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First American Title Insurance Company
Indianapolis Downtown—Corporate
251 E. Ohio Street, Suite 200
Indianapolis, IN 46204
Telephone (317) 684-7556

Subdivision Covenants and Restrictions

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BETTENHAUSEN ESTATES COVENANTS AND RESTRICTIONS

All purchasers, their heirs and assigns, of parcels in BETTENHAUSEN ESTATES, an unplatted division of parcels lying in the East Half of the Northwest Quarter and in the West Half of the Northeast Quarter of Section 25, Township 13 North, Range 1 West, Morgan County, Indiana, shall take title subject to the following covenants and restrictions and shall be bound thereby.

1. Developer Plan Approval. The Developer of Bettenhausen Estates shall have the sole authority to approve plans for the construction of residential dwelling houses, accessory buildings, walls, fences, pools and all other structures, on any lot within this development until such time as the Developer no longer retains interest in more than one-half (1/2) of the lots in the subdivision. Upon the sale of 1/2 of the lots in this subdivision, the Bettenhausen Estates Lot Owners' Association will be responsible for review of any additional request for construction of accessory buildings, walls, fences, pools, or other structures and all other matters described herein which would have been reviewed by the Developer. No building, accessory building, wall, fence, pool, dock or other structure shall be constructed, erected, placed or altered in this subdivision until the location plan, building plans, and specifications have been submitted to the Developer which will approve or disapprove the submittals as to conformity with the exterior design, quality and aesthetic appearance of structure already existing and for conformity with surface, drainage requirements, first floor area, external construction, destruction of trees and other vegetation and any other such matter as may affect the environment or ecology of the subdivision. In the event the Developer, or its designated representative, fails to approve or disapprove any plans and specifications within fifteen (15) days after such plans and specifications have been submitted to it, then such plans and specifications will be considered approved. Developer cannot waive or negate any of the construction requirements given under item number seven (7) of these covenants and restrictions.
2. Lot Owners Association The owners of the lots in this subdivision shall form an association (BETTENHAUSEN ESTATES LOT OWNERS ASSOCIATION) for the purpose of providing for the maintenance and repair of the streets, street drainage, street lighting, lake and dam maintenance and other issues that the majority of lot owners wishes to address. The owners of the lots shall, by majority vote, one vote per lot, elect for a term of not less than one year, an Association Director and officers. The lot owners shall also establish any rules necessary to provide for the collection of assessment, late penalties, accounting procedures or for any other matter related to the maintenance or repair of the items listed above. The Developer will incorporate the BETTENHAUSEN ESTATES LOT OWNERS ASSOCIATION in the State of Indiana as a not-profit corporation. To provide for the sound financial basis of the association the Developer shall establish an account, in a financial institution with offices in the State of Indiana, with an initial amount of \$1000.00., in the name of BETTENHAUSEN ESTATES LOT OWNERS ASSOCIATION. Thereafter, from the sale of each lot, the Developer shall deposit \$100.00. It shall be the responsibility of the Director to collect annually or as often as necessary to pay for the maintenance and repair of streets and other association work. The Director shall be bonded in an amount not less than the maximum held in escrow, the bond premium to be paid by the Association.

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The Director shall have the power to place a lien on any lot for which the owner has failed to pay any assessment, and further the Director may bring suit against the lot owner, in any court of jurisdiction, to collect any unpaid assessment, and the cost of collection including but not limited to legal fees, court costs and penalties. The Developer, or Developers representative shall be the Director of the BETTENHAUSEN ESTATES LOT OWNERS ASSOCIATION until such time as the Developer no longer holds title to more than one half of the lots in the development.

3. Land Use. All lots herein are for residential use only, limited to one single family dwelling per lot.
4. Private Road Maintenance The roadways which serve the lots in Bettenhausen Estates are hereby dedicated to the owners of the lots and are to be maintained as all weather streets, including drainage, by the owners of the lots in the subdivision on a share and share alike basis. The owners shall vote annually, on the first Tuesday of April of each year, or any other agreed date, on the type and total dollar amount of maintenance to be performed and the amount of assessment to be paid for each lot owned. A simple majority shall rule. Votes will be binding and valid ONLY if ALL parcels owners were notified of the date, time and place of the street maintenance meeting, by certified mail at the current address listed in the records of the Morgan County Auditors Office, at least thirty days in advance of the meeting date. At the first meeting the owners shall elect an individual to collect the monies and pay out the same for repair and maintenance of the streets, associated street maintenance expenses, cost of notification of any required meetings and any other required items. The individual who is to collect the monies shall be bonded in an amount equal to balance of funds on hand on the date of the annual meeting but in no case less than ten-thousand dollars (\$10,000). Cost of the bond shall be paid out of the street assessments as an associated expense. The minimum annual street maintenance fee shall be \$_____ per lot.
5. Lake Maintenance. The lakes in this development shall be for the sole benefit and use of owners of the lots which adjoin the lake(s). No other lot owners in this subdivision will be allowed access to the lake(s), EXCEPT, the developer shall maintain the right to monitor stock in all lakes within the development by fishing or whatever means necessary. No gasoline powered vehicle of any type, nor any other use which creates a nuisance shall be permitted on any lake in this development. The lake(s) and dam(s) shall be maintained in accordance with sound engineering and ecological practice. Cost of all maintenance and repair of the lake and dam shall be prorated equally among the owners of lots which adjoin that specific lake. Owners of lots which adjoin a lake shall vote on the amount and type of maintenance needed for the lake and all other matters concerning use or enjoyment of the lake including the amount any annual dues or maintenance fees. A simple majority of lake lot owners shall decide all issues.

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6. Dwelling size. No dwelling shall exceed three (3) stories in height. An attached or detached private garage for at least two (2) cars must be included. For Lots 11, 12, 14, 17, 18 and 19 the ground floor of the dwelling structure, exclusive of porches, basements and garages, shall not be less than one-thousand five hundred (1500) square feet, and two or more story homes on these lots shall contain at least two-thousand square feet, exclusive of porches, basements and garages. For all lots except Lots 11, 12, 14, 17, 18 and 19 single floor dwellings shall not be less than one-thousand eight hundred (1800) square feet, exclusive of porches, basements and garages, and two or more story homes on these lots shall contain at least two-thousand two-hundred (2200) square feet, including a minimum of one-thousand five hundred (1500) square feet on the first floor, exclusive of porches, basements and garages.
7. Construction requirements.
 - a. Overhang (eaves) shall be a minimum of twelve (12) inches, excluding any exterior finish.
 - b. If the roof is a hip type then a minimum of 6/12 pitch shall be used. If the roof is to be a gable type then a minimum of 8/12 pitch shall be used.
 - c. All house plans must be approved by the Developer as to style and building materials. Vinyl and aluminum siding shall not be permitted as exterior finish materials. Modular or mobile homes are not permitted. All dwellings must be built on a crawl space or basement. No slab construction will be allowed.
 - d. After construction, all lots shall be graded and landscaped. The grading shall be so as to provide positive drainage from the house as constructed. To insure positive drainage the ground shall slope away from the dwelling a minimum of one (1) inch per foot, for the first six (6) feet outside the perimeter of the foundation, or as determined by the Developer.
 - e. All driveways shall include a concrete slab of at least forty (40) feet in length, and shall include the full width of the garage. All concrete slabs are to be of concrete four (4) inches thick. Driveways must be maintained in good repair by the lot owners. Driveways for Lots 3, 4, 5, 7, 8 and 9 shall be constructed within the common access easements on the side lot lines.
 - f. All construction, finish grading, sidewalks and landscaping shall be completed within one (1) year of the start of construction, acts of God and unusual weather or destruction of work in progress excepting.
 - g. All owners and their builders/contractors shall be responsible for and maintain the job site in a reasonable, sightly order, containing all trash and debris within the lot and properly disposed of or removed. Owner and their builder/contractors shall register and obtain from the Developer a copy of Bettenhausen Estates plat and covenants and restrictions.

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- h. All owners and their builders/contractors shall be responsible for and repair or restore any damage during construction, whether or not inadvertent or unavoidable, including but not limited to, streets, drainage area, utilities or other improvements.
 - i. All owners shall be fully responsible for providing proper erosion control on their lot. In the event proper erosion control is not maintained, the lot owner shall be responsible for any and all damages incurred by the Developers, its successors and the Bettenhausen Estates Lot Owners' Association. The Developer shall have the right to assess cost for repair of damage caused by the lot owners failure to control erosion. The lot owner is responsible for the acts of any builder, contractor or subcontractor doing work on the owner's lot. Standards for erosion control shall be set by the Developer.
 - j. All lot owners, for the good of the community, shall maintain their lots in good condition to the edge of street pavement and to the edge of adjoining lakes.
 - k. Each lot owner shall place an address sign at the intersection of their driveway and the entrance roadway for identification purposes. The style, size and exact location shall be determined by the developer.
- 8. Utility Easements. Areas designated as utility easements on this plat are dedicated as easements for the installation and maintenance of public utilities reasonably and conveniently required, such as lines, ducts, gas or water mains or sewer mains and laterals, electric lines, telephone lines and cable television lines, not including transportation and transmission company lines. No structures shall be erected on or maintained within such areas. Maintenance of the easement area is the responsibility of the owner.
- 9. Drainage Easements. The lakes shown on the plat and the natural ravines leading into said lakes are hereby dedicated as easements for drainage of water. No structure shall be erected or maintained within such areas and drainage shall not be restricted. Maintenance is the responsibility of the lot owner. Filling or hindering in any way flow of water in these areas is prohibited. Each lot owner shall maintain the street swale, including mowing grass, in a condition such that the flow of water within the swale is not impeded.
- 10. Vehicle Parking. No unlicensed or inoperative vehicles of any kind including boats, trucks, campers, trailers, recreational vehicles motorcycles, or similar vehicles shall be parked on any road, street, private driveway, or lot. Operating and licensed vehicles (of the kind and nature described above) may be parked/operated on a lot provided that parked vehicles are screened in such a way that it is not visible to the occupants of the adjacent lots, and provided that operated vehicles do not create a nuisance in the development. No vehicle of any kind shall be parked on the street except for a reasonable length of time. The Developer shall determine what is acceptable screening and what is a reasonable length of time.

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11. Storage and Refuse Disposal. No outside storage of equipment, materials, supplies, debris and unlicensed or inoperative vehicles shall be permitted. Trash, garbage or other wastes shall be kept in sanitary animal proof containers. All equipment for the storage of such materials shall be kept in a clean and sanitary condition. No incinerators or trash burning shall be allowed.
12. Business Use. No mercantile or business establishment of any kind or character shall be erected, altered, permitted or maintained on any lot.
13. Auto Mechanics. Except for minor or routine repair and maintenance of the owners' personal vehicles, no auto mechanics or overhauling, whether for hire or otherwise shall be permitted.
14. Nuisance. No noxious or offensive activity shall be permitted to continue which may annoy or become a nuisance in the neighborhood, nor shall any unlawful act or activity be allowed whatsoever.
15. Storage Tanks. No bulk storage tanks of any type (other than L.P. gas for home heating purposes) will be allowed.
16. Utility/Storage Buildings. Maximum size of any accessory building shall be 250 square feet. Accessory building exterior shall conform with the colors and construction type of the dwelling.
17. Fences. No fence shall be erected until approval is obtained from the Developer as to type, location and height. No fence shall be erected closer than the front of the dwelling structure except for open wood fences of a decorative type provided such fence has been approved by the Developer. Maximum height of any fence shall be 48 inches, except for fences around patios or pools which may be a up to 72 inches in height. All fences shall be maintained in good repair.
18. Animals. Lot owners shall not keep, breed or raise any animal for commercial purposes. Lot owners shall be allowed three (3) total of either dogs, cats, or other household pet. All pets must be confined to the owners' lot unless the animal is on a leash accompanied by an adult. No animal will be permitted to create a nuisance in any way for other members of the development.
19. Pools. No above ground type pool will be permitted.
20. Mailboxes. Developer shall specify size, type, color, post style and location of all mailboxes.
21. Signs. No signs of any kind shall be displayed to the public view on any lot except for one sign of not more than five (5) square feet advertising the property for sale or rent. No more than four (4) signs no larger than five (5) square feet shall be allowed by builder or others to advertise the property during construction; however, any sign required by law may be displayed during the construction period in addition to the permitted signs. This covenant has no application to marketing or promotional signs of the Developer while lots are being sold.

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22. Water Connection. All lot owners are required to connect to the public water system.
23. Building Location. No building shall be located on any lot nearer to the front lot line, or any lot line which borders a street or road, than forty (40) feet, or nearer to the side and rear lot line than 10 feet. For the purpose of this covenant, eaves, steps and open porches shall not be considered a part of the building; provided, however, that this shall not be construed to permit any portion of any building on any lot to encroach upon any other lot unless the other lot, or part thereof, is owned by the same owner. The division of a lot for the purpose of creating an additional building site is prohibited.
24. Hunting There shall be no hunting or firing of firearms or other weapons in this development.
24. Enforcement. The Bettenhausen Estates Covenants and Restrictions as set out in this agreement can be enforced by proceeding at law by the Developer, the owner of any lot or the Bettenhausen Estates Lot Owners' Association. Any of these parties may bring civil action against a lot owner violating these covenants and restrictions. The restrictions shall remain in full force and effect and shall be binding on all parties and all persons claiming ownership of record for twenty-five years from date this plat is recorded, at which time such covenants shall be automatically extended for successive periods of ten years unless otherwise agreed by a majority of lot owners in Bettenhausen Estates.

After the initial term, the covenants and restrictions may also be amended by a majority vote of the lot owners with each lot owner allowed one vote for each lot owned. Should any item or part of these covenants and restrictions be invalidated by judgment, court order or legislation the remaining items shall continue in full force and effect. Violation of a covenant or restriction shall not cause a forfeiture or reversion of title.

Any person, partnership, Corporation, or other legal entity violating or attempting to violate any covenant or restriction set out herein shall be subject to damages for the violation or the cost of any remedy to cure the violation including attorney fees, courts costs, and actual damage to the Developer, any lot or homeowner or Bettenhausen Estates Lot Owners' Association for the violation. Any violation or attempted violation may also be cured through injunctive relief to protect the respective owners of the other lots in the subdivision and the Developer. These covenants and restrictions are binding and enforceable on the owner of any lot in the subdivision and any judgment for cost on account of the legal action brought to enforce said restrictions or any additional loss of time by the Developer or other expense in bringing the legal action including all attorney fees for the plaintiff's attorney and other trial fees and appellate fees, all shall be attached to and to be a lien upon any real estate owned by the defendant in this subdivision in the even of an adverse judgment in favor of the plaintiff and against the defendant lot owner. Included in the damages which shall be recoverable under this section to the Developer, other lot owners and the Bettenhausen Estates Lot Owners' Association will be the monies expended by the Developer, lot owners or Bettenhausen Estates Lot Owners' Association in removing or rectifying the violation and expenses which accrue in

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bringing action to remedy the violation.

HOMEOWNERS' ASSOCIATION

All owners of the Real Estate whether legal or equitable, except the Developer, shall upon purchase of a lot from the Developer become members the Bettenhausen Estates Lot Owners' Association.

The purpose of the association and all assessments levied by the association shall be for the purpose of promoting the preservation and conservation of the environment of the subdivision, for promoting recreation, health, safety and welfare of the residents of the subdivision and in particular for the improvements and maintenance of the properties, services and facilities devoted to the above purposes and related to the use and enjoyment of the common properties such as but not limited to entrance signs, entrance landscaping and area lighting, situated in the subdivision including, but not limited to the payment of taxes and insurance thereof and repair, replacement, maintenance of the common properties, including the cost of labor, equipment, materials and management and supervision thereof.

1. Membership. The membership shall exist for each owner of a lot in the subdivision after sale of the lot by the Developer. "Ownership" shall mean all owners, whether legal or equitable and regardless of the number or form of tenancy. Purchasers on contract, "Equitable Owners", shall be entitled to the membership rather than the Developer. Developer is not a member of the Association and is not entitled to any vote nor is the Developer required to pay any annual assessments on any lot.

2. Basis and Amount of Annual Assessments. The initial annual assessment shall be in the sum of \$100.00 per lot for each lot sold by the Developer or his successor, regardless of whether the sale is by land contract or deed. The payment shall be due on an annual basis starting on the 2nd day of August of the year following purchase of the lot from the Developer and continuing annually thereafter. The money shall be paid to the treasurer of the Bettenhausen Estates Lot Owner's Association, Inc. In no event shall any assessment, charge or special assessment as provided below be levied against or be due from the developer.

3. Special Assessments for Capital Improvements. In addition to the annual assessment authorized by the above paragraph, the Association may levy in any assessment year on each lot sold by the developer, its representatives or assigns, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of common area improvements, including the necessary fixture and personal property related thereto, provided any such assessments shall add the affirmative approval of two-thirds of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at their listed address with the Association at least 30 days in advance of the meeting and shall set forth in the written notice the purpose of the meeting, assessment and the time and place of the meeting.

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4. Change and Basis ad Maximum of Annual Assessments. The Association may increase or decrease the amount of its annual assessment as determined by an affirmative vote of two-thirds of the voting members who are voting in person or by proxy at meeting duly called for this purpose. Written notice shall be sent to all members at the address given to the Association by the lot owner at least 30 days prior to the meeting with the notice stating the purpose of the meeting and the date and time and place of the meeting.

5. Quorum For Any Action. Quorum required to change the amount of the annual assessments or for a special assessment for capital improvements shall consist of 60% of the membership. The quorum vote can be by written proxy or the membership appearing in person at the meeting. If the required quorum is not forth coming at any meeting, another meeting may be called, subject to the notice requirements set out for the purpose of the meeting. The same quorum vote is required for all decisions that require approval by the homeowners.

6. Duties of the Board of Directors. The management, affairs and policies of the Association shall be vested in the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto and at least 30 days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association or by the Secretary/Treasurer of the Association. Written notice of the assessment shall thereupon be sent to every owner subject to the assessment. The Association shall upon demand at any time furnish to any owner liable for said assessments certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificates shall be conclusive evidence of payment of any assessment. If any assessment is not paid on the date when due, the assessments and cost of collection thereof as hereinafter provided, shall thereupon become a continuing lien against the property which shall bind such property in the hands of then owner, his heirs, devisee, personal representatives and assigns. If the assessment is not paid within 30 days after the due date, a delinquency fee of Ten Dollars shall be added thereto and from the date of the delinquency shall run at the rate of 12% per annum of both the assessment and any penalty. The Association may bring an action at law to collect the penalty from the owner and shall be allowed to collect the assessment, delinquency fee, interest, cost of preparing and filing the complain in the action, attorney fees, and all other costs assessed by the Court in the collection of said debt.

7. Priority. The priority of any lien herein shall be second and junior to any purchase money mortgage. Otherwise, such lien is entitled to the priority and dignity according to the date of recordation and operation of law. The Association shall have the right to file a lien against any property that has a delinquency in payment of its annual assessment or special assessment and the lien shall be placed against the property in the same name of the lot owner owing the assessment.

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8. Exempt Property. The following property subject to this declaration shall be exempted from the assessments, charge and lien created by the Homeowner's Association: (a) All properties to the extent of any easement or any other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) All common properties of the development; c. All properties owned by the Developer, and all properties held by the Developer for sale or resale including any lots which may have been re-acquired by the Developer.

9. Term. The Association shall exist for a period of twenty-five years from September 3, 1999 and thereafter unless terminated by a vote of 75% of the members.

10. Officers and Directors. The Association has three Directors one of which shall serve as President, the other as Vice-President and the third as Secretary/Treasurer. Each Director shall serve for a term of one year. At the annual meeting of the Association the Director(s) shall be elected for the coming year.

11. Duties. The Directors shall be responsible for setting all meetings, payment of all maintenance caused on common areas, maintaining the records for the Association, maintaining all financial records and accounting for all monies, for collection of due, for entering into contracts for work in any common area, for recording liens, and taking care of all of the other business of the Association. The Directors shall also be responsible for creating by-laws and rules for governing the Association and meetings of the Association. The Secretary of the Association shall also maintain a minute book of all proceedings and keep all records of the Association meetings, business and financial dealings.

12. Annual Meetings. The annual meeting of the Association shall be at 7:00 P.M. on the last Wednesday in January unless otherwise established by the directors. Notice of the time, date and place shall be mailed by regular mail to all owners of parcels in Bettenhausen Estates, according to the records of the Morgan County Auditor. Other special meetings may be called by the directors or upon a request of 20% of the membership with said meeting to take place within 35 days from the request.

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This declaratory statement of certification and approval to run with the land is hereby so declared and executed this 7th day of September, 1999

Gary C. Bettenhausen
Gary C. Bettenhausen

Wavelyn L. Bettenhausen
Wavelyn L. Bettenhausen

State of Indiana)
County of Morgan)

Before me, the undersigned, a Notary Public, personally appeared Gary C. Bettenhausen and Wavelyn L. Bettenhausen and acknowledged the execution of this instrument to be their voluntary act and deed.

Witness my Hand and Seal this 7th day of September, 1999.



Alan W. Seller
Signed Notary Public
ALAN W. SELLER
Printed or Typed

Resident of Morgan County.

My Commission Expires: July 14, 2001

Prepared by; Holloway & Associates

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Karen Burman
MORGAN CO RECORDER