

**FIRSTAMENDMENT TO PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS AND EASEMENTS FOR  
WESTWOOD KNOLLS AT BLACKTHORN**

This amendment to the Protective Restrictions, Covenants, Limitations and Easements Of Westwood Knolls at Blackthorn is entered into this **25th** day of **May**, 2006.

Witnesseth: That

Whereas, on April 21, 2003 Cooremen Real Estate Group, Inc. (Steve Cooreman, President) the Developer of Westwood Knolls at Blackthorn, filed the said Protective Restrictions, Covenants, Limitations and Easements for record in the office of the Recorder of St. Joseph County as Document # **0323149**; and

Whereas, paragraph IX General Provisions, item "u", Waiver or Amendment of Covenants, of the said Protective Restrictions, Covenants, Limitations and Easements provide that the Developer of Westwood Knolls at Blackthorn, its successors, or assigns, shall have the exclusive right to amend or supplement the Protective Restrictions, Covenants, Limitations and Easements except as otherwise directed within the said Protective Restrictions, Covenants, Limitations and Easements; and

Whereas, on this date, Cooreman Real Estate Group, Inc. (Steve Cooreman, President) is the Developer of Westwood Knolls at Blackthorn.

**THEREFORE, THE PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS AND EASEMENTS ARE  
HEREBY AMENDED IN THEIR ENTIRETY AS FOLLOWS:**

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
WESTWOOD KNOLLS AT BLACKTHORN**

THIS DECLARATION made this **25th** day of **May**, 2006, by Cooreman Real Estate Group, Inc., an Indiana corporation, (Declarant).

**STATEMENT OF FACTS:**

- A. Declarant is the sole owner of the real estate located in St. Joseph County, Indiana; more particularly described on Exhibit "A" attached hereto and hereinafter referred to as the "Property".
- B. Declarant by execution of this Declaration declares that all homesites or lots which are conveyed which are a part of the property shall be subject to and impressed with the terms and conditions of this Declaration hereinafter set forth; and they shall be considered a part of the conveyance of any lot in the Property without being written therein. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all lots in said Property; and they shall run with the land and inure to the benefit of and be enforceable by the owner, or owners, of any land or lots included in said Property, their respective legal representatives, heirs, successors, grantees and assigns. The owner, or owners present or future, of any land or lot included in said Property shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and also damages for any injuries resulting from any violation hereof; but there shall be no right of reversion or forfeiture of title resulting from such.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

- I. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:
  - a. "Westwood Knolls at Blackthorn" is the name by which the Property, which is the subject of this Declaration, shall be known.
  - b. "Approved" or "Pre-Approved" shall mean determined to be acceptable, in writing, by the Design Review Committee.
  - c. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association. The Articles of Incorporation are incorporated herein by reference.
  - d. "Association" shall mean Westwood Knolls at Blackthorn Homeowners Association, Inc., its successors and assigns, a not-for-profit corporation, the membership and powers of which are more fully described in Section IV of this document. The "Association" may also mean the Declarant when referencing rights or responsibilities of the Association prior to the Turnover Date.
  - e. "Board" shall mean the duly appointed and/or elected Members of the Board of the Directors of the Association.
  - f. "By-Laws" shall mean the By-Laws of the Association and shall provide for the election of Directors and Officers and other governing officials of the Association. The By-Laws are incorporated herein by reference.
  - g. "Lake Lot" or "Lake/Pond Lot" or "Pond Lot" shall mean any lot platted for use as a single-family residence lot, which contains thereon any portion of any pond or lake in this Property.
  - h. "Lake" or "Pond" shall mean any body of water designated by the Declarant as being a lake or pond and shown on the recorded plat as a retention easement.
  - i. "Committee" means the Design Review Committee.
  - j. "Common Area" shall mean all real property ultimately to be owned or controlled by or subject to easements for the common use and enjoyment of all members of said Association, including, but not limited to any lake and improvements thereto, including any well, pump, any water fountains, drains, gazebo, paths, lights and other aspects of that lake, and any entry walls and landscaped areas within any boulevard islands.
  - k. "Common Expense" shall mean expenses for the administration of the Association, for the upkeep, maintenance,

replacement, repair, taxes, insurance and other expenses of Common Areas, expenses for the maintenance of Buildings and landscaping as set forth herein, maintenance of the entry walls and all other expenses of the Association.

- l. "Declarant" or "Developer" shall mean and refer to Cooreman Real Estate Group, Inc., an Indiana Corporation, any successors and assigns of it and/or any affiliated entities.
- m. "Dwelling Unit" shall mean any single family dwelling to be used and occupied as a single household, including the garage and any appurtenances.
- n. "Homesite" or "Lot" shall mean a parcel of real estate designated on a final plat upon which a home can be built. If two or more contiguous homesites are owned by the same person or persons and if a house is constructed in such a manner as to overlap both homesite, it shall be treated as a single homesite for voting purposes, but as two homesites for assessment purposes. When Homesite is used, it shall be deemed to include the lot and the Dwelling Unit, if any, located thereon.
- o. "Member" shall mean a member of the Association.
- p. "Owner" or "Lot Owner" shall mean a person, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof that owns the fee simple title to a Homesite.
- q. "Plat" shall mean the recorded plat of the Property known as "Westwood Knolls at Blackthorn", including all Sections or additions to the Property to be recorded in the future. Section I of said Property, consisting of lots 1-41, inclusive, and lots 93-101, inclusive, prepared by Abonmarche Consultants, L.L.C was recorded on **April 21, 2003** as Instrument # **0323149** in the office of the Recorder of St. Joseph County, Indiana.
- r. "Property" shall mean the parcel of land designated as Westwood Knolls at Blackthorn on the Plat.
- s. "Shoreline Area" shall mean that portion of a lake or pond lot consisting of the land lying between the then current water line of any lake on any such lake lot and a line parallel to and approximately fifteen (15) feet uphill from said water line.
- t. "Turnover Date" shall mean the date upon which the written turnover of control of the Association by Declarant is recorded in the records of the Recorder of St. Joseph County, Indiana. The Declarant maintains the exclusive right to determine whether a Turnover of the Association shall occur and if so, what date said Turnover shall occur.

II. Declaration. Declarant hereby expressly declares that the Property shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

III. Description of the Property. The property consists of lots 1-41, inclusive, and lots 93-101, inclusive, as designated on the recorded plat of Westwood Knolls at Blackthorn Section One, prepared by Abonmarche Consultants, L.L.C was recorded on **April 21, 2003** as Instrument # **0323149** in the office of the Recorder of St. Joseph County, Indiana which said plat is incorporated herein and made a part hereof.

IV. Homeowners Association.

- a. Purpose. In order to provide for the maintenance and repair, replacement, administration, operation and ownership of the Common areas, and such other functions as may be delegated and designated for it, the Association has been formed.
- b. Members. Each Owner shall become a Member of the Association when a deed to a Homesite is delivered to the Owner and recorded in the records of the Recorder of St. Joseph County, Indiana, conveying title to a Homesite to an Owner, but membership in the Association shall terminate when such person or persons cease to be an Owner and will be transferred by delivery and recording of a deed to the Homesite to the new Owner. The Association shall have one (1) class of Members who shall be all Owners of Homesites. Each person holding an interest in any Homesite shall be a Member; provided, however, that each Homesite represented shall have only one (1) vote. No person or entity other than an Owner may be a Member. Upon recordation of a deed to a Homesite in the office of the Recorder of St. Joseph County, Indiana, membership in the Association shall for all purposes be deemed to have passed to the grantee in the deed from the grantor without any requirement of endorsement or assignment of any Certificate of Membership.
- c. Voting Rights. No Member other than Declarant shall have any right to vote on any matter until the first to occur of the following events:

- i. The date (herein referred to as the Turnover Date) upon which the written turnover of control of the Association by Declarant is recorded in the records of the Recorder of St. Joseph County, Indiana,
  - ii. The date Declarant no longer owns any Homesites or,
  - iii. Twenty (20) years after the date of the recording of the final plat of the Property.
- d. Board of Directors. The initial Board of Directors shall be as designated in the Articles of Incorporation or thereafter appointed by Declarant and such Directors, notwithstanding any provision in the Declaration or the Articles or the By-Laws to the contrary, shall be the directors until the Turnover Date or any of them are removed by Declarant or the resignation of one or more of them, and in the event of any vacancy or vacancies occurring in the Board of Directors for any reason prior to the Turnover Date, every such vacancy shall be filled by a person appointed by Declarant, which person or persons shall thereafter be deemed a member of the Board of Directors. After the Turnover Date, the Association shall elect the Board. The Board of Directors shall be the governing body of the Association representing all of the Members and being responsible for the functions and duties of the Association, including but not limited to the management, maintenance, repair, replacement and upkeep of the Common Areas, landscaped entrance ways, any lakes and ponds, fountains, and accent lighting, the payment of all other expenses pertaining to the Common Areas and the performance of services as detailed in this Declaration. Services provided by the Association may be provided through the use of employees of Declarant or other persons or entities selected by the Board of Directors.
- e. Meetings. Within thirty (30) days after the Turnover Date, the Association shall elect a Board of Directors and shall continue to do so annually in accordance with and as prescribed by the Bylaws, and the Members shall be entitled to vote for the election of the Board of Directors in accordance with the procedure outlined in the Bylaws. The turnover of control by Declarant shall be effective whether or not such election is held.
- f. Right of Board of Directors to Adopt Rules and Regulations. The Board of Directors may promulgate such additional rules and regulations regarding the operation of the Property including but not limited to the use of the Common Areas and other items, as it may be necessary from time to time. Such rules as are adopted may be amended and supplemented by the vote of a majority of the Board of Directors which shall cause copies of such rules to be delivered and mailed promptly to all Owners.
- g. Annual Accounting. Prior to the Turnover Date, no annual accounting shall be required. After the Turnover Date and annually thereafter the close of each calendar year and prior to the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished each Member a financial statement prepared by the accountant or accounting firm then serving the Association, or a qualified individual appointed by the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding calendar or fiscal year and all income of the Association during that same year.
- h. Proposed Annual Budget. Prior to the Turnover Date no annual budget is required. After the Turnover Date and annually thereafter, at least ten (10) days before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar or fiscal year estimating the total amount of the Common Expenses for the ensuing year and the amount of each Owner's Regular Assessment and Maintenance Assessment for that year, a copy of which shall be provided to each Member at least one week prior to the annual meeting. After the Turnover Date occurs, the annual budget shall be submitted to the Members at the annual meeting of the Association for adoption, and if so adopted, shall be the basis for the Regular Assessments and Maintenance Assessments (hereinafter defined) for the ensuing and regular fiscal year. At the annual meeting of the Members, the budget shall be approved in whole or in part or may be amended in whole or in part by a majority of the votes cast, provided, however, in no event shall the annual meeting be adjourned without or until the annual budget is approved at such meeting.

The annual budget, the Regular Assessment, and any Special Assessments shall be established using generally accepted accounting principles applied on a consistent basis. The Association may provide for a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and other anticipated expenses if the Board of Directors and Members of the Association deem the same is appropriate and necessary and may include a contribution for this fund in the Regular Assessment. Any delay or failure by the Board of Directors to prepare a proposed annual budget and to provide the same to the Members shall not constitute a waiver or release in any manner of the obligations of each Owner to pay the Common Expenses as herein provided.

- i. Regular Assessments. Association may levy and collect dues and assessments on all lots that are not owned by the Declarant, whether or not the Homesite has a Dwelling Unit located on it or are otherwise improved, including all lots to be recorded as additions to and sections of the recorded Plat of the Property. Prior to the Turnover Date occurring, the amount of all Regular, Maintenance and Special Assessments shall be established by the Board of Directors, appointed by the Declarant, and shall be payable and enforceable as set forth herein. It shall have the authority to impose and collect monthly assessments for the operation, maintenance and improvement of the entryway or other common areas, or applicable easements; any lakes and ponds, and other such fees as may be determined by the Board. Those assessments shall be levied equally on each lot, which is not owned by the Declarant. If the same person or persons own two contiguous lots and one home is constructed upon said lots, the representative owner(s) shall be assessed for both lots.
- After the Turnover Date occurs, the annual budget as adopted shall be used to establish the amount of the Regular Assessment for each Homesite, which is not owned by Declarant, based on those expenses for the next fiscal year which are for common expenses, and contributions to any potential replacement reserve fund. The regular Assessment shall be based upon a budget prepared by the Board of Directors and provided to each Owner prior to the date the first installment of that assessment is due to be paid.
- Immediately following the adoption of the annual budget, each Owner shall be given written notice of the Regular and Maintenance Assessments against that Owner's Homesite (which Regular Assessment and maintenance Assessment and any Special Assessment are herein referred to collectively as the "Assessment".) The Owner of that Homesite shall pay the Assessment against each Homesite in advance annually, commencing on the first day of January of such calendar year and on the first day of each calendar year thereafter. Payments of the Assessments shall be made to the Association at the address provided by the Association to each Owner. The Assessment for the year shall become a lien on each Lot as of January 1 of each calendar year. The Board of Directors through rules and regulations or provisions in By-Laws may change the above dates of assessment and payment without amending this Declaration.
- j. Calculation of Dues and Assessments. The total of the monthly dues and assessments shall not be more than \$175.00 per year per lot owned (The "Maximum Annual Assessment"), except as hereinafter adjusted. Such assessments shall commence on each lot when each lot is conveyed to a homeowner or builder and shall not be assessed on lots owned by the Declarant. After the Maximum Annual Assessment is fixed for a particular year, it may thereafter be increased yearly by the greater of (i) three percent (3%) or (ii) the percentage that the CPI has increased upon the comparison of the Index for January of the year in which the increase in the Maximum Annual Assessment is to be made and the Index for January of the immediately preceding year. As used herein, "CPI" means the Consumer Price Index for All Urban Consumers (All Items) published by the Bureau of Labor Statistics of the United States Department of Labor. In the event the Bureau discontinues publishing the CPI, a comparable index will instead be used as a basis for making any adjustments under this paragraph. Such assessments shall commence on each lot when each lot is conveyed to a homeowner or builder and shall not be assessed on lots owned by the Declarant.
- k. Special Assessments. From time to time common expenses or other expenses of the Association of an unusual or extraordinary nature or not otherwise anticipated or included in the annual Budget may arise or be deemed necessary to incur by the Board of Directors. In such event the Board of Directors is authorized to adopt a resolution to make such expenditures and shall have the full right, power and authority to make a Special Assessment of equal amount upon each Homesite, which is not owned by Declarant, to pay that expense, without a meeting or approval of Owners, which Special Assessment shall become a lien on such Homesite, after approval of such resolution by the Board of Directors at a special or annual meeting called in accordance with the By-Laws.
- l. Failure of Owner to Pay Assessments. No Owner, other than Declarant may become exempt from paying Assessments and Special Assessments or from contributing towards the Common Expenses or any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common area or by abandonment of the Owner's Homesite. Each Owner shall be personally liable for the payment of all Assessments and by accepting delivery of a deed to a Homesite agrees to this provision and other provisions of this Declaration. Where the Owner constitutes more than one person, liability for assessments shall be joint and several. Assessments or any installments thereof which are not paid when due shall bear interest on a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the Board of Directors may in its discretion declare the entire balance of unpaid Assessments to be due and payable, with interest. Said dues and assessments, including interest, costs of collection and attorneys' fees, if any, as hereinafter provided, shall be a lien in favor of the Association upon all lots against which

such dues and assessments are charged until discharged by payment or released by the Association, which lien may, but need not, be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Indiana. Notwithstanding anything to the contrary herein, the Association need not file or record or send any notice with respect to any lien or liens or bring suit thereon within any time specified in the mechanic's lien statutes of the State of Indiana to enforce the same. The Association may, but need not, publicly record such notices of undischarged liens arising hereunder as it deems appropriate and may, but need not, bring a separate independent action in any court to enforce payment of, or to foreclose, the lien created hereunder. Provided further, that any person purchasing or dealing with said lot may rely upon a certificate signed by the President or Secretary of the Association showing the amount of such certificate, and the Association shall not be entitled to enforce any lien for such charge accruing prior to the date of any such certificate unless the amount thereof is shown in the said certificate. The within above-described lien is subordinate to any first mortgage lien. Any Member who is delinquent in paying any assessment may not vote on any Association matter during the period such payment is delinquent.

- m. Notice of Unpaid Assessments. The Association shall, upon the request of an Institutional Lender or purchaser who has a contractual right to purchase a Homesite, furnish a statement setting forth the amount of the unpaid Assessments against the Homesite, which statement shall be binding upon the Association and the Members.
- n. Insurance. Property liability and other appropriate insurance for the Association and for insurance on the entrance signs or walls and landscaping, and any gazebos or other improvements owned or controlled by the Association shall be purchased, as the Association deems appropriate. The Association shall also purchase a comprehensive public liability insurance policy having a limit of liability of not less than One Million Dollars (\$1,000,000.00) per occurrence and a limit of liability of not less than Two Million Dollars (\$2,000,000.00) in the aggregate for the lakes or ponds. Declarant shall be named as an additional insured on all such policies taken out by the Association. The Association does not provide or pay for any insurance coverage over a homesite, dwelling or contents of the same, such insurance being the owner's sole responsibility. The Association and/or current owner is responsible for any needed maintenance and liability insurance for any portion of a common area sidewalk whether located in a right-of-way or not.
- o. Real Estate Taxes and Utilities. Real Estate taxes are separately assessed and taxed to each lot or homesite. Any real estate taxes or other assessments, which are chargeable against the Common Area, shall be paid by the Association and treated as a common expense. Each Owner shall pay for their own utilities, which will be separately metered. Any utility charges for the Common Areas or utility charges for any common irrigation system shall be paid by the Association and treated as a common expense.
- p. Maintenance of Retention Easements. Homeowners of lots containing a retention or drainage easement shall keep easement mowed, free of debris and maintained in a reasonably clean condition, if the governing County or City authority fails to do so. If the homeowner or governing authority fails to maintain any drainage or retention easement, then the Association shall maintain such.
- q. Maintenance of Common Areas. The Association shall maintain the lawn and landscaping located in any Common Area, including but not limited to entry wall areas, common park areas, gazebos or other improvements, and any landscaped boulevard islands, on a scheduled basis as determined by the Association, and shall be responsible for the timely repair and maintenance or replacement of any improvements located in a Common Area.
- r. Failure to Maintain Property. In the event that the Association for any reason does not fulfill its duties as specified in this declaration, Declarant shall have the right to hire an independent management company or use its own employees to provide for the maintenance of all Common Areas and applicable easements and to maintain the overall attractiveness of the Property. All costs including management fees and legal fees, incurred by Declarant for the performance of said actions shall be paid from Association dues and assessments, which may necessitate a special assessment on all lots not owned by the Declarant.

#### V. Architectural Control.

- a. Design Review Committee. There is hereby created Westwood Knolls at Blackthorn Design Review Committee ("Committee") which shall consist of three (3) persons appointed by the Declarant or its successors and assigns who shall serve until they are removed by the Declarant or have resigned. Committee may designate any one of its members to act on its behalf. In the event of any vacancy on the Committee, the Declarant shall appoint a replacement. The Declarant

shall maintain the exclusive right, even after the Turnover Date, to appoint members of the Committee, until such time as the Declarant shall choose to assign this right, in writing, to the then existing Board of Directors. However, after the Turnover Date, The Declarant reserves the right to delegate Design Review duties to the Association for the purpose of approving fencing, decks, swimming pools, residential additions or any future structural improvements submitted for approval. The Association shall provide written approval in all delegated submittals. If this delegation becomes applicable it does not include future submittals of new home construction within the sub-division. All new home construction plans shall continue to be submitted to the Committee appointed by the Declarant as stipulated above. The Committee shall have the authority to approve all plans and specifications for all Dwelling Units and the Landscaping Plan for each Homesite in the Property. No construction shall be commenced until the Committee shall have issued its written approval. The decision of the Committee shall be final and shall be entirely within its discretion.

In the event, the Declarant, its successors, and the Committee do not exist, 80% of the record title owners, of said lot(s), shall act as said Design Review Committee.

**b. Design Review**

- i. The Declarant reserves the exclusive right to approve the Builders of Dwellings in this Property, until such time as all of the lots in the Property are sold.
- ii. No building or other structure shall be erected, constructed, placed, maintained, or altered on any lot, nor shall the natural topography or drainage of any lot be altered, until the construction plans for the structure or for the topographical alterations have been approved by the Committee. Each Builder and lot buyer is to complete the Design Review Contract (attached as Exhibit "B") at the time design approval is requested and return a signed copy to the Committee. The plans must show floor plan, any porch or deck design, quality of construction, materials, outside colors to be used, harmony of external design with existing structures and location with respect to lot lines, topography and finish grade elevations. The Committee must approve geothermal heating units. In addition, the site plans must show placement of driveways, sidewalks, well and septic location (if applicable), drainage flow, post lights and retaining walls. One set of complete plans must be submitted and will be retained in Declarant's office. The Committee's approval or disapproval as required in these covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, placed or maintained upon any lot, and no changes or deviations in or from such plans as approved shall be made without the Committee's prior written consent.
- iii. Neither the Declarant, the Committee, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage, well or septic system problems resulting there from. The Declarant shall also be held harmless against any claims against the builder. Every person and entity who submits plans to the Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or the Declarant to recover any damages or to require the Committee or the Declarant to take, or refrain from taking, any action. Neither the submission of any complete sets of plans to the Declarant's office for review by the Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent lot owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

**VI. Homesite Provisions.**

- a. Land Use. The requirement that each homesite shall be used solely for residential purposes shall not apply during the time that the homesite is being used by the Declarant or any homebuilder in the promotion, development, or improvement of the lots during which time the lot may be used as an office or model for sales and promotional purposes. Residency in any structure shall not be permitted until the exterior of the home has been 100% completed. Occupying a motor home as a residence in this Property is not permitted
- b. Placement. The Committee in advance of the construction of any such improvement shall determine the placement of all buildings. It is the sole responsibility of the lot owner or his builder to provide a complete site plan prepared by a

Registered Land Surveyor, showing the proposed dwelling location on the surveyed lot for review by the Committee. No alterations of location or any improvement prior to construction shall be made and no improvement shall be physically placed in any other position than that located on the submitted site plan without approval of the Committee. The Committee reserves the right to approve the site plan prior to home staking. All homes to be staked by a Registered Land Surveyor as approved by the Declarant. All expense with regard to such location placements and the actual physical staking for the location of such physical improvement shall be borne by the lot owner. No building shall be located on any lot nearer to the right-of-way line than the minimum building setback lines as shown on the recorded Plat. (Some lots require 25 feet from right of way line and some lots require 35 feet from right of way. The right of way line may vary. See individual surveys) however, the Declarant reserves the right to determine if a greater minimum setback from right of way shall apply on any lot. On any lot, there shall be two (2) side yards, which shall have a minimum combined width of twenty (20) feet; no dwelling shall be located closer than eight (8) feet to the property line. No dwelling shall be located closer than forty (40) feet to any rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of the building.

- c. Lawn & Landscaping.
- i. The side, front and rear yards of each lot shall be planted with grass seed, sod or ground cover, and landscaped within one hundred and twenty (120) days (weather permitting) after the structure is completed, or the structure is occupied as a home, whichever occurs first. Wildflowers are permissible; however, they may be used only as a minor accent to landscaping.
  - ii. A minimum of four (4) trees of at least six (6) feet in height and two and one half (2.5) inch caliper must be planted along with the initial landscaping of the yard. At least two (2) of these trees shall be of an evergreen variety. The Committee may waive this requirement if it shall determine, in its sole discretion, that an individual lot has an adequate number of trees. A minimum number of plants and shrubs (foundation plantings) to be installed along the front and sides of the home as determined by the Committee.
  - iii. All vacant lots in their entirety, except heavily wooded lots, shall have the weeds and brush mowed so foliage does not exceed twenty-four to thirty inches in height, except for the first 30-40 feet which shall not exceed twelve to eighteen inches in height.
  - iv. All lawn and landscaping to be maintained in a neat and orderly fashion with proper fertilizing, weeding, and trimming to encourage a healthy, attractive landscape.
  - v. All lots with frontage on a lake/pond (designed to hold water year round) are required to have commercial grade edging and small landscape stone of Committee approved material and design, placed along the water's edge. Proper installation of the stone or other approved material includes placing a porous weed barrier fiber mesh material along the entire shoreline area, then placing the stone or other approved material over the top of the porous weed barrier material. Design parameters shall be consistent with specifications approved by the Committee..
- d. Trees. Lot owners warrant maintaining the wooded integrity of said Property, and therefore hereby agreeing to make all diligent efforts to save as many trees as possible. No tree of more than sixteen (16) inches in diameter shall be removed unless actually necessary for construction purposes. The Declarant represents that he has made a diligent effort to maintain and save all trees during the sub-division construction process, however lot owners warrant to not hold Declarant liable for any future dead trees. Lot owner is advised that local utility companies sometimes cut tree roots in the process of installing utilities to the home, which may result in the potential future loss of those trees. If a tree shall die or be severely damaged, Owner shall be responsible for the removal of said tree at the Owner's expense. If lot owner fails to remove a dead tree from lot in a timely fashion and Declarant or Association is forced to do so for public safety or aesthetic reasons, and homeowner fails to pay for such removal, then a lien in favor of the Declarant or Association shall be granted.
- e. Temporary or Prohibited Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, tool shed, storage shed, or other outbuilding of any nature, except for a construction trailer used during construction of the residential dwelling, shall be used on any homesite at any time, either temporarily or permanently. Semi-tractor and trailer, school buses, modular homes, mobile homes, motor homes and house trailers are prohibited.
- f. Lot Division & Land Development. There shall be no subdivision or sale of any lot by a homeowner for the purpose of

building an additional dwelling. Either the Declarant or other proprietors of the contiguous land could ultimately develop Land contiguous to the Property's perimeter lots.

- g. Protective Screening. Any screen planting over thirty-six, (36) inches high between the building setback line and front lot line on all lots, must be pre-approved in writing by the Committee. No screen planting over thirty-six (36) inches high shall be permitted within thirty, (30) feet of the shoreline of lake/pond lots. No screen plantings or trees whatsoever shall be permitted on any shoreline area or back yard, which obscures the overall view of the lake/pond for the other lake/pond lot owners. The Association reserves the right to trim trees that may obstruct the overall view of the lake/pond for the other lake/pond lot owners' view, at homeowners expense if homeowner fails to do so.
- h. Perimeter Fencing and Retaining Walls. The placement, style, color, material and height of all fencing shall be submitted to the Committee for written approval, prior to any installation. No fencing to be installed in easement areas unless approved in writing by the Committee. Retaining walls may be required if a significant grade change exists, or is created by the process of grading between lots. The Committee must approve the placement, style, and height of all retaining walls in writing. Retaining walls along a perimeter lot line that poses a significant danger because of the drop off shall utilize a protective landscape screening. The Committee reserves the sole right at its discretion, to prohibit any fencing, other than underground electric pet containment systems, on certain lots.
- i. Pools, Tennis Courts, & Playground Equipment. No above ground, partially in-ground (Partially in-ground pool is defined as any pool whose sides rest in "partial contact" with the earth), or on-ground pools shall be permitted. Only permanently installed, fully in-ground (Fully in-ground pool is defined as any pool whose entire surface of the sides rest in contact with the earth) pools shall be permitted. Detailed plans showing, the Committee prior to installation must approve size, placement, materials, fencing and/or pool cover materials in writing. All pool covers and or fencing around pools must comply with all local and state ordinances or rules governing such barriers. . Regardless of pool cover style or fencing, the Declarant and the Association are held harmless and indemnified against all claims related to the paragraph. The Committee has the right to determine type of barrier to pool access and may also require additional screening of any pool area. It is highly recommended that written approval be obtained prior to ordering any materials. It is the intent of the Declarant that this building restriction prevents temporary pools, which sit on top or partially into the ground, regardless of permanently, planned decks that would be installed around pools.  
No tennis courts or basketball courts or basketball posts with mounted backboards shall be permitted unless approved in writing by the Committee.  
The Committee must approve playground areas or equipment. Evergreen screening around any approved playground equipment may be required at the sole discretion of the Committee.
- j. Detached Buildings. The construction and/or placement of detached storage buildings will not be permitted, excepting that on land contiguous to the east of lots 10 and/or 11, comprising a 1 or 2 acre parcel of land, shall be permitted to construct a storage building, subject to approval by the Committee as to location, style, color, size, and materials used.
- k. Antennas and Satellite Dishes. No outside above-ground television, A.M., F.M., or short wave radio antennas of any type, shall be erected or maintained on any lots or structures in this Property. Each lot owner may, however, have on his homesite no more than one (1) satellite dish not more than one meter in diameter for electronic signal reception. No satellite dish may be placed in either the front or the side yards of a lot. The antenna must be placed, to the extent feasible, in locations that are not visible from the street or other common property. The placement and size of the satellite dishes must be approved by the Committee before placement on any lot. The Committee may also require protective screening.
- l. Debris, Garbage, and Refuse Disposal. No lot, or contiguous lot during the construction period, shall be used or maintained as a dumping ground for rubbish or brush. Trash, garbage, or other waste shall not be kept except in sanitary containers. During the construction period for any house, the builder or lot owner shall place a construction dumpster or construct a suitable temporary container on each homesite or available for use by each homesite for the disposal of trash. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No lot shall be used for the storage of old lumber, cars, materials or debris including grass clippings. Firewood may be stored on a lot, but stored in an orderly and sightly manner and appearance.

**VII. House or Dwelling Provisions.**

- a. Home Occupations. No lot or lots shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the residence dwelling and participated in solely by a member of the immediate family residing in said residence, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is: a) No sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; b) No commodity sold upon the premises; c) No person is employed other than a member of the immediate family residing on the premises; and d) No mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, fortune-telling parlor, animal hospital, or any form of animal care or treatment such as dog trimming, be construed as a home occupation.
- b. General Restrictions. The Declarant reserves the right to use its discretion to limit certain home designs to certain Homesites, determine front load or side load garage doors on certain Homesites, limit square footage of Homesites, regulate exterior color, building materials, landscape design and other differentiating decisions with regard to the Dwelling Units which are built on Homesites.
- c. Exterior Siding Material. The exterior siding material of all residences shall be vinyl, brick, stone, stucco, and redwood or cedar lap: no vertical Masonite siding shall be permitted. The street facing side of all residences must be faced with a minimum of 25% of brick or stone.
- d. Roof Pitch. The roof pitch of all residences shall be in compliance with the requirements of the St. Joseph county Building Code or not less than 6" / 12", whichever is the more restrictive and shall maintain a minimum of a one foot overhang.
- e. Windows. All sides of the dwelling shall have at least one window unless the Committee grants a variance.
- f. Dwelling Size. No dwelling shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed (2) stories in height. All dwellings shall have a full-size garage, which is capable of storing at least two (2) cars but not to exceed space for three (3) cars. No dwelling shall be permitted on any lot with a living floor area of the main structure, exclusive of one-story open porches and garages, of less than the following number of square feet for the following types of dwellings:

**Lots 1 - 4, inclusive; Lots 93 – 101, inclusive; Lots 37, 38, 41; the minimum square footage shall be as follows:**

<b>Type of Home</b>	<b>Minimum Square Footage</b>
Ranch Style	1800 square feet
1-1/2 Story	1900 square feet
2 Story	2000 square feet

**Lots 5 -36, inclusive, Lots 39, 40; the minimum square footage shall be as follows:**

<b>Type of Home</b>	<b>Minimum Square Footage</b>
Ranch Style	2000 square feet
1-1/2 Story	2100 square feet
2 Story	2200 square feet

**Excepting that lots 28 – 32; inclusive shall have a minimum of 2400 square feet on a 2 story.**

At the discretion of the Committee, walkout lower level living areas may be used to partially attain the square footage minimum requirement. Up to 150 sq. ft. can be allocated towards the total square footage of the home, to meet the minimum requirements.

- g. Driveways. No stone or cinder driveways shall be permitted. All driveways are to be a minimum of twelve (12) feet wide, maximum thirty (30) feet wide at curb, and must be constructed of brick, or concrete. Circular drives in front of homes (if any) must be a minimum of eight (8) feet wide. The gutter line of the road shall not be filled or “wedged” with asphalt or any material.
- h. Porches. All porches must be of concrete construction. Wooden porches shall not be permitted, unless the Committee grants a written variance.
- i. Mailboxes. All mailboxes shall be of Committee approved style, type, and material.
- j. Chimneys. Chimneys if any, on exterior walls and extending above rooflines shall have masonry veneer. Acceptable alternatives to masonry exterior chimneys would be a “direct vent” fireplace with Committee approval or an interior chimney with brick or stone veneer above the roof. Vinyl sided chimneys are not permitted. Direct vent exhaust flues are not permitted on the street facing side of the home.
- k. Solar panels. The Committee prior to construction must approve installation and location of any proposed solar panels in writing.
- l. Sidewalks. A concrete sidewalk, adhering to government specifications and/or ADA standards, shall be constructed by the lot buyer on the homesites located on all “through streets”, along the entire frontage of the homesite. A “through street” is any street that does not terminate in a cul-de-sac. Except that corner lots with frontage on a through street and a cul-de-sac are required to install sidewalk only on the through street frontage portion of the lot. Final grade of sidewalks, placement, finish, and design to be approved by the Committee. Sidewalks to be poured through the driveway. Homeowners are responsible for maintaining their portion of the sidewalk whether located in a right-of-way or not. Sidewalks that meet right-of-way must be handicap accessible.
- m. Lighting. A dusk to dawn light (or gas light) of the type approved by the Committee shall be installed by the builder or lot owner on each lot in front of the front building setback line, approximately 20’ to 40’ behind curb. If electric, post lights shall be equipped with automatic operators (electric eye) to provide light from sundown to dawn. All dwellings located on a lake/pond to have a dusk to dawn post light at a location in the rear of the homesite as determined by the Committee. Declarant is not obligated to provide for street lighting.
- n. Exterior Maintenance of Dwellings. Owner shall replace and repair any portion of the exterior of his Dwelling Unit which is damaged or in need of repair or replacement and such maintenance shall include but not be limited to replacement and major repair of siding, shingles, roofs, masonry walls and chimneys, plumbing fixtures, heating and air conditioning systems, driveways, sidewalks, windows, exterior lighting fixtures, gutters and downspouts, appliances and other mechanical and electrical systems. The Owner must maintain any paint or stain on the exterior of his Dwelling Unit at least every five (5) years, or as needed to properly maintain, using paint or stain which is approved by the Association in advance as to color and quality. Neither the Association nor the Declarant shall, in any respect, be liable to an Owner for any expense, repair or other liability of any type or nature due to defects in the Dwelling Unit, siding or any other materials, whether required by the Committee or not, in the construction of the Dwelling Unit, and Owner hereby releases both of them from any such claims.
- o. Enforcement of Covenants. The right and obligation to enforce the provisions contained herein, by injunction, together with the right to cause the removal by due process of law of any structure, is hereby vested in the Association, its successors and assigns and in each owner of any lot in this Property. These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons vested with the title of any of the lots herein before described, the Association, its successors and assigns, or the Declarant, to proceed either in law or in equity, against such person or persons violating or attempting to violate any such covenants, and to enjoin them from so doing, to recover damages for such violation and to seek all other appropriate relief. In the event that the Association, or the Declarant should employ counsel to enforce any of the foregoing covenants and restrictions, all costs incurred in such enforcement, including but not limited to reasonable attorneys’ fees, expense of removing or altering any Homesite which violates this Declaration and any other related expense shall be paid by the Owner of such Homesite against whom such enforcement action is brought, and any such expense shall become a Special Assessment against that Homesite and be enforceable in the same manner as is provided in this Declaration for other assessments. Any

infraction or violation of these covenants that may also be a civil code violation can be reported to the governing authorities.

After the Turnover Date, the Association is solely obligated to enforce the provisions contained herein, and may be subject to legal action if they fail to do so. However, the Declarant and all individual lot owners shall maintain their vested rights to enforce the provisions, if they so choose. However, the Declarant, or individual lot owners shall not be responsible for the obligation of the Board to enforce the provisions contained herein.

### **VIII. Easements.**

- a. There are strips of ground variable in width, as shown on this plat, and marked "Easement" reserved for use as roads, or for maintenance/creation of any ponds, lake access, or non-access, or recreational/drainage easements, or signage and landscape easements, and for the use of public utilities for the installation of water and sewer mains, poles, ducts, lines and wires, and overland drainage flows, subject at all times and for the benefit of the proper regulatory authorities, the Declarant, or the Association, and to the easement herein reserved. The owner(s) of the lot(s) containing said easements, their successors and assigns shall take their titles subject to said use of the easements. No permanent structures shall be erected or maintained upon said strip of land except as noted in this Declaration. No changes shall be made in the grading of any lot areas used as drainage swales as initially provided which would alter the flow of overland storm drainage runoff. No vehicular access over the area shall be permitted except for the purpose of installation and maintenance of screening, utilities and drainage facilities.

Furthermore, any utility company, in setting utility poles, shall have the right to set anchor poles at any change of direction of their lines. The timing of installation and the location of all utilities including transformers and pedestals are at the utility company's discretion. Lot Buyer shall grant utility companies, or Declarant additional easement if necessary to service lots. In an attempt to preserve trees along the road right of way, utility companies may request a slightly wider easement. Trees located in the utility easement are subject to trimming or cutting if necessary by the utility companies. The rights of the utility companies are outlined in the deed of dedication for this Property plat.

All drainage retention and utility easements delineated on the recorded plat are easements reserved to the Declarant, of the Property, and the Homeowner's Association. Any applicable governing body. However, is granted the right to utilize said easements. The Declarant reserves the right to construct and maintain continuous drainage facilities, including, but not limited to, swales, pipes and drywells, to provide within said easements yard drainage on, across and between, all lots on the plat. The Association shall be required to maintain and preserve drainage and retention easements. If the actual boundaries of any pond/lake (designated on the plat as a drainage or retention easement) as built or currently exists, vary from the boundaries of the drainage or retention easement on the Plat, then the easement granted herein shall extend to the boundaries of the pond/lake as built or currently exists. Each lake/pond lot in the Property shall be subject to a flowage easement over and across such lake/pond lot. The Association reserves to itself, and its successors and assigns, such an easement upon, across, and through each of any lake/pond lots and the shoreline areas as is necessary in connection with managing, operating, maintaining and improving any lake/pond, including dredging such lake/pond. The Association reserves the right to use any and all lake/pond access or drainage or retention easements for the purpose of right-of-way and easement for construction, operation, use, maintenance, repair, renewal, and removal of facilities necessary to provide for the maintenance of the lake and its immediate surrounding environs as those limits are defined by said retention/drainage easements.

Some retention ponds are not intended to be year round landscape ponds, but are intended to be "dry bottom" ponds, for the sole purpose of retaining water runoff from the property, and may or may not hold water permanently.

The signage and landscape easements delineated on this Property are easements reserved solely to the Declarant, The Declarant reserves the right to construct sign(s), and landscaping features, per the governing Zoning Standard, in order to identify said Property and/or to provide for the promotion and affect the sale of the lots or structures in said Property. The Association shall maintain any lawn and landscaping in these signage and landscape easements.

The right-of-way and/or maintenance easement area for the County or City is used to maintain the roadway. The County or City expects its employees to exercise due care, but the County or City is not responsible for damage to mail boxes, planters, decorative stones, posts, fences or sprinkle heads within this area. Mailboxes should be placed so that the front of the mailbox is two (2) feet from the edge of the pavement. Where there is a stone or paved shoulder, the mailbox may be placed even with the edge of the shoulder but no closer than two (2) feet from the pavement. Brick mailboxes should be placed one (1) foot behind the concrete curb or as required by the County or City right-of-way and/or maintenance easement standards, which ever is the more restrictive. Mailboxes should be placed in accordance with the current specifications mandated by the Postal authority.

- b. Additional Easements reserved to the Declarant, unless otherwise noted below, which are not noted on final recorded plat:
- i. Pedestrian Walkway. There is provided by the Declarant, an easement approximately 5 feet in width, between Section 1 of the Property and Orange Road approximately at the curve, which goes through the future Section 2 of the Property. This Pedestrian Easement is for the sole benefit and enjoyment of the residents of the Property and Villas at Lake Blackthorn for the purpose of pedestrian, non-motorized bikes, and golf carts traffic. Use of the walkway constitutes full and complete release of Declarant from any liability for any injuries, or accidents, which may occur.
  - ii. Within the thirty-foot (30) drainage easement between lots **40** and **41**, there exists a recreation easement, reserved to the Declarant and the Association, and its members for their enjoyment as a "Common Area." Any improvements installed by Declarant or Association that are located within said easement are limited to the use by the Declarant, the Property residents and their invitees only, and the residents of the Villas at Lake Blackthorn, subject to the restrictions provided herein.
  - iii. A twenty (20) foot drainage easement is located along the common boundary line between lots **10A** and **11A** with ten (10) feet on each side of the boundary, starting at a point approximately 140.99 feet from the curb and continuing along to the point of the southeast corner of lot **11A**. Said twenty (20) foot drainage easement continues along to the east through the middle of lot **10A** to the pond at the northeast corner of lot **10A**.

#### **IX. General Provisions.**

- a. Consent to Annexation, Waiver of Right to Remonstrate. The following language is contained in a document recorded December 5, 2002 in the office of the Recorder of St. Joseph County, Indiana as instrument #0266990: "Cooreman Real Estate Group, Inc., Steve Cooreman, President, owner of the Real Estate, (hereinafter "Owner"), for themselves and their successors in title, assigns, and personal representatives, hereby irrevocably waive and release any and all right which they may now or hereafter have to remonstrate against or otherwise interfere with, or oppose any pending or future annexation of the Real Estate by the City of South Bend. In further consideration and to induce the City of South Bend to allow Owner to tap into the municipal utilities (sewer and/or water of the City of South Bend, Owner, for themselves and their successors and assigns, agrees and stipulates irrevocably to vest in the City of South Bend the permanent right, at the City's discretion, to annex the Real Estate consistent with the Agreement By and Among the City of South Bend, the City of South Bend Redevelopment Commission and Cooreman Real Estate Group, Inc., signed November 1, 2002. Owner further agrees that any deeds, contracts, or other instruments of conveyance made by Owner, their successors or assigns shall contain the waiver and release provisions contained herein, which provisions shall run with the land. Pursuant to Chapter 17, Article 10, Section 17-86 of the South Bend Municipal Code, Owner further acknowledges Owner's obligation to pay a compact fee annually to the City of South Bend which for one municipal utility (water or sewer is 30% of the difference between the "Total County Rate" of taxes and the "Total City/Town Rate" and for both municipal utilities (water and sewer) is 50 % of such rate differential, which rates are set forth in the St. Joseph County Auditor's annually published "Notice of St. Joseph County Certified Tax Rates." The delivery of any instrument of conveyance from the Owner to any successor, grantee, vendee or contract purchaser is subject to the terms of this document and the acceptance of such instrument shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title."
- b. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood. No laundry shall hang outside on any lot in the Property.
- c. Signs. The Declarant reserves the exclusive right to place or construct signs, benches, information boxes, or other advertising fixtures, in landscape and signage easement areas, lake or pond access easements, or non-access easements, including within any entrance island areas of the Property in order to foster the promotion and effect sales of lots or structures in the Property. No sign of any kind including but not limited to signs of a political nature or otherwise advertising viewpoints, support or non-support of political candidates, or items for sale shall be displayed to the public view on any lot or home except one sign of not more than five (5) square feet advertising the home for sale or rent. Signs or notices may be displayed inside the windows of the dwelling. No sign shall be permitted on a vacant lot advertising the lot and/or the asking price, for resale except the signs of approved builders or Declarant unless approved in writing by the Committee. Advertising in local magazines, newspapers, and direct mailings or listing lot in MLS service, with broker of your choice is an effective alternative.

County or City authorities govern street sign locations.

- d. Yard Decorations/Ornaments/Furniture & Seasonal Decorations. Yard decorations, ornaments and or lawn furniture and temporary seasonal/holiday decorations/lights shall be permitted on the exterior of the dwelling, however the Committee in it's sole discretion shall reserve the right to require modifications or removal of decorations/displays deemed to be unsightly, offensive, obnoxious or out of scale for a residential area.
- e. Marketing by Declarant. Declarant reserves the right to utilize improvements, streets, common areas, and easements or improvements on said easements within this Property, including but not limited to fountains, electrical outlets, any gazebos, or other common areas improvements, for the purpose of promotion and sale of lots or homes in said Property. This can include, but is not limited to, sales vehicles, tents, spec homes, open houses, and home shows. The Homeowners Association shall provide any required keys for locks to any Common Area to the Declarant if locks are changed. Declarant reserves the right to photograph or video record vacant lots, landscaped areas, homes during construction, and finished homes, and use these images in advertising to foster the promotion and effect sales of lots or structures in said development. Said aforementioned rights of the Declarant shall remain in effect until all lots in the Property are sold or until said rights are conveyed or extinguished by the Declarant to the Association in writing, whichever shall occur first. A co-op advertising/marketing and exclusive builder fee is paid to Declarant by the Builder, in exchange for exclusive building rights in Declarant owned subdivisions, and for marketing and advertising support for the Builders and their homes.
- f. Animals, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and are not permitted to become a neighborhood nuisance or hazard in any manner. No dog may be permitted to run at large.
- g. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines; or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
- h. Asphalt Surface Coat. Until the final 1" asphalt surface topcoat is installed, there may be ponding or collecting of water in the roadways, creating a potentially dangerous wet or icy surface for pedestrians and vehicles. Everyone using the roadways on this Property are advised of the potential danger and urged to exercise extreme caution when traveling on them. The Declarant shall be held harmless for any liability for any damage to personal property, or injury to any person as a result of these potentially dangerous roadway conditions.
- i. Completion Date. Any structure begun must be completed within a period of one (1) year from the date of beginning, or thereafter completely removed. Lot owner shall not permit any improvement, which has been partially or totally destroyed by fire, or other casualty, to remain in such a state for more than three (3) months from the time of such destruction or damage. Construction of a dwelling on the lot shall commence within 3 years of closing date of lot purchase, unless the Declarant grants a waiver of this provision.
- j. Declarant's Option to Repurchase and Right of First Refusal. In the event that a residential dwelling meeting the requirements of these restrictions is not completed on any lot within a period of two (2) years from the date on which such lot is conveyed by the Declarant to the purchaser thereof, unless such two (2) year period is extended by a written instrument duly executed by the Declarant, the Declarant shall thereupon have the right during the ensuing twelve (12) month period commencing on the second anniversary date of such conveyance to repurchase such lot from the current owner of such lot, free and clear of all liens and encumbrances except current property taxes which shall be prorated to the date of closing, at the same price at which the Declarant sold such lot to the original purchaser thereof, without payment of interest or any other charges, upon the Declarant serving written notice upon the current owner of such lot of the Declarant's intention to exercise its option and effect such repurchase, notwithstanding whether the current owner of such lot was also the original purchaser thereof. The closing of such repurchase shall take place at the Declarant's office not later than thirty (30) days from the date of the giving of such written notice to the current owner of such lot, who shall take

such actions and shall execute such documents, including a warranty deed to such lot, as the attorneys for the Declarant shall deem reasonably necessary to convey good title to such lot to the Declarant, free and clear of all liens and encumbrances as aforesaid, Declarant or its assigns shall be given the first right to repurchase any vacant lot within the Property that is offered for resale.

- k. Fuel Storage Tanks. Fuel storage tanks of any kind are prohibited, including large bulk propane LP gas tanks to heat the home or garage.
- l. Recreational or Commercial Vehicles and Parking. No recreational or commercial vehicles, including but not limited to, campers, trailers, trucks, dune buggies, or boats may be used as a temporary residence or kept in open areas in this Property, whether such open areas are on or off the lot of any lot owner. Maximum number of parked cars in the driveway cannot exceed the maximum number of garage doors of dwelling except for temporary parking of vehicles of guest of owners of lots. No vehicles of any type shall be parked on the street of the Property except for the temporary parking of vehicles of guests of owners of lots.
- m. Utilities. Declarant reserves the right to approve all utility companies that provide service to residents of the Property. All public utility services, either in the streets or on any lots, including but not limited to electric, gas and telephone service, and cable television, shall be located underground, and shall not be visible. All street or lot lighting shall be situated on posts with no lines visible. To assure the enforcement of this restriction, the Declarant, for itself, its successors, and assigns, does hereby agree: (a) To prohibit the erection and use of overhead wires, poles, and other facilities of any kind, including but not limited to those associated with electrical, television, cable or telephone service, either electrically or by telephone from poles and overhead wires around the perimeter of the Property or development. Nothing herein should be construed to prohibit Declarant from installing street lighting at Declarant's choice of locations if serviced by underground wire or cable; (b) To require that the owner of any building erected on the property install an electric service entrance of sufficient capacity to meet present and future requirements of the occupants in accordance with the engineering standards of the electric utility company; (c) To require owners to assume all landscaping responsibility and restoration of paved or planted areas made necessary by maintenance, replacement or expansion of the underground service facilities. Owner to assume all responsibilities and cost if owner chooses to substantially alter the grade in the utility easement, which would result in the utility company relocating their lines to provide adequate protection for said line; (d) To require accessibility to all strips in which underground service is located for operation, maintenance, or replacement of facilities; and (e) To require that the owner of any building erected on the property must pay any cost differential for underground service laterals.
- n. Fires. No fire shall be permitted to burn upon any street or roadway in this Property.
- o. Retention Ponds and Lakes. Certain lots in this Property may contain all or a portion of a retention pond or lake. Each owner of a lake/pond lot shall indemnify and hold harmless the Declarant, the Association, all other lake/pond lot owners, and their successors and assigns, against all loss or damage incurred as a result of injury to any persons or damage to any property, or as a result of any other cause or thing, arising from, or relating to, the existence, condition or use or access to any pond by any person who gains access to such pond over or across such owner's lot with such owner's permission or concurrence, including but not limited to all expenses incurred by the Declarant, Association, and all other pond lot owners in defending against any such liability, claim or action for damages, including reasonable attorneys' fees. Some ponds are designed to be full of deep water year round and homeowners shall be aware of the potential for danger in and around these ponds, and shall exercise the utmost caution when in the vicinity of the ponds.  
 Unless otherwise provided for, access to any year round landscape/retention ponds and lakes shall be limited to the Declarant, the Association, and owners of lots in the Property. Declarant reserves the exclusive right to use water from retention ponds or lakes for the purpose of watering trees and/or landscaped common areas within the Property. During the home construction process it is the responsibility of the lot owner to prevent soil erosion from their site, from washing into the retention pond or lake, thus silting over the pond or lake and inhibiting drainage.
- p. Swales and Ditches. Roadside standard ditches, or swales, if any, whether adjacent to roads or along or near property lines for drainage purposes shall be constructed in accordance with the governing authority in effect at the time of said construction, and such ditches or swales shall not be filled in. Where required by a governing authority or Declarant, culverts shall be installed and maintained and kept clear by the homeowner on the homesite where such culverts are installed, so as to allow the free flow of surface water. Builder to verify if County or City require culvert under driveway.

- q. Compliance by Builder, Lot Owner with Soil Erosion Control Plan. The Declarant has established and implemented an erosion control plan pursuant to the requirements and conditions of Rule 5 of 327 IAC 15 relating to Storm Water Run-off Associated with Construction Activity. All land disturbing activity undertaken by Builder or Builder's subcontractors shall comply with the Declarant's general permit under Rule 5 as well as all other applicable State, County, City or local erosion control authorities. During the construction of each structure, every reasonable effort shall be made, by the Builder and/or lot owner, to control erosion on the construction site in accordance with recommendations issued by the Soil and Water Conservation Service, United States Department of Agriculture.
- The Builder shall also indemnify and hold Declarant harmless from and against all liability, damage, loss, claims, demands, and actions of any nature whatsoever which may arise out of or are connected with, or are claimed to arise out of or connected with, any work done by Builder, Builder's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Declarant.
- Lot owner and Builder will do their diligence in making every effort to keep soil from eroding onto the roadway and contiguous lots. Builder/lot owner will be responsible for any damage caused by erosion.
- r. Use of Common Area. Any member may delegate, in accordance with provisions of this Declaration and the rules and regulations promulgated by the Association, his right of enjoyment and use of the Common Areas and facilities to members of his family, his invitees, and/or his tenants or contract purchasers who reside on any Homesite. It is further provided that the same rights of enjoyment and use of any Common Areas located in Westwood Knolls at Blackthorn are granted to the residents of the Villas at Lake Blackthorn Property. Members of the Westwood Knolls at Blackthorn Homeowners Association enjoy similar rights of enjoyment and use of Common Areas and facilities located in the Villas at Lake Blackthorn.
- If applicable, the Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to all common areas in this Property to the Association not later than five (5) years after all lots in this Property have been sold by the Declarant, its successors and assigns.
- s. Additional Authority. In the case of severe weather or acts of God, the Declarant or the Association shall have the authority to act on behalf of the safety and wellbeing of the homeowners. This could include authorizing the removal of fallen trees, removal of debris, or the removal of snow from all roads within the Property. All cost related to this authorization shall be paid from assessments, and may necessitate a special assessment on all lots not owned by Declarant.
- t. Mediation and Arbitration. In the event of any disputes arising out of the interpretation or enforcement of the provisions contained herein or related to any other matter brought by the Association, or individual property owners against the Declarant, all parties shall agree to submit to third party mediation and/or arbitration.
- u. Waiver or Amendment of Covenants. The Declarant may, in its sole discretion, waive a requirement contained herein or permit an alternate thereto, where it is convinced, in its sole discretion, that a waiver or modification in connection with such matter is consistent with the purposes of these restrictive covenants and the nature of the Property.
- It is expressly provided that the Declarant, its successors, or assigns, shall have the exclusive right for a period of twenty (20) years from the date of recording of this Plat to amend any or all of the restrictions or covenants herein contained, subject to paragraph titled "Separability of Covenants." Such amendment shall be evidenced by the recording of a written amendment signed and recorded in the Office of the Recorder of St. Joseph County and shall become effective upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular lot. After twenty (20) years from the date of recording of this Plat, these Restrictions and Limitations may be amended at any time by the recording of such amendment executed by the owners of the fee title of not less than seventy five percent (75%) of the lots in the Property. Notwithstanding anything in this instrument to the contrary, the Association shall not be deemed to be the successor or assign of the Declarant for purposes of amending any or all of the restrictions or covenants herein contained within twenty (20) years from the date of recording of this Plat, until the Declarant has recorded a written instrument assigning such authority to the Association, or until all of the lots in this Property have been sold and have had residences constructed thereon, whichever shall first occur.
- v. Duration of Covenants. These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until Twenty (20) years after the date of the recording of the final plat of the Property, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of the then owners of the fee title of not less than seventy five percent (75%) of the said lots covered by these covenants and restrictions, it is agreed to change such covenants and restrictions in whole or in part.

- w. Separability of Covenants. Invalidation of any one of the covenants or restrictions by judgment of a court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these covenants and restrictions shall remain in full force and effect.
- x. Effective Date. These Restrictions and Covenants shall be deemed to be attached to and shall be considered a part of the Plat of The Property, effective upon their recording in the Office of the Recorder of St. Joseph County, Indiana or upon final plat approval, whichever occurs first.

By: Steve A. Cooreman, President, Cooreman Real Estate Group, Inc.

STATE OF INDIANA)

) SS:

ST. JOSEPH COUNTY)

Before me, the undersigned, a Notary Public in and for said City and State this \_\_\_\_\_ day of, \_\_\_\_\_ 2006, personally appeared Cooreman Real Estate Group, Inc., by Steve A. Cooreman its President, and acknowledged the execution of the above and foregoing \_\_\_page instrument to be his voluntary act and deed.

Witness my hand and notarial seal this \_\_\_\_\_ day of, \_\_\_\_\_ 2006

My commission expires: \_\_\_\_\_

Signature \_\_\_\_\_

Printed \_\_\_\_\_

Notary Public

Residing in St. Joseph County, Indiana

Document prepared by Steve Cooreman

## Exhibit B Design Review Contract

Design Standards for \_\_\_\_\_, lot # \_\_\_\_\_  
 has submitted complete plans on \_\_\_\_\_ with all 4 elevations.  
 Beautification Deposit amount: \$ \_\_\_\_\_

This is a legally binding contract. All parties are advised to seek legal advice if there is any part of this document that is not understood.

	Builder Commitment	Homeowner Commitment	CREG Approval & Comments
<p><i>Please initial to indicate you are in agreement. Please use n/a if not applicable.</i></p> <p>Does site plan include: driveway, sidewalk, post light, drainage flow w/arrows, septic &amp; well, access ramps (if applicable) placements, all on a scaled 30 drawing.</p>	_____	_____	_____

**A Drainage, Elevation & Excavation of Home**

<p>1 Circle if home is a walkout or lookout basement. (Walkout must be reflected on rear elevation.)</p>	_____	_____	_____
<p>2 If house utilizes a walkout basement, builder warrants to have positive drainage away from walkout patio into rear yard so water will not potentially overflow or backup into walkout patio area.</p>	_____	_____	_____
<p>3 Top of basement wall to be _____ above curb.</p>	_____	_____	_____
<p>4 House elevation will be high enough that water will flow to rear &amp; side drainage swale within easements &amp; acknowledges that the flow of the drainage swale will not be blocked. If rear swale is shared across a number of contiguous lot, then water flow and grade design must conform with master drainage plan and to utilize only the prorated share of the total amount of fall. Drainage flow and drainage swales as indicated on site plan conform to the master drainage plan.</p>	_____	_____	_____
<p>5 Place silt fence behind curb &amp; rear yard if pond lot. Clean up dirt in street coming from lot. Cut any tall weeds on lot.</p>	_____	_____	_____
<p>6 Acknowledges that purchase agreement addresses fill material and or heavy soils exist on this lot.</p>	_____	_____	_____
<p>7 When establishing final house elevations, grades, driveway installation; builder to be responsible to coordinate, maintain &amp; relocate, if necessary to achieve minimum grade separation, buried utility lines &amp; relocate above ground utility boxes.</p>	_____	_____	_____
<p>8 Indemnify developer for damage to buried pipe and or wires that exist within utility easements.</p>	_____	_____	_____
<p>9 Builder warrants that the drainage plan for the homesite will not direct water towards the septic area nor onto adjacent lots.</p>	_____	_____	_____

10 (strip lots only) place a swale and culvert along road right of way. \_\_\_\_\_

**B Water/Retention Pond lot**

1 Compacted soils to be aerated next to lakeshore to help insure any water overflow can percolate into the earth rather than travel closer to foundation. \_\_\_\_\_

2 Foundation walls must be waterproofed with rubber coating vs. damp proofing. \_\_\_\_\_

3 Warrants basement floor or any rear openings of home to be 2' above highest known water elevation. \_\_\_\_\_

4 Puncturing of Lake/Pond seal is prohibited. Any lake/pond lot excavation or dredging which punctures or otherwise disturbs any lake's/pond's seal shall be the responsibility of the builder and/or homeowners for costs relating to the repair of said seal. \_\_\_\_\_

**C General Design / Misc.**

1 Total livable Square Foot of home (excluding garage/basement/porch) is \_\_\_\_\_

2 Must drive by the house before you pull into the garage \_\_\_\_\_

3 Heating source:  
\_\_\_\_ Gas  
\_\_\_\_ Forced air  
\_\_\_\_ Add-on heat pump  
\_\_\_\_ Geothermal \_\_\_\_\_

4 Warrants to have dumpster on site and contain all debris in dumpster. \_\_\_\_\_

5 Warrants to have concrete trucks clean out only on this lot. Will not traverse or damage contiguous lot, without restoring to original condition. \_\_\_\_\_

6 Certificate of insurance on file with CREG \_\_\_\_\_

7 \$ Value of home minus lot : \_\_\_\_\_

8 Warrants not to use the exact same style and color scheme as existing contiguous neighbors. \_\_\_\_\_

9 Warrants all sides of home to have decorative openings or decorative accents to break up vinyl siding. \_\_\_\_\_

10 Builder and subcontractors to use construction entrances when available. Warrants to repair or replace any damage to marketing signs and agrees to not damage or disturb any contiguous lot staking, if staking is damaged, removed or disturbed, cost to repair or replace will be deducted from Beautification Deposit. \_\_\_\_\_

**D Landscaping & Irrigation**

- 1 Agrees to not cover up or damage any water valves and keep water valve @ top of final grade. \_\_\_\_\_
- 2 Landscaping (foundation plantings, lawn, accent trees, etc) to be installed within 4 months of home completion. Developer does not warrant the condition of any trees on the home site. Builder further warrants to take all necessary steps to not damage trees as or the root systems. \_\_\_\_\_
- 3 Agrees to install plantings to buffer condenser units, gas meters, or any visible mechanical/utility structures \_\_\_\_\_

**E Roof**

- 1 Required roof pitch is minimum \_\_\_\_\_ with a minimum of a one foot overhang with only Architectural-type shingles. \_\_\_\_\_
- 2 Shingle color is: \_\_\_\_\_
- 3 Copper roofs are permitted on bay windows. \_\_\_\_\_
- 4 All roof penetrations to be painted black or color to match the roof \_\_\_\_\_

**F Sidewalks, Drives, Curbs & Streets**

- 1 Is sidewalk required on this lot? If applicable, it is required to be poured through the driveway & be 5' wide, at least 4" thick, with broom finish and tooled joints 5' apart & meet all design standards & ordinances. Sidewalk to be poured through driveway, not abutting driveway. \_\_\_\_\_
- 2 Is this a corner lot outside the City where the sidewalk only runs along the through street and not the cul de sac? \_\_\_\_\_
- 3 Corner lot requires ADA handicapped ramp. Sidewalks that meet Right-of-Way must be handicap accessible and must adhere to all ADA standards. \_\_\_\_\_
- 4 Acknowledges placement of driveway does not conflict with existing water, curb stop, or sewer laterals. \_\_\_\_\_
- 5 Edge of driveway to be at least 50' from corner if possible for safety. \_\_\_\_\_
- 6 Colored concrete must be pre-approved by the DRC. \_\_\_\_\_
- 7 Width of driveway where it meets the curb is \_\_\_\_\_
- 8 Warrants that damage does not exist now & will repair any damage to the asphalt street or curb in front of the lot. If requested, builder will get letter from Governing authority that would allow marginal damage to not be repaired. \_\_\_\_\_

9 Acknowledges that top soil can exist in the set back areas, all driveways and/or sidewalks, shall be excavated and compacted to insure long term viability of the concrete. \_\_\_\_\_

**G Wells and Septic only**

1 To minimize any risk of contaminants, wells should be a minimum depth of 120 feet. To maximize the life and performance of the septic system, the septic system area should be roped off and should not be compacted by heavy equipment or have dirt stock piled over it. Builder warrants that septic and well placement on the lot will not violate the minimum separation distance from well/septic on other lots and from any pond or lake as mandated by the Health Dept. It is advisable to field measure all lots bordering ponds or lakes and not rely on the designated easement, but where the actual water elevation exists. This should be completed prior to any site plan design work. The Health Department, not the developer, mandates all design, size and location requirements for septic systems. \_\_\_\_\_

**H Exterior of home (trim, siding & openings)**

1 **Exterior siding (no Dutch Lap or vertical siding permitted)** \_\_\_\_\_

Type of siding \_\_\_\_\_

2 **Color of siding** \_\_\_\_\_

3 **Windows**

a True round top or an extended elliptical arch to be used. \_\_\_\_\_

b Arches are not permitted on a first floor window if another row of windows is located above. \_\_\_\_\_

4 **Window color (to match trim package)** \_\_\_\_\_

5 **Shutters**  **yes**  **no** \_\_\_\_\_

6 **Color of shutters** \_\_\_\_\_

7 **Style of shutters** \_\_\_\_\_

8 **Front Door - Style & Color** \_\_\_\_\_

9 **Color of trim (all trim packages including windows to match, this includes fascia, soffits, downspouts, gutters, etc.)** \_\_\_\_\_

Color of trim \_\_\_\_\_

10 **Type of trim** \_\_\_\_\_

11 **Garage Doors**

a House must have steel raised panel garage door. (32 min. panels for double door and 16 min. panels for single door) \_\_\_\_\_

b Total number of garage doors & dimensions \_\_\_\_\_

c Color of garage door to match trim package. \_\_\_\_\_

**I Exterior of home**

1 Required % of masonry for front of home is \_\_\_\_\_  
Masonry is shown in detail on the blueprint.

2 **Brick (color)** \_\_\_\_\_

3 **Stone (color)** \_\_\_\_\_

4 **Chimneys**

a Any chimney above roof line or on an exterior wall must have masonry clad to match other masonry. (unless masonry chimney is not required) \_\_\_\_\_

b Direct vent fireplaces shall also be permitted, except on front elevations of home. \_\_\_\_\_

5 **Front Porches**

a Acknowledges that wood front porches are not permitted, only concrete front porches will be permitted. \_\_\_\_\_

**J Yard Structures**

1 **Mailboxes & House Numbers**

a Mailbox style & color utilized meets the approved size and design standards shown on Cooreman.com. All mailbox styles must be approved by the Postal Authority, County, and/or City. \_\_\_\_\_

Style:

Masonry (brick/stone to be same as home) - Approval for installation of masonry mailboxes must be obtained from the local governing agency

Villa style mailbox

Step style mailbox - color \_\_\_\_\_

b Location and specifications are determined by the Postal Authority, (see attached map for mandatory locations of all mailboxes) \_\_\_\_\_

- c Height from street to bottom of box: 42" - 48" \_\_\_\_\_
- d Distance from driveways: 10' before driveway or 20' after driveway \_\_\_\_\_
- e Setback distance from curb: front edge or door must be relatively even with back of curb. \_\_\_\_\_

**2 Exterior Lights**

- a Post light is required on this lot. \_\_\_\_\_

**3 Fencing**

- a Has this lot been pre-approved for a fence? \_\_\_\_\_
- b If approved lot for fencing does it meet the approved location & design standards as shown on Cooreman.com.  
 style of fence \_\_\_\_\_  
 height of fence \_\_\_\_\_
- c Location of fence shown on site plan. \_\_\_\_\_
- d Pool equipment will be screened from the surrounding areas. \_\_\_\_\_
- e Will pool fencing be installed at this time? \_\_\_\_\_
- f Fencing shall not be permitted to substantially block any neighboring lot's view of the lake. \_\_\_\_\_

**K Yard Barns, play equipment & basketball hoops**

- 1 Has this lot been pre-approved for a yard barn? \_\_\_\_\_  
 Approval for outbuildings must meet guidelines as outlined on exhibit "C". Design, style, and plans must be submitted for approval. \_\_\_\_\_
- 2 If approved lot for yard barn does it meet the approved size & design standards as shown on Cooreman.com? \_\_\_\_\_
- 3 Is any play equipment being proposed at this time? (please attach a description and picture) if approved, play equipment must be of high quality and properly screened as required by the DRC. \_\_\_\_\_
- 4 Are any basketball hoops being proposed at this time? (please attach a description and picture) \_\_\_\_\_

**Conclusion & Terms**

In an effort to help maintain the overall appeal of this home & subdivision and maintain strong resale values, we the builder and homeowner warrant the above commitments to be accurate, truthful and what we will actually carry out. We hereby agree to forfeit any design review deposit in the event that an unapproved design was installed and or one of the above commitments was not kept. We also indemnify the developer for all cost that may be incurred to correct a violation or comply with a required design standard. The Builder & Homeowner shall indemnify and hold Developer harmless from and against all liability, damage, loss, claims, demands and actions of any nature , which may arise out of or are connected with, any work done or not done by Builder, Builder's employees, agents, or subcontractors which is not in compliance with any building codes or ordinances or herein stated commitments. A violation or lack of enforcement of any of the enclosed commitments does not render any of the other commitments void or unenforceable.

Buyer/Builder authorize CREG to make any necessary site repairs if request for repair is not addressed within 2 weeks of being notified. These repairs may include but are not limited to controlling erosion onto the street, picking up debris that is left over from contractors or blown into contiguous lots, or planting trees for screening purposes. Buyer/Builder agrees that all costs associated with making such repairs as listed above will be offset from the Beautification Deposit.

**Homeowners Signature** \_\_\_\_\_

\_\_\_\_\_

**Builders Signature** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_ **on** \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_ **on** \_\_\_\_\_