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Indianapolis Downtown—Corporate  
251 E. Ohio Street, Suite 200  
Indianapolis, IN 46204  
Telephone (317) 684-7556

## Subdivision Covenants and Restrictions

The information is provided as a public service only. The information on this site is general in nature, unofficial and is not a valid reference for any legal purposes. The user agrees to hold harmless, protect, indemnify, and forever release First American Title Insurance Company and its officers, directors, agents, and employees, from and against any and all liabilities, losses, damage, expenses and charges, including but not limited to attorneys' fees and expenses of litigation, which may be sustained or incurred by the user under, or arising directly or indirectly out of the use of the information contained in this site.

the Indiana Drainage Code, and so that said Board may exercise other powers and duties as provided for in said code. This subdivision contains 1,068 linear feet of storm drains, 4,945 linear feet of subsurface drains, 1,920 linear feet of open ditches, and 405 linear feet of Parsons Creek.

### RESTRICTIVE COVENANTS

Timber Bend, Inc., does, by this indenture, and by those restrictive covenants and requirements entered for record in Miscellaneous Record \_\_\_\_\_, page \_\_\_\_\_, in said Recorder's office, restrict and covenant the lots and other areas within the boundary of Timber Bend, Section 2, to itself and its grantees, assigns, successors, legal representatives, and to any person, persons, corporations, banks, and associations and/or anyone who may acquire title to any of said lots or other areas, as to the following terms, stipulations, conditions, restrictions, and covenants which shall apply in their entirety to all of said subdivision:

**1. DEFINITIONS.** "Developer" shall mean Timber Bend, Inc. "Owner" shall mean the person or collection of persons who has or have acquired or is acquiring any right, title, or interest, legal or equitable, in and to a lot in this subdivision, but excluding those persons having such interest merely as security for the performance of an obligation.

"Committee" shall mean the Architectural and Environmental Control Committee composed of the officers and directors of Timber Bend, Inc., or their duly authorized representatives, all of whom shall serve without compensation for services performed as committee members. In the event Timber Bend, Inc., is dissolved, the then existing committee members shall appoint an owner to take said member's position on the committee. Upon the death or resignation of any member of said committee, the remaining member or members shall have full authority to perform the duties of the committee, or to designate a representative with like authority, who must be an owner.

"Flood Protection Grade" means the elevation of the lowest point in a building at which flood waters may enter the interior of the building.

"Lowest Point in a Building" means (1) the lowest floor elevation (if a basement exists, the basement floor is the lowest floor); (2) the garage floor if the garage is the lowest level of the building; or (3) the floor level of any enclosure below an elevated building where the walls of the enclosure provide resistance to the flow of flood waters.

**2. LAND USE.** All lots are restricted to residential use. See Section numbered 21 below. The subdivision of a lot is prohibited unless said division creates two building sites on three adjoining lots, which building sites comply with the Hendricks County zoning and subdivision regulations and with these covenants. Where a lot is subdivided, or where an owner acquires adjoining lots for the purpose of building one residence across the common lot line, the side lot line set back restrictions specified

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(Seal)

PURSUANT to IC 36-7-4-700 et seq., and all amendments thereof, the undersigned do hereby certify that the public notice of the hearing by the Hendricks County Plan Commission on the application by Timber Bend, Inc., for approval of this plat duly complied with IC 36-7-4-706 and all amendments thereof, and that said plat was approved at said hearing with a majority of the members of said Commission concurring in said approval.

Given under our hands and seal this 12TH day of OCTOBER, 1992.

C. Richard Whicker  
C. Richard Whicker, President

Robert E. Jarzen  
Robert E. Jarzen, Secretary



# END, SECTION 2

hereinabove and in Section numbered 5 below shall not apply to said common lot line. Construction of buildings across drainage easements and utility easements that coincide with lot lines is prohibited.

**3. RESIDENCE SIZE.** No residence shall be erected, altered, placed, or permitted to remain on any lot other than one single-family residence three stories or less in height. Residences on all lots shall have, at a minimum, attached two-car garages. The ground floor area of the main structure of any one-story residence, excluding garages and porches, shall be not less than 2,000 square feet. The ground floor area of the main structure of any multiple-story residence, excluding garages and porches, shall be not less than 1,100 square feet, with no less than a total of 2,200 square feet of finished floor space in such multiple-story structure. A residence with a "bonus room" on a second story level will be treated as a multiple-story residence and shall meet all the above requirements for multiple-story residences.

**4. ACCESSORY BUILDINGS.** A utility building, barn, or other accessory building will not be allowed on any lot, except one gazebo type structure and/or one in-ground pool accessory building/bath house. Said accessory building/bath house must be erected as a part of and in conjunction with a privacy fence surrounding an in-ground pool as provided for in Section numbered 25 below. Before commencement of its construction, any building allowed by this Section numbered 4 must be approved as to location and design by the committee as described in Section numbered 7 below.

**5. BUILDING SETBACK DISTANCES.** Between the front lot lines and the building lines shown on this plat, no buildings shall be erected, placed, altered, or be permitted to remain, nor shall any building be erected nearer than 15 feet to any side line of a lot on one side, and the total of both side setbacks shall be not less than 20 percent of the lot width, measured at the building line. Architectural appurtenances projecting not more than 24 inches, stairways projecting not more than 4 feet, unenclosed and unroofed porch slabs on the front sides of buildings, steps, and walks are exempt from these setback requirements.

**6. OCCUPANCY OF STRUCTURES.** No residence shall be occupied or used for residential purposes or human habitation until it has been fully completed upon the outside and substantially completed on the inside, and a Certificate of Occupancy has been issued therefor by Hendricks County. The use of any other structure or mobile home as a residence, either temporarily or permanently, is prohibited.

**7. ARCHITECTURAL DESIGN.** No building, wall, fence, or other structure shall be constructed, erected, placed, or altered in this subdivision until the location plan, building plans, and specifications have been first submitted to, and approved by, the committee as to harmony with the exterior design, quality, and aesthetic appearance of structures already built, and as to conformity with grading plans, exterior architectural elevations, first floor height above sea level as specified in the accompanying Table of Elevations, destruction of trees and other vegetation, and any other such matter as may affect the environment or ecology of the subdivision. The committee's approval or disapproval as required in these covenants shall be in writing. If the committee, or its appointed representative, fails to approve or disapprove any plans and specifications within fifteen (15) days after such plans and specifications are submitted to it or, in any event, if no suit to enjoin the construction has commenced before the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

**8. IMPROVEMENT LOCATION PERMIT.** In addition to the approval required in Section numbered 7 above, Hendricks County must issue an Improvement Location Permit before any structure, improvement, or land use may be altered, changed, placed, erected, or located in this subdivision. The Hendricks County Plan Commission has approved a soil and water conservation plan (erosion control plan) and a development plan showing house locations and first floor elevations, with slopes for positive surface drainage therefrom. Prior to house construction, each owner is obligated to inspect his lot to

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placed by the owner no more often than two days twice each year, a single sign placed by an owner to advertise the property for sale or rent or to prohibit hunting or trapping. No sign shall exceed nine (9) square feet in size.

**14. HUNTING AND TRAPPING** are prohibited in this subdivision.

**15. SIGHT DISTANCES.** At driveways no one may place, construct, plant, maintain, allow, or suffer any improvements, landscaping, or other obstructions to vision (excepting mailboxes) between 2 and 8 feet above the finished grade with the purpose that at least 150 feet of sight distance will be provided in both directions along streets from points in the driveways 25 feet from the street curb. Where the committee determines that this rule for a driveway is impracticable or unreasonable, it may allow an alternative that offers the least hazard and interference with traffic.

**16. ANIMALS.** No one shall keep or maintain animals or poultry in this subdivision except no more than two household pets such as cats and dogs, but no pet shall be kept, bred, or maintained for commercial purposes. Household pets shall be kept quiet so as not to disturb the peace and tranquility of the neighborhood. Should an animal be walked by leash, any debris or animal waste resulting therefrom shall be cleaned up, removed, and disposed of by the owner of said animal.

**17. VEHICLE PARKING.** No trucks larger than pickup trucks, disabled vehicles, unused vehicles, campers, motor homes, trailers, recreational vehicles, boats, motorcycles, or similar vehicles shall be parked or repaired on any road, street, private driveway, or lot in this subdivision unless it is screened in such a way that it is not visible to the occupants of the other lots in the subdivision. No vehicle of any kind shall park on any road in this subdivision excepting for a reasonable length of time. The committee shall determine what constitutes adequate screening and reasonable length of time.

**18. LANDSCAPING.** The lot owner shall modify his lot for human use and enjoyment by grading and decorative planting within sixty (60) days following completion of a house thereon, weather permitting.

**19. MAINTENANCE OF LOTS AND IMPROVEMENTS.** Each lot owner shall maintain his lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state of repair. Garbage, trash, and other wastes shall be kept in odorless and sanitary containers which shall be emptied weekly by a refuse collection service. At least twice during each of the months of April through September, lot owners or their designated representatives shall mow their lots, whether or not improved.

**20. NUISANCES.** No one shall carry out, or allow to be carried out, any noxious or offensive activity on any lot, nor shall anything be done or allowed to be done thereon which may become or be an annoyance or nuisance to the neighborhood.

**21. BUSINESSES.** No mercantile building shall exist, nor shall any manufacturing, wholesaling, retailing business, church, or school operate in this subdivision. Day-care and preschool facilities for no more than six (6) children twelve (12) years or younger are permitted.

**22. DEDICATED EASEMENTS.** Each owner of a lot in this subdivision will take his title subject to the rights of utility companies, the developer, Hendricks County, the committee, and the other lot owners in those certain strips or areas of ground designated "utility easement," and "drainage easement" that are reserved hereinabove. No permanent or other structures may occupy said easements excepting fences and the facilities for which the easements are reserved hereinabove. Fences erected

insure that the developer's drainage facilities will remove all free water from the surface of the lot. He shall report at once to the developer any deficiencies found. The owner shall develop his lot in a way that assures that finished slopes, grades, and erosion control measures comply with said soil, water, and development plans after completion of all improvements and landscaping. See Section numbered 23 below. Said plans may be inspected in the office of said commission during regular office hours. Deviations from those plans require prior commission approval and may necessitate a site reevaluation and redesign by a Registered Professional Engineer or Registered Land Surveyor at the time of improvement location permit and certificate of occupancy application, which engineer or surveyor shall certify positive surface drainage and that wastewater will gravity flow from the first floor of the residence to a sanitary sewer. In the improvement of any lot the owner thereof will be accountable to the developer and the Hendricks County Drainage Board for damages done by him or his contractors to drainage facilities built by the developer. In the event of such damages, the owner will be given 10 days notice by certified or registered mail to repair said damage, after which time, if no action is taken by the owner, the committee may use the procedure described in Section numbered 37 below.

The Table of Elevations appearing on said development plan and on the annexed plat, shows, for each lot, first floor elevations for houses if constructed at the locations shown on said development plan. Because of the proximity of lots 37, 38, 39, and 40 to the floodway and floodway fringe of Parsons Creek, the table also specifies for each of said lots a flood protection grade. Any house to be constructed (with prior Plan Commission approval) on the 100-year floodway fringe shall have as its first floor elevation the flood protection grade given in said table. Section numbered 1 above defines the lowest floor of a building and the flood protection grade. *The entrance of ground water into basements shall be prevented by special designs and construction.* See also Section numbered 27 below.

**9. WATER SUPPLY SYSTEMS.** The central water supply system of the Indianapolis Water Company in lieu of individual water wells shall be used in this subdivision. The Hendricks County Plan Commission is hereby granted right of enforcement of this covenant.

**10. FENCES** require committee approval before erection as provided in Section numbered 7 above. No fence shall be placed on any lot or boundary thereof that will obstruct reasonable light, air, or view, or will otherwise hinder or damage the aesthetics of the subdivision. Fences erected in the front yards of residences shall be open wood fences of a decorative type not exceeding four (4) feet in height. Galvanized and vinyl-coated chain link type fencing is prohibited. Swimming pools shall be properly fenced to protect the safety of others as required by Section numbered 25 below. Fences in easements are erected at owners' risk as such fences may be partially or completely torn down by others if they interfere with the installation, operation, and/or maintenance of the facilities for which the easements have been reserved.

**11. CONSTRUCTION TIME.** Unless delayed by court injunction, war, or an act of God, any residence, fence, water line, sewer, ditch, or any structure on any lot, once approved and under construction, must be completed one (1) year from the date construction starts, after which time the committee may, without notice, enter, take possession of said lot and sell the same together with improvements, and after payment of liens and expenses, pay the balance of the sale proceeds to the owner of the lot at the time of sale.

**12. STORAGE TANKS.** Oil or gasoline storage tanks shall comply with the laws, rules, and regulations of the Indiana State Fire Marshall, the Environmental Protection Agency, and all other relevant governmental bodies.

**13. SIGNS.** This section does not apply to any sign or signs that may be erected on the entrance easement by the developer in favor of the committee. The only signs that may be erected by lot owners in this subdivision are: Those required by law, a single sign placed by a builder or financial institution to advertise a property during the construction and sales period, a single yard sale or garage sale sign

placed by the owner to advertise the project. No sign shall be larger than ten square feet in size.

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**15. SIGNS** shall be placed on any lot or boundary thereof that will obstruct reasonable light, air, or view, or will otherwise hinder or damage the aesthetics of the subdivision. Where the committee shall allow an alternate

**16. ANIMALS**

more than two horses shall be kept on any lot for commercial purposes. The number of animals of the neighborhood shall be

**17. VEHICLES**

vehicles, campers shall be parked on any lot or boundary thereof that will obstruct reasonable light, air, or view, or will otherwise hinder or damage the aesthetics of the subdivision. The committee shall

**18. LANDSCAPING**

grading and decorating shall be permitted.

**19. MAINTENANCE**

lot and any improvements shall be maintained in a neat and attractive condition. Rubbish, dead trees, and other items shall be removed from the lot and the aesthetic appearance of the subdivision shall be maintained. The committee shall be empowered to require the owner to improve the lot through September

**20. NUISANCE**

activity on any lot or boundary thereof that will constitute a nuisance or

**21. BUSINESS**

retailing business shall be conducted on any lot or boundary thereof that will constitute a nuisance or

**22. DEDICATION**

subject to the right of the committee to require the owner to dedicate the lot owners in the subdivision to the use of the easement" that are not excepting fences



(Seal)

PURSUANT to IC 36-7-4-700 et seq., and all amendments thereof, the undersigned do hereby certify that the public notice of the hearing by the Hendricks County Plan Commission on the application by Timber Bend, Inc., for approval of this plat duly complied with IC 36-7-4-706 and all amendments thereof, and that said plat was approved at said hearing with a majority of the members of said Commission concurring in said approval.

Given under our hands and seal this 12TH day of OCTOBER, 1992.

*C. Richard Whicker*  
C. Richard Whicker, President

*Robert E. Jarzen*  
Robert E. Jarzen, Secretary



# END, SECTION 2

successors, who shall have the right to require correction of any defects discovered.

**31. SIDEWALKS.** Each initial lot owner taking his title from the developer, by acceptance of a deed for his lot, even if not expressed in said deed, is deemed to covenant and agree to build (at the time of construction of the residence) and maintain in good condition a concrete sidewalk at the sides of all streets upon which his lot abuts, excepting that sidewalks are not required to be constructed along County Road 625 East or along Common Private Access Parcel No. 2. Sidewalks shall be constructed within two (2) years of the date of said deed if no residence is erected on the lot or prior to the conveyance of title to another party, whichever first occurs. Said walks shall conform with the lines and grades established by the committee. Each said owner shall be responsible for grading and finishing yard slopes, erosion control, and decorative landscaping as required by the committee for sidewalk construction. Said walks shall conform with the development plans for the subdivision on file in the office of the Hendricks County Plan Commission and shall be placed on a 4-inch aggregate subbase. The owner of Lot 44 shall construct a walk that connects with the back of the south curb of Common Private Access Parcel No. 2.

**32. STAKING.** Timber Bend, Inc., will set lot corner stakes one time. Wherever possible to be driven, corner stakes will consist of 3/4-inch metal pipes about 30 inches long set so as to leave about one or more inches of pipe protruding above ground unless a different monument appears on the recorded plat. Said stakes will not only furnish a means for determining lot boundaries, but may aid in the location and orientation of improvements to be constructed on the lots. Lot owners shall have charge and care of stakes marking their respective lots and shall be responsible for their preservation. Lot owners may hire said corporation to replace stakes damaged or destroyed from any cause, or may engage any registered land surveyor to perform that work. Since such restoration will be at the lot owner's expense, said owners should become familiar with stake locations and do all things necessary to maintain and protect them. Laths, with or without flagging, driven beside metal pipe stakes do not constitute corner stakes but serve only to signalize and identify corner stakes.

Accidental displacement of stakes and laths during the construction of public and private improvements, and intentional displacement due to vandalism, may cause conflicts between plat locations and staked locations of lot corners and lines. Neither Timber Bend, Inc., nor its engineers or surveyors express or imply any warranty with regard to the correctness of disturbed stakes. Therefore, lot owners and their independent contractors, including their engineers and surveyors, together with utility companies who may install facilities according to stakes in place, shall recognize and act not only by the actual notice on the ground to which they are exposed, but also by the constructive notice afforded by the recorded plat of the subdivision. Before starting any excavation, building, or other improvement, they shall be responsible for comparing all linear and angular measurements between corner stakes found at the site with such dimension shown on said recorded plat. They shall correct at once any discrepancies discovered in the stakes.

**33. MUD CONTROL.** Prior to, during, or after construction of any improvements on any lot, the owner of said lot or his agents shall construct a driveway or similar graveled or other improved surface on said lot for the delivery of supplies that will discourage or hinder the tracking of mud or other debris from the lot upon public streets. To further prevent vehicles from distributing mud or other debris on the public streets or any area of Timber Bend, said owner or his agent shall line the lot side of any curb adjoining that lot with bales of straw, appropriate fencing, or erect any other barrier to block vehicles leaving the lot excepting at the driveway or other appropriately-surfaced area. Should mud or other debris be distributed on any public street or other area of Timber Bend, as a result of any activity on any lot, the owner of that lot shall be responsible for the removal of that mud or other material on the date of its placement. The committee may enforce this provision by any mechanism or procedure described in Section numbered 37 below. The owner further holds Timber Bend, Inc., its agents, engineers, contractors, and Hendricks County, Indiana, harmless from any liability that might result from violation of or failure to conform with this or any other section of these restrictive covenants.

# TIMBER BEND,

on easements may be removed by easement holders (at the owner's expense) if necessary to the proper operation and maintenance of the facilities for which the easements are reserved. No facility shall occupy any easement in a position that will obstruct a property line or corner.

**23. LOT GRADING.** Lots shall be graded so as not to restrict the surface water runoff or cause ponding or stoppage of said runoff over any lot in this subdivision. See Sections numbered 8 and 18 above.

**24. DRIVEWAYS AND ACCESS RIGHTS.** Residential driveways shall be constructed of portland cement concrete, asphalt, or other hard-surface materials; however, driveways between the backs of curbs and street boundaries, as well as sidewalks, shall be constructed only of portland cement concrete. Pavement shall be a minimum of four (4) inches thick excluding subbase material. For the purposes of establishing a limited access facility, all rights and easements of direct ingress and egress to, from, and across County Road 625 East to and from Lots 82, 83, 84, and 85 are hereby permanently extinguished; however, the owners of said lots and their successors in title shall have access rights to and from Scarlet Oak Drive. This access control covenant shall run with the land and shall be binding on all successors in title to said lots.

**25. SWIMMING POOLS.** No swimming pools, where the water level is either partially or completely above natural ground level, shall be permitted. Any in-ground swimming pool shall be properly fenced to protect the safety of others. Before erection, such fence shall receive committee approval as required by Section numbered 10 above.

**26. CRAWL SPACE, BASEMENT, AND FOUNDATION DRAINS.** No crawl spaces, basements, eaves troughs, gutters, downspouts, or foundation perimeter drains shall be constructed to discharge water onto a street. Crawl space drains, foundation drains, and basement drains intercepting and carrying only excess ground water may connect to subsurface drains already in place for that purpose. Should any such subsurface drain become blocked, partially blocked, or damaged with resulting damage to another lot owner and/or to the drainage system of any street, the owner causing said blocking and/or damage shall be liable for all damages to the injured party or parties, the developer, or Hendricks County, and shall hold all contractors, engineers, developers, other lot owners, and said county harmless from liability therefrom.

**27. BASEMENTS** are allowed on all lots in this subdivision but pump ejector systems for withdrawing wastewater from basement facilities, as well as other pumps for foundation drains, may be required. For regulations regarding basement floor elevations on certain lots, see Section numbered 8 above.

**28. PROSCRIBED AND OTHER IMPROVEMENTS.** No improvements of any kind shall be permitted in a dedicated street right of way excepting erosion control, driveway entrances, sidewalks, landscaping, and mailboxes. No free-standing antennas or roof-top antennas shall be allowed in this subdivision. Satellite dishes or receivers shall be allowed only behind residences, and then only if approved beforehand in each instance by the Committee as to location and design.

**29. SANITARY SEWER CONNECTION.** Private sewage disposal systems are prohibited in this subdivision. Every lateral connecting between a residence and a public or semipublic sanitary sewer shall contain a check valve to prevent backflow. The installation and perpetual maintenance of such laterals and check valves is the responsibility of the lot owners.

**30. UTILITIES CONNECTION INSPECTION.** All materials and workmanship in the installation of connections between residences and utility facilities shall be subject to access and inspection by the utility companies having jurisdiction, or by their duly authorized representatives or

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PURSUANT to IC 36-7-4-700 et seq., and all amendments thereof, the undersigned do hereby certify that the public notice of the hearing by the Hendricks County Plan Commission on the application by Timber Bend, Inc., for approval of this plat duly complied with IC 36-7-4-706 and all amendments thereof, and that said plat was approved at said hearing with a majority of the members of said Commission concurring in said approval.

Given under our hands and seal this 22<sup>TH</sup> day of OCTOBER, 1997.

  
C. Richard Whicker, President

  
Robert E. Jarzen, Secretary



# TIMBER BEND, IN

**34. MAILBOXES.** Timber Bend, Inc., will furnish specifications for a mailbox with post assembly. The owner or his contractor shall purchase and install said mailbox at the owner's expense. No other type of mailbox or mailbox post shall be erected or be permitted to remain at any lot unless approved beforehand by the Committee.

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**35. INLET AND CATCH BASIN CASTINGS, CLEANING OF.** The Hendricks County Highway Department may keep castings of inlets and catch basins free of silt, debris, and the accumulation of any other foreign matter to facilitate storm water removal from streets and other areas. However, if any such casting ponds water because said county has not cleaned it, it shall be the duty of the owner or owners whose lots contribute storm water to said inlet or catch basin, to clean said casting and properly dispose of any obstructing debris. Lot owners failing to clean said castings shall be solely liable for damages that may result.

**39. SEVERE WEATHER.** shall not affect any

The undersigned certifies that he is in proper resolution to

In Witness Whereof, I, the undersigned, have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

**36. FOUNDATIONS AND SLABS ON GRADE.** All building foundations and floor slabs shall be placed on suitable soil. At the time of slab placement and excavation for the foundations, careful observation of the subgrade shall be made by a qualified professional. Any soils containing deleterious materials shall either be removed and replaced with engineered fill or the foundations shall be lowered to competent soil.

**37. ENFORCEMENT.** If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any lot or lots in this subdivision to prosecute by any proceeding at law or equity the person or persons violating or attempting to violate any such covenant, and either prevent him or them from so doing or to recover damages or other dues for such violation. A violation of any restriction herein will not result in reversion or forfeiture of title. If any owner of a lot in this subdivision shall fail to maintain his lot and/or any improvements situated thereon, or to keep sight distances clear, or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said lot and repair, mow, clean, or perform such other acts as may be reasonably necessary to make said lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The committee shall collect its cost thereof in any reasonable manner from the owner. Neither the committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any amount so assessed against any lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that lot subordinate only to the lien of a first mortgage previously recorded until paid in full, and shall also be a personal obligation of the owner or owners of that lot. Such charge shall bear interest at the rate of 18% per annum until paid in full. If, in the opinion of the committee, such charge has remained due and payable for an unreasonably long period of time, the committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing, in any court of competent jurisdiction. The owner of the lot or lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every owner of a lot in this subdivision, and any person who may acquire any interest in such lot, whether as an owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an owner of a lot in this subdivision is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay the committee all assessments that shall be made pursuant to this paragraph. Any right, duty, or power designated herein to the Committee shall likewise be extended to any lot owner damaged as a result of a violation of any covenant herein.

STATE OF INDIANA  
COUNTY OF HENDRICKS

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 1993, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the uses and purposes therein expressed.

My Commission Expires \_\_\_\_\_

This instrument is a true and correct copy of the original as recorded in my office.

**38. TERM.** These covenants will run with the land and shall be binding on all parties, and all persons claiming under them until January 1, 2013, after which they shall be automatically extended for



PURSUANT to IC 36-7-4-700 et seq., and all amendments thereof, the undersigned do hereby certify that the public notice of the hearing by the Hendricks County Plan Commission on the application by Timber Bend, Inc., for approval of this plat duly complied with IC 36-7-4-706 and all amendments thereof, and that said plat was approved at said hearing with a majority of the members of said Commission concurring in said approval.

Given under our hands and seal this 12<sup>TH</sup> day of OCTOBER, 1997:  
 \_\_\_\_\_  
 C. Richard Whicker, President  
 \_\_\_\_\_  
 Robert E. Jarzen, Secretary





# TIMBER BEND, SECTION 2

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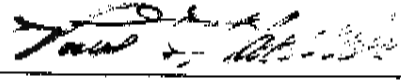
all parties, and all  
tically extended for

successive ten (10) year periods, unless, at any time, an instrument signed by at least three fourths (¾) of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

39. **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

The undersigned person, executing this instrument on behalf of Timber Bend, Inc., represents and certifies that he is a duly elected representative of said corporation and has been fully empowered by proper resolution of the Board of Directors of said corporation to execute and deliver this dedication.

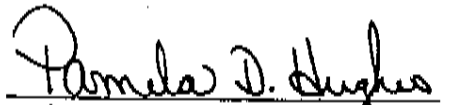
In Witness Whereof, the said Timber Bend, Inc., by Paul T. Hardin, President, as owner and proprietor of the above-described real estate, has set its hand and seal this 18 day of SEP, 1993.



Paul T. Hardin, President

STATE OF INDIANA }  
COUNTY OF HENDRICKS } SS:

Before me, the undersigned Notary Public within and for said County and State, personally appeared Paul T. Hardin, President, Timber Bend, Inc., as owner and proprietor of said subdivision, and acknowledged the execution of the foregoing instrument to be his voluntary act and deed for the uses and purposes therein stated.



Pamela D. Hughes, Notary Public  
Residing in Hendricks County, Ind.

My Commission Expires August 1, 1993.

This instrument prepared by Stanley M. Shartle, PE, LS.



6910

ENTERED FOR RECORD

APR 16 1993

USE AND MAINTENANCE COVENANT  
FOR  
COMMON PRIVATE ACCESS PARCEL NO. 2  
TIMBER BEND SUBDIVISION

*135 Jay Beasley*  
HENDRICKS COUNTY RECORDER

THIS COVENANT, made by Timber Bend, Inc., the developer of the Timber Bend Subdivision, and signed on its behalf by Paul T. Hardin and Russell M. Webb, Jr., its President and Secretary, respectively, on the date shown below;

WITNESSETH:

WHEREAS, the plat of Timber Bend, Section 2, a subdivision of part of Section 22, Township 15 North, Range 1 East, Hendricks County, Indiana, is entered for record in Plat Cabinet 2, Slide 45, Page 1 and 2; Slide 46, Page 1 and 2; Slide 47, Page 1, and 2, in the office of the Recorder of said county; and

WHEREAS, Timber Bend, Inc. is the sole owner of Lots 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 in said subdivision; and

WHEREAS, said Lots 35, 36, 37, 38, 39, 40, 41, 42 and 43 in said subdivision have adequate access to the public highway system only across a parcel of land adjoining said lots designated on said plat as "Common Private Access Parcel No. 2" (herein called "access parcel"); and

WHEREAS, Lot 44 is configured in such a way that driveway access is most desirable across said Common Private Access Parcel No. 2; and

WHEREAS, neither said access parcel nor the private roadway constructed thereon will be maintained by the Hendricks County Highway Department or any other public agency; and

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WHEREAS, it is necessary to provide for the use, maintenance, repair, and upkeep of said parcel and the private roadway constructed thereon; so

THEREFORE, by this Indenture does Timber Bend, Inc., as to itself and its grantees, assigns, successors, legal representatives, and as to any person, persons, corporations, banks and associations and/or anyone who may acquire title to any of said lots or other areas described herein, impose and require the following terms, stipulations, conditions, restrictions and covenants:

1. The fee simple title to said access parcel shall be owned by the current and successive owners of Lots 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 in equal and undivided interests as tenants in common, and they shall share equally in the payment of all taxes and assessments levied on said access parcel.

2. The current and successive owners of said access parcel will take their titles subject to the rights of public utility companies (excluding transportation companies) and the Hendricks County Drainage Board for the installation, operation, and maintenance by said companies or said Board of lines, ducts, underground cables, gas and water mains, sewers, and regulated and other ditches and drains. No permanent or other structures may be erected or constructed on said access parcel or on said utility and drainage easements excepting the roadway and the facilities for which the easements have been reserved, and no facility shall be installed on said easements in a position that will obstruct a

property line or corner, or will interfere with the maintenance and free use by the owners of said access parcel and the roadway constructed thereon.

3. The current and successive owners shall have the right to use said access parcel only for the purposes of ingress, egress, and regress between said Lots 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 and Red Alder Court, which shall not include vehicular parking or other storage.

4. The access parcel and the private roadway constructed thereon will be maintained perpetually by the current and successive owners as specified below. "Maintenance" includes, without limitation, the cost and expense of all material, labor, and the expense for use of equipment and machinery required for snow removal, mowing, ditching and grading, together with the costs to repair and/or reconstruct the private roadway, signs, unregulated ditches and drains, and culverts.

5. In determining the fraction of the cost of maintenance each owner must contribute, each lot will be assumed to have but one (1) owner and one (1) vote, even if title to a lot is shared by two or more grantees as tenants by the entirety, joint tenants, tenants in common, or otherwise. Every grantee under one ownership shall be jointly and severally liable for the ownership's proportionate share of the maintenance costs and expenses.

6. An owner may serve notice by certified mail to the other owners that maintenance is required. Such notice shall specify and describe the maintenance needed, estimate the cost thereof, and

name any contractors solicited (or propose a means for performing the work without a contractor). Unless an owner objects in writing within thirty (30) days after receipt of said notice, the notifying owner may proceed with the cost-shared maintenance. If no more than two (2) owners object, the work may proceed only if the other owners consent to the work in writing.

7. If no more than four (4) owners object in writing to the proposed maintenance, one or more owners may bring an action at law or equity for adjudication, and judgment shall include reasonable attorneys' fees and costs of such action.

8. Should the access parcel or private roadway thereon become physically incapable of being traveled upon or traversed by vehicular traffic, or should become unsafe for vehicular use, an owner may (without giving notice as provided above) proceed with any emergency repairs or maintenance necessary to render said access parcel and private roadway thereon passable and safe.

9. The costs of repairing any and all damages to the access parcel, or to the private roadway thereon, caused by equipment and/or vehicles used in the construction of a house or other improvements on an adjoining lot, or caused by the installation or maintenance of utility facilities or regulated ditches or drains, shall not be divided among the owners but shall be paid for solely by the owner whose house or other improvements are being constructed, or by the party responsible for such damages arising out of the exercise of rights reserved in said utility and drainage easements.


10. After completion of the work described in paragraphs numbered 6, 8, or 9 above, the owner who did the work, or who had it done, may serve notice by certified mail to the other owners that the work has been done, is satisfactory, and that its total cost has been paid as verified by a copy of a paid receipt attached to said notice, together with any reasonable itemized bill for the total amount of any work performed by the notifying owner, including labor, material, and equipment. Each notified owner shall, within thirty (30) days after receipt of said notice, reimburse the owner who did the work or had it done, in an amount equal to one-tenth of the sum of said receipt and said itemized bill, if any (or in an amount equal to 100 percent of the cost of non-utility or non-regulated drainage work done under paragraph numbered 9 above). If such cost is not paid by any owner within thirty (30) days after receipt of such notice, then that cost, and the expenses of collection thereof, shall thereupon become a continuing lien on that owner's lot which shall bind such lot in the hands of the then owner, his heirs, devisees, personal representatives, and assigns. The personal obligation of the then owner to pay such expense, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the expense is not paid within said thirty (30) day period, then interest at the rate of eighteen (18) percent per annum may be added to the delinquent balance and the owner who had the maintenance done may bring an action at law against the owner personally obligated to pay the same or to

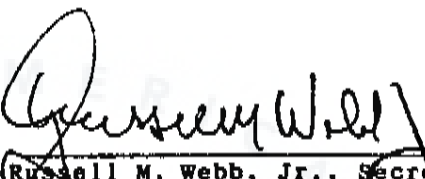
foreclose the lien against the lot; and in that event, judgment shall include interest on the total amount as above provided, reasonable attorneys' fees, and cost of such action. The lien of the expense provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the lot subject to such expense; provided, however, that such subordination shall apply only to the expenses which become due and payable prior to a sale or transfer of such lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such lot from liability for any expense thereafter becoming due, nor from the lien or any such subsequent expense.

11. Each owner shall save the other owners harmless from any and all liability and claims for damages due to death or injury to persons or damage to property resulting from acts of the owner, his contractors, and agents.

12. The undersigned persons executing this Covenant on behalf of Timber Bend, Inc. represent and certify that they are duly elected officers of Timber Bend, Inc. and have been fully empowered by proper resolution of the Board of Directors of Timber Bend, Inc. to execute and record this Covenant; that Timber Bend, Inc. has full corporate capacity to restrict the real estate described herein; and that all necessary corporate action for the making of such Covenant has been taken and done.

IN WITNESS WHEREOF, Timber Bend, Inc., by its duly elected officers, hereby executes this Covenant this 15<sup>th</sup> day of April, 1993.


TIMBER BEND, INC.  
  
Paul T. Hardin, President

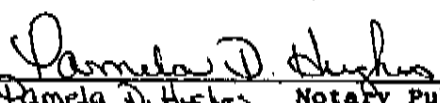
  
Russell M. Webb, Jr., Secretary

STATE OF INDIANA )  
  ) SS:  
COUNTY OF HENDRICKS )

Personally appeared before me, a Notary Public in and for said County and State, Paul T. Hardin and Russell M. Webb, Jr., President and Secretary, respectively of Timber Bend, Inc., an Indiana Corporation, who acknowledged the execution of this Covenant, on behalf of said Timber Bend, Inc., and who, having been duly sworn, swear that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 15<sup>th</sup> day of April, 1993.

My Commission Expires:  
8-1-93  


  
Pamela D. Hughes Notary Public  
Residing in Hendricks County, IN.

This instrument prepared by Paul T. Hardin, Attorney at Law, 10 South East Street, Plainfield, Indiana 46168.

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