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Declaration of Protective
Covenants and Restrictions
Applicable to the Recorded Plat of
Villas at Georgetown North

98 SEP 11 AM 10:20
STEPHEN E. JAWORSKI
ST. JOSEPH CO. RECORDER
STATE OF INDIANA
FILED FOR RECORD

KNOW ALL MEN BY THESE PRESENTS that PORTAGE REALTY CORPORATION ("DEVELOPER"), the owner of all of the lots embraced within the Recorded Plat of Villas at Georgetown North recorded on July 17, 1998, as Document No. 9837228 in the Office of the Recorder of St. Joseph County, Indiana, and more specifically described as follows:

A parcel of land being a part of the South Half of Section 18, Township 38 North, Range 3 East, Clay Township, St. Joseph County, Indiana and being more particularly described as follows:

Beginning at the South Quarter Section Corner of said Section 18; thence South 89°48'30" West, along the South line of said Section 18, a distance of 478.02 feet; thence North 23°47'02" West, a distance of 310.00 feet; thence North 00°03'28" East, a distance of 801.00 feet; thence North 89°31'16" East, a distance of 1015.26 feet; thence South 00°01'15" West, a distance of 509.18 feet; thence South 89°48'31" West, a distance of 12.15 feet; thence South 00°11'30" East, a distance of 195.27 feet; thence North 89°48'30" East, a distance of 212.09 feet to a point on the Westerly line of the plat of Georgetown North Section Five, as the same is shown and designated on the plat thereon recorded as instrument number 9639731 in the office of the Recorder of St. Joseph County, Indiana; then South 17°23'48" East, along said Westerly line, a distance of 15.42 feet; thence South 00°01'15" West, along said Westerly line, a distance of 371.00 feet to a point on said South line of Section 18; thence South 89°48'30" West, a distance of 617.89 feet to the place of beginning containing 26.71 acres more or less EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND; Commencing at the South Quarter Corner of said Section 18; thence South 89°48'30" West, along the South line of said Section 18, a distance of 20.00 feet to the place of beginning for this description; thence continuing South 89°48'30" West along said South line a distance of 458.02 feet; thence North 23°47'02" West, a distance of 310.00 feet; thence North 00°03'28" East, a distance of 295.00 feet; thence North 73°58'33" East, a distance of 465.35 feet; thence North 87°33'12" East, a distance of 125.84 feet; thence South 00°01'15" West, a distance of 145.00 feet; thence

North 89°48'30" East, parallel with said South line, a distance of 228.04 feet to a point on a non-tangent curve delineating the Westerly line of proposed Wembley Drive; thence Southwesterly along said curve being a curve to the right having a radius of 380.00 feet, a central angle of 24°35'12" and limited in length by a chord of 161.82 feet that bears South 33°34'39" West to a point of reverse curvature; thence Southwesterly along a curve to the left delineating said proposed Westerly right-of-way line, said curve having a radius of 420.00 feet, a central angle of 46°00'00" and limited in length by a chord of 328.21 feet that bears South 23°01'15" West to a point of tangency; thence South 00°01'15" West, along said proposed Westerly right-of-way line, a distance of 130.07 feet to the place of beginning. Said exception containing 9.19 acres more or less.

The tract described herein contains a net total of 17.52 acres of land after said exception.

Subject to the legal rights of public highways, if any, and subject also to any other easements, covenants or restrictions of record.

together with such other additional real estate as DEVELOPER may from time to time hereafter submit to this Declaration ("Development"), and all persons and entities acquiring title to or any interest in any of the lots or other property in the Development ("Owner(s)"), do hereby Covenant and agree, one with the other, that the following Restrictions pertaining to the improvement, use, occupation of and construction on each of such lots to the Development for the period and with the limitations hereinafter described shall govern and be applicable thereto:

A. "Villas at Georgetown North" is the name by which the Development shall be known.

B. For the purpose of providing lawn care for the lots of all of the Owners, snow removal on driveways and walks, for the other purposes described herein and in the By-Laws and for the

general benefit of all Owners in the Development, the DEVELOPER has caused to be formed Villas at Georgetown North Homeowners' Association, Inc. ("Homeowners' Association"). Each and every Owner, in accepting a deed or contract for any lot in the Development, agrees to, and shall be a member of, the Homeowners' Association and subject to the Articles of Incorporation, By-Laws and Rules and Regulations of the Homeowners' Association.

Membership in the Homeowners' Association shall terminate when a member ceases to be an Owner. Upon the transfer of ownership by a deed duly recorded in the Office of the Recorder of St. Joseph County, Indiana, membership in the Homeowners' Association shall run from the grantor to the grantee, without the requirement of any endorsement or assignment.

Each person holding an interest in a lot in the Development shall be a member, but each lot shall only have one (1) vote.

No member, other than the DEVELOPER, shall have the right to vote on any matter until the Applicable Date.

The affairs of the Homeowners' Association shall be governed and managed by a Board of Directors. The Initial Board of Directors is David L. Hunter, Gene T. Decker and Larry L. Hartsell ("Initial Board"), who have been appointed by the DEVELOPER. The Initial Board shall hold office until (i) June 30, 2003, or (ii) such earlier date as DEVELOPER may determine as reflected on a certificate signed by DEVELOPER and recorded in the Office of the

Recorder of St. Joseph County, Indiana, provided that such earlier date shall not be before DEVELOPER has sold and conveyed title to at least seventy-five percent (75%) of the then-total of all of the lots in the Development (such date when the Initial Board shall no longer hold office being herein referred to as the "Applicable Date"); and in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever, prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by the DEVELOPER, who shall, thereafter, be deemed a member of the Initial Board.

C. Prior to the Applicable Date, the amount of all assessments, for the purposes described in Paragraph B herein, shall be established by the Board of Directors and shall be paid by each Owner, as more specifically provided in the By-Laws of the Homeowners' Association. Unpaid assessments shall be a lien on the lot of the nonpaying Owner, subordinate to any purchase money mortgage on such lot and extinguishable in the event of a Sheriff's sale arising out of a mortgage foreclosure or issuance of a deed in lieu of such foreclosure.

D. Until December 31, 1999, the assessments shall be \$90.00 per lot from and after the date that each lot is acquired by an Owner other than DEVELOPER. Thereafter, until the Applicable Date, the assessments shall not be increased by more than ten percent (10%) per year. Until the Applicable Date, DEVELOPER shall provide all services required to be provided to the Owners by the

Homeowners' Association for a monthly fee each month equal to the total amount of assessments payable by the Owners for that month. Until the Applicable Date, no accounting shall be required with respect to the assessments or the cost of services provided by DEVELOPER.

E. After the Applicable Date, the DEVELOPER shall pay assessments on undeveloped lots owned by the DEVELOPER in the amount of ten percent (10%) of the regular assessments paid by the other Owners, and in the amount of one hundred percent (100%) of the regular assessments on lots owned by the DEVELOPER after the Building thereon is complete and ready for occupancy.

F. Each Owner shall be solely responsible for liability, property and casualty insurance covering the Building, improvements, personal property, use and occupancy of the lot owned by such Owner.

G. Each Owner shall be solely responsible for all maintenance and repairs to the Building and improvements on the lot owned by such Owner; provided, however, that the Board of Directors shall have the right to contract for the performance of any such maintenance or repairs to the exterior or structural components of such Building and improvements, after thirty days' notice to and an opportunity to be heard by such Owner, and to assess such Owner for the cost thereof as a special assessment due and payable with the next regular monthly assessment and enforceable in the same manner as other assessments; and provided further, that all exterior

painting and improvements by Owners shall not be performed without the prior written approval of the Board of Directors, or of a Committee of the Board of Directors appointed for that purpose.

H. These Covenants and Restrictions shall run with the land and shall be binding on all parties, and all persons claiming under them until December 31, 2008, after which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by seventy-five percent (75%) of the then-current Owners has been recorded agreeing to change or terminate such Covenants and Restrictions in whole or in part.

I. No Building shall be erected, altered, placed or permitted to remain on any lot in Development other than one (1) single family dwelling attached, as part of a duplex, to a single family dwelling on an adjacent lot, or one (1) free-standing single family dwelling. Buildings shall not exceed one (1) story in height and a private garage for not more than three (3) cars.

J. The total floor area of the main structure of any dwelling erected on any lot in the Development, exclusive of one (1) story open porches and garages, shall be not less than one thousand two hundred (1200) square feet.

K. No Building shall be erected, placed or altered on any lot in the Development by any person or entity other than DEVELOPER until construction plans, specifications, and a plan showing the location of the structure have been approved in writing

as to conformity and harmony of exterior design and otherwise with the existing structures on other lots in the Development by the Board of Directors or a Committee thereof appointed for that purpose. In the event that the Board (or Committee), fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted, or, in any event, if no suit to enjoin the erection of such Building or the making of such alterations has been commenced prior to the completion thereof, such approval shall not be required and this Covenant shall be deemed to have been fully complied with. The powers and duties of the Board (or Committee) under this Paragraph K shall cease on and after December 31, 2008; thereafter, the approval specified in this Paragraph K shall not be required unless, prior to said date and effective thereon, a written instrument shall be executed by the then record Owners of seventy-five percent (75%) of the lots, and duly recorded, reestablishing such powers and duties.

L. 1. No Building shall be erected on any lot in the Development nearer to any open side lot line thereof than ten (10) feet, unless approved by the Board of Directors. (See Paragraph L. 2. for Covenant applicable to corner lots.)

2. On a corner lot, the minimum width of any side yard along the side street lot line shall be twenty(20) feet at the building line. Where the rear lot line of a corner lot adjoins a side lot line in a

residential district, no part of any accessory building within ten (10) feet of the common lot line shall be nearer a side street lot line than the minimum depth of any front yard requirement on such adjoining lot.

3. No Building shall be erected or increased in ground area so that more than forty-five percent (45%) of this area of the lot will be covered.

M. No noxious or offensive activity shall be carried on upon any lot in the Development, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

N. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding, shall be used on any lot in the Development at any time as a residence, temporarily or permanently.

O. No fences of any kind, other than patio privacy fence walls approved in writing and in advance by the Board of Directors, and no non-movable yard furniture, will be permitted on any lot.

P. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot in the Development, excepting dogs, cats or other household pets; provided, however, that they are not raised, bred or kept for any commercial purpose.

Q. No custom landscaping (non-standard at the time of closing), additional planting or permanent installations or

fixtures of any kind will be permitted on any lot without the prior written approval of the Board of Directors.

R. No house trailers, motor homes, large trucks or boats or other similar objects shall be parked or located, either temporarily or permanently, on any of the lots in the Development at any time, unless they are garaged at all times when so parked or located.

S. No lot in the Development shall be used other than for residential purposes.

T. No swimming pools shall be allowed on any lot in the Development.

U. No type of exposed exterior radio or television transmission or receiving devices (excluding antennas for direct broadcast satellite services whose diameter is less than nineteen (19) inches or other devices whose installation and use is protected by applicable FCC regulation or other federal law) for transmitting or receiving radio or television signals may be erected, constructed, placed or permitted to remain on any of the lots, houses or buildings constructed in the Development.

V. Easements as shown on the Development Plat are reserved for the installation and maintenance of utilities and drainage facilities. Within such utility and drainage easements, no permanent or other structures shall be erected by the Owners of any lots in the Development. No planting or other material of any kind or nature shall be placed or permitted to remain which may

damage or interfere with the installation and maintenance of utilities, or which may change the direction of the flow of drainage channels in such easements, or which may obstruct or retard the flow of water through drainage channels in such easements. The easement area of a lot on the Development Plat and all improvements thereon shall be maintained by the Owner, except for those improvements for which a public authority or utility company is responsible.

W. Any and all other covenants, restrictions, and charges shown on the recorded Development Plat are hereby incorporated herein and made a part hereof and shall be deemed applicable to each and every lot in the Development.

X. No sign of any kind shall be displayed to the public view on any lot in the Development, except one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Y. All lines for telephone and all other public utility services, either in the streets or on any lots, shall be located underground and shall not be visible.

Z. Invalidation of any one (1) 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 Restrictions shall remain in full force and effect.

AA. Enforcement of these Covenants and Restrictions shall be by proceedings at law or in equity against any person or persons violating, or attempting to violate, any Covenant or Restriction, either to restrain violation or to recover damages. The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure, is hereby vested in each Owner, the Homeowners' Association, or the DEVELOPER. 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 Owner, the Homeowners' Association, or the DEVELOPER to proceed, either at 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 Owner, Homeowners' Association, or the DEVELOPER should employ counsel to enforce any of the foregoing Covenants and Restrictions, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the Owner against whom such enforcement action is brought, and any person enforcing these Restrictions shall have a lien on such lot or lots to secure the Owner's payment of all such costs, which lien shall be enforced as provided in the Indiana mechanic's lien statutes.

BB. It is expressly provided that the DEVELOPER, its successors and assigns, shall have the exclusive right, until the sale of the first lot in the Development to someone other than the DEVELOPER, to amend any or all of the Restrictions or Covenants herein contained. Such amendment, signed and recorded in the Office of the Recorder of St. Joseph County, Indiana, shall become effective. This shall include the right to waive any part of the Restrictions or Covenants as to any particular lot. After the Applicable Date, these Restrictions and Covenants may be amended at any time by the recording of such amendment executed by the Owners of not less than seventy-five percent (75%) of the lots in the Development.

CC. These Restrictions and Covenants shall be deemed to be attached to and shall be considered a part of the Recorded Plat of the Villas at Georgetown North and shall become effective upon the recording of this document in the Office of the Recorder of St. Joseph County, Indiana.

DD. In the event that, as a result of construction or shifting or settling after construction, any encroachment exists by a dwelling upon any portion of the adjacent lot containing the dwelling which is part of the same duplex, then the actual boundary between the lots relating to the respective dwellings shall be adjusted and changed so as to eliminate such encroachment. No corrective deed or other instrument shall be required to be recorded to effect any such change in lot lines, and the location

of all dwellings, as built, shall be deemed to be without encroachment upon the adjacent lots containing dwellings which are part of the same duplex. Notwithstanding the foregoing, the DEVELOPER shall have the right, in it's sole discretion, to record any corrective deed, re-plat, survey or as-built certificate to memorialize the new lot lines pursuant to Paragraph EE below.

EE. The DEVELOPER reserves the right, in it's sole and absolute discretion, to submit other real estate in addition to that described on the first page hereof above, in one or more sections at any time or from time to time, to this Declaration and to make it part of the Development, without the necessity of obtaining the signature or consent of any other person or entity. In the event that it becomes necessary or appropriate for the DEVELOPER to prepare, execute and record any plat, re-plat or other document to accomplish such addition, or to accomplish any other act or event which is within the rights and powers reserved to the DEVELOPER herein, then all persons who hereafter accept a deed to any lot in the Development by such act shall be deemed to have consented to any such preparation, execution and recording by the DEVELOPER; to have waived the right thereafter to object or consent thereto; and irrevocably to have appointed the DEVELOPER as their attorney-in-fact, with full power of substitution, for purposes of any such preparation, execution and recording.

Dated this 8th day of September, 1998.

PORTAGE REALTY CORPORATION

By Paul D. Hass
Paul D. Hass, President

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared Paul D. Hass, the President of Portage Realty, Inc., and acknowledged the execution of the foregoing Declaration of Protective Covenants and Restrictions Applicable to the Recorded Plat of Villas at Georgetown North for and on behalf of Portage Realty, Inc.

WITNESS MY HAND AND NOTARIAL SEAL this 8th day of September, 1998.

My Commission Expires:

2/9/2000

Linda J. Thompson
A resident of St. Joseph

THIS DOCUMENT PREPARED BY: John B. Ford., Attorney at Law, 1800 Valley American Bank Building, Post Office Box 4577, South Bend, Indiana 46634-4577.