

**AMENDMENT TO RESTRICTIONS AND PROTECTIVE COVENANTS  
FOR THE VILLAS OF FLOYDS KNOBS PLAT 1437**

WHEREAS, on January 13, 2016, Thieneman Group LLC caused to be filed or record as Instrument No. 201600490 (Plat Number 1437) in the office of the Recorder of Floyd County, Indiana, the plat for the subdivision having the designation The Villas of Floyds Knobs ("Development");

WHEREAS, simultaneously with the filing of the plat for the Development, the Developer caused to be filed of record in the Office of the Recorder of Floyds County, Indiana, the Restrictions and Protective Covenants for The Villas of Floyds Knobs filed of record as Instrument No. 201600491 on January 13, 2016 in the Office of the Recorder of Floyd County, Indiana ("Restrictions");

WHEREAS, The Villas of Floyds Knobs Homeowners Association, Inc. (the "Association") caused Articles of Incorporation to be filed with the Office of the Indiana Secretary of State on December 30, 2016 and was incorporated on December 30, 2016;

WHEREAS, the Restrictions also provide in Section 2.12, that the Developer, its successors and assigns, may alter or amend the Restrictions during the development period of the Development;

WHEREAS, the Development is still under the development period;

NOW, THEREFORE, the undersigned, being the Developer and a member of the Association, does hereby amend the Restrictions as authorized by Section 2.12 of said Restrictions, as follows:

1. **ARTICLE II IMPROVEMENTS TO PROPERTY.** The Restrictions shall be and is hereby amended to read ARTICLE II IMPROVEMENTS TO PROPERTY.
2. **ARTICLE 2.** Section 2.15 Shall be and is hereby amended by deleting Section 2.15 in its entirety.
3. All capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Restrictions and the Articles of Incorporation for the Development.
4. The terms and conditions of the Restrictions shall remain in full force and effect, except as expressly modified herein. To the extent there are any irreconcilable conflicts between the terms of the Restrictions and this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, The Villas of Floyds Knobs Homeowners Association, Inc., an Indiana non-profit corporation, pursuant to the authority of its Articles of Incorporation and By-Laws, and the unanimous consent of its Members, has caused this document to be executed for and on its behalf by all of its member(s) this 10th day of July, 2018.

The Villas of Floyds Knobs Homeowners Association, Inc.,  
an Indiana non-profit corporation

By: Thieneman Group LLC, and Indiana Limited  
Liability company, sole Member

By: Donald J. Thieneman  
Donald J. Thieneman, Member

STATE OF INDIANA

COUNTY OF FLOYD

Before me, the undersigned, a Notary Public in and for said County and State, this 13<sup>th</sup> day of July, 2018, came Donald J Thieneman, Member of Thieneman Group, LLC, and Indiana limited liability company, being member of The Villas of Floyds Knobs Homeowners Association, Inc., and Indiana non-profit company, and acknowledged the execution of the above and foregoing Restrictions for and on behalf of said corporation.

Witness my hand and notarial seal.

Melanie P. Prior  
Notary Public

My commission expires:

April 13, 2024  
Commission #: 681421

Melanie P. Prior  
Printed Name  
Resident of Floyd County, Indiana

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, and that this instrument was prepared by:

Linda Kelley with: Thieneman Group, LLC  
5031 Old Vincennes Road  
Floyds Knobs, IN 47119  
(812) 923-0771



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**AMENDMENT TO RESTRICTIONS AND PROTECTIVE COVENANTS  
FOR THE VILLAS OF FLOYDS KNOBS PLAT 1437**

FLOYD CO. IN RECORDER

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WHEREAS, on January 13, 2016, Thieneman Group LLC caused to be filed or record as Instrument No. 201600490 (Plat Number 1437) in the office of the Recorder of Floyd County, Indiana, the plat for the subdivision having the designation The Villas of Floyds Knobs ("Development");

WHEREAS, simultaneously with the filing of the plat for the Development, the Developer caused to be filed of record in the Office of the Recorder of Floyds County, Indiana, the Restrictions and Protective Covenants for The Villas of Floyds Knobs filed of record as Instrument No. 201600491 on January 13, 2016 in the Office of the Recorder of Floyd County, Indiana ("Restrictions");

WHEREAS, The Villas of Floyds Knobs Homeowners Association, Inc. (the "Association") caused Articles of Incorporation to be filed with the Office of the Indiana Secretary of State on December 30, 2016 and was incorporated on December 30, 2016;

WHEREAS, the Restrictions provide in Section 4 (d) for an assessment payable to the Association in the initial amount of \$250.00 (the "Annual Assessment");

WHEREAS, the Restrictions also provide in Section 4 (f) that the Association, by vote of the majority of the members of the Association may increase or decrease the Annual Assessment;

WHEREAS, the Restrictions also provide in Section 2.12, that the Developer, its successors and assigns, may alter or amend the Restrictions during the development period of the Development;

WHEREAS, the Development is still under the development period;

WHEREAS, the Association desires to amend the Restrictions to provide for an increase in the Annual Assessment and amend the Restrictions to provide for a method for increasing or decreasing the Annual Assessment;

NOW, THEREFORE, the undersigned, being the Developer and a member of the Association, does hereby amend the Restrictions as authorized by Section 2.12 of said Restrictions, as follows:

1. **HOMEOWNER ASSOCIATION MEMBERSHIP ASSESSMENT.** Section 4 (d) of the Restrictions shall be and is hereby amended by deleting the first sentence of said section in its entirety and replacing said sentence with the following language:

"The owner of any lot within the Development, by acceptance of a Deed to any such lot, whether or not it shall be expressed in such Deed, is deemed to covenant to agree to pay to the Association an assessment in the initial sum of \$350.00 per lot beginning in the year of the first conveyance by the Developer to any person, firm or corporation.

2. **CHANGE IN ASSESSMENT.** Section 4 (f) of the Restrictions shall be and is hereby amended by deleting Section 4 (f) in its entirety and replacing said section with the following language:

"4. (f) Prior to the Applicable Date (as defined herein), the Homeowner's Association may increase or decrease the annual assessments only by a majority vote of the Board of Directors of said

Association at a duly convened meeting. After the Applicable Date, the Homeowner's Association, by vote of a two-thirds (2/3) majority of the members of said Association, may increase or decrease the annual assessment. the Applicable Date shall mean the earlier to occur of the following: (i) the date upon which the Developer has conveyed to unrelated third parties ninety-five percent (95%) of the Lots in the Development, or (ii) such earlier times as the Developer may elect and notify he Association in writing."

3. **AMENDMENTS TO THE RESTRICTIONS.** Section 4 of the Restrictions shall be and is hereby amended by adding the following language to the end of said section:

"4 (n) Prior to the Applicable Date, the Homeowner's Association may amend or alter these Restriction only by a majority vote of the Board of Directors of said Association at a duly convened meeting. Furthermore, any amendment or alteration of the Restrictions by the Homeowner's Association shall become applicable only upon the signed written approval of the Developer, or its assign or successor. After the Applicable Date, the Homeowner's Association may amend or alter these Restrictions by a vote of two-thirds (2/3) majority of the members of said Association."

4. All references in the Restrictions and Protective Covenants for the Villas of Floyds Knobs shall reflect a change in any and all references made to The Villas of Floyds Knobs Community Association to be recognized as The Villas of Floyds Knobs Homeowners Association "the Association".

5. All capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Restrictions and the Articles of Incorporation for the Development.

6. The terms and conditions of the Restrictions shall remain in full force and effect, except as expressly modified herein. To the extent there are any irreconcilable conflicts between the terms of the Restrictions and this Amendment, the terms of this Amendment shall control.

IN WITNESS WHEREOF, The Villas of Floyds Knobs Homeowners Association, Inc., an Indiana non-profit corporation, pursuant to the authority of its Articles of Incorporation and By-Laws, and the unanimous consent of its Members, has caused this document to be executed for and on its behalf by all of its member(s) this 2<sup>nd</sup> day of February, 2017.

The Villas of Floyds Knobs Homeowners Association, Inc.,  
an Indiana non-profit corporation

By: Thieneman Group LLC, and Indiana Limited  
Liability company, sole Member

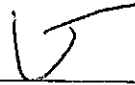
By:   
Donald J. Thieneman, Member

STATE OF INDIANA

COUNTY OF FLOYD

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_ day of February, 2016, came Donald J Thieneman, Member of Thieneman Group, LLC, and Indiana limited liability company, being member of The Villas of Floyds Knobs Homeowners Association, Inc., and Indiana non-profit company, and acknowledged the execution of the above and foregoing Restrictions for and on behalf of said corporation.

Witness my hand and notarial seal.



\_\_\_\_\_  
Notary Public

My commission expires:

8-13-2022

Leighann R Thomas

Printed Name

Resident of Washington County, Indiana

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, and that this instrument was prepared by:

Thieneman Group, LLC  
5031 Old Vincennes Road  
Floyds Knobs, IN 47119  
(812) 923-0771

Linda Kelley





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FLOYD CO. IN RECORDER - LOIS ENDRIS

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# RESTRICTIONS AND PROTECTIVE COVENANTS FOR THE VILLAS OF FLOYDS KNOBS PLAT 1437

DAI

The undersigned, Donald J. Thieneman, duly elected and authorized officer of Thieneman Group, LLC, being the owner of The Villas of Floyds Knobs, do hereby impose the following restrictions and protective covenants upon each lot within the plat of The Villas of Floyds Knobs, for the mutual benefit of all persons, firm and corporations who may now or hereafter have any vested interest, legal of equitable in a lot within such development.

Donald J. Thieneman, doing business as Thieneman Group, LLC, and/or its officers, are herein referred to as "Developer/s".

## ARTICLE 1 RESTRICTIONS

**1. Primary Use Restrictions.** No lot shall be used except for private residential purposes and except for "home occupations" as such term is strictly construed under the zoning district regulations of Floyd County Indiana Planning and Zoning. No structure shall be erected, placed, altered or permitted to remain on any lot except private residential dwellings and home occupations. All lots shall be developed in accordance with the requirements of the development Geotechnical Report, if any.

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

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

**(a)** Unless approved by Developer in writing, no structure of a temporary character or otherwise including, without limitation, any outbuilding, trailer, tent, shack, garage, barn or structure other than the main residence erected on a lot shall be permitted on any lot except temporary sheds or field offices used by a builder or Developer, which shall be approved in writing by Developer and removed when construction or development is completed, and no such structure shall at any time be used as a residence, temporarily or permanently.

**(b)** No bus, mobile home, motor home, trailer, camper trailer, camping unit, camping vehicle or boat shall be parked or kept on any lot or on any street in The Villas of Floyds Knobs development except within a garage for any period in excess of seven (7) days in any 365-day period (any portion of a day constitutes a day).

**(c)** No vehicle, motorized or otherwise, including but not limited to, those set forth in subsection 1.2(b) above, shall be parked at any time in front of a mailbox or between the hours of 4:00 a.m. and 6:00 p.m. on any street or right-of-way of The Villas of Floyds Knobs development. Further, no such vehicle shall be parked at any time except on a street, in a designated parking space, on a legal driveway or in a garage. Notwithstanding the foregoing, vehicle of residents, of family members, of visitors, or of caregivers or residents shall not be parked overnight except in a garage for greater than 90 days within a 365 day period, unless that time is extended in writing, in advance, by Developer or its assignee at its sole discretion.

(d) No vehicle determined to be objectionable or unsightly by Developer or its successors or assigns, including the Community Association (as defined later in this Declaration), and no vehicle which is inoperable, shall be parked at any time on any street or any portion of a lot except in a garage.

(e) There shall be no habitation of any vehicle parked anywhere in The Villas of Floyds Knobs development.

**1.3. Clothes Lines; Awnings; Fences and Walls; Tennis Courts; Swimming Pools; Antennae and Receivers/Transmitters; Firewood; Mailboxes; Etc.**

(a) No outside clothes lines shall be erected or placed on any lot.

(b) No awnings or other similar exterior window coverings shall be installed on a residence unless approved in writing, in advance of installation, by Developer or its assignee in its sole discretion.

(c) No fence or wall of any nature may be extended toward the front or street side property line beyond the front or side wall of the residence. All fences shall have a 48-inch wide gate to allow power lawn mower access. No fence shall be placed in The Villas of Floyds Knobs development unless the design, placement and materials of any fence have been approved in writing, in advance of construction, by Developer or its assignee in its sole discretion.

(d) No above-ground swimming pools shall be erected or placed on any lot. In-ground swimming pools, water features, hot tubs and spas may be permitted if design and placement thereof are approved in writing, in advance of construction, by Developer or its assignee in its sole discretion.

(e) No antennae nor microwave nor other receiver and transmitter (including those currently called "satellite dishes") shall be erected or placed on any lot unless its size, design and placement are approved in writing, in advance of installation, by Developer or its assignee in its sole discretion.

(f) No exterior play or sports equipment, including without limitation basketball goals, nets and skateboard ramps, shall be located on any lot, unless approved in writing, in advance of installation, by Developer or its assignee in its sole discretion.

(g) No firewood shall be stored in a location that is visible from the front of the lot on which it is stored.

(h) No ornamental yard object, statuary, sculpture or similar items may be placed on any lot unless the design and placement are approved in writing by Developer or its assignee in its sole discretion.

(i) No Christmas decorations may be placed on any lot earlier than Thanksgiving or allowed to remain after January 15 following same Christmas day. Other seasonal decorations may be in place for no more than one week before to one week after the event.

(j) No furniture other than lawn furniture may be placed on any lot and lawn furniture may be placed only in the rear yard of a lot except when being used. Grills may only be placed and used in the rear yard of a lot.

**1.4. Animals.** No animals, including reptiles, livestock or poultry of any kind, shall be raised, bred or kept on any lot for any commercial purposes; provided, however, that dogs, cats or other household pets (meaning the domestic pets traditionally recognized as household pets in the Floyd County area) may be kept, providing they are not kept, bred or maintained for any commercial purposes. All household pets, including dogs and cats, shall at all times be confined to the lot occupied by the owner of such pet; provided however, that household pets may be walked within The Villas of Floyds Knobs development, so long as such animals are leashed and are at all times under the control of a resident. Dog owners shall remove animal waste from the yards of other owners and from streets and Common Areas. The Community Association may impose and collect fines (including collection by legal action and/or by placing a lien on the offending owner's lot and improvements) for violations of this provision.

**1.5. Disposal of Trash.** No lot shall be used or maintained as a dumping ground of rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers. No trash, garbage, recycling materials or other waste shall be kept or allowed to remain outside, except same may be placed in sanitary or other appropriate containers outside after 5:00 p.m. of the evening before any regular trash or garbage or recycling collection day, and the containers shall be removed within a reasonable period after pickup. This restriction does not apply during construction or remodeling of a residence on a lot; provided, the owner or builder shall make provisions to retain rubbish, trash and other materials on the lot and to keep the lot in a reasonably neat and clean condition.

**1.6. Signs.** No sign for advertising or for any other purpose shall be displayed on any lot or on a building or structure on any lot, except one sign for advertising the sale thereof, which sign shall not be greater in area than nine (9) square feet. Notwithstanding the foregoing, Developer and/or a builder or builder approved by Developer shall have the right to (i) erect larger signs when advertising The Villas of Floyds Knobs development, (ii) place signs on lots designating the lot number of any lot, (iii) following the sale of a lot, place signs on such lot indicating it has been sold, and (iv) place larger signs advertising model homes or information centers. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

**1.7. Subdividing Lots.** No Owner of a lot shall subdivide or seek physical partition of any lot, without the prior written consent of the Developer or its assignee in its sole discretion.

**1.8. Model Homes; Sales Offices.** Notwithstanding the primary use restrictions set for in Section 1(Primary Use Restrictions), a new house or houses may be used by a builder as a model home for display or for the builder's own office. Also, until such time as Developer has sold all of the lots in The Villas of Floyds Knobs development, Developer may maintain a sales office and model homes within The Villas of Floyds Knobs development.



**ARTICLE II  
IMPROVEMENTS TO PROPERTY**

**2. Approval of Construction, Fencing and Landscaping Plans.**

(a) No structure may be erected, placed or altered on any lot (except by Developer) until the construction plans and building specifications and a plan consisting of (i) a survey of the lot prepared by a land surveyor, licensed in the State of Indiana; (ii) the location and specifications of all improvements including any building, fence, wall or other structure on the lot; (iii) the grade elevation (including rear, front and side elevations); (iv) the type of exterior materials (including delivery of a sample thereof); (v) the location and size of the driveway; (vi) a landscaping plan; and (vii) such other data as the Developer may request, shall have been approved by Developer or its assignee in its sole discretion. In addition to the foregoing, no structure may be erected, placed or altered on any lot until a plot plan depicting the location of all improvements, setback and easements has been approved by Developer in its sole discretion. In reviewing any proposed structure, Developer shall have the right to take into consideration the suitability of the structure to the site, the harmony thereof with the surroundings, and the effect of the structure on the view from adjacent or neighboring lots. Developer, in its sole discretion, shall have the right to accept or reject construction plans and building specifications solely on the basis of aesthetics.

(b) Without limiting the generality of the foregoing provisions of Section 2(a), it is expressly provided that no lot owner, after initial construction, may alter the exterior appearance of the residence constructed on any lot without approval of Developer or its assignee in its sole discretion.

(c) References to "Developer" in this Declaration shall include any entity, person or association to whom Developer may assign its rights and responsibilities, including these rights of approval. References to "structure" shall include, but not be limited to, any building (including a garage), fence, shed, deck, porch, balcony, wall, antennae, microwave and other receivers and transmitters (including those currently called "satellite dishes"), swimming pool(s), tennis court(s) and mail and paper boxes. If any swimming pool is approved, it shall be fenced in accordance with applicable law and ordinances or in accordance with standards imposed by Developer or the Community Association, whichever is more restrictive.

**2.1. Building Materials, Builder.**

(a) The exterior building material of all structures shall be brick, stone, brick veneer, stone veneer, siding, or a combination of those materials. Developer recognizes that the appearance of other exterior building materials (such as stucco or stucco like materials) may be attractive and innovative and reserves the right to approve in writing the use of other exterior building materials. All such materials must be pre-approved as set forth in Section 2 (a/b/c).

(b) Developer reserves the right of prior approval of each general contractor, contractor, or builder which proposes, or is contracted with, hired or otherwise retained by any owner, to build a residential structure on any lot, which approval must be obtained prior to the commencement of any such construction in The Villas of Floyds Knobs development. Developer reserves the right of prior approval in order to ensure (i) the maintenance of quality

construction with in The Villas of Floyds Knobs development, (ii) that the economic value of other lots and structures within The Villas of Floyds Knobs development will not be impaired by the construction of residential structures not of the comparable quality, and (iii) the maintenance of the aesthetic quality of The Villas of Floyds Knobs development. Developer's approval of any general contractor or builder for any particular lot shall not be considered approval to build on any subsequent lot, nor does the Developer waive any right to disapprove any general contractor or builder on any subsequent lot because of approval on a previous lot. Any approval by Developer of any general contractor, contractor or builder shall in no manner whatsoever serve as a guarantee, warranty or representation of the quality of workmanship by said general contractor, contractor, or builder, or of the ability of said general contractor or builder to fully perform the work for which the owner contracted, nor the owner's satisfaction therewith.

## **2.2. Minimum Floor Areas.**

(a) The ground floor area of any residence shall be a minimum of one thousand five hundred (1500) square feet.

(b) The total floor area of a one-story residence shall be a minimum of one thousand six hundred (1600) square feet.

(c) The total living area of a two-story residence shall be a minimum of one thousand eight hundred (1800) square feet.

(d) The total floor area of any other residence shall be a minimum of one thousand eight hundred (1800) square feet.

(e) Finished basement areas, garages and open porches are not included in computing floor area.

**2.3. Garages, Carports and Driveways.** All lots shall have at least a two-car attached garage unless otherwise approved in writing, in advance of construction, by Developer or its assignee in its sole discretion. No carports are permitted unless otherwise approved in writing, in advance of construction, by Developer or its assignee in its sole discretion.

**2.4. Mail and Paper Boxes.** All mailboxes and paper boxes shall be of a uniform style provided by Developer (at the cost of a lot owner).

**2.5. Drainage; Non-Disturbance of Natural Drains.** Drainage of each lot shall conform to the general drainage plans of Developer for The Villas of Floyds Knobs development. Each lot owner shall ensure that the grading of the owner's lot shall comply with drainage plans. If drainage is blocked or altered by a lot owner, the lot owner shall correct the problem, immediately upon notice from Developer or its assignee, at the owner's expense, or Developer or its assignee may correct the problem and bill the lot owner for the cost to correct the problem.

(a) No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted

to flow into the Sanitary Sewage System. Furthermore all sump pumps, downspouts, and footings drains shall not be connected to sanitary sewers.

## **2.6. Erosion Control.**

(a) Each lot owner, specifically including without limitation a builder intending to construct and sell a home on such lot, shall comply with the erosion control plan filed for the development pursuant to Rule 5 of 325 IAC 15, et seq., pertaining to Storm Water Runoff Associated with Construction Activity. All erosion control measures shall be performed by personnel trained in generally accepted erosion control practices, and shall comply with the design criteria, standards and specifications for the erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas published by the Indiana Department of Natural Resources, Division of Soil and Water Conservation.

(b) Prior to the construction of a single-family residence or any appurtenant structure on each individual lot, it shall be the responsibility of the lot owner, or his assigns, to maintain erosion control on each lot to prevent erosion of earth onto any road, curb improvements, adjoining lot or adjacent property. After the transfer of ownership from the builder to the resident, each individual lot owner shall have a continuing duty to similarly prevent any erosion of earth onto road, curb improvements, adjoining lot or adjacent property. Should any lot owner, or his agents, fail to take any steps deemed as reasonably required to prevent such erosion, the Developer and/or the Association, or any person to which they may assign such rights, may take such actions as they deem reasonably necessary and appropriate to halt or mitigate any such erosion within any such lot. By acceptance of a deed to the lot, each owner acknowledges that it impliedly grants a license to Developer, its agents or assigns, to enter the lot at any and all reasonable times for purposes of taking such actions. Promptly after receipt of written demand, the lot owner shall reimburse the Developer or other performing parties for all expenses incurred in effecting such actions, including any reasonable attorney's fees incurred in effecting such actions or collecting such costs. Developer shall have lien rights with respect to any such costs not paid by the lot owner within thirty (30) days after written demand.

(c) Drainage of each lot shall conform to the engineered general drainage plans prepared by Developer's engineer, Paul Primavera & Associates, Inc. Under no circumstances shall a drainage ditch be filled, altered or piped without the prior written consent of Developer's engineer. All storm water runoff, downspout drain lines, and sump pump lines shall be directed to the drainage collection ditch shown on the recorded plat of the subdivision and approved by the Developer unless an alternative discharge point is approved in writing by Developer or its engineer.

(d) Surface drainage easements and common areas used for drainage purposes as shown on the recorded plat of the development are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface across which such runoff is intended to flow shall be maintained in any unobstructed condition, with Floyd County Surveyor, Floyd County Engineer, or other appropriate public authority having jurisdiction over storm water drainage, shall have the right to determine whether or not an inappropriate obstruction exists, and to repair and maintain, or require such repair or

maintenance by the affected lot owner, as such authority determines as reasonably necessary to keep such runoff conductors in an unobstructed condition.

(e) The lot owner shall request inspection and approval by Developer of the finish grading on each lot prior to it being seeded or sodded, and the grant or denial of such approval shall be subject to Developer's sole reasonable discretion. Developer shall further have the authority to offset any costs incurred in halting or mitigating erosion control problems on any lot as identified by Developer in its sole discretion.

**2.7. Yards.** All yards shall be graded and sodded upon completion of construction of a residence. All finished grades must be in accordance with construction plans, approved by Developer.

**2.8. Utilities.** Each lot owner's electric service lines shall be underground throughout the length of service line from Harrison County REMC's point of delivery to customer building; and title to the service lines shall remain in and the cost of installation and maintenance thereof shall be born by the respective lot owner upon which said service line is located. Appropriate easements are hereby dedicated and reserved to each property owner, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain utility service. Electric service lines, as installed, shall determine the exact location of said easements. The electric and telephone 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 or lot owner without the express written consent of Harrison County REMC and any applicable telephone and other telecommunication provider, and their respective successors and assigns.

(a) All utility meters must be located on the side of the home

(b) Easements for overhead transmission and distribution feeder lines, poles and equipment appropriate in connection therewith are reserved over, across and under all spaces outlined by dashed lines and designated for underground and overhead facilities. Aboveground electric transformers and pedestals may be installed at appropriate points in any electric easement. In consideration of bringing service to the property, Harrison County REMC is granted the right to make further extensions of its lines from all overhead and underground distribution lines.

(c) The electric and telephone and telecommunication easements hereby dedicated and reserved to each lot owner, as shown on the recorded plat of the development, shall include easements for the installation, operation and maintenance of cable television service to the lot owners, including the overhead and/or underground installation and service of coaxial cables, cable drop wires, converters, home terminal units and other necessary or appropriate equipment, as well as easements for the installation, operation and maintenance of future communication, telecommunication and energy transmission media.

(d) To the extent any electric lines, telecommunication lines, water, sanitary sewer or drainage facilities serving a lot cross lot lines and are not in easements shown on the recorded plat, each lot owner serviced by such a line and the Community Association shall have an easement for the purpose of access to such facilities and for maintaining such facilities wherever

located. In exercising this easement right, every lot owner shall take care to minimize the disruption to or disturbance of another lot and the Common Area and shall, at the sole cost of the lot owner or Association exercising access and maintenance rights, repair any damage caused to other property and restore any disturbed property to the condition that existed prior to exercise of these easement rights to the extent reasonably possible.

**2.9. Enforcement.** Upon a lot owner's failure to abide by or comply with the provisions of this Article II, Developer or its assignee may take such action as necessary to enforce a lot owner's obligations and compliance therewith. A lot owner shall immediately, upon demand, reimburse Developer or, at Developer's direction, other performing party, for all expenses incurred in so doing, together with allowable statutory interest. Developer shall have a lien on the lot and the improvements thereof to secure repayment of such amounts. Such lien may be enforced in the same manner and with the same priority that the lien for annual and special assessments may be enforced. Enforcement of these restrictions shall be proceeding at law or in equity, brought by any owner of lot or other real property in The Villas of Floyds Knobs development, or by the Developer, against any party violating, or attempting to violate, any covenant or restriction to either restrain violation, to direct restoration, or to recover damages. In the event that any building construction is done in violation of the plans, specifications, or material approvals by the Developer or its assigns, then the building contractor and lot owner(s) shall be jointly and severally liable to the Developer for an enforcement fee of \$2,500.00 in addition to injunctive relief, damages and expenses of litigation, including reasonable attorney's fees. Such fee is payable within thirty (30) days of written notice. Floyd County Planning and Zoning Commission shall have enforcement authority over covenants or restrictions required by the ordinance of the plan commission during preliminary approval.

**2.10. Obligation to Construct or Re-convey.** Each lot owner shall, within three (3) 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 Section II, upon each lot conveyed; provided, however, that should said construction not commence within the specified period of time, and/or if the lot owner has not complied with all of the restrictions herein or from this time forth does not comply with such restrictions as provided, then the Developer may elect to repurchase any and all lots on which construction has not commenced for eighty percent (80%) of the original purchase price of said lot or lots hereunder, in which event the lot owner shall immediately re-convey and deliver possession of said lot or lots to the Developer by warranty deed. Failure of the Developer to elect to repurchase any lot on which construction has not timely commenced under the terms of this provision shall not be deemed a waiver of the Developer's right to elect to repurchase in the future any or all of such lots on which construction has not timely commenced.

**2.11. 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 twenty five (25) years from the date this document is first recorded, after which time such covenants shall automatically be extended for successive periods of ten (10) years, unless an agreement in writing changing or releasing said Covenants and Restrictions, in whole or in part, and signed by the then owners of not less than fifty one percent (51%) of said tract by area, exclusive of dedicated roadways, has been recorded in the Recorder's Office of Floyd County, Indiana. Failure of any owner to demand or insist

upon observance of any of these restrictions, or to proceed for restraint of violation of any of these restrictions, shall not be deemed a waiver of the violation, or the right to see enforcement of these restrictions.

**2.12. Reservation by Developer to Alter or Amend Restrictions and Protective Covenants.** The Developer, its successors and assigns, reserves the right to alter or amend these restrictions and protective covenants during the development period of the development. For purposes of this section, the development period shall be from the date that these restrictions and protective covenants are executed by the Developer and until the last lot within the development is conveyed to a third party.

**2.13. Adjoining Property**  
The adjoining properties may be zoned agricultural or commercial.

**2.14. Invalidation**  
Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

**2.15. Maintenance Fee.** A Monthly maintenance fee will be charged to each lot owner. This fee is in addition to the \$250.00 per year Community Association fee. This fee is detailed in an additional contract that will be signed by the buyer at the time of purchase.

**2.16. Adjacent Homes.** Developers, Builder and adjacent Homeowners have the right to access adjoining homeowner's property to do maintenance and general upkeep on their home and property.

**2.17. Remonstrations.** Developer reserves the right to develop adjacent properties. Each lot owner agrees not to remonstrate against any future development as long as Developer follows Floyd County zoning.

### ARTICLE III COMMON AREAS

**3. Maintenance and Ownership of Common Facilities and Open Space.** As evidenced by the acceptance of a Deed, Contract or other means of transfer, for a lot in development, each owner covenants and agrees to pay annually a prorata share of the cost of maintenance of all associated common areas, both present and future, which may be constructed in the development. The assessment for the common areas shall be made and determined initially by the Developer, and subsequently said assessment determination may be assigned to the Community Association as contemplated under these covenant and restrictions. Failure to pay the annual assessment by each lot owner shall operate as lien against the real estate, and also each lot 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.

**3.1. THE VILLAS OF FLOYDS KNOBS COMMUNITY ASSOCIATION (herein referred to as the "Association").**

(a) Any common facilities or open space areas designated on the development plat shall remain undivided. Ownership of open space may be by an undivided interest of each lot owner, by the community association.

(b) The protective covenants for the development shall specifically assign to the lot owner's community association (Article 3.1) the obligation for the maintenance, repair and/or replacement of all sidewalks and trails within the development; shall require that liability insurance be procured and maintained, with a minimum single limit of \$1,000,000.00, for death, personal injury or property damage resulting from a failure to so maintain, repair or replace same; shall require that the association levy and impose upon each lot owner an annual fee sufficient to defray the costs and expenses associated with the obligations to be assigned pursuant to this subsection; and, if the sidewalks or trails or any part or portion thereof and to be located in the right of way of any public street or way, said covenants shall provide that the same are enforceable by the commission of behalf of Floyd County.

(c) The Association shall be responsible for all taxes on any and all common areas. The Association shall procure and maintain adequate resources to manage the common facilities, maintain its property in good condition, and handle the financial and business affairs of the Association.

(d) The Association shall prepare an annual report and provide a copy of the report to the lot owners upon written request.

#### **ARTICLE IV COMMUNITY ASSOCIATION**

##### **4. Membership and Voting Rights.**

(a) An association of lot owners to be known as the "Villas of Floyds Knobs Community Association" (the "Association") shall be incorporated as an Indiana not-for-profit corporation by the Developer within sixty (60) days after the first lot is sold to an unaffiliated or unrelated third party.

(b) Every owner of a lot in The Villas of Floyds Knobs 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.

(c) The Association shall have one class of voting membership: when more than one person owns an interest in any 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 nor shall more than one 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 any

interest in such lot, if any such members are not in agreement, the vote of such lot which is questioned shall not be counted.

(d) The owner of any lot within the Development, by acceptance of a Deed to any such lot, whether or not it shall be expressed in such Deed, is deemed to covenant to agree to pay to the Association an assessment in the initial sum of \$250.00 per lot beginning in the year of the first conveyance by the Developer to any person, firm or corporation. Thereafter the annual assessment shall be due on the 1<sup>st</sup> day of January of each year after such initial conveyance is made. The annual assessment, together with interest, cost and reasonable attorney's fees shall be charge on the land and shall be a continuing lien upon the property on which such assessment is made. Each assessment together with the interest, cost and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such property at the time the assessment was due. The personal obligations for delinquent assessment shall not pass to his successors in title unless expressly assumed by them in the "Deed of such lot".

(e) The purpose of the assessments levied by the Association shall be exclusively to promote the recreation, health, safety and welfare of the residents of the development and for the improvements and maintenance of the Common Areas, including; the development entrance or entrances and landscaping islands in the roadways of the entrance(s) and cul-de-sacs. The Association will also be responsible for any taxes or assessments imposed upon the common grounds. In addition, The Villas of Floyds Knobs Community Association shall also be required to carry liability insurance on common areas and indemnify individual lot owners.

(f) The Community Association, by vote of the majority of the members of said Association, may increase or decrease the annual assessment.

(g) *Effect of nonpayment of assessments:* Remedies of the Association: any assessments not paid within thirty (30) days after the due date shall be charged interest from the due date at the rate of fifteen percent (15%) per annum. The Association may bring an action of law against the owners primarily to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of such lot.

(h) *Subordination of the lien 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 of any proceedings in lieu thereof shall extinguish the lien of such assessments 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.

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

(j) The Developer shall call the first meeting of the Community session by giving thirty (30) day written notice to all members. Such meeting shall be held not later than the sale



of the last villa within the development to a third party not affiliated or related to Developer in any manner.

(k) *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 and not more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of the members or all proxies entitled to cast sixty percent (60%) 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 requirement. A required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. A majority vote of the quorum shall be required to take any action.

(l) *Directors and incorporation:* The Association may take the action of appointing a Board of Directors that act on behalf of the Association, and set for the by-laws to guide the Association and/or its Directors.

(m) *Owners' easement and right 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 provision: The right of the Association to dedicate or transfer a Common Area shall not be effective unless an instrument of agreement to such dedication or transfer is signed by two-thirds (2/3) of the members and has been recorded.

IN WITNESS WHEREOF, Thieneman Group LLC, by its duly authorized member, has subscribed its name this 13<sup>th</sup> day of Jan, 2016.

**THIENEMAN GROUP, LLC**

By: *Donald J. Thieneman*  
Donald J. Thieneman

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF FLOYD        )

Before me, a Notary Public in and for said County and State, personally appeared Donald J. Thieneman, as the duly authorized member of **THIENEMAN GROUP, LLC**, an Indiana limited liability company, each of whom acknowledged the execution of the foregoing Restrictions and Protective Covenants for The Villas of Floyds Knobs on behalf of such company as its free and voluntary act and deed for the uses and purposes expressed therein.

WITNESS my hand and Notarial seal this 13<sup>th</sup> day of Jan, 2016.

My Commission Expires:  
April 13, 2016

*Melanie P. Prior*  
Notary Public

Resident of Floyd County, IN

Melanie P. Prior  
Printed Signature

**I AFFIRM, UNDER THE PENALTIES FOR PERJURY,  
THAT I HAVE TAKEN REASONABLE CARE TO REDACT  
EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT,  
UNLESS REQUIRED BY LAW.**  
NAME *Donald J. Thieneman*

**DOCUMENT PREPARED BY:**  
NAME- Donald J. Thieneman