



\* 2 0 1 4 0 0 2 1 6 1 4 \*

FLOYD CO. IN RECORDER - LOIS ENDRIS

01/10/2014 09:57:29AM

201400216 Pages: 14

Transaction # 43126

**RESTRICTIONS AND PROTECTIVE COVENANTS FOR GLENWOOD**

This Declaration is executed and effective as of this 1<sup>st</sup> day of JANUARY, 2014

by **TBD, LLC, an Indiana Limited Liability Company**, hereinafter referred to as "Declarant",

**WITNESSETH:**

**WHEREAS**, Declarant is the owner in fee simple of a that certain subdivision commonly known as Glenwood Farms ("Subdivision") located in Floyd County, Indiana, containing 24 lots and described as Plat No. 1356 of the Records of Floyd County, Indiana of record in the office of the Recorder of Floyd County, Indiana at Instrument No. I 201400215; and

**WHEREAS, Declarant desires to impose and does hereby impose the following Restrictions, Protective Covenants Conditions and Easements upon the Subdivision** upon each lot within the Subdivision, for the mutual benefit of all persons, firms, and corporations who may now or hereafter have any vested interest, legal or equitable, in any lot within such Subdivision.

**Definitions.** The terms set forth below shall have indicated meanings when used in these Restrictions and Protective Covenants; other terms are defined elsewhere herein and shall have the meaning given to them in these Restrictions and Protective Covenants:

"Assessments" means the maintenance assessment and special assessments provided for herein.

"Association" means the Homeowners Association, its Board of Directors, or any person or entity acting in an official capacity on behalf of the Association.

"Board" means the Board of Directors of the Association.

"Common Area" means those portions of the Property as described in or on the Plat that does not constitute lots or any portion thereof and also includes:

- i. Any areas within the Property owned by the Declarant, the Association or any other governmental entity, but which are required to be maintained by the Association; and
- ii. Those areas, if any, which are owned by an owner, but on which are located monuments, signs, fences, landscaping, berms, sidewalks, irrigation systems or other improvements that may be maintained by the Declarant or the Association. The Common Areas shall also include all improvements on or to any portion of any of the areas described in the

preceding sentence. Declarant shall at all times have and retain the right, but without the obligation, to effect minor redesigns or reconfigurations of the Common Area and to execute any declaration/restrictions applicable to the Common Area for the expressed benefit of the Declarant or Association.

“County” means Floyd County, Indiana.

“Declarant” means the Developer, and any other person or entity which is designated as a successor Declarant in writing pursuant to the provisions of these Covenants.

“Design Guidelines” shall mean and refer to those particular standards, Restrictions, guidelines, recommendations and specifications applicable to all aspects of construction, placement, location, alteration, maintenance and design of any improvements within the property, and all amendments, modifications, supplements and interpretations thereof.

“Lot” means any of the individual platted building lots reflected on the Plat Glenwood Farms Subdivision that are to be used for residential purposes as herein described.

“Owners” mean any person owning fee simple title to any lot.

“Person” means any individual, corporation, Limited Liability Company, partnership or any other type of entity.

“Plat” means:

- i. Initially, the plat of Glenwood Farms Subdivision and thereafter any phase or section of the Property submitted to and approved by the appropriate governmental body having jurisdiction, or any other applicable governmental entity; and
- ii. After recordation thereof, the final Plat for any phase/section of the Property is recorded in the records of Floyd County, Indiana; and
- iii. Any re-plat or amendment to, the foregoing made by covenant or amendment thereto in accordance with these Covenants. The term “Plat” shall also include the final recorded Plat of any additional property annexed to the Property, if so applicable.

“Street” means any paved road or access those areas noted on the Plat (if not dedicated to the governmental entity) that is typically within the right-of-way and serves the front of a lot upon which a residence is constructed.

“Structure” means any structure other than a single family residence (such as a fence, driveway, sidewalk, patio, wall, out-building, clothesline, swimming pools [on-ground, in-ground, above ground] or other improvement of any kind or type); and

1. Primary Use Restrictions.

No lot in the Subdivision shall be used except for private single family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one (1) single family dwelling designed for the occupancy of one family (including any domestic servants living on the premises), not to exceed two and one half (2 ½) stories in height and containing a private garage attached for the sole use of the owner and occupants of the lot. This provision prohibits the building of any storage building or outbuilding on any lot in the Subdivision, excepting those which may be otherwise allowed by these Restrictions.

2. Approval of Construction and Landscape Plans.

No structure may be erected, placed, altered on any lot in the Subdivision until construction plans and building specifications and a plan showing the (a) location of improvements on the lot; (b) the grade elevation (including rear, front, and side elevations); (c) the type of exterior material (including delivery of a sample thereof); (d) the location and size of the driveway, and the materials to be used, which materials shall include concrete, pavers or some other approved surface, and shall have been approved in writing by the Declarant.

References to the "Declarant" in this paragraph shall include any person, firm, corporation or association to whom the Declarant may assign the right of approval. References to "structure" in this section of these Restrictions shall include any building (including a garage), fence or wall.

3. Design Guidelines, Building Materials, Roofs, Builder.

(a) The exterior building material of all structures shall extend to a maximum of six (6) inches above ground level and shall be either brick, stone, brick veneer or stone veneer or a combination of the same. One story houses shall be a minimum seventy-five (75%) percent brick exterior finish, and the homes exceeding one story shall be a minimum sixty (60%) percent brick exterior finish. However, Declarant recognizes that the appearance of other exterior building materials, such as stucco, may be attractive and innovative, and reserves the right to approve in writing the use of other materials.

(b) The roof pitch of any residential structure shall not be less than seven (7) inches vertical for every twelve (12) inches horizontal for any structure.

(c) Declarant must approve each general contractor. Declarant makes this requirement to maintain high quality and consistency of construction within the Subdivision.

4. Garages and Swimming Pools.

(a) All lots shall have at least a two (2) car attached garage.

(b) Garages must be attached to the structure. Garages may be attached by a covered walkway. The entrance to a garage faces the side or rear of the lot, an additional garage (one (1) car or two (2) car) may face the front if it is screened from the roadway. Prior Declarant approval is necessary. Portico-chere plan for garage is acceptable if it meets the above criteria and is approved in writing by the Declarant.

(c) No carports shall be constructed on any lot.

(d) Prior to the start of construction of any dwelling, the contractor will install and gravel the driveway so that it can be used during the construction of the dwelling.

(e) A four (4) foot concrete sidewalk, four (4) inches thick shall be constructed by the Owner or Owner's builder upon completion of the residence, said sidewalk to be placed four (4) feet back from the curb.

(f) Any swimming pool must be a true in-ground pool, and approved in writing by the Declarant. No above ground or "on-ground" swimming pools shall be erected or placed on any lot from the date hereof unless its design and placement are approved in writing by the Declarant, which approval shall be within the sole and absolute discretion of the Declarant and may be arbitrarily and unreasonably withheld.

#### 5. Setbacks.

A setback is a distance from the curb, property line or structure within which building is prohibited. Setbacks are normally provided for by ordinances, building codes, or restrictions as shown on the recorded plat.

(a) No structure shall be located on any lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the recorded plat. Declarant may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations during the development of the subdivision. For purposes of this section, the development of the Subdivision shall be from the date that these restrictions and protective covenants are executed by the Declarant to the date of the sale of the last remaining lot in the development, to any person, firm, or corporation other than the Declarant.

(b) The front of any dwelling structure constructed on any lot shall be no further than ten (10) feet behind the minimum building setback line shown on the recorded plat of the Subdivision.

(c) For purposes of these restrictions and protective covenants, all adjoining lots or portions thereof used as a site for the construction of a single dwelling structure shall be considered one (1) lot, so that these restrictions and covenants relative to side lot lines shall mean the side lines of any one (1) or more lots or portion of any lot or lots used as a single dwelling building site.

(d) For purposes of these covenants, eaves, steps, and open porches shall not be considered as a part of the building, provided, however, that this exception shall not be construed to permit any portion of a dwelling structure or any other building to encroach upon another lot. In no event shall any dwelling structure or any other building be erected in violation of side yard requirements of any applicable zoning ordinance in effect at the time of construction. The minimum lot size shall be as shown on the recorded plat.

(e) The minimum side property line setback is five (5) feet, however, the minimum distance between two (2) structures on adjacent lots shall be eighteen (18) feet.

#### 6. Minimum Floor Area.

(a) The ground floor area of a one (1) story house shall be a minimum of one thousand six hundred (1,600) square feet, exclusive of the garage and regardless of walkout.

(b) The total floor area of a one and one half (1 ½) story and/or two (2) story house shall be a minimum of two thousand (2,000) square feet, exclusive of the garage.

#### 7. Nuisance.

No noxious or offensive trade or activity shall be conducted on any lot in the Subdivision, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

#### 8. Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or Declarant, which shall be removed when construction or development is completed. If a builder or Owner fails to remove a temporary structure at the completion of construction, the Declarant shall have the right, but not the obligation to have the same removed, and assess the costs and expenses directly to the Owner of the lot.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall be used as a residence, temporarily or permanently.

(c) No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot any time unless housed in a garage or basement or parked to the rear or the improvements located on any lot so that the same shall not be visible to the public from any street located in the subdivision, or additions thereto. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street. No trailer, boat, truck, or other vehicle shall be parked on any street in the development for a period in excess of twenty-four (24) hours in any one calendar year.

(d) No automobile shall be continuously or habitually parked on any street or public right-of-way. For purposes of this paragraph, habitually or continuously parked on any street or public right-of-way, shall mean any period in excess of six (6) hours. It is the intent of the Declarant that residents of the Subdivision park their automobiles in their driveways and/or garages.

(e) No outbuildings of any kind shall be permitted except accompanying an in-ground pool and said structures must be approved in writing by the Declarant or its assigns, prior to its construction.

#### 9. Animals.

No animals, including reptiles, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets in this geographic area may be kept provided they are not kept, bred, or maintained for any commercial or breeding purposes. All household pets, including dogs and cats shall be confined to the lot occupied by the Owner.

#### 10. Landscaping; Sidewalks; Driveways.

(a) After the construction of a residence, the Owner shall grade and seed or sod that portion of the lot between the front and street side walls of the residence and the pavement of any abutting streets.

(b) Each Owner shall concrete (or asphalt, only with Declarant's prior written approval) the driveway within three (3) months after completion of a single family dwelling.

(c) Upon the Owner's failure to comply with the provisions of paragraphs 10(a) or 10(b), Declarant, or any person or association to whom it may assign the right, may take such action as necessary to comply therewith, and the Owner shall immediately, upon demand, reimburse Declarant or other performing party for all expenses incurred in so doing, which expenses may include, but not be limited to, reasonable attorney's fees in enforcing this provision.

#### 11. Mail and Paper Boxes; Hedges; House Numbers.

No mail box, paper holder or hedge shall be placed or planted on any lot unless its design and placement or planting are approved in writing by Declarant or by any person, firm, corporation or association to whom it may assign the right. All mailboxes and posts to be the same style, to be determined by the Declarant.

#### 12. Underground Utility Service.

Utility service lines serving each lot shall be underground and shall be located only in those areas reserved on the plat for utility easements. The utility easements shown on the plat shall be maintained and preserved in their present condition and no encroachment therein, and no change in the grade or elevation thereof, shall be made by any person, firm or corporation

owning any legal or equitable interest in any lot in the subdivision without the expressed consent in writing of the utility service companies providing utility service to the subdivision.

13. Clotheslines; Fences and Walls.

(a) No outside clotheslines shall be erected or placed on any lot in the Subdivision.

(b) Declarant encourages the use of landscaping for privacy "fencing".

(c) No fence or wall, as may be approved by Declarant, of any nature may be extended toward the front or street side property line beyond the front or side wall of the residence. Fences are to be wrought iron or have the appearance of wrought iron. Any fence to be constructed shall be a maximum of five (5) foot in height. Declarant to have final approval of any and all fences in the Subdivision.

(d) No tennis courts.

(e) In the event that an in-ground swimming pool is installed on any lot in the Subdivision, fencing in compliance with the Indiana Administrative Code shall be wrought iron and/or coated black aluminum.

14. Duty to Maintain Lot.

(a) From and after the date of purchase of a lot until construction of a single family dwelling is started, Declarant shall have the exclusive right to perform all maintenance on the lot, including, but not limited to, mowing. Each Owner shall be assessed an annual fee payable in January at a rate of One Hundred Seventy-Five and No/100 (\$175.00) Dollars per year until the homeowner's association sets a new rate or upon completion of the clubhouse, subject to the provisions of I.C. 32-25.5-3-3.

(b) From and after the date of construction of a single family dwelling on a lot is started, it shall be the duty of each lot Owner to keep the grass on the lot properly cut, to keep the lot free from weeds and trash, and to keep it otherwise neat and attractive in appearance. Shall any Owner fail to do so, then the Declarant or any person, firm, corporation or association to whom it may assign the right may take such action as it deems appropriate, including mowing, in order to make the lot neat and attractive and the owner shall, immediately upon demand, reimburse Declarant or other performing party for all expenses incurred in so doing.

15. Business; Home Occupations.

No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy, and like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of paragraph one (1), a new house may be used by the builder thereof as a model home for display or the builder's own office, provided said use terminates within eighteen (18) months from completion of the house or upon such additional period of time as may be

expressly agreed to in writing by Declarant or any person, firm, corporation or association to whom it may assign the right.

16. Erosion Control.

Prior to the construction of a single family residence on each individual lot, it shall be the responsibility of the Declarant or its assigns to maintain erosion control on each lot to prevent erosion slides into any road or curb improvement. After the transfer of ownership from the Declarant or at the beginning of construction by a builder, which ever occurs first, it shall be the duty of each individual lot owner and builder to prevent any erosion of earth on said improvements. Should any owner fail to do so, then Declarant or its assigns may take such actions as it deems appropriate, and immediately upon demand reimburse Declarant or other performing parties for all expenses incurred in so doing.

17. Signs.

No sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot, except one sign for advertising the sale or rent thereof, which shall not be greater in area than nine (9) square feet; provided however, Declarant (i) shall have the right to erect larger signs when advertising the development, (ii) to place signs on lots designating the lot number of the lots, and (iii) following the sale of a lot, to place signs on such lot indicating the name of the purchaser of that lot. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations. **The provisions of this section are not intended to run contrary to I.C. 32-21-13 et seq. which allows the display of certain political signs** beginning thirty (30) days before and ending five (5) days after the election to which the sign relates. An Owner may display a maximum of three (3) political signs **provided** they are within the bounds of I.C. 32-21-13 et seq. and comply with the other provisions of this Section of these Restrictions.

18. Drainage.

Drainage of each lot shall conform to the general drainage plans of Declarant for the Subdivision.

19. Disposal of Trash.

No lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash or garbage or other waste shall not be kept except in sanitary containers.

20. Easements.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, plantings, or other material 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 flow or drainage channels in the easements. The easements area of each lot and all improvements in it shall be



maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility is responsible.

21. Restrictions Run with Land.

Unless altered or amended under the provisions of this paragraph, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of thirty (30) years from the date this document is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the front footage of all lots subject to these restrictions and covenants in whole or in part. Failure of any owner to demand or insist upon observance of any of these restrictions or to proceed for restraint of violation shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

22. Common Areas.

As evidenced by the acceptance of a Deed, Contract or other means of transfer, for a lot in the Subdivision, each Owner covenants and agrees to pay annually a pro-rata share of the cost of all associated common areas, both present and future, which may be constructed in the Subdivision. The assessment for the common areas shall be made and determined initially by the Declarant, and subsequently said assessment determination may be assigned to the Homeowners Association as contemplated under these covenants and restrictions. Failure to pay the annual assessment by each Owner shall operate as lien against the real estate, and also each Owner failing to pay shall not be permitted to use any of the recreational facilities and other common amenities located in the common area of the development.

Subject to paragraph twenty-nine (29) of these Restrictions, use of recreational facilities shall be for lot owners of Glenwood and their guests. Declarant is authorized to adopt rules for use of common areas and/or recreational facilities and such rules shall be furnished to the lot owners.

23. Homeowners' Association.

The Owners' Association may hereafter be created as an Indiana Corporation, as may be appropriate and shall operate in accordance with I.C. 32-25.5-1 *et seq.*, which are incorporated herein by reference. Each Owner recognizes the Association is required to maintain a current roster of all members, which requires each Owner to provide to the Declarant, and subsequently the Association, electronic mailing addresses or facsimile (fax) numbers if any required notice is to be sent to Owner in that manner.

(a) Membership and voting rights.

(i) Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

(ii) The Association shall have two (2) classes of voting membership: Class A and Class B.

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each lot owned, **excepting an Owner that owns and has combined two (2) lots in the Subdivision for the placement and construction of one residential structure and said Owner shall then be only entitled to one (1) vote.** When more than one (1) person owns an interest in a lot, all such persons shall be members. The vote for such lots shall be exercised as they among themselves agree, but in no event shall such vote be split into fractional votes or more than one (1) vote be cast with respect for any lot. Each vote cast for a lot shall be presumptively valid. But if such vote is questioned by any member holding interest in such lot, if all such members are not in agreement, the vote of such lot which is questioned shall not be counted.

Class B. Class B members shall be the Declarant and the Class B member shall be entitled to one hundred (100) votes for each lot owned. A Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals the total outstanding in the Class B membership.

(b) Creation of the lien and personal obligation of the assessments.

(i) The Owner of any lot within the Subdivision by acceptance of a deed to any such lot, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay in advance to the Association an annual assessment per lot beginning with the initial conveyance of the lot from the Developer, **which shall be prorated to the date of closing and due at closing**, with the next payment due the following January 1, and thereafter due in a like manner on the following 1<sup>st</sup> day of January. The annual assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property on which such assessment is made. Each assessment, together with interest, costs, and reasonable attorney's fees, shall also be a personal obligation of the person who was owner of such property at the time the assessments are due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them in the deed to such lot. The Association shall adopt an annual budget in accordance with I.C. 32-25.5-3-3.

(ii) The purpose of the assessment levied by the Declarant and/or Association shall be exclusively to promote the recreation, health, safety, and welfare of the residents of the development and for the improvement and maintenance of the Common Areas.

(iii) The Homeowners Association, by vote of the majority of the members of said Association, may increase the annual assessment.

(iv) Effect of nonpayment of assessments; remedies of Association: any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of fifteen (15%) percent per annum. The Association may bring action at law against the owner primarily to pay the same or foreclose the lien against the property. No Owner may

waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Areas or abandonment of such lot.

(v) Subordination of the liens and mortgages. The liens of the assessment provided for herein shall be subordinated to the lien of any first mortgage in existence at the time that the assessment becomes a lien. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to any mortgage foreclosure, or any proceedings in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for the assessment thereafter becoming due or from the lien thereof.

(vi) Exempt property. All properties dedicated to and accepted by a local public authority, the Common Areas, and all properties owned by the Declarant shall be exempt from the assessment created herein, except no land or improvements devoted to dwelling use shall be exempt from said assessments.

(vii) The Declarant shall call the first meeting of the Homeowner's Association by giving thirty (30) days written notice to all members. Additionally, special meetings may be called in accordance with I.C. 32-25.5-3-2.

(viii) Notice and quorum for any action. Written notice of any meetings called for the purpose of taking any action shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of the members or of proxies entitled to cast sixty (60%) percent of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements. And a required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting. A majority vote of the quorum shall be required to take any action.

(ix) Directors and incorporation: The Homeowners Association is an unincorporated entity and has not been incorporated. The Homeowners Association, pursuant to the regulations as set forth herein, may take by proper vote the action to incorporate or they may decide to stay unincorporated. They may also take the action of appointing a board of Directors to act on behalf of the Association and to set forth by-laws to guide the Association and/or its Directors.

(x) Owners easements and rights of enjoyment: Every owner shall have the right and easement of enjoyment in and to the Common Areas which right and easement shall be appurtenant to and shall pass with the title to every lot subject to the following provisions:

1. The right of the Association to dictate or transfer any or all parts of the Common Areas to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument of agreeing to such dedication or transfer, signed by two-thirds (2/3) of each class of members, has been recorded.

#### 24. Enforcement and Grievance.

The terms, provisions and conditions of these Covenants shall be enforceable by the Declarant or Association, and each Owner. The Declarant and/or the Association (once formed) shall have the power and authority to impose reasonable fines for violation of these Restrictions or any rule or regulation of the Association, which shall constitute a lien upon the lot of the violating owner as provided in these Covenants, and to suspend the owners' right to vote or any persons' right to use the Common Area. If any occupant, guest or invitee of a lot violates the Covenants or rule or regulation of the Association and a fine is imposed, the fine shall be assessed against the owner to which such occupant, guest or invitee is associated; the owner shall pay the fine upon notice from the Association or Declarant. The failure of the Declarant and/or the Association to enforce any provision of the Covenants or any rule or regulation of the Association shall not operate as a waiver of the right of the Association to do so thereafter.

Any alleged violation of these Restrictions to be enforced shall be put in writing and signed by at least one Owner ("Complainant") and presented to the violating Owner ("Violator"). Such written notice ("Violation Notice") shall be delivered by the Complainant to the Violator certified mail (return receipt requested) advising the Violator of the alleged violation in specific terms. If the Complainant is not the Declarant or the Board, then, in that event the Complainant shall also deliver a copy of the Violation Notice to the Declarant/Board. The Violator shall respond in writing to the Complainant within thirty (30) days of delivery of the Violation Notice either a) denying and contesting the violation; or b) advising the Complainant how the alleged violation will be remedied. No enforcement action may be commenced in any Court until this procedure has been followed. The prevailing party in any enforcement action is entitled to recovery of all costs, including, but not limited to, reasonable attorney's fees.

Enforcement of these Restrictions, excepting paragraph twenty-one (21), shall be by proceeding law or in equity, brought by an Owner of real property in the development or by the Declarant against any party violating or attempting to violate any covenants or restrictions, either to restrain violation, to direct restoration or to recover damages.

#### 25. Invalidation.

Invalidation of any one (1) of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

#### 26. Obligation to Construct or Reconvey.

Each Owner shall, within two (2) years after the date of conveyance of a lot without a dwelling thereon, commence, in good faith, the construction of a single family dwelling approved according to paragraph two (2) upon each lot conveyed; provided that should said construction not commence within the specified period of time, the Declarant may elect to repurchase any and all lots on which construction has not commenced for ninety (90%) percent of the agreed purchase price of said lot or lot hereunder, in which event the lot owner shall immediately reconvey and deliver possession of said lot or lots to the Declarant by warranty

deed. Failure of the Declarant to elect to repurchase any lot on which construction has not commenced under these terms of this provision shall not be deemed a waiver of the Declarant's right to elect to repurchase in the future any or all of such lots on which construction has not commenced.

27. Reservation by Declarant to Alter or Amend Restrictions and Protective Covenants.

The Declarant, its successors and assigns, reserves the right to alter or amend these Restrictions and Protective Covenants during the "Development Period" of the Subdivision. For purposes of this section, the "Development Period" shall be from the date that these Restrictions and Protective Covenants are executed by the Declarant to the date of the recording of the last section plat of the original preliminary plat.

28. Connection to Sanitary Sewer; Waiver of Remonstrance.

In order to provide sanitary sewers to the Subdivision, Declarant, its successors and/or assigns, including all Owners in the Subdivision, by acceptance of a deed or other means of transfer, to any lot, lots or parcels of real estate in the Subdivision, *waive all rights, both present and future, to remonstrate to any future annexation by the Town of Sellersburg, Indiana.*

29. Future Development of Additional Sections of Subdivision:

Declarant reserves the future right to add additional sections to Glenwood and such additional sections or other developments which may be adjacent to or contiguous to Glenwood, shall, in the sole discretion of Declarant, be entitled, upon payment of their pro rata share to use of the common areas and/or recreational facilities.

30. Waiver of Remonstrance:

**As evidenced by the acceptance of a deed, contract or other means of transfer, for a lot in the Subdivision, each Owner covenants and agrees not to remonstrate against any of the future plans of Declarant relating to the complete development of the Subdivision and contiguous or adjacent lands, which may contain commercial or retail development or building as may be developed, constructed or sold by the Declarant or its assigns. The waiver of remonstrance is including, but not limited to, appearances at any governmental meetings, including, but not limited to, the County Plan Commission or other governmental or administrative body hearing issues on the existence or proposal of commercial or retail developments or buildings located in close proximity to the Subdivision. Failure of any Owner to abide by this waiver of remonstrance shall entitle the Declarant to relief and/or remedy through the Courts by way of an action by law or in equity to enforce the terms of these Restrictions, which enforcement shall include the Owners' agreement to pay all attorneys' fees incurred by the Declarant in the enforcement herein.**

IN WITNESS WHEREOF, TBD. LLC, Owner and Declarant herein, has caused this instrument to be executed by its duly authorized officer, this 8<sup>th</sup> day of January, 2013.

DECLARANT:

BY: DJ. HINES MANAGING Partner  
Printed Name & Title

STATE OF INDIANA )  
 )SS  
COUNTY OF FLOYD )

BEFORE ME, a Notary Public in and for said State and County, personally appeared DJ Hines, the authorized officer of \_\_\_\_\_, being the duly authorized officers of \_\_\_\_\_, and acknowledged the foregoing as his voluntary act and deed for the purposes stated therein.

Dated this 8<sup>th</sup> day of January, 2013

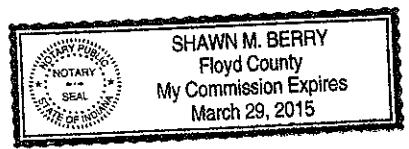
Shawn M Berry  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
March 29, 2015

Shawn M Berry  
PRINTED NAME

Resident of Floyd County, IN

Prepared by:  
John A. Kraft, Attorney  
YOUNG, LIND, ENDRES & KRAFT  
126 W. Spring Street  
New Albany, IN 47150



I ATTEST, UNDER THE PENALTIES FOR PERJURY,  
THAT I HAVE TAKEN REASONABLE CARE TO REPRODUCE  
IN THE SOCIAL SECURITY NUMBER IN THIS DOCUMENT,  
UNLESS REQUIRED BY LAW.  
NAME DJ Hines DJ. Hines