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REGINA WILLIAMSON  
DELAWARE COUNTY RECORDER

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# RECORDING PAGE

By-Laws

BY-LAWS  
OF  
EMERALD POINTE HOMEOWNERS' ASSOCIATION, INC.

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Article I  
Purpose; Definitions

Section 1. Emerald Pointe Homeowners' Association, Inc., a nonprofit corporation organized under the Indiana Nonprofit Corporation Act, has been established to administer the common elements owned by the Corporation, located in Emerald Point Subdivision, City of Muncie, Delaware County, Indiana, pursuant to these By-Laws, as the same may be amended from time to time.

Article II  
Members of the Corporation

Section 1. Membership. Each record owner, whether one or more persons, of fee simple title to real estate, whether one or more lots, in Emerald Pointe, City of Muncie, Delaware County, Indiana, shall be a member of the Association. No owner shall have more than one membership and each membership shall have one (1) vote

Section 2. Place of meetings. Meetings of the Corporation members shall be held at such suitable place convenient to the Homeowners as may be designated by the Board of Directors.

Section 3. Annual meetings. The first annual meeting of the Corporation shall be held during the last week of September, 2006. Thereafter, the annual meeting of the Corporation members shall be held during the last week of September in each succeeding year.

Section 4. Special meetings. It shall be the duty of the President to call a special meeting of the Homeowners as directed by resolution of the Board of Directors, or upon a petition signed by a majority of the Homeowners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice, unless by consent of three-fourths (3/4) of the Homeowners present.

Section 5. Notice of meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Homeowner of record, at least five (5), but not more than thirty (30), days prior to such meeting. The mailing of a notice, in the manner provided in this Sections, shall be considered notice served.

Section 6. Adjourned meetings. If any meeting of Homeowners can not be organized

because a quorum has not attended, the Homeowners who are present may adjourn the meeting to a time not in excess of seven (7) days from the time the original meeting was called.

Section 7. Order of business. The order of business at all meetings of the Homeowners shall be as follows:

- (a) Proof of notice of meeting, or waiver of notice;
- (b) Reading of minutes of preceding meeting;
- (c) Reports of officers;
- (d) Reports of committees;
- (e) At annual meetings, election of Directors (following the initial term of the initial Board of Directors);
- (f) Unfinished business; and
- (g) New business.

Section 8. Majority of Homeowners. As used in these By-Laws the term "majority of Homeowners" shall mean those Homeowners holding fifty-one percent (51%) of the votes.

Section 9. Quorum. Except as otherwise provided in these By-Laws, the presence, in person, of one-quarter (1/4) of the persons entitled to vote shall constitute a quorum.

Section 10. Proxies. Votes may be cast by proxy with respect to election of Directors at the annual meeting. Otherwise, all votes shall be cast in person. Proxies must be filed in writing with the Secretary at least seven (7) days prior to the appointed time of each meeting.

### Article III Board of Directors

Section 1. Number and qualification. The affairs of the corporation shall be administered and managed by the association of Homeowners, all power and authority of which shall be exercised through the Board of Directors. The Board of Directors shall be constituted of three persons. The Board of Directors shall initially be selected by Heritage Land Company ("Developer"). The Homeowners shall select one (1) member of the Board of Directors once thirty three percent (33%) of the lots in the Subdivision have been sold by the Developer. The Homeowners shall select the second member of the Board of Directors once sixty six percent (66%) of the lots in the Subdivision have been sold by the Developer. The Homeowners shall select the third member of the Board of Directors once one hundred percent (100%) of the lots in the Subdivision have been sold by the Developer.

Section 2. Powers and duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Corporation and may do all acts and things as are not by law, or these By-Laws, directed to be exercised and done by the Homeowners. The powers and duties of the Board of Directors shall include, but not be limited to, the following:

(a) Maintenance, repair, replacement, and operation of the common elements, and utility lines to the extent that the services lines for such utilities are under the control of the Corporation, and not located on a Lot within the subdivision.

(b) Establishing, assessing, and collecting of assessments from the Homeowners, to cover both current expenses and reserves, and maintaining accounting records.

(c) Designation and dismissal of personnel necessary for the maintenance and operation of the common elements and facilities.

(d) Establishment and enforcement of rules and regulations as adopted for the conduct of Homeowners, their tenants, guests and invitees respecting use and access to common elements and facilities.

Section 3. Management agent. The Board of Directors may, but need not, employ for the Corporation, a management agent at a compensation established by the Board to perform such duties and services as the Board shall authorize.

Section 4. Election and term of office. Each Director shall be elected by a majority of the Homeowners, except as set forth in Section 1 of this Article. For the first year, one Director shall be elected for a term of one year; one Director shall be elected for a term of two (2) years; and one Director shall be elected for a term of three (3) years. After the first year, the term of the Director elected each year shall be three (3) years.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason, other than the removal of a Director by a vote of the Corporation membership, shall be filled by the majority of the remaining Directors; provided that, in the event of a deadlock, by the Developer of the subdivision and its successors and assigns; or if the Developer is no longer entitled to designate a majority of the Board of Directors, then a majority of the Homeowners, each so elected, shall serve as a Director until the end of the term of the Director whom he replaces.

Section 6. Removal of Directors. Developer-designated Directors may be removed and replaced by the Developer at any time. Member-designated Directors, at any regular or special meeting duly called, may be removed with or without cause, by a three-fourths (3/4) vote of all of the members; and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by any Homeowner shall be given an opportunity to be heard in the meeting and shall be afforded the right to have the vote on his removal adjourned to a new date not less than seven (7), not more than ten (10), days from the date of the meeting at which the removal is proposed.

Section 7. Meeting. The first meeting of each newly elected/designated Board of Directors thereafter shall be held within the first fourteen (14) days after the election, or appointment, at such place as shall be fixed by the Directors.

Section 8. Regular meetings. Regular meetings of the Board of Directors shall be held at such times and places as shall be determined, from time to time, by a majority of the Directors. At least two (2) such meetings shall be held during each fiscal year. Notice of the regular meetings of the Board of Directors shall be given by the Secretary to each Director personally, by mail, or by telephone, at least three (3) days prior to the day named for such meeting.

Section 9. Special meetings. Special meetings of the Board of Directors may be called by the President, or any two (2) members of the Board of Directors on three (3) days' notice to each Director, given personally, by mail, or by telephone, which notice shall state the time, place (as hereinabove provided), and purpose of the meeting.

Section 10. Waiver of notice. Before, or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

Section 11. Board of Directors' quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present, at a meeting at which a quorum is present, shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business, which might have been transacted at the meeting as originally called, may be transacted without further notice.

Section 12. Informal Action. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board or of such committee as the case may be, and such written consent is filed with the minutes of proceedings of the Board or committee.

#### Article IV Officers

Section 1. Designation. The principal officers of the Corporation shall be a President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Directors. The Directors may appoint an Assistant Treasurer and an Assistant Secretary, and such other officers as in their judgment may be necessary.

Section 2. Election of officers. The officers of the Corporation shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of officers. Upon an affirmative vote of a majority of the members of the Board of directors, any officers may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the Chief Executive Officer of the Corporation. He shall preside at all meetings of the Corporation and of the Board of Directors. He shall have all the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power to appoint committees from among the Homeowners, from time to time, as he may in his discretion decide is appropriate, to assist in the conduct of the affairs of the Corporation. If the President is unable to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis.

Section 5. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Corporation; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary.

Section 6. Treasurer. The Treasurer shall have responsibility for Corporation funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Corporation. He shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Corporation in such depositories as may, from time to time, be designated by the Board of Directors.

## Article V Obligations of the Homeowners

Section 1. Assessments. All Homeowners are personally obligated to pay, and all Lots are subject to, the lien for periodic assessments imposed by the Corporation to meet all expenses incident to the repair, maintenance, improvement, and replacement of common elements, including utilities, drainage facilities, and all other expenses reasonably incident to the operation, enjoyment, and furtherance of the Corporation, as such assessments are fixed, from time to time, by the Board of Directors. Said common expenses may include liability and hazard insurance policy premiums for the protection of the Corporation, its officers and Directors, if deemed appropriate by the Board of Directors, and for the protection of individual Homeowners.

All assessments shall be levied equally among all Lots in the Subdivision and shall be paid on or before the first day of each calendar year. Any annual assessment not paid within

thirty days of each calendar year shall bear interest until such payment has been made

The Board of Directors may enforce the collection of any assessment against any Homeowner and/or Lot by any lawful means, including, but not limited to, the following:

(a) Recording a Notice of Lien with the Recorder of Delaware County; and

(b) Filing a Notice of Lien with the Recorder of Delaware County, Indiana, shall perfect the lien of the Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney's fees, title expenses, interest and any cost of collection. If a Homeowner's assessment account is not paid current, the owner may not vote.

### Section 2. Maintenance and repair.

(a) Common elements. The Board of Directors acting for the Corporation shall perform promptly all maintenance and repair work required to properly maintain the common elements owned by the Corporation.

(b) Utilities. All of the repairs and maintenance of underground installations within the common elements, such as water, light, power, sewage, telephones, sanitary installations, and all accessories, shall be at the expense of the Corporation.

(c) Reimbursement to the Corporation. A Homeowner shall reimburse the Corporation for any expenditures incurred in repairing or replacing any common elements, or part thereof, damaged through the fault of such Homeowner (including minor members of the Homeowner's family).

Section 3. Rules of conduct. Emerald Pointe has been designed and built to exacting standards and esthetic requirements. These Rules have been established for the protection of Homeowners to achieve the goal of a pleasant environment.

(a) Landscaping. All Lots must be fully seeded, including the road right-of-way to the edge of the street curb. Driveways shall be of asphalt or concrete slab construction; no runners are permitted. All driveways shall be constructed to conform with the cross-section of the drainage swales within the right-of-way so as not to impede the surface drainage provided thereby.

(b) Garbage and trash. Trash containers shall be removed from the curb line after pickup and placed in their proper storage area no later than the end of the day trash pickup occurred. No burning of trash is permitted.

(c) General. The Homeowners shall not violate and shall comply with these By-Laws, including amendments thereto, the Plat Restrictions, and State, County, and Municipal

Ordinances, including the applicable Zoning Ordinances.

Article VI  
Contracts, Checks, Deposits and Funds

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these By- Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, etc. All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by the president, the vice president, or the secretary-treasurer of the Corporation.

Section 3. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 4. Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Corporation

Article VII  
Books and Records

The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep a record giving the names and addresses of the members entitled to vote. All books and records of the Corporation may be inspected by any member, or his agent or attorney for any proper purpose at any reasonable time.

Article VIII  
Fiscal Year

The fiscal year of the Corporation shall begin on the 1st day of January and end on the 31st day of December in each year.

Article IX  
Corporate Indemnification

To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Corporation shall be indemnified by the corporation against all liability and reasonable expense

that may be incurred by him in connection with or resulting from any claim, action, suit or proceeding (a) if such director or officer is wholly successful with respect thereto or (b) if not wholly successful, then if such director or officer is determined to have acted in good faith, in what he reasonably believed to be the best interests of the Corporation and, in addition, with respect to any criminal action or proceeding, is determined to have had no reasonable cause to believe that this conduct was unlawful. The rights of indemnification provided in this Section shall be in addition to any rights to which any such director or officer may otherwise be entitled. Irrespective of the provisions of this Section, the Board of Directors may, at any time and from time to time, approve indemnification of directors, officers, employees or other persons to the full extent permitted by the laws of the State of Indiana, whether on account of past or future transactions.

Article X  
Amendments to By-Laws


These By-Laws may be amended by the Board of Directors at any regular meeting of the Board, or any meeting called for such purpose. However, no amendment shall take effect unless approved by two-thirds (2/3) of the members of the Board of Directors.

Article XI  
Statutory Compliance

These By-Laws shall be interpreted in all respects to comply with the Indiana Nonprofit Corporation Act.

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DELAWARE COUNTY RECORDER  
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## RECORDING PAGE

Restrictive & Protective  
Covenants

# RESTRICTIONS AND PROTECTIVE COVENANTS

FILED  
AUDITOR

## EMERALD POINTE SUBDIVISION MUNCIE, INDIANA

MAR 30 2006

A SUBDIVISION IN CENTER TOWNSHIP, DELAWARE COUNTY, INDIANA  
*Gene Lassiter*  
DELAWARE CO. AUDITOR

The restrictions and protective covenants in this instrument shall run with the land and shall be binding upon all parties and all persons owning lots in Emerald Pointe Subdivision. Emerald Pointe is a residential subdivision located in the City of Muncie, Delaware County, Indiana, developed by Heritage Land Company.

Each record owner, whether one or more persons, of fee simple title to each lot in Emerald Pointe Subdivision, shall be a member of Emerald Pointe Homeowners' Association, Inc., an Indiana nonprofit corporation ("Association"). The Association shall hold title to all common areas of the Subdivision and regulate their use, and shall have the power to assess each member for the maintenance of such common areas and the general welfare of the Subdivision and its residents. Unpaid assessments shall bear interest and may be filed as a lien against the real estate of the owner. All lots in the Subdivision are subject to the terms and Conditions of the Articles of Incorporation and By-Laws of the Association, and as may be amended from time to time, herein incorporated by reference and recorded as Document Number 2006R07407 in the Office of the Recorder of Delaware County, Indiana.

### ARCHITECTURAL GUIDELINES

The intent of the Architectural Guidelines for Emerald Pointe Subdivision is to insure a neat appearing and homogeneous residential development. The guidelines are not meant to place hardship on any lot owner. However, these guidelines are essential to protect property values and to maintain the integrity of the neighborhood.

The Architectural Control Committee (hereinafter "Architectural Committee") shall be composed of the officers and/or the directors of Heritage Land Co. The Architectural Committee may designate an agent and/or representative to act on its behalf.

1. **Architectural Control Committee:** The Architectural Control Committee (hereinafter "Architectural Committee") shall be composed of the officers and/or directors of Heritage Land Co. The Architectural Committee may designate an agent and /or representative to act on its behalf. Neither the members of the Architectural Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

Upon completion and purchase of one hundred percent of the Dwelling Units in the Subdivision the Board of Directors of the Association shall then also compose the Architectural Committee.

2. **Architectural Control:** No building, improvement, construction, excavation, landscaping, fence, walls, swimming pool, spa or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until two sets of plans and specifications (one set will be returned) showing the nature, kind, shape, heights, materials and location of the same shall have been submitted to and approved in writing by the Architectural Committee. All approvals shall be requested by submitting plans and specifications in duplicate to the Architectural Committee showing the following:

- A. The Dwelling Unit, and other improvements, access drives, other improved areas and the locations

thereof on the site.

- B. All landscaping, including existing and proposed tree locations and planting areas and specie thereof.
- C. Plans for all floors - front, rear and side elevations.
- D. Walls, fencing and screening.
- E. Patios, decks, pools and porches.
- F. Color schemes for the exterior.

Neither the Developer, the Architectural 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 judgement, negligence or nonfeasance arising out of or relating to the approval or disapproval of 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 problems resulting therefrom. Every person and entity who submits plans to the Architectural Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or the Developer to recover any damages or to require the committee or the Developer to take, or refrain from taking, any action whatever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete sets of plans to the Developer's office for review by the Architectural Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building or structure- herein 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.

### GENERAL PROVISIONS

- 3. **General Provisions:** No Lot shall be used for any purpose other than as a single-family residence, except that a home occupation, as defined as follows may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is (a) no signage or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no noiseful mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, licensed child care center or other licensed or regulated baby sitting service, animal hospital, or any form of animal care or treatment such as dog trimming be construed as a home occupation.
- 4. **Building Sizes:** No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, breezeways or garages of less than the following number of square feet for the following types of dwellings:

<u>Type of Home</u>	<u>Square Footage</u>
One Story	1,200 Sq. Ft.
Two Story	First Floor Minimum 750 Sq. Ft., Total of 1,400 Sq. Ft.

Dwelling Units shall be built at least 15" above the curbs and side lot lines shall be undisturbed and/or

configured so as to be maintained as drainage swale/runoff areas.

5. **Basements:** No Dwelling Unit shall be constructed with basements.
6. **Garages:** All Dwelling Units must have an attached garage of at least 400 square feet and not more than 900 square feet. No detached garage or other accessory building shall be allowed unless approved by the Architectural Committee.
7. **Setback:** No Dwelling Unit or any improvements other than landscaping or structures shall be located on any Lot nearer to the front Lot line or nearer to the side street line or the rear property line than the minimum building setback lines shown on the recorded plat. The front building line shall be parallel with the front property line at a setback distance of thirty (30) feet. In any event, no Dwelling Unit shall be located nearer than a distance of eight (8) feet to a side Lot line, and no nearer than a distance of thirty (30) feet to a rear property line if there is no rear setback line shown on the recorded plat.
8. **Maintenance of Lots and Dwelling Units:** No Lot or Dwelling Unit shall be permitted to become overgrown, unsightly or to fall into disrepair. All Dwelling Units shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the Architectural Committee.
9. **Landscaping:** The Lots shall be landscaped according to plans approved by the Architectural Committee. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. Landscaping as approved by the Architectural Committee shall be installed no later than one hundred eight (180) days following completion of the Dwelling Unit. Each lot owner shall be required to plant two (2) trees across the front property line and two (2) along the side property line if on a corner lot. Said trees shall be planted on the front property line and side property line of corner lots and spaced equally across the front of each lot and shall be subject to the Architectural Committee's guidelines for size and variety of trees. There shall be no disturbance, alteration or obstruction, including structure or woody vegetation, of any drainage easement or facility.
10. **Nuisances:** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no exterior lights, or principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of the Lot by the occupants thereof, and no speakers, horns, whistles, bells or other sound devices shall be located, used or placed on the premises, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof. All windows, porches, balconies and exteriors of all Dwelling Units shall be maintained in a neat and orderly manner at all times. No clotheslines or other outside drying or airing facilities shall be permitted. No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted on any street, roadway or Lot, and no outside incinerators or refuse disposal shall be permitted on any Lot.
11. **Storage and Temporary Structures:** No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, basement, tent, shack, garage, or other outbuilding shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way within the Subdivision at anytime, or used as a residence either temporarily or permanently. Storage Buildings, the size not to be larger than 120 square feet will be allowed, but must meet the same standards as the exterior of the home including the same material and color scheme.

12. **Signage:** Once a Dwelling Unit is occupied, no sign of any kind shall be displayed to the public view on any Lot except on a sign of not more than six square feet advertising such Lot for sale. Rummage or other sale signs may be placed on lots for no more than seven (7) days in a calendar year.

The Developer reserves unto itself, during the development of the Subdivision, the right to place larger signs and a greater number of signs within the Subdivision than as provided above. Such reservation shall automatically terminate upon the sale of the last lot in the Subdivision by the Developer.

13. **Radio, Television Antennas and Solar Units:** No radio or television antenna shall be attached to any Dwelling Unit. No freestanding radio or television antenna shall be permitted on any Lot. No television receiving disk or dish greater than three (3) feet in diameter shall be permitted on any Lot or on any Dwelling Unit. No solar units or panels shall be placed on any Dwelling Unit or Lot whether attached or detached.
14. **Drilling, Refining, Quarrying and Mining Operations:** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.
15. **Animals:** 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 purpose. Animals shall be confined to the owner's property at all times unless accompanied by owner and on a leash. Dog runs of not greater than 400 square feet will be allowed provided they do not immediately abut a neighboring property. Dog runs must also be screened from rear or front view by landscaping if fence material is other than allowable styles. No fences will be allowed in the front of any dwelling.
16. **Exterior Building Materials:** All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. All exterior building surfaces, materials and colors shall be harmonious and compatible with colors of the natural surroundings and other Dwelling Units. No roof pitch of under 6/12 will be allowed, excepting crickets, dormer and other roof features comprising fewer than thirty percent (30%) of the total roof surface area; roof colors limited to grays, browns and other earth tones. The front exterior shall be finished with partial masonry materials, consisting of brick, stone varieties (native to the area) or Dry-Vit (stucco). The balance of the exterior is to consist of either wood (cedar, redwood cypress or poplar) or "wood-like" vinyl siding. No plywood or aluminum sidings are allowed. All exterior building materials and colors must be pre-approved by the Architectural Committee.
17. **Driveways, Sidewalks and Walkways:** All driveways from the street to the garage shall be poured concrete of not less than fifteen (15) feet in width. Each Lot shall have a sidewalk constructed along each Lot line that borders a street. The sidewalk shall be constructed in strict accordance with plans approved by the Architectural Committee. The edge of such sidewalk nearest the street shall be located continuously five feet (5') back from the back of the street curb and shall continuously run parallel with and five feet (5') from the back of the street curb. The sidewalk shall be constructed of concrete and shall be a maximum of four feet (4') in width and a minimum of four inches (4") thick. The owner of the Lot shall install the sidewalk when constructing the dwelling on the Lot; provided, however, the sidewalk shall be fully installed prior to or upon the date of occupancy of the newly constructed home by the owner. After installation of the sidewalk, the owner at its own expense shall repair, maintain or if required by the Association or Developer, replace any damaged sidewalk and restore it to its original condition. Walkways servicing the neighborhood shall be located between

lots 34 and 35 and 46 and 47. The repair and maintenance of these walkways shall be paid for by special assessment.

18. **Water and Sewage Systems:** No individual water supply system or individual sewage disposal system shall be installed, maintained or used on any Lots in this Subdivision. The only exception shall be wells used exclusively for geo-thermal HVAC systems. The Architectural Committee must approve any such system.
19. **Easements and Rights-of-Way:** Easements and rights-of-way of their respective widths and their respective locations as designated on the plat are hereby expressly reserved in, under, over and across the lots, streets, highways and roads in said subdivision. Said easements and rights-of-way shall be used for the location, construction, operation, maintenance and repair of storm sewers and/or sanitary sewers, drains and pipes, pipelines, poles, wiring conduits and other such attachments and requirements that may be necessary for the transmission of gas, water, electricity, telephone and other utilities either above or below the surface of the grade, which said easements and rights-of-way are reserved for and may be used by the undersigned and by any municipal, public, or quasi-public corporation engaged in providing, furnishing or supplying any one or more of the public utilities.
20. **Storm and Sanitary Sewers:** No storm water, surface water or discharge from a sump pump shall at any time be discharged into or permitted to flow into the sanitary sewage system, and no sanitary sewage shall at any time be discharged or permitted to flow into any storm sewer or drainage system.
21. **Improvements:** Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot as provided in the plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities authorize or require. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, or by an aggrieved Lot Owner in this Subdivision.
22. **Pools and Hot Tubs:** No above ground pool which requires a filtration system or other above ground pool which is more than six (6) feet in diameter and 18 inches deep shall be placed or maintained on any Lot. No in ground pool will be permitted in front of any Dwelling Unit. The pool must be entirely within the rear yard. A fence of the approved styles must enclose all pools.
23. **Fencing:** The only fencing permitted to the rear of the Dwelling Unit shall be a privacy fence of not more than six (6) feet in height and within the property lines of the rear yard. In any event, the Architectural Committee must approve all proposed fencing in writing.
24. **Service Screening and Storage Areas:** Garbage and refuse shall be placed in containers which shall be concealed and contained within the Dwelling Unit, or shall be concealed by means of a screening wall or material similar to and compatible with that of the Dwelling Unit or shall be concealed by sufficient landscaping to provide a permanent screen at all times of the year. These elements shall be integrated with the Dwelling Unit plan, be designed so as not to attract attention and shall be located in as reasonably inconspicuous manner as is possible. Unless specifically approved by the Architectural Committee in writing, no material, supplies or equipment shall be stored on a Lot except in side a closed Dwelling Unit or behind a visual barrier screening such areas so that they are not visible from neighboring streets or Lots.
25. **Mailboxes:** The type, location and installation of mailboxes shall be uniform and in accordance with design specifications established by the Architectural Committee and at the expense of the Lot Owner.

26. **Yard Lights:** An electrical yard light (or gas light) of type and location approved by the Architectural Committee shall be installed by the builder or Lot Owner on each Lot. Said light shall be on a dusk-to-dawn sensor and must be no more than six (6) feet from the driveway and in front of the house and no more than three (3) feet from the front property line and at the expense of the Lot Owner.
27. **Time for Building Completion and Restoration:** Every Dwelling Unit on any Lot in the Subdivision shall be completed within eight (8) months after the beginning of such construction. No improvement which has been partially or totally destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.
28. **Right of Entry:** The Developer and/or the Architectural Committee, acting through their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during or after the completion of any construction for purposes of determining whether or not the provisions of these restrictions are being complied with and may exercise all rights and powers conferred upon the Developer and/or the Architectural Committee with respect to the enforcement or correction or remedy of any failure of the Owner to observe these restrictions: the Developer and/or the Architectural Committee and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Dwelling Unit may not be entered hereunder unless written notice of such proposed entry shall have been given to the Owner at least five (5) days prior to such entry.
29. **Enforceability:** The Developer shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and shall not operate to deprive an Owner from enforcing said covenant or restriction.
30. **Restrictions and Extensions:** The covenants and restrictions herein contained shall run with the land and be effective for a term of twenty (20) years from the date of enactment and automatically be extended for successive periods often (10) years, provided these Restrictions may be amended by an instrument signed by not less than 75% of the Lot Owners, and provided further, the Developer, its successors or assigns shall have the exclusive right for a period of two (2) years from the date of recording of the plat to amend any of the Covenants and Restrictions.
31. **Noise Variance:** Therefore, in consideration of the issuance by the Indiana Department of Transportation of a permit pursuant to Indiana Code 8-21-20-3-b to construct a residential building or other building designed for noise sensitive uses on said real property in accordance with the terms or owners' application, owner(s) hereby covenant that the owners, the permittee, acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations, that they shall not initiate or support action in any court or any governmental agency if the purpose of the action is to interfere with, restrict, or reduce the operation of the airport or the use of the airport by any aircraft. They shall not initiate or support action in any court or before any government agency if the purpose of the action is to interfere with, restrict, or reduce the aircraft. Owners further covenant that they shall not protest or object to the operation of the airport of the landing or the takeoff of aircraft before any court or agency of government. The covenant contained herein shall run with the land and

shall be binding upon the owners and successors, and assigns.

32. **Partial Invalidation:** Invalidation of any one or part of these Restrictions by Judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Heritage Land Company, Owner of the real estate described in said plat, has set its hand and seal this 29 day of March, 2006

HERITAGE LAND COMPANY

By: Larry D. Keesling Pres.  
Larry D. Keesling, President

By: Vivian E. Keesling, V.P.  
Vivian E. Keesling, Vice President

By: Bryant R. Keesling Sec.  
Bryant R. Keesling, Secretary

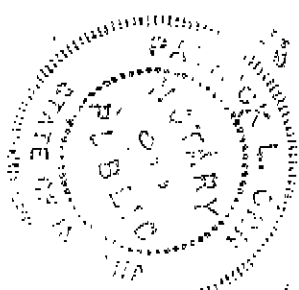
STATE OF INDIANA

SS:

COUNTY OF DELAWARE

Before me, A Notary Public in and for said County and State, personally appeared the above named Heritage Land Company, by Larry D. Keesling, President, and Vivian E. Keesling, Vice President, and Bryant Keesling, Secretary, who acknowledged the execution of the foregoing document for and on behalf of said corporation, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 29 day of March, 2006.



Patrick L. Orr  
Notary Public - Signature

Patrick L. Orr  
Notary Public - Printed Name

Resident of Delaware County

My commission expires: 5/29/2008