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**Instrument**  
**9809857624**  
**DECLARATION OF RESTRICTIONS**

9809857624  
Filed for Record in  
HAMILTON COUNTY, INDIANA  
MARY L CLARK  
On 10-13-1998 At 08:38 am.  
DEC COV RES 37.00

THIS DECLARATION made this 18th day of AUGUST, 1998  
by Plum Creek Development Company, LLC. (hereinafter referred  
to as the "Developer" as the term applies solely to the  
subdivision to be known as Plum Creek Farms).

WITNESSETH:

WHEREAS, The Plum Creek Development Company, LLC. is the  
owner of the lands contained in the area shown on Exhibit  
"A". Said Exhibit "A" attached hereto and made a part  
hereof, which lands will be subdivided and known collectively  
as Plum Creek Farms (hereinafter referred to as the  
"Development"), and will be more particularly described on  
the plats of the various sections thereof recorded and to be  
recorded in the office of the Recorder of Hamilton County,  
Indiana and

WHEREAS, the Developer is about to sell and convey the  
residential lots situated within the platted areas of the  
Development and before doing so desires to subject and impose  
upon all real estate within the platted areas of the  
Development mutual and beneficial restrictions, covenants,  
conditions, and charges (hereinafter referred to as the  
"Restrictions") under a general plan or scheme of improvement  
for the benefit and complement of the lots and lands in the  
Development and the future owners thereof:

NOW, THEREFORE, the Developer hereby declares that all  
of the platted lots and lands located within the Development  
as they become platted are held and shall be held, conveyed,  
hypothecated or encumbered, leased, rented, used, occupied  
and improved, subject to the following Restrictions, all of  
which are declared and agreed to be in furtherance of a plan  
for the improvement and sale of said lots and lands in the  
Development, and are established and agreed upon for the  
purpose of enhancing and protecting the value, desirability  
and attractiveness of the Development as a whole and of each  
of said lots situated therein. All of the Restrictions shall  
run with the land and shall be binding upon the Developer and  
upon the parties having or acquiring any right, title or  
interest, legal or equitable, in and to the real property of  
any part or parts thereof subject to such Restrictions, and  
shall inure to the benefit of the Developer and every one of  
the Developer's successors in title to any real estate in the  
Development. The Developer specifically reserves unto itself  
the right and privilege to include additional real estate  
which shall be subject to this Declaration and a part of the  
Development. Any such included additional real estate  
subject to this Declaration shall be so noted upon the  
recorded plat(s) of said additional real estate.

1. Definitions. The following are definitions of the  
terms as they are used in this Declaration:

A. "Committee" shall mean the Plum Creek Farms  
Development Control Committee composed of three members  
appointed by the Developer who shall be subject to removal by  
the Developer at any time with or without cause. Any  
vacancies from time to time existing shall be filled by  
appointment of the Developer. The Developer may, at its sole  
option, at any time hereafter relinquish to the Association  
the power to appoint and remove one or more members of the  
committee.

B. "Association" shall mean the Plum Creek Farms Property Owners Association, Inc. a not-for-profit corporation, the membership and powers of which are more fully described in Paragraph 10 of this Declaration.

C. "Lot" shall mean any parcel of real estate excluding common areas, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Hamilton County, Indiana.

D. Approvals, determinations, permissions, or consents required herein shall be deemed given if they are given in writing, signed with respect to the Developer or the Association, by the President or a Vice President thereof, and with respect to the Committee, by a member thereof.

E. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a lot, but excluding those persons having such interest merely as security for the performance of an obligation.

## 2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every lot in the Development, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for single-family residential purposes. No structures shall be erected, placed or permitted to remain upon any of said residential lots except a single-family dwelling house and such outbuildings as are usually accessory to dwelling houses.

B. Residential Use of Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots prior to the erection thereon of a single-family dwelling house, and in no event shall any such accessory outbuilding which may be constructed upon a residential lot under these Restrictions ever be used as a residence or dwelling house or place for human occupancy or habitation. Accessory outbuildings shall be limited to 120 square feet.

C. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the house shall have been substantially completed shall be made by the Committee and such decisions shall be binding on all parties. The foregoing is subject to the rules, regulations and ordinances of the City of Carmel and of its building commissioners.

D. Easements and Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record appearing on the recorded plat of the subdivision, on recorded easements, rights-of-ways, and also to all governmental zoning authority and regulation affecting the Development, all of which are incorporated herein by reference. All easements as shown on the recorded plats of the subdivided sections of Plum Creek Farms shall be non-exclusive and inure to the benefit of all residential lots in the Development.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Living Space Areas. The minimum square footage of living space of dwellings constructed on various residential lots in the Development, exclusive of porches, terraces, garages, carports, or accessory buildings shall be as specified in the recorded plats of the various sections of the Development. Basements shall not be included in the computation of the minimum living area.

B. Residential Set-Back Requirements.

(i) In General. Unless otherwise provided in these Restrictions or on the record plat, no dwelling house or above-grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Front Yards. The front building set-back lines shall be the designated number of feet from the right-of-way of the road upon which the lot abuts as set forth upon the plats of the Development.

C. Fences and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence must be approved by the Committee as to size, location, height and composition before it may be installed. Privacy fences, or those designed to prohibit visibility, shall be prohibited except to the extent that they are used to screen private bathing/swimming areas. Where allowed, privacy fences shall be screened by landscaping in a manner acceptable to the Development Control Committee as defined in the following paragraph 8. Only wrought iron fencing or a reasonable facsimile shall be permitted on lots which abut the Plum Creek Golf Course. A lot must have at least two (2) trees of a species acceptable to the committee growing upon it in the front yard by the time the house is completed.

D. Basketball Goals. No basketball goals will be allowed to be mounted upon any structure. Basketball goals shall be of a free-standing variety and must be approved by the committee as to their type and location.

E. Exterior Construction. The finished exterior of every building constructed or placed on any lot in the Development shall be of masonry, wood siding, wood product, or vinyl siding. All driveways must be paved with asphalt or concrete from their point of connection with the abutting street or road.

F. Heating Plants and Garages. Every house in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the house. Geo-Thermal heat pumps shall be a closed loop system. Every house in the Development must have a two car attached garage.

G. Diligence in Construction. Every building whose construction or placement on any residential lot in the Development is begun shall be completed within (9) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

H. Prohibition of Used Structures. All structures constructed or placed on any numbered lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such lot.

I. Maintenance of Lots and Improvements. The owner of any lot in the Development shall at all times maintain the lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly; and, specifically, such owner shall:

(i) Mow the lot at such times as may be reasonably required in order to prevent unsightly growth of vegetation and noxious weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(vi) Cut down and remove dead trees within ninety days of their death.

(v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

(vi) Within sixty (60) days following completion of a house on a lot, the owner shall landscape the lot, weather permitting.

J. Association's Right to Perform Certain Maintenance. In the event that the owner of any lot in the Development shall fail to maintain his lot and any improvements situated thereon in accordance with the provisions of these Restrictions, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such lot and improvements situated thereon, if any, conform to the requirements of these Restrictions. The cost therefor to the Association shall be added to and become a part of the annual charge to which said lot is subject and may be collected in any manner in which such annual charge may be collected. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

#### 4. PROVISIONS RESPECTING DISPOSAL OF SANITARY WASTE.

A. Nuisance. No outside toilets shall be permitted on any lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter any storm drain. By purchase of a lot, each owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by the Developer or the Association in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorney's fees, shall become a charge or lien upon the lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

Neither the Developer, nor the Association, nor any officer, agent, employee or contractor thereof, shall be liable for any damage which may result from enforcement of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the residential building lots shall be designed and constructed in accordance with the provisions and requirement of the Hamilton County Board of Health. No storm water (subsurface or surface) shall be discharged into sanitary sewers. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service line shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of a permit to build.

5. INDIVIDUAL YARD LIGHTS REQUIRED ON EACH LOT IN THE DEVELOPMENT.

At the time that the owner of the lot in the Development completes the construction of a home on his lot, he shall install or cause to have installed a dusk to dawn yard light in the front yard of his lot. The design, type and location of the yard light shall be subject to the approval of the Committee which may require, for the purpose of uniformity and appearance, that said yard light be purchased from the Developer or its designee.

6. MAILBOXES.

Owners of a lot in the Development shall install or cause to have installed a mailbox which shall be in accordance with the design, type and location of a mailbox approved by the Committee. The Committee may require, for the purpose of uniformity and appearance, that the mailbox be purchased from the Developer or its designee.

7. GENERAL PROHIBITIONS.

A. In General. No noxious or offensive activities shall be carried on on any lot in the Development, nor shall anything be done on any said lots that shall become or be an unreasonable annoyance or nuisance to any owner of another lot in the Development.

B. Signs. No signs or advertisements shall be displayed or placed on any lot or structures in the Development without the prior written approval of the Committee except for real estate sales signs no larger than a 3' x 3' sign with a maximum height of 6'.

C. Animals. No animals shall be kept or maintained on any lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

D. Vehicle Parking. No campers, trailers, boats, or similar vehicles shall be parked on any street or lot in the Development. No truck, one (1) ton or larger in size, shall be parked for overnight or longer storage on any lot in the Development, unless the same shall be parked in such a manner that it is not visible to the occupants of other lots in the Development, or the users of any street in the Development.

E. Garbage and Other Refuse. No owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such owner accumulate or permit the accumulation out of doors of such

refuse on his lot except as may be permitted in Subparagraph F below. All houses built in the Development shall be equipped with a garbage disposal unit.

F. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Any receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street within the Development at any time, except at the times when refuse collections are being made.

G. Model Homes. No owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Developer.

H. Temporary Structures. No temporary structure of any kind, such as a house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot nor shall any overnight camping be permitted on any lot without permission to do so from the Developer.

I. Ditches and Swales. It shall be the duty of the owner on every lot in the Development on which any part of any open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon the lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably necessary to accomplish the purposes of this subsection. All owners, if necessary, shall install dry culverts between the road rights-of-way and their lots in conformity with specifications and recommendations of the City of Carmel, Hamilton County, Indiana.

J. Utility Services. No utility services shall be installed, constructed, repaired, replaced and/or removed under finished streets except by jacking, drilling or boring and shall require the approval of the City of Carmel where the streets are public and by the property owners where there are private drives.

K. Wells and Septic Tanks. No water wells shall be drilled on any of the lots nor shall any septic tanks be installed on any of the lots in the Development, without the approval of the Committee.

L. Prohibition of Antennas. No exposed radio, cable and television antennas and/or dishes shall be permitted within the Development, without the approval of the Committee.

M. Swimming Pools. No above ground swimming pools shall be permitted. In ground pools may be permitted when approved through the process outlined in Paragraph 8.

## 8. DEVELOPMENT CONTROL COMMITTEE

A. Statement of Purposes and Powers. The Committee shall regulate the external design, appearance, use, location and maintenance of lands subject to these Restrictions and improvements thereon, in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

(i) Generally. No dwelling, building structure, access, driveway, or improvement of any type or kind shall be constructed or placed on any lot in the Development without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the lot and the location of the improvements proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other materials or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1/4" = 1' and all plot plans shall be drawn to scale of 1" = 30', or to such other scale as the Committee shall require.

(ii) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these restrictions;

(b) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures;

(c) The proposed improvement, or any part hereof, would in the opinion of the Committee be contrary to the interests, welfare or rights of all or any part of other owners.

(iii) Power to Grant Variances. The Committee may allow reasonable variances or adjustments of these Restrictions where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Restrictions and no variance or adjustment shall be granted which is materially detrimental or injurious to other lots in the Development.

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notification to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons.

C. Liability of Committee. Neither the Committee nor any agent thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee does not make any representation or warranty as to

the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used.

D. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

E. Continuation of Committee. When the Developer notifies the Association of discontinuance of his Development Control Committee, then the Directors of the Association, or their designees, shall continue the functions of the Committee with like powers.

F. New Home Construction. Builders of new homes who purchase lots directly from the Developer are exempt from this Paragraph 8 and shall be subject to a separate review conducted at the discretion of the Developer.

9. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous lots in the Development shall be owned by the same person, and such owner shall desire to use two or more of said lots as a site for a single-dwelling house, he shall apply in writing to the Committee for permission to so use said lots. If permission for such a use shall be granted, the lots constituting the site for such single-dwelling house shall be treated as a single lot for the purpose of applying these Restrictions to said lots, so long as the lots remain improved with one single-dwelling house.

10. PLUM CREEK FARMS PROPERTY OWNERS ASSOCIATION, INC.

A. In General.

(i) There has been or will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as the Plum Creek Farms Property Owners Association, Inc., referred to as the "Association" Every owner of a residential lot in the Development shall be a member of the Association and shall be subject to all the requirements and limitations imposed in these Restrictions on other owners of residential lots within the Development and on members of the Association, including those provisions with respect to the payment of an annual charge.

B. Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners with the exception of the Developer and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the Developer, who shall be entitled to three (3) votes for each lot owned and three (3) votes for each one-fifth (1/5th) acre of land contained within any portion of the Real Estate which has not been platted as a residential subdivision at any time, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and be

converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) On the date the Developer sells the last lot which it owns in the Development, and the Developer no longer owns any lots or land in the Development; or

(b) On January 1, 2004.

C. Board of Directors. The initial Board of Directors shall be appointed by the Developer subject to replacement by the Developer until such time that the Class B Membership is terminated.

D. Professional Management. No contract or agreement for professional management of the Association shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

E. Responsibilities of the Association.

(i) The Association shall procure and maintain liability insurance (including director's and officer's insurance) and such other insurance as it deems necessary or advisable.

(ii) The Association may contract for such service as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable.

(iii) The Association shall maintain in a neat, clean, presentable and safe condition any recreational facilities which may be installed by Developer or by the Association to the extent such facilities are within the Development.

(iv) The Association shall maintain and repair any and all common areas as shown on the various plats of Plum Creek Farms including any lakes, retention ponds, landscaping, lighting facilities or entry way structures which may be installed by the Developer or the Association within the common areas or within any landscaping easements which may appear within the various plats of Plum Creek Farms. The Association may require those lots owners adjacent to any lake to maintain the area extending from such lot to the lake between such lot and the water surface of the lake per Paragraph 3.I.(i).

(v) The Common Areas along and adjacent to 126th Street and Hazel Dell Road as well as the pathways throughout the Development shall remain accessible to the City of Carmel and its citizens at large. No signage prohibiting or restricting access shall be erected upon the Common Areas. The City of Carmel shall not have any responsibility or liability in association with these Common Areas or pathways. Fishing, swimming and any other undesirable activities may be prohibited by the Association. The terms of this Paragraph may be amended or rescinded by permission of the City of Carmel Plan Commission.