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MORGAN COUNTY RECORDER
KAREN BRUMMETT 11P
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AMENDMENTS AND RE-DEDICATION OF COVENANTS AND RESTRICTIONS OF MORGAN TRAILS SUBDIVISION, SECTIONS I, II, III AND IV

This Amended Declaration is dedicated this 28th day of August 2008, by the affirmative votes/signatures of two-thirds of the membership of Morgan Trails Subdivision Homeowners Association.

This Amendment and Re-Dedication of the covenants and Restrictions of Morgan Trails Subdivision, Section I, II, III and IV shall supercede the Covenants and Restrictions that was recorded by instrument number 20103258 in the office of the Morgan County Recorder. Additional restrictions shall apply as shown on original plats in each platted section of Morgan Trails Subdivision.

COVENANTS AND RESTRICTIONS

- I. **Lot Restrictions:** All purchasers of Morgan Trails Subdivision shall take title subject to the following covenants and restrictions and be bound thereby.
 - 1. **Land Use:** All lots herein are for residential use only, limited to one single family dwelling per lot.
 - 2. **Building Location:** No building shall be located on any lot nearer to the front lot line, or nearer to the side street line than the setback lines per appropriate building codes and this plat. For the purpose of this covenant, eaves, steps and/or stoops 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. No lot in Morgan Trails Subdivision shall be permitted to be subdivided in order to create an additional building site.
 - 3. **Utility Easements:** Areas, including access, designed as utility easements on the plat are dedicated as easements for the installation and maintenance of utilities reasonably and conveniently required. These easements are not for the use of and shall not be used for high voltage electric transmission lines or high pressure liquid transmission pipe lines, except by written permission of the lot owners at the time said transmission line is to be constructed. No structures shall be erected on or maintained within these easements, and the maintenance is the responsibility of the owner.

4. **Drainage Easements:** Areas designated as drainage easements on the plat are 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.
5. **Entry Sign Easement:** Areas designated as entry sign easements on the attached plat are for the installation and maintenance of entry signs and/or structures for Morgan Trails Subdivision. The maintenance of the signs and the landscaping associated with these signs is the responsibility of the Morgan Trails Subdivision Homeowners Association; however, the maintenance of the remaining area within these easements is the responsibility of the lot owner.
6. **Fences:** All fences are to be erected reasonably so as to enclose the property and decorate the same without hindrance or obstruction of any other property. The choices of fencing shall be limited to: wood, brick, stone, wrought iron, and/or decorative vinyl types. **Chain link or any other type of wire or metal fencing will not be permitted for any purpose or use.** Fencing shall not exceed four (4) feet in height, except as per statute by governing authority. However, up to a six (6) foot tall fence will be allowed within Morgan Trails Subdivision, Sections I, II, III and IV for the purposes of an animal pen or dog kennel, provided that it is constructed of the above referenced approved materials, and does not exceed ninety-six (96) square feet in overall size. Fencing shall not be permitted any closer to the front lot line than the building setback lines or the front of an existing home at the time the fence is built. All fences shall be maintained in good repair.
7. **Vacant Lot Maintenance:** Vacant lots shall be maintained by the following terms: No trash shall be allowed to accumulate, and grass or growth shall not be over eight (8) inches in height. Unsold lots shall be mowed and maintained by the Developer. If sold lots are not maintained, the Developer shall have the option to mow the property and charge the owner a fee.
8. **Nuisance:** No noxious or offensive activity shall be suffered or permitted to continue which may annoy or become a nuisance to a neighbor or the neighborhood nor shall any unlawful act or activity be allowed whatsoever.
9. **Parking & Storage of Vehicles and Boats:** No trucks, other than standard pick-up type; campers, trailers, recreational vehicles, boats, boat trailers, or similar vehicles (except temporary construction trailers being used in conjunction with work in progress) shall be parked on any street or lot for a period of more than forty-eight (48) hours unless such vehicles are stored within a garage. No inoperative or unlicensed vehicles shall be parked or repaired on any lot or on the driveways thereof.
10. **Appearance of Lot:** All equipment, garbage can, and related items shall be kept from view of neighboring residences and streets. All rubbish, trash or garbage stored outside any residence shall be regularly removed from the premises and shall not be allowed to accumulate thereon. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Outside trash burners will not be permitted. No owner of a lot shall burn or permit the burning out-of-doors of garbage or other refuse.
11. **Animals:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats, or

other household pets, provided that they are not kept, bred, or maintained for any commercial purpose. No more than three dogs or cats, or any combination, shall be kept on any lot.

12. **Dwelling Restrictions:** No mobile home, trailer or other portable device or outbuilding, garage or basement shall be used as a residence. This provision shall not be construed to prevent a building from using such for material or tool storage or office during the period of construction of a temporary office for Developer's marketing or promotional purposes.
13. **Dwelling Quality and Size:** The ground floor of the main structure, exclusive of one-story open porches, basements and garages, shall be not less than one thousand six hundred seventy-five (1,675) square feet for a one-story dwelling nor less than one thousand seven hundred fifty (1,750) square feet for a dwelling of more than one story, with at least a minimum of one thousand three hundred seventy-five (1,375) square feet on ground level.
14. **Other Structures:** No more than one (1) out-building; no larger than 12'x16' or one hundred ninety-two (192) square feet shall be erected on any lot. The construction of the out-building must conform to the frame portion of the dwelling in appearance, i.e. materials, color, roof, etc. No sheet metal buildings are allowed.
15. **Garages and Driveways:** No dwelling shall have less than a full size 2-car or more than a 3-car attached garage. All driveways and vehicle parking areas shall be hard surfaced with concrete, brick or asphalt. No gravel or stone driveways will be permitted.
16. **Construction Requirements:**
 1. Overhang (eaves) shall be a minimum of twelve (12) inches, excluding exterior finish on gutters, roof edges, and front gables.
 2. The roof shall have a minimum pitch as per plan approval. The roof shall consist of asphalt, cedar or fiberglass shingles.
 3. The percentage of brick or stone and siding will be determined by and approved by plan approval. The exterior building materials shall be limited to brick, stone, and/or stained or painted wood. No log cabins, modular homes, or mobile homes, shall be permitted.
 4. Each dwelling shall have an engraved stone address block installed on the front exterior of the dwelling. The address block must be eight (8) inches by sixteen (16) inches or similar and may be made of stone, brass or similar materials.
 5. Construction of any dwelling shall be completed within one (1) year of the start of construction.
17. **Access Restrictions:** Access for all lots within Morgan Trails Subdivision shall be obtained from the streets within this subdivision. No lot within this subdivision shall directly access State Road 252.
18. **Erosion Control:** Once a lot is sold by the Developer, the lot owner shall assume all liability. Owner shall

be responsible for installing and maintaining adequate erosion control measures.

19. **Miscellaneous:** The owners of all the lots of Morgan Trails Subdivision acknowledge that the real estate is in or adjacent to an area zoned for agricultural land uses including, but not limited to, the production of animals or plant life; including forestry, pasturing of livestock, planting, growing, cultivating, and harvesting crops for human or livestock consumption. The owners of all of the lots of Morgan Trails Subdivision agree to waive any and all objection to any such agricultural land use on any real estate zoned for such uses within two (2) miles of any boundary of the real estate; and, that such agricultural land uses do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health.

II. **Morgan Trails Subdivision Homeowners Association:** All owners of lots in Morgan Trails Subdivision shall be members of an association of such owners known as the Morgan Trails Subdivision Homeowners Association. The purpose of the Association is for maintenance of the retention/detention areas (not including any future lakes), the median areas of the boulevards within this subdivision, common areas, and the subdivision signs at the entrances to this subdivision.

1. **Members:** One membership shall exist for each of the numbered lots within all of the sections of this subdivision. "Ownership" shall mean all owners, whether legal or equitable and regardless of the number or forms of tenancy. Purchasers on contract (equitable owners) shall be entitled to the membership rather than the Developer or Seller. The Developer shall have one membership for each lot not sold.
2. **Terms:** The Association shall commence upon execution of this Agreement and remain for a term of twenty-five (25) years and thereafter unless terminated by a vote of seventy-five (75) percent of the members as attested by the miscellaneous records of the Recorder's *Office* of Morgan County, Indiana.
3. **President:**
 - a. **Duties:** The President shall be responsible for the maintenance of the retention/detention areas (not including any future lakes), the median areas of the boulevards within this subdivision, common areas, and the subdivision signs at the entrances to this subdivision. The President shall be accountable for all expenditures and the contacting of all maintenance.
 - b. **Term/Election:** The initial President shall be appointed by the Developer. The initial President shall serve until the first annual meeting, whereupon he shall be elected by a majority of the members present for a one year term or until a successor is elected and qualified. Except for the Developer's appointee, the President shall be a member of the Association.
4. **Board of Directors:**
 - a. **Duties:** The Board of Directors shall be responsible for setting dues for the Association based upon the amount of monies needed to maintain the retention/detention areas (not including any future lakes), the median areas of the boulevards within this subdivision, common areas, and the subdivision signs at the entrances to this subdivision. It shall meet as required and shall also establish quorum and voting rules; otherwise a majority vote controls. It shall maintain a minute book of its proceedings and elect a Secretary and Treasurer.

- b. **Term/Election:** The Board of Directors shall consist of not less than three (3) members or more than seven (7) members. Initially the Board of Directors shall consist of three (3) members and shall be changed only upon a majority vote of the membership of the Association. Each member of the Board of Directors shall be elected beginning with the first annual meeting and shall serve until their successors are elected and qualified. The term of a Board of Directors Member shall be three years and staggered so that no more than two (2) new members are elected each year. Initially the term shall be for three (3) two (2), and one (1) year as designated.

5. **Meetings:**

- a. **Annual Meeting:** The Annual Meeting shall be at 7:00 p.m. on the last Wednesday in January unless otherwise established by the Board of Directors. The first Annual Meeting shall be in the year 1998. A notice including time, date, and place shall be mailed by U.S. mail to all owners of the lots in Morgan Trails Subdivision and to the owner(s) of any undeveloped parcels within Morgan Trails Subdivision. The agenda shall include:
1. The election of a President.
 2. The election of Board of Directors Members.
 3. The audit report of all expenditures for maintenance.
 4. The setting of dues or other expenditures.
 5. Any other item of business determined by the President or Board of 10% of the Association Members
- b. The President shall preside at all meetings.
- c. **Special Meetings:** Special meetings may be called by the President or Board of Directors upon petition of Fifteen (15) percent of the Association Members to the Board of Directors with the meeting to be held no sooner than fourteen (14) days after written notice is mailed. The notice shall state the purpose and proposed agenda, the time, date, and place of the meeting.

6. **Dues:**

- a. **Initial Dues:** The Developer agrees to allot Fifty Dollars (\$50.00) from the initial sale of each lot as dues to the Homeowners Association. Until twenty (20) percent of the lots of Morgan Trails Subdivision have been sold by the Developer, the Developer shall maintain the retention/ detention areas, any future lakes, and the median areas of the boulevards within this subdivision, the common areas, and the subdivision signs at the entrances to this subdivision. After twenty (20) percent of the lots have been sold by the Developer, the Homeowners Association shall be responsible for the maintenance of the retention/detention areas (not including any future lakes), the median areas of the boulevards within this subdivision, common areas, and the subdivision signs at the entrances to this subdivision.
- b. **Annual Dues:** The Developer shall not be responsible for the payment of any dues on lots owned by the Developer that remain unsold, however, all other lot owners shall be assessed annual dues in an initial amount of One Hundred Dollars (\$100.00) per year which shall be due each and every year starting January 1, 1998. All dues or assessments shall be assessed per Association Member and as authorized and approved by the Board of Directors. **This covenant may not be changed by the Morgan Trails Subdivision Association, with the exception of the annual dues.** Dues may be raised, but not lowered up until the time the developers have sold all the lots.
- c. **Special Assessments:** From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At which time the Board of Directors, after notifying property owners of the circumstances and calling a special meeting and taking a vote of members present and by proxy, with an assent vote of two-thirds (2/3) of the property owners, shall have the right, power and authority to levy a special assessment, which, upon resolution of the Board, shall become a lien on each property owner in Morgan Trails Subdivision, sections I, II, III and IV, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions. Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefore under the circumstances described in the Declaration. Special Assessments will be due 30 days from the date of the assent vote.
- d. **Non Exemption:** No property owner may be exempt from paying Regular Annual Assessments or Special Assessments or from contributing toward the expenses of administration and or maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot

belonging to such property owner. Each Property Owner shall be personally liable for the

- e. **Liens:** All dues or other assessments shall be due and payable on or before January 1 of each calendar year and if not fully paid on or before January 1 of each calendar year shall become a lien upon the real estate of the Association Member which may be foreclosed in the name of the Association by judicial proceedings as real estate mortgages are foreclosed, together with pre judgment interest, attorney fees and cost of collection, without relief from valuation and appraisal laws. The President shall cause a list of delinquencies to be prepared each year as of February 28th and record the same by last known names of homeowners of record as set out in the notice in miscellaneous records of the Recorder's Office of Morgan County, Indiana.
- f. **Priority:** The priority of any lien herein shall be second and junior to any other purchase money mortgage. Otherwise, such lien is entitled the priority and dignity accorded to the date of recordation and operation of law.

III. **Enforcement of the Covenants and Restrictions:** The right to enforce these Covenants and Restrictions of Morgan Trails Subdivision by injunction or to seek damages for violation or other remedy is dedicated to the Owners of the lots herein and the Developer. The restrictions shall remain in full force for twenty-five (25) years from the date of the execution of this Agreement, at which time such covenant shall be automatically extended for successive periods of ten (10) years unless otherwise agreed by the majority of lot owners of this section. Invalidation of any covenant or restriction herein by judgment, court order or otherwise shall not affect any other covenant or restriction. Violation of a covenant or restriction shall not cause forfeiture or reversion of title.

If a violation of the covenants occurs and cannot be rectified between the lot homeowner and the Morgan Trails Homeowners Association, the Board of Directors of the Association, or their agent, may seek remedy in court. The Board of Directors, on behalf of the Association, shall be entitled to recover from the owner of the respective Lot or Dwelling Unit, all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees). Available relief for such violations shall include recovery of damages or other sums due to such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorney's fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association, or Board of Directors, shall be liable for damages of any kind to any person for enforcing or failing to enforce or carrying out such covenants or restrictions.

IV **Plan Approval:**

1. All homes must meet plan approval subject to a written signature on a floor plan and four (4) elevations.
2. It is expressly understood and agreed that the Morgan Trails Homeowners Association cannot change any of the construction requirements or the associated rules in these Covenants and Restrictions. **However, the Homeowners Association may change any and all other covenants and restrictions, with an affirmative vote of two-thirds (2/3) of all lot owners in Morgan Trails Subdivision, Section I, II, III and IV.**
3. There shall be no above ground pools.
4. There shall be matching mail boxes and posts on every lot as designated by developer.

V **Architectural Review:** Plans for improvements to any dwelling must be submitted to the Morgan Trails Homeowners Association Architectural Review Committee before construction begins and will be subject to a written signature on a floor plan and subject to at least two (2) elevations. Such will then be reviewed by the Architectural Review Committee, and such committee will make recommendations for or against approval.

VI. **Morgan Trails Section IV:** Per Plat Plan filed at the Morgan County Recorders office for Section IV, all lot owners in section IV shall be entitled to all rights, privileges and conditions afforded lot owners in sections I, II, and III of these covenants.

STATE OF INDIANA)
) SS:
COUNTY OF MORGAN)

Before me, the undersigned, Notary Public in and for the said County and State, personally appeared before Lawrence R. Smith and Dennis Jarrett, Board Members of Morgan Trails Subdivision who prepared the Amendments of the Covenants and Restrictions for Morgan Trails Subdivision and witnessed the signatures of the members, executing the Amendments and Re-Dedication of the Covenants and Restrictions for Morgan Trails Subdivision.

Lawrence R. Smith
Lawrence Smith, President of Morgan Trails Homeowners Association

Dennis Jarrett
Dennis Jarrett, Board Member

Pam Russell
Pam Russell, Secretary of Morgan Trails

Witness my Hand and Seal this 28th day of August, 2008.



Sabrina Smith
Notary Public

Sabrina Smith
Printed

Resident of Morgan County, Indiana

My Commission Expires

9/6/2014

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law"

Lawrence R. Smith
Signature

This instrument was prepared by the Board of Directors of Morgan Trails Subdivision Homeowners Association, Lawrence Smith, President.

Signed: Lawrence R. Smith
Lawrence Smith

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