

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Legendary Hills Development Co., Inc., hereinafter referred to as "Declarant".

WITNESSETH :

WHEREAS, Declarant is the owner of certain property in Washington Township, County of Morgan, State of Indiana, which is more particularly described as:

A part of the Southwest quarter of the Northeast quarter and a part of the Northwest quarter of the South east quarter of Section 13, Township 11 North, Range 1 West, in Morgan County, Indiana.

Beginning at a point which is South 00 degrees 00 minutes East (assumed bearing), 607.00 feet south of the Northwest corner of the Southwest quarter of the Northeast quarter of Section 13 in the aforesaid township and range; thence South 90 degrees 00 minutes East, 50.00 feet; thence traverse South 63 degrees 26 minutes East, 473.20 feet; thence traverse South 54 degrees 06 minutes East, 147.19 feet; thence traverse South 06 degrees 20 minutes East, 166.30 feet; thence traverse South 13 degrees 36 minutes West, 188.66 feet; thence traverse South 25 degrees 21 minutes West, 534.11 feet; thence traverse South 01 degrees 16 minutes East, 250.00 feet; thence traverse South 10 degrees 27 minutes East, 79.18 feet; thence traverse South 89 degrees 16 minutes West, 357.65 feet; thence traverse North 00 degrees 00 minutes West, 1,461.74 feet back to the point of beginning. Containing in all 14.70 acres, more or less

Subject to all liens, easements and restrictions of record, together with a nonexclusive easement for ingress and egress, twenty-five (25') on either side of a centerline described as follows:

A part of the Southwest quarter of the Northeast quarter and a part of the Southeast quarter of Section 13, Township 11 North, Range 1 West, in Morgan County, Indiana.

From a point which is South 00 degree 00 minutes East (assumed bearing) 2,068.74 feet south of the Northwest corner of the Southwest quarter of the Northeast quarter of Section 13 in the aforesaid township and range; thence North 89 degrees 16 minutes East, 191.93 feet, thence to the POINT OF BEGINNING for this description; thence South 09 degrees 38 minutes East, 103.47 feet; thence traverse South 14 degrees 59 minutes East, 58.35 feet; thence traverse South 21 degrees 09 minutes East, 86.61 feet; thence traverse South 45 degrees 45 minutes 13 seconds East, 43.98; thence traverse South 70 degrees 02 minutes East 179.71 feet; thence traverse South 69 degrees 43 minutes East, 153.26 feet; thence traverse South 68 degrees 26 minutes

East, 79.79 feet; thence traverse South 62 degrees 25minutes

East, 87.84 feet; thence traverse South 52 degrees 27minutes

East, 76.85 feet; thence traverse South 44 degrees 12minutes

East, 71.00 feet; thence traverse South 29 degrees 53minutes  
East, 72.65 feet; thence traverse South 12 degrees 02minutes  
East, 80.3 feet, thence traverse South 05 degrees 47minutes  
East, 251.91 feet; thence traverse South 08 degrees 06minutes  
East, 70.47 feet; thence traverse South 13 degrees 50minutes  
East, 78.233 feet; thence traverse South 20 degrees 19minutes  
East, 73.66 feet; thence traverse South 28 degrees 41minutes  
East, 67.31 feet; thence traverse South 42 degrees 00minutes  
East, 55.57 feet; thence traverse South 66 degrees 13minutes  
East, 63.08 feet; thence traverse South 76 degrees 04minutes  
East, 144.77 to the. right-of-way for State Road 37,

WHEREAS, Declarant intends to sell the above described property, restricting it in accordance with a common plan designed to preserve the value and residential qualities of said land, for the benefit of future owners.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, transferred, encumbered, used, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Legendary Hills Homeowners' Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, 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 that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Legendary Hills Development Co., Inc., its successors and assigns if such successors or assigns should have acquired more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II  
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right or enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.
- (b) on January 1, 1996.

ARTICLE IV  
COVENANT FOR MAINTENANCE CHARGE

Section 1. Creation of the Lien and Personal Obligation of Monthly Charges. The 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:

- (1) Monthly charges for homeowners of \$27.00 per month for the purpose of
  - (a) Street Maintenance and Resurfacing
  - (b) Snow Removal
  - (c) Common Area Maintenance and Improvement
  - (d) Trash Collection

- (2) Monthly charges for owners of unimproved lots of \$15.00 per lot.

- (3) Monthly charges for unsold lots owned by the Legendary Hills Development Corporation of \$15.00 per lot. (Section 1 amended 6/25/2004—see Appendix for original language)

Section 2. Maximum Annual Assessment. The maximum monthly charge may be increased each year not more than 5% above the monthly charge for the previous year, such increase to occur with the January 1 billing.

Section 3. Subordination of the Monthly Charges. The monthly charges provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the monthly charge. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the monthly charge as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the monthly charge thereafter becoming due.

## ARTICLE V

### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon Properties, nor shall any exterior addition to or change or alteration be made until the plans and specifications showing the nature, color, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE VI

### RESTRICTIONS

Section 1. The Lots shall be used exclusively for purposes not inconsistent with R-4 zoning as established in Morgan County, Indiana.

Section 2. All building plans and type of material must be approved by the Architectural Committee and must comply with any existing local building codes in force at the time of construction.

Section 3. No Lots may be subdivided and not more than one single family dwelling house may be erected or constructed on any one Lot. However, Lots may be divided to increase the size of adjoining Lots, but each such enlarged Lot shall be considered one Lot only. No building may be erected on any lots prior to the erection of a dwelling house. No accessory, basement or temporary building may be used or occupied as living quarters. No building shall be constructed or erected on said Lots unless built of solid or permanent material. No unpainted exteriors shall be permitted without permission. No open basements or foundations shall remain unenclosed without permanent sub-flooring for more than 3 weeks. The exteriors of all buildings must be completed within 6 months from the date construction commences. Open pier foundation type construction shall not

be permitted without prior permission and written plan approval of Board or architectural control committee.

Section 4. Minimum residence living space, exclusive of porch area, shall be 1148 square feet on each Lot, plus at least a 1.5 car garage, as set forth on the plat or plats of Legendary Hills Subdivision.

Section 5. No noxious or offensive activity shall be permitted on any Lot, nor shall anything be done thereon which shall be or become an annoyance or nuisance to the neighborhood. No animals or fowl shall be kept or maintained on said Lots except customary household pets in reasonable numbers, provided they are not kept, bred or maintained for any commercial purpose.

Failure to maintain Lots in a tidy manner will result in maintenance of the Lots by the Homeowners Association for which a reasonable charge may be levied against the owner, as a lien against the subject Lot. No oil or mining operations of any kind shall be permitted upon or in any lot.

Section 6. All dwellings shall use Martinsville city sewer and water exclusively; no septic systems or wells shall be permitted.

Section 7. All telephone and electrical service lines shall be underground.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding t law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. \_This Declaration may be amended at any time by two-thirds (2/3) vote of all lot owners. A meeting shall be called for such purpose with notice to all lot owners of the time, place and nature of the proposed change at least fifteen (15) days prior to the meeting. Additional votes may be collected thereafter upon solicitation of the lot owners. Any amendment must be recorded. (amended 3/25/2004—see Appendix for original wording)

Section 4. FHA Approval. As long as there is a Class B member ship, the following actions will require the prior approval of the Federal Housing Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 9 day of October, 1987.

LEGENDARY HILLS DEVELOPMENT CO., INC.

By: (signature of Michael S. Wolff, Pres.)  
Michael S. Wolff, President

(signature of Jon Abrahamson)  
Jon Abrahamson, Secretary

STATE OF INDIANA)

) SS:

COUNTY OF MORGAN)

Before me, a Notary Public in aforesaid County and State, personally appeared Michael S. Wolff and Jon Abrahamson, who acknowledged the execution of the above document, and that the same is a free and voluntary act and deed for the uses and purposes mentioned herein.

My commission expires: (signature of Gregory T. Lauer)

1-22-88

Notary Public

(Morgan)

County of residence

This instrument prepared by Gregory T. Lauer, Attorney at Law.