. Membership Transfer. Memberships will transfer from the Developer to his grantee upon delivery of the deed.
 - B. 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/she continues to be the owner of a lot or living unit in the Addition for the purposes herein mentioned. Memberships shall pass with the ownership of the land or living unit.
 - C. Duration and Alteration. These protective covenants, restrictions, and limitations 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 twenty (20) 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 no less than sixty-five (65%) percent of the memberships of the Community Association; and may be changed, altered, or amended by the Developer within forty (40) months from and date of recording hereof.
14. Architectural Control Committee: The Architectural Control Committee shall be comprised of the Developer and 2 additional members at the Developers discretion. The Committee will review building plans for construction as well as any building, fence, wall, in-ground swimming pool or above-ground swimming pool, or other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition, change, or alteration be made to a structure on a Lot until the plans and specifications showing the structure's nature, kind, shape, height, materials and location.

A majority of the Committee may appoint a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to appoint a successor.

The initial Architectural Control Committee shall be comprised of Ralph E. Biggs and Kevan B. Biggs.

15. 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.
16. Severability. Invalidation of any of these provisions shall in no way affect any of the other provisions, which shall remain in full force and effect.
17. 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.
18. 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 may be enforceable by Homeowners Association or by any aggrieved lot owner in this subdivision.

The owner, present and future may enforce all of the above covenants by injunction and on violation they shall have cause of action for damages against the person or persons violating or attempting to violate such covenants or to recover damages, or other dues for such right or cause of action to enforce any of the covenants herein at the time of such violation or attempt to violate such covenants shall in no event be deemed to be a waiver of the right to do so thereafter.

IN WITNESS WHEREOF, the said Biggs, Inc., has caused its name to be hereunto subscribed and its corporate seal hereunto affixed, by Ralph E. Biggs, its President.

BIGGS, INC.

Ralph E. Biggs
By: Ralph E. Biggs, President

STATE OF INDIANA)

)SS:

COUNTY OF ADAMS)

Before me the undersigned, a Notary Public for Adams County, State of Indiana, personally appeared Ralph E. Biggs, President, and acknowledged the execution of this instrument this 26th day of July, 2006.

My commission expires:
August 23, 2008



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

This instrument prepared by
BIGGS, INC.
522 S. 13th Street, P.O. Box 549
Decatur, Indiana 46733-0549

I affirm, under the penalties for perjury,
that I have taken reasonable care to redact
each Social Security number in this
document, unless required by law.

**DECLARATION OF COVENANTS FOR CERTAIN LOTS IN
THE PATHS OF DEERFIELD
A RESIDENTIAL ADDITION TO THE CITY OF
WARSAW, INDIANA**

PLAT BOOK 13 Pg 40

THIS DECLARATION, made on the day hereinafter set forth by the Undersigned as the owner in fee simple of Lots Numbered One (1) and Twelve (12) through Twenty (20), an addition to the City of Warsaw, Kosciusko 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 One (1) and Twelve (12) through Twenty (20), an addition to the City of Warsaw, Kosciusko County, Indiana, according to the recorded Plat thereof of the records of Kosciusko 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 One (1) and Twelve (12) through Twenty (20), an addition to the City of Warsaw, Kosciusko 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. However not withstanding, 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 I
DEFINITIONS**

200600011999
Filed for Record in
KOSCIUSKO COUNTY, INDIANA
LASHAWN BRUMFIELD
08-31-2006 at 12:57 pm.
RESTRICTION 34.00

Section 1. "Association" shall mean and refer to The Villas at The Deerfield Paths Homeowners Association, Inc., an Indiana Not-For-Profit Organization, its successors and assigns.

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 One (1) and Twelve (12) through Twenty (20) in The Paths of Deerfield Subdivision, an addition to the City of Warsaw, Kosciusko 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 The Paths of Deerfield Subdivision, recorded in the Office of the Recorder of Kosciusko County, Indiana.

Section 5. "Lot" shall mean and refer to either or any part of Lots Numbered One (1) and Twelve (12) through Twenty (20), consecutive and inclusive in The Paths of Deerfield 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, MEMEBERSHIP, 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 Paths of Deerfield Owners Association, Inc.

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. Biggs, Inc. Until such time as a Board of Directors is elected for the Association, the Biggs, Inc. 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 therefore, 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 Eighty Four Dollars (\$84.00) per living unit.
- (b) From and after January 1, 2007, the maximum monthly assessments may be increased each calendar year not more than twelve per cent (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 increase 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 assessment 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 & 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 Association. 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 assessment 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. Exterior Maintenance Obligations of Association with Respect to Lots. The Association shall provide exterior maintenance only upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, exterior building surfaces of living units, and other exterior maintenance, 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 and any exterior concrete drives and walks or the replacement thereof, only maintenance.

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.

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 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, 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 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 covering 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 thereof, 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, and 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 Kosciusko 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. The 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 Kosciusko 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. 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 therefore 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 has caused this Declaration of Covenants to be executed on this 31st day of July, 2006.

I affirm, under the penalties for perjury, that I have taken reasonable care to reflect each Social Security number in this document, unless required by law.

Bob [Signature]

BIGGS, INC.

Ralph E. Biggs
By: Ralph E. Biggs, President

STATE OF INDIANA, COUNTY OF ADAMS, SS:

Before me, the undersigned Notary Public, in and for said County and State, this 31st day of July, 2006, personally appeared Ralph E. Biggs, President of BIGGS, INC., 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:

8/23/08



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

This instrument prepared by
BIGGS, INC.
522 S. 13th Street, P.O. Box 549
Decatur, Indiana 46733-0549