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PLAT COVENANTS AND RESTRICTIONS

WHISPERWOOD LAKES

SECTION 1

*Rec'd 10/9 pg 2-2A*

The undersigned, DAVIS HOMES, LLC, an Indiana limited liability company (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). The Developer is concurrently platting and subdividing the Real Estate as shown on the plat for Whisperwood Lakes, Section 1, which is filed of record \_\_\_\_\_, 1998, in the office of the Recorder of Hendricks County, Indiana (the "Plat") and desires in the Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as "Whisperwood Lakes Section 1". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants, conditions and restrictions contained in the Declaration of Covenants, Conditions and Restrictions of Whisperwood Lakes, dated September 8, 1998, and recorded on 1776-1776/1767-74 in the office of the Recorder of Hendricks County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Whisperwood Lakes Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenants and restrictions contained in the Declaration shall govern and control, but only to the extent of the irreconcilable conflict, it being the intent hereof that all covenants and restrictions contained herein shall be applicable to the Real Estate to the fullest extent possible. Capitalized terms used herein shall have the same meaning as given in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY. The rights-of-way of the streets as shown on the Plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.

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2. SANITARY SEWER, DRAINAGE AND UTILITY EASEMENTS. There are areas of ground on the Plat marked "Sanitary Sewer, Drainage and Utility Easements", either separately or in combination. The Sanitary Sewer Easements are hereby created and reserved for the use of the Town of Danville and, during the Development Period, Developer for access to and installation, repair, removal, replacement or maintenance of an underground sanitary sewer system. The Utility Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved for (i) the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) the use of the Association and the Town of Danville for access to and maintenance, repair and replacement of such drainage system. The owner of any Lot in the Subdivision subject to a Drainage Easement, including any builder, shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without a permit from the Town of Danville and the prior written approval of the Developer. The delineation of the Sanitary Sewer, Drainage and Utility Easement areas on the Plat shall not be deemed to be a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Paragraph 2. Except as installed by Developer or installed as provided above, no structures or improvements, including without limitation decks, patios, fences, walkways or landscaping, shall be erected or maintained upon said easements.

3. LAKE ACCESS EASEMENTS. There are areas of ground on the Plat marked "Lake Access Easements" which are hereby created and reserved for (i) the use of Developer during the "Development Period" for access to and maintenance, repair of the lake area and (ii) the use of the Town of Danville and the Association or access to and maintenance, repair of the lake area. The owner of any Lot in the Subdivision subject to a Lake Access Easement, including the any builder, shall be required to keep the portion of said Lake Access Easement on his Lot free from obstructions. No improvements or structures, including without limitation decks, patios, fences, walkways or landscaping, shall be erected or maintained upon such easements.

4. NO PLANTING EASEMENTS. There are areas of ground on the Plat marked "No Planting Easements". Such No Planting Easements are hereby created and reserved to prohibit any fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street.

5. BUILDING LOCATION - FRONT, BACK AND SIDE YARD REQUIREMENTS. Building lines and building setback lines are established on the Plat. No building shall be erected or maintained between said setback lines and the front, rear or side lot line (as the case may be) of a Lot. The setback lines may vary in depth in excess of the minimum as designated on

the Plat. The minimum front yard set back shall be twenty-five (25) feet. The minimum side yard set back shall be ten (10) feet.

6. RESIDENTIAL UNIT SIZE AND OTHER REQUIREMENTS. No one-story building residence constructed on a Lot shall have less than eleven hundred (1100) square feet of total floor area, exclusive of garages, carports and open porches. Any building higher than one-story the minimum total living area shall be fourteen hundred (1400) square feet. Each Residence Unit shall include an attached one-car (or larger) enclosed garage. The maximum height of any structure constructed on a Lot shall be thirty-five (35) feet.

7. RESIDENTIAL UNIT USE. All Lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on any Lot, and no business may be conducted on any part thereof. No building shall be erected, placed or permitted to remain on any Lot other than (1) one detached single-family residence not to exceed two stories in height and expressly permitted residential accessory buildings.

8. ACCESSORY AND TEMPORARY BUILDINGS. Except as used by Developer or its designees pursuant to Paragraph 13.3 of the Declaration, no trailers, shacks, outhouses or unenclosed or unattached accessory buildings of any kind shall be erected or situated on any Lot in the Subdivision, except that one (1) mini-barn shall be permitted on each Lot provided that the Architectural Review Committee shall have first expressly approved the same in writing.

9. TEMPORARY RESIDENCE. No trailer, camper, motor home, truck, van, shack, tent, boat, bus, recreational vehicle, basement or garage may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

10. NUISANCES. No domestic animals raised for commercial purposes and no farm animals or fowl shall be kept or permitted on any Lot. No noxious, unlawful or otherwise offensive activity shall be carried out on any Lot, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to the neighborhood.

11. VEHICLE PARKING. No camper, motor home, bus, truck, trailer, boat, snowmobile or other recreational vehicle of any kind may be stored on any Lot in open public view. No vehicles of any kind may be put up on blocks or jacks to accommodate car repair on a Lot unless such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

12. SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising a property for sale, and except that Developer and its affiliates and designees, including any builder, may use larger signs during the sale and development of the Subdivision.

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13. MAILBOXES. All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.
14. GARBAGE AND REFUSE DISPOSAL. Trash and refuse disposal will be on an individual basis. Lot by Lot. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and house construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.
15. STORAGE TANKS. No gas, oil or other storage tanks shall be installed on any Lot.
16. WATER SUPPLY AND SEWAGE SYSTEMS. No private or semi-private water supply or sewage disposal system may be located upon any Lot. No septic tank, absorption field or similar method of sewage disposal shall be located or constructed on any Lot.
17. DITCHES AND SWALES. All owners, including builders, shall keep unobstructed and in good maintenance and repair all open storm water drainage ditches and swales which may be located on their respective Lots. No filling, regrading, piping, rerouting or other alteration of any open ditch or swale may be made without the express written consent of the Architectural Review Committee, subject to the approval of the appropriate governmental entity.
18. DRIVEWAYS. Each driveway in the Subdivision shall be of concrete or asphalt material.
19. ANTENNA AND SATELLITE DISHES. Outdoor satellite dishes shall be permitted in the Subdivision; provided, however, that (i) the diameter of the satellite dish shall be no more than twenty-four inches (24"); (ii) only one (1) satellite dish shall be permitted on each Lot; and (iii) the Architectural Review Committee shall have first determined that the satellite dish is appropriately placed and properly screened in order to preserve property values and maintain a harmonious and compatible relationship among Residence Units in the Subdivision.
20. AWNINGS. No metal, fiberglass, canvas or similar type material awnings shall be permitted in the Subdivision, except that a builder may utilize a canvas or similar type material awning on its model home sales center in the Subdivision.
21. FENCING. No fence shall be erected on or along any Lot line, nor on any Lot, the purposes or result of which will be to obstruct reasonable vision, light or air. All fences shall be kept in good repair and erected so as to enclose the property and decorate the same without unreasonable hindrance or obstruction to any other property. Any fencing permitted to be used in

the Subdivision (unless installed by Developer) must be wooden or black or green vinyl coated chain link and shall not be higher than six (6) feet. Uncoated chain link fencing is prohibited. No fencing shall extend into a yard, fronting onto a street, closer to the street than the front corner of the residence. All fencing style, color, location and height shall be generally consistent within the Subdivision and shall be subject to prior written approval of the Architectural Review Committee. Fences are allowed in easements but are erected at owner's 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 easement has been reserved.

22. SWIMMING POOLS AND SPORTS COURTS. No above-ground swimming pools shall be permitted in the Subdivision. No hard surfaced sports courts of any kind shall be permitted on any Lot except as approved by the Architectural Review Committee.

23. SOLAR PANELS. No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots, common areas and the streets.

24. OUTSIDE LIGHTING. Except as otherwise approved by the Developer in connection with a builder's model home sales center, all outside lighting contained in or with respect to the Subdivision shall be of an ornamental nature compatible with the architecture of the project and shall provide for projection of light so as not to create a glare, distraction or nuisance to other property owners in the vicinity of or adjacent to the project.

25. SITE OBSTRUCTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

26. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association or any person or entity having any right, title or interest in the Real Estate, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorneys reasonable fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce such covenants or restrictions.

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27. AMENDMENT. These covenants and restrictions may be amended at any time by the then owners of at least sixty-seven percent (67%) of the Lots in all Subdivisions which are now or hereafter made subject to and annexed to the Declaration; provided, however, that until all of the Lots in such Subdivisions have been sold by Developer, any such amendment shall also require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Hendricks County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without its written consent thereto. No amendment which is contrary to a zoning commitment shall be effective without the written approval of the affected adjacent homeowners associations designated by the Town of Danville.

28. TERM. The foregoing plat covenants and restrictions, as the same may be amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate and on all persons or entities claiming under them, until December 31, 2018, and thereafter they shall continue automatically in effect unless terminated by a vote of a majority of the then Owners of the Lots in the Subdivision; provided, however, that no termination of these covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall have consented thereto in writing.

29. SEVERABILITY. Invalidation of any of the foregoing covenants or restrictions by judgment or court order shall in no way affect any of the other covenants and restrictions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the owner of the Real Estate, has hereunto caused its name to be subscribed this 24<sup>th</sup> day of September, 1998.

Davis Homes, LLC, an Indiana limited liability company, by its manager-member

Davis Holding Corporation, an Indiana corporation

By:   
Christopher R. White  
Vice President

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

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Before me, a Notary Public in and for the State of Indiana, personally appeared Christopher R. White, Vice President of Davis Holding Corporation, an Indiana corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 24th day of September, 1998.

Li Ching Wu  
Notary Public

Li Ching Wu  
Printed

My commission expires:

4-21-00

I am a resident of

Hamilton County, Indiana.

This Instrument was prepared by Ronald F. Shady, Jr., Vice President of Davis Holding Corporation, 3755 East 82nd Street, Suite 120, Indianapolis, Indiana, 46240.

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## Exhibit "A"

### LAND DESCRIPTION

That portion of the North Half of the fractional Northeast Quarter of Section 2, Township 15 North, Range 1 West of the Second Principal Meridian, Hendricks County, Indiana, more particularly described as follows:

Considering the North line of said Northeast Quarter as bearing North 89 degrees 56 minutes 04 seconds East with all bearings contained herein being relative thereto.

Commencing at a railroad spike found, per county ties, marking the Northeast corner of said Northeast Quarter; thence South 00 degrees 40 minutes 27 seconds East along the East line of said Northeast Quarter 737.00 feet to the southeast corner of McClain's land as described in deed recorded in Deed Book 273, Pages 307-308 in the Office of the Recorder of said county; thence South 89 degrees 56 minutes 04 seconds West along the south line of said land 40.00 feet to the west 40.00 foot right-of-way line of County Road 200 East as per Right-of-Way Grant recorded as Instrument No. 9600022253 in Volume 3, Pages 568-570, in said county records; said point being the POINT OF BEGINNING of this description; thence South 00 degrees 40 minutes 27 seconds East along said right-of-way line 494.04 feet to the north line of Reed's land as described in deed recorded as Instrument No. 970003517 in Volume 16, Pages 1182-1183, in said county records, with the following three (3) courses being along said north line: 1) thence South 89 degrees 10 minutes 22 seconds West 39.12 feet; 2) thence South 44 degrees 21 minutes 39 seconds West 17.09 feet; 3) thence South 89 degrees 10 minutes 22 seconds West 138.06 feet; thence North 43 degrees 42 minutes 28 seconds West 160.00 feet; thence North 46 degrees 17 minutes 32 seconds East 39.26 feet; thence North 43 degrees 42 minutes 28 seconds West 330.00 feet; thence North 46 degrees 17 minutes 32 seconds East 15.11 feet; thence North 43 degrees 42 minutes 28 seconds West 190.00 feet; thence South 46 degrees 17 minutes 32 seconds West 235.18 feet; thence South 89 degrees 56 minutes 04 seconds West parallel with the North line of said Northeast Quarter 391.43 feet; thence North 00 degrees 03 minutes 56 seconds West 228.27 feet; thence South 89 degrees 56 minutes 04 seconds West parallel with said North line 75.00 feet; thence North 00 degrees 03 minutes 56 seconds West 164.32 feet; thence North 64 degrees 56 minutes 04 seconds East 14.52 feet; thence North 25 degrees 03 minutes 56 seconds West 50.00 feet; thence North 17 degrees 51 minutes 15 seconds West 119.97 feet to the southeast corner of Bear's land as described in deed recorded in Deed Book 352, Pages 672-673, in said county records; thence North 00 degrees 22 minutes 14 seconds West along the east line of said land 240.00 feet to the North line of said Northeast Quarter; thence North 89 degrees 56 minutes 04 seconds East along said North line 950.71 feet to the northwest corner of Minor Plat No. 662, as per plat recorded in Plat Cabinet 4, Slide 24, Page 1, in said county records; thence South 00 degrees 38 minutes 21 seconds East along the west line of said plat 340.00 feet to the southwest corner thereof; thence North 89 degrees 56 minutes 04 seconds East along the south line of said plat 600.00 feet to the southeast corner of Lot 2 of said plat; thence South 00 degrees 47 minutes 48 seconds East along the west line of Lot 1 of said plat 97.15 feet to the northwest corner of McClain's land as described in deed recorded in Deed Book 337, Pages 593-594, in said county records; thence South 00 degrees 40 minutes 27 seconds East along the west line of said McClain's land 299.85 feet to the southwest corner of McClain's land as described in deed recorded in Deed Book 273, Pages 307-308, in said county records; thence North 89 degrees 56 minutes 04 seconds East along the south line of said McClain's land 154.00 feet to the POINT OF BEGINNING, containing 29.786 acres, more or less, subject to all rights-of-way and easements of record.