



MASTER

TIPPECANOE COUNTY RECORDER  
10/02/2020 09:23:04AM  
COVENANTS 25.00

## SECOND AMMENDED DECLARATIONS OF COVENANTS, CONDITIONS, COMMITMENTS, RESTRICTIONS, EASEMENTS, AND ASSESSMENTS FOR TIMBERHOUSE AERO ESTATES

The Declaration Covenants, Conditions, Commitments, Restrictions, Easements, and Assessments for Timberhouse Aero Estates, hereinafter referred to as the "Declaration" or the "Covenants" is made by Timberhouse Aero Development LLC, hereinafter respectively referred to as Declarant/Developer dated 24 Sept 2020 and recorded on \_\_\_\_\_, as Document Number \_\_\_\_\_ in the Office of the Recorder, Tippecanoe County, Indiana, is revoked and replaced with the following: 199909913783 & 260101024315

WHEREAS, Declarant/Developer the owners of certain real property located in Tippecanoe County, Indiana, hereinafter referred to as "Real Estate", described as follows:

Real estate owned by Timberhouse Aero Development LLC that is located in the Northeast Quarter (1/4) of Section 10, Township 21 North, Range 4 West and the East Half (1/2) of the Northwest Half (1/2) of Section 10, Township 21 North, Range 4 West, all located in Lauramie Township, Tippecanoe County, Indiana, containing 240 acres, more or less;

WHEREAS, Declarant/Developer has divided the Real Estate into single-family lots known and designated as Timberhouse Aero Estates, hereinafter referred to the "Development";

NOW, THEREFORE, Declarant/Developer hereby affirms that the Real Estate shall be held, divided, sold, and conveyed subject to the following Covenants which purport to protect the value and desirability of the Development, and which shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. The covenants cannot be amended, changed, or altered in any way without the written consent of the Declarant/Developer and all Owners within the Development.

### Article 1 Definitions

JULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

OCT 02 2020 RF

*Robert A. Hartigan*  
AUDITOR OF TIPPECANOE CO

- A. The following are the definitions of terms used in this Declaration:
  1. "Builder" shall mean the contractor(s) constructing a Dwelling Unit on any Lot in the Development, which may be the Developer for one or more Lots.
  2. "Committee" shall mean the Architectural/Site Development Control Committee.
  3. "Dwelling Unit" shall mean a single-family residence, including attached garage.
  4. "Lot" shall mean any residential parcel or tract of the Real Estate identified by number or by metes and bounds description and which may be shown on a survey of the Development that

*RF*  
*11/13*

is recorded in the Office of the Recorder of Tippecanoe County, Indiana. No Lot may be subsequently subdivided for development purposes. Adjustments to lot lines between adjoining owners may be made in accordance with ordinances of Tippecanoe County, Indiana, and provided such adjustments do not result in the creation of any additional building lots or sites.

5. "Owner" shall mean a person who acquires any right, title, or interest, legal or equitable, in and to a Lot, but shall exclude those persons having such interest merely as security for the performance of an obligation.
6. "Plat" shall mean a survey of the Development showing all Lots within the Development and recorded in the records of the Office of the Recorder of Tippecanoe County, Indiana.

## ARTICLE 2 CHARACTER OF THE DEVELOPMENT

1. In General: Each Lot in the Development shall be a residential lot and shall be used exclusively for single-family residential purposes. No public business buildings may be erected on any Lots. No business may be conducted on any Lots, other than those businesses or occupations approved by the Committee. However, nothing herein shall prevent any Owner or resident in the Development from providing flight instruction, aircraft maintenance, or aircraft inspection to family members and friends.
2. Other Restrictions: All Lots in the Development shall be subject to the easements, restrictions, and limitations of record (as defined by the parcellization of the property P9926, recorded as instrument No. 05016139, issued on July 14 2005, and to all governmental zoning authority and regulations affecting the Development, all of, which are incorporated herein by reference. No Dwelling Unit, or any part thereof, may be rented or leased for occupancy by anyone other than Owners except with the approval of the Committee.

## ARTICLE 3 RESTRICTIONS CONCERNING SIZE, PLACEMENT, AND MAINTENANCE OF DWELLING UNITS AND OTHER STRUCTURES

1. Minimum Areas: The following restrictions shall apply: Each Dwelling Unit erected, placed, or altered shall have a residential character and the following minimum areas, exclusive of garages and open porches:
  - a. 2,000 square feet of floor area (not including basement) for a Dwelling Unit; and
  - b. 1,200 square feet of floor area for any hangar, with a minimum "clear" door opening of 39 feet and a minimum depth of 30 feet at the center.
2. Masonry Requirement: The completed home and hangar walls, visible from Travelair Way and Staggerwing Lane (excluding doors), shall be covered with a minimum of 40% of masonry

148  
D59 2/

or stone treatment including, but not limited to brick, limestone, field stone, or decorative concrete or glass block, which shall be approved by the Committee.

3. Attached Garages: Each Dwelling Unit shall have a minimum of a two-car attached garage unless such garage area is provided within the hangar.
4. Orientation of Homes: The Committee shall approve the orientation and placement of all Dwelling Units and other structures and animal pens and pastures within the Development.
5. Aircraft Hangar: It is not a requirement to own an aircraft to reside in the Development; however, all homes built without an aircraft hangar shall be so oriented that if sold to someone who has an aircraft, a hangar can be added. In addition, the hangar (or proposed hangar) shall be located on the lot so that the hangar is not significantly closer to runway than the house and does not block the view of the house. The material and construction of the hangar must be similar quality to that of the house so that the house and hangar present a matched set when viewed from the runway. The hangar must have a door that can block the view of the hangar contents from the runway.
6. Vertical Easements: Certain height restrictions are shown on the recorded plats of the Development. These include, but are not limited to, a one hundred foot (100') easement on each side of the runway along and parallel to the runway for the purpose of flight safety. These also include, but are not limited to, site alterations and the height of bushes, trees, and manmade structures but not applied to flowers and vegetation which would not likely damage an airplane.
7. Utility Easements: Certain utility and drainage easements are shown on the recorded plats of the Development. These will be maintained for the purposes designated by the individual homeowner unless said easement is located within a common area. No alteration of a drainage easement shall be permitted unless approved by the Committee.
8. Construction Easement: The Declarant reserves a future construction and no build easement two hundred feet (200') on each side of the centerline of the runway extended east to the east property line of the Development
9. Roadways and Runways: All the roadways, taxiways, and runways within Timberhouse Aero Estates shall be of common ownership and repair and maintenance. Each owner shall, upon purchasing a Lot within the Development, agree to pay to the Timberhouse Aero Estates Homeowners Association, Inc. a monthly maintenance fee as from time to time set by the Timberhouse Aero Estates Homeowners Association, Inc.

In the event that the runways within the Development shall cease to be used as such or the Timberhouse Aero Estates Homeowners Association, Inc., shall fail to maintain the runways in good and usable condition, ownership of such runways shall revert to the Declarant or its designee.

Aircraft shall have the absolute right of way on all taxiways, runways, and roadways.

The roadways, taxiways and runways are specifically described on Parcelization P99-26 recorded as Instrument No. 99-13782.

DFG  
3/13



10. Dues: Each Lot Owner shall pay annual dues in the amount of \$300 when invoiced to the Timberhouse Aero Estates Homeowners Association, Inc. Dues shall be used for the maintenance of the common areas and facilities throughout the Development and any other activity that the Timberhouse Aero Estates Homeowners Association, Inc. members approve by a simple majority at their annual or special meeting. Invoiced dues assessments unpaid by any Owner within thirty (30) days after billing shall be referred to the Board of Directors of the Timberhouse Aero Estates Homeowners Association, Inc., for further action. Refusal to pay such dues and/or maintenance fees will result in a lien being recorded against the Owner's portion of the Real Estate. All expenses connected with this recordation shall be included in the lien amount.
11. Antenna or Communication Towers: The installation of television antenna other than a direct television dish with a diameter measuring less than 30" is prohibited. Individual communication towers are prohibited.
12. Utilities: All utilities shall be buried and as-built as to location, type, and depth at time of installation. This includes all types of communication utilities such as telephone, cable television, computer, electrical services, natural gas services, common water services, sewer, etc. Copies of all as-built locations shall be given to the Declarant/Developer, and the Timberhouse Aero Estates Homeowners Association, Inc., in written form referenced to Tippecanoe County XYZ coordinate system.
13. Architectural/Site Development Control Committee: This Committee shall be responsible for the approval of all new and revised construction in the Development, including but not limited to homes, hangars, garages, and other structures, and site grading, landscaping, driveways, taxiways, mailboxes, and all utilities. Such approvals must be received before construction can begin.
14. Architectural/Site Development Control Committee Membership: The permanent members of the Committee shall be Frances M. Schmidt, John P. Schmidt and David Gevers, and two non-permanent members of the Timberhouse Aero Estates Homeowners Association. All members shall serve gratis. Replacement of non-permanent members of the Committee shall be by vote of simple majority of the Homeowners Association. Only Homeowners Association members are eligible to be elected as Committee members.
15. Additional Subdivision of Large Tracts: The Developer reserves the right to approve any subsequent subdivision of tracts larger than 2.5 acres whether by parcelization, subdivision or whatever method regardless of whether such subdivision otherwise complies with the ordinances of Tippecanoe County.
16. Driveways and Parking Areas: There shall be minimum of two (2) off street parking spaces for motor vehicles in each driveway.

100  
4/13  
DFA

Builders shall install driveways (and taxiways if hangar is constructed) during original construction of the Dwelling Units.

No inoperative or unlicensed motor vehicles shall be stored or repaired on the outside on any Lot or on the driveway thereof. No camper, trailer, motor home, boat, truck, school bus, or other vehicle of like kind (except for personal automobiles, vans, and pick-up trucks) may be parked within view from the streets of the Development unless such vehicle is kept in the garage, or is otherwise approved by the Committee. All aircraft must be kept in the hangar except for any aircraft of guests which may be tied down outside of the hangar during the time of their visit. Each owner shall provide one tie-down for such guest aircraft and will be solely responsible for the safety thereof.

17. Prohibition of Relocated or Moveable Structures: No Dwelling Unit, garage, out building, car port, storage shed, or other structure of any kind may be moved onto any Lot. No trailer, mobile home, modular home, tent, shack, garage, motor home, barn or other structure may be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required in connection with the construction of a Dwelling Unit on a Lot.
18. Time Limits on Construction: All Dwelling Units and other structures must be completed, and the site graded, sodded, or seeded, and reasonably landscaped within one (1) year from the date of the commencement of construction thereof.
19. Maintenance of Lots During Construction: All Lots shall be kept and maintained in a sightly and orderly manner during the period of construction of any structures on said Lots. No trash or rubbish of any kind shall be permitted to accumulate on any Lot or adjacent Lots. Construction debris shall be placed in dumpsters or wire/plastic trash enclosures that shall be placed on the Lots.
20. Fences: All fences shall meet the following standards, shall be approved by the Committee, and shall comply with all ordinances and building codes and regulations of Tippecanoe County and the State of Indiana:
  - a. Pool fences, where required, shall be a decorative type with some screen landscaping of the sides exposed to the neighboring lots. All pool fences must meet requirements of all ordinances and building codes and regulations of Tippecanoe County and the State of Indiana.
  - b. No solid fence construction shall be permitted without approval of the Committee.
  - c. Fences shall be shadow box, split-rail, chain link, black iron, or aluminum picket style, unless otherwise approved by the Committee.
  - d. All fences shall be painted or stained to blend with the color of the respective houses unless otherwise approved by the Committee.

2744 5/13 JPS

- e. For non-corner lots, no fence may be installed between the street and the rear face of a house.

For corner lots, no fence may be installed between the street and the side of the rear corner of the house facing the two respective streets. Landscaping shall be required along corner lot side-yard fences exposed to the street yard.

- f. All fences shall meet the requirements of all ordinances and building codes and regulations of Tippecanoe County and the State of Indiana.
- g. The height of shadow box fences or pool fences may not exceed six (6) feet. The height of any other type of fence may not exceed four (4) feet. All Owners shall maintain their respective fences in good condition including repainting and/or re-staining wood fences, removing rust and repainting metal fences, and repairing any structural defects or signs of deterioration.
- h. Any deviation from the above requirements shall require approval from the Developer or the Committee.
- i. The Developer or the Committee shall have the discretion to allow other fence types.

21. Landscaping: At least two (2) deciduous shade (overstory) trees (both in the front yard) and one (1) deciduous ornamental (understory) tree (also in the front yard) shall be planted by Owner.

- a. At least six (6) shrubs shall be installed as foundation plantings for each Dwelling Unit.
- b. Each yard shall be sodded or seeded and covered with straw or seeded by an equivalent or better treatment.

22. Mailboxes: Builders shall install Post Office-approved roadside rural mailboxes during original construction of the Dwelling Units. Each Owner shall maintain and replace his or her mailbox as necessary.

23. Storage Tanks: Gasoline or other fuel storage tanks and tanks which are used for the storage of LP gas or other heating fuel for the Dwelling Unit which have been approved by the EPA, may be permitted with the approval of the Committee. All tanks shall be screened by fencing or plantings, which shall be approved by the Committee.

24. Gutters and Downspouts: All gutters and downspouts shall be painted, except copper gutters and downspouts.

25. Awnings and Patio Covers: Awnings and patio covers made of metal, fiberglass, or similar type material will not be permitted in the Development.

275  
028 6/13

26. Above Ground Swimming Pools: Above ground swimming pools will not be permitted in the Development.
27. In Ground Swimming Pools: In ground swimming pools shall be permitted in the Development, with the approval of the Committee.
28. Accessory Buildings: All accessory buildings must be architecturally similar to and consistent with the design of the Dwelling Unit and shall be approved by the Committee as to location, type and construction materials.
29. Utility Meters and HVAC Units: Whenever possible, all utility meters and HVAC units in the Development shall be located in places not seen from the street or shall be screened, if located in the fronts of the Dwelling Units.
30. Notice: The Developer shall provide a copy of the recorded Plats and a copy of the recorded Declaration of Covenants to all Builders. Said Plats and this Declaration shall also be presented to and reviewed by the Builder with all prospective buyers during the selection of and prior to the purchase of the Lot.
31. Building Setback Lines: All building setback lines shall be as shown on the final survey of the Development. Between said lines and the right-of-way lines of the streets no structures may be erected or maintained.
32. Damaged Structures: No Dwelling Unit which has been partially or totally destroyed by fire or other catastrophic event shall be allowed to remain in such a state for more than thirty (30) days from the date of such occurrence, or from the release date by the Fire Marshal's office or the Fire Chief of the local jurisdiction in the event of an investigation.
33. Maintenance of Lots and Improvements: The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements thereon in such a manner to prevent the Lot and its improvements from becoming unsightly. Specifically, the Owner shall:
  - a. Establish and mow the grass with reasonable frequency to prevent its growth from exceeding four (4) inches in height. This mowing requirement shall not apply to undeveloped Lots owned by the Declarant or to areas specifically designated by the Developer or Committee as waterways for protection against erosion.
  - b. Keep Lot free of debris and rubbish;
  - c. Prevent conditions of any kind from evolving which in the opinion of the Developer or the Committee may detract from or diminish in any way the aesthetic value of the Development;
  - d. Remove dead trees and replace with like species; and,
  - e. Maintain the exterior of all improvements in a state of good repair.

127

NSA

7/13



34. Requirement to Mow Grass in Public Right-of-Way: All Owners shall be required to mow the grass in the public right-of-way for their respective Lots, except areas specifically designated by the Developer or Committee as waterways for protection against erosion.

ARTICLE IV  
MISCELLANEOUS PROVISIONS AND PROHIBITIONS

1. Nuisances: No noxious or offensive activities shall be conducted on any Lot in the Development, nor shall anything be done on any Lot which shall be or shall become an unreasonable annoyance or nuisance to the Owner of any other Lot in the Development. Neither the Developer, nor any officer, agent, employee, or contractor thereof, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.
2. Signs: No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior approval of the Developer or the Committee, except for conventional signs related to the sale of a Lot or Dwelling Unit.
3. Animals: Household pets (dogs, cats, and service animals) may be kept on any lot, provided that they
  - a. Shall not be kept, bred, or maintained for any commercial purpose.
  - b. Shall not become a nuisance to other Owners; and
  - c. Shall be leashed upon leaving Owner's property.

All other animals must be approved by the committee.

4. Vehicle Parking: Any motor vehicle that is inoperative and not being used for normal transportation and visible from Travelair Way or Staggerwing Lane will not be permitted to remain on any Lot except within a closed garage.
5. Ditches and Swales: All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales located on their respective Lots. Any field tile or underground drain encountered during the construction of any improvements within the Development shall be perpetuated. All Owners in the Development, their successors, and assigns, shall comply with the Indiana Drainage Code of 1965, and all amendments thereto.
6. Garbage, Trash, and Other Refuse: No Owner of any Lot in the Development shall burn or bury out-of-doors any garbage or refuse (excluding landscaping debris) on any Lot.
7. Outside Toilets: No outside toilets shall be permitted on any Lot in the Development (except during the period of construction and then only with the consent of the Developer).

APL  
8/13  
DEH



8. Garage and Yard Sales: No more than one garage or yard sale shall be permitted on any Lot within a single calendar year.

## ARTICLE V REMEDIES

1. Available Remedies: In the event of a violation, or threatened violation, of any of the Covenants herein recited, Declarant/Developer, any Owner and all other parties claiming under them ("Interested Parties"), individually, shall have the right to enforce any Covenant contained herein, and may pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, and including the right to secure injunctive relief or to secure removal by due process of any structure not in compliance with the Covenants contained herein, and shall be entitled to recover from the violator reasonable attorney's fees and the costs and expenses incurred as a result thereof.
2. Government Enforcement: The Tippecanoe County Area Plan Commission, its successors and assigns, shall have no right, power, or authority to enforce any Covenants contained in this Declaration other than those Covenants which expressly run in favor of the Tippecanoe County Area Plan Commission.
3. Delay of Failure to Enforce: No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Covenants shall be held to be a waiver by that party (or any estoppel of that party to assert) of any right available upon the occurrence, recurrence, or continuation of such violation or violations of these Covenants.

## ARTICLE VI EFFECT OF BECOMING AN OWNER

1. Acceptance of Covenants: All present and future Owners, Mortgagees, tenants, and occupants of the Lots and Dwelling Units, and other persons claiming by, through, or under them, shall be subject to, and shall comply with all provisions of this Declaration and the Articles, as each may be amended or supplemented from time to time. The acceptance of a deed or conveyance or the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration and the Articles, as each may be amended or supplemented from time to time, are accepted and ratified by such owner, tenant or occupant and all such provisions shall be covenants running with the land and shall bind any and all persons having at any time any interest or estate in any Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration and the Articles applicable henceforth.
2. Owner's Responsibility for Loss and Liability: Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his lot, and for

DS  
9/13

liability of persons while on his property, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

3. Developer's Right of Waiver: The Developer may waive any right of approval granted herein by written notice to all Owners. Such waiver may be temporary or permanent according to the terms or the notice.
4. Developer's Right of Way: Frances Schmidt shall have a permanent easement to the runway and taxiways forever, but any subsequent buyer of 2222 E 950 S shall become a member of the Homeowners Association and shall be subject to its restrictions and privileges.
5. Voting Rights in the Homeowner's Association: Upon purchasing a Lot, the Lot owner shall be entitled to one vote in matters involving the Homeowner's Association. Until more than 50% of the Lots are sold (i.e. 14 of 27), the Developer shall retain 2 votes for every unsold lot.
6. Transfer of Common Ground to Timberhouse Aero Estates: Prior to, but no later than the sale of 50% of the Lots, (i.e. 14 of 27) Frances M. Schmidt and Timberhouse Farms Inc. shall transfer all deeds of the common ground (i.e. runways and taxiways) to Timberhouse Aero Estates, and as such this common ground will be governed by the Home Owner's Association. This common ground is depicted and defined in the Timberhouse Aero Estates Plat.

## ARTICLE VII TITLES

The titles of the various Articles and Sections of these Covenants are for convenience of reference only. None of them shall be used as an aid to the construction of any provision of the Covenants. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine and the neuter.

## ARTICLE VIII DURATION AND AMENDMENT

1. Duration of Declaration: This Declaration shall be effective for an initial term of twenty (20) years from the date of its recordation by the Recorder of Tippecanoe County, Indiana, and shall automatically be renewed from the date of the recent amendment for another 20 years unless rejected by the Home Owner's Association. All easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.
2. Amendment of Declaration: Developer hereby reserves the right to make such amendments to this Declaration as Developer may deem necessary or appropriate without the approval of any other person or entity, in order to bring this Declaration into compliance with the requirements of any public agency having jurisdiction thereof or any agency guaranteeing, insuring, or approving mortgages, or to change or modify Covenants for amendments to the Plat or Article III Restrictions which would apply to future construction, provided that Developer shall not be

JPS  
OSL 10/13

entitled to make any amendment which will have a materially adverse effect on the rights of any Mortgagee, or which will substantially impair the benefits of the Covenants to any Owner or substantially increase the obligations imposed by the Covenants on any Owner without the written approval of said Owners.

#### ARTICLE IX SEVERABILITY

The within Covenants shall run with the land and shall be binding on all parties claiming under them. Invalidation or unenforceability of any of the Covenants by Judgment or Court Order shall in no way affect the validity or enforceability of any of the other Covenants which shall remain in full force and effect.

10

DGH 11/13