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DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS,
LIENS AND RESERVATIONS OF EASEMENTS
FOR
ROLLING KNOLL

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**DECLARATIONS OF COVENANTS, CONDITIONS, RESTRICTIONS,
LIENS AND RESERVATIONS OF EASEMENTS FOR
ROLLING KNOLL**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATIONS OF EASEMENTS FOR ROLLING KNOLL ("Declaration") is made this 30 day of 11, 2000, by **CROSSMANN COMMUNITIES PARTNERSHIP**, an Indiana general partnership ("Developer"), under the following circumstances:

WHEREAS, Developer is the owner of certain real property located in Hamilton County, Indiana, more particularly described in Exhibit A attached to this Declaration (the "Property").

WHEREAS, Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

WHEREAS, Developer has formed Rolling Knoll Homeowners' Association, Inc., which shall be responsible for the administration and enforcement of the provisions of the Declaration.

WHEREAS, Developer owns or may acquire other real property in the vicinity of the Property that may be annexed to the Property, enjoy the benefit of all amenities in the Development, and be subjected to this Declaration.

WHEREAS, Developer desires to grant certain rights and privileges to Zaring Homes, Inc., an Ohio corporation, as the primary home builder in Rolling Knoll with respect to the Property, any Additional Property, this Declaration and the Association as provided herein.

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration and be binding on all parties having any right, title and interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE 1 – DEFINITIONS

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Article 1.

1.1 Additional Property. "Additional Property" means real property in the vicinity of the Property which may be annexed to the Development, enjoy the benefits of all amenities in the Development, and be subject to this Declaration.

1.2 Articles and Articles of Incorporation. "Articles" and "Articles of Incorporation" mean those articles, as the same may be amended from time to time, filed with the Indiana Secretary of the State, incorporating the Rolling Knoll Homeowners'

Association, Inc., as a non-profit corporation under the laws of Indiana. A true copy of the Articles is attached hereto as Exhibit C and made a part hereof.

- 1.3 Assessments. "Assessments" means the charges established by Article 3 of this Declaration.
- 1.4 Association. "Association" means Rolling Knoll Homeowners' Association, Inc., an Indiana non-profit corporation, which will own, operate and/or maintain the Common Property, and any successor organization that owns, operates and/or maintains the Common Property.
- 1.5 Board. "Board" means the Board of Trustees of the Association, except as otherwise defined in Article 8 of this Declaration.
- 1.6 Builder. "Builder" means any person or entity, other than the Developer and Primary Builder, who, in the ordinary course of business, constructs a Dwelling Unit with or without accessory structures (i) for resale to, or on behalf of, a third party, or (ii) for their own use or the use of their family. A Builder may or may not be an Owner.
- 1.7 By-Laws. "By-Laws" means the By-Laws of the Association, as the same may be amended from time to time. A true copy of the By-Laws is attached hereto as Exhibit B and made a part hereof.
- 1.8 Common Expenses. "Common Expenses" shall mean those expenses described in Section 3.2.
- 1.9 Common Property. "Common Property" means all real and personal property owned by, leased to or under the control of the Association for the benefit, use and enjoyment of the Owners and including any easements or other rights over real property adjacent to or near the Property which easements or other rights are created for the benefit of the Association.
- 1.10 Declaration. "Declaration" means this instrument as the same may be amended from time to time as hereinafter provided.
- 1.11 Default. "Default" means any violation, breach or any failure to comply with, this Declaration or the By-Laws, or other standards, rules or regulations adopted pursuant to this Declaration.
- 1.12 Developer. "Developer" means Crossmann Communities Partnership, an Indiana general partnership, its successors and assigns.
- 1.13 Development. "Development" means all phases or sections of the record plat for Rolling Knoll, a subdivision in Hamilton County, Indiana, and consisting of all the property from time to time made subject to the provisions of this Declaration.
- 1.14 Development Period. "Development Period" means that period of time which expires when neither the Developer nor the Primary Builder owns a Lot in the Development.

1.15 Dwelling Unit. "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by persons or a family.

1.16 Lot. "Lot" means any parcel of the Property shown as such on the record plat of Development. Unless the context otherwise requires, the term "Lot" shall be deemed to include both the parcel of Land and the Dwelling Unit on that Land, if any, excluding Common Property.

1.17 Member. "Member" means any Owner who is a member of the Association as provided in the Articles of Incorporation.

1.18 Owner. "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including purchasers on land installment contracts and including contract sellers on other forms of executory contracts for the sale of a Lot, but excluding those having such interest merely as security for the performance of an obligation.

1.19 Phase or Section. "Phase or Section" shall mean all of the land area encompassing a group of Lots as designated on a recorded subdivision plat including streets and Common Property.

1.20 Primary Builder. "Primary Builder" means exclusively Zaring Homes, Inc., an Ohio corporation, its successors and assigns.

1.21 Property. "Property" means that real property located in Hamilton County, Indiana, more particularly described in Exhibit A attached to this Declaration.

1.22 State "State" means the state in which the Property is located.

1.23 Trustee "Trustee" means any person elected or appointed to the Board.

ARTICLE 2 - ASSOCIATION MEMBERS AND VOTING

2.1 Members. Every Owner shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of a Lot. Developer shall be a member of the Association so long as it qualifies as a Class A or Class B member as defined in Section 2.2. Primary Builder shall be a member of the Association so long as it qualifies as a Class A or Class C member as defined in Section 2.2.

2.2 Classes and Voting Rights. The Association shall have three (3) classes of voting memberships:

- A. CLASS A – Class A Members shall be all the Owners, except the Developer (if the Class B membership exists) and the Primary Builder (if the Class C membership exists). Except as provided below, Class A Members shall be

entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, the vote for such Lot shall be exercised as the majority of such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot notwithstanding the number of persons who may own an interest therein. The Board shall be entitled to suspend voting rights of a Member in the Association during the time period in which the Member has breached the provisions of this Declaration or any of the By-Laws, rules or regulations of the Association.

B. CLASS B – The Class B Member shall be the Developer and such Member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as (i) there is no Class C membership and (ii) the Class B membership continues to exist. So long as Class C membership exists, then the Class B Member shall not be entitled to any votes in the voting power of the Association and shall have no duties with respect to the management of the Association. The Class B membership shall continue to exist to the extent permitted by the law of the State and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- (i) Upon the sale of seventy-five percent (75%) of the Lots in the Property described in Exhibit A and any Additional Property annexed to this Declaration by the Developer;
- (ii) Upon the expiration of ten (10) years after the date this Declaration is filed for record. Provided, further, that nothing herein shall be construed to prohibit the Class B Member from converting its Class B membership to Class A membership with the results set forth above at any time earlier by written statement executed by Developer, with the written consent of the Primary Builder, and delivered to the Association.

C. CLASS C – The Class C Member shall be the Primary Builder, and such Member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class C membership continues to exist. The Class C membership shall continue to exist to the extent permitted by Indiana law, provided that Primary Builder has not defaulted (subject to any applicable notice and cure period) under and Developer has not terminated that certain lot purchase agreement between Developer, as Seller, and Primary Builder, as Purchaser, effective May 25, 1999 (the “Lot Purchase Agreement”). Notwithstanding the previous sentence, in the event that Primary Builder has defaulted under (subject to any applicable notice and cure period) and Developer has terminated the Lot Purchase Agreement, the Class C membership shall continue to exist until the earlier of (i) ninety (90) days after such default under and termination of the Lot Purchase Agreement or (ii) the point in time when Primary Builder owns fewer than 25 Lots. The Class C membership

shall be converted to Class A membership upon the happening of any of the following events, whichever occurs earlier:

- (i) Upon the sale of seventy-five percent (75%) of the Lots in the Property described in Exhibit A and any Additional Property annexed to this Declaration by the Developer;
- (ii) In the event that Primary Builder has defaulted under (subject to any applicable notice and cure period) and Developer has terminated the Lot Purchase Agreement, upon the earlier of (i) ninety (90) days after such default under and termination of the Lot Purchase Agreement or (ii) the point in time when Primary Builder owns fewer than 25 Lots; or
- (iii) Upon the expiration of ten (10) years after the date this Declaration is filed for record. Provided, further, that nothing herein shall be construed to prohibit the Class C Member from converting its Class C membership to Class A membership with the results set forth above at any time earlier by written statement executed by Primary Builder and delivered to the Association.

2.3

Administration by Association. Subject to the rights retained by Developer or granted to Primary Builder pursuant to this Declaration, the ownership, operation and maintenance of the Common Property and of the administration and enforcement of this Declaration shall be by the Association in accordance with the terms and provisions of this Declaration. Developer shall have no duties with respect to the management of the Association so long as Class C membership exists. In the event the Class C Membership ceases to exist pursuant to Section 2.2.C(ii), above, then within thirty (30) days thereafter, Primary Builder will deliver to the Developer control of all moneys and accounts held by the Association with respect to the Property, as well as a final accounting showing the balance of income and expenses with respect to the Property, and all records, contracts, leases, receipts for deposits, and all other papers or documents which pertain to the Property and which are the property of the Association.

2.4

Compliance by Owners. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, By-Laws, rules and regulations of the Association and the decisions and resolutions of the Association or its representatives, all as lawfully amended from time to time. Failure to comply with any such provisions, rules and regulations, decisions and resolutions shall be grounds for an action to recover sums due and for damages and injunctive and other appropriate relief.

ARTICLE 3 – ASSESSMENTS

- 3.1 Covenant of Payment, Creation of Lien. Each Owner of a Lot (other than Developer and Primary Builder, except as hereinafter provided), by acceptance of a deed or other instrument of conveyance for a Lot, agrees to pay to the Association the Assessments provided in this Article 3. The Assessments (including late charges and costs of collection, as provided below) shall be a charge and a lien on each Lot and shall be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Article 3.
- 3.2 Purpose of Annual Assessment. The annual assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses; the operation, maintenance, and repair of Common Property; other portions of the Property that the Association is obligated to repair under this Declaration; and the performance of all other duties and obligations to be performed by the Association under this Declaration. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of Common Property, officers and Trustees liability insurance, rental fees for any Common Property leased to the Association, the cost of reasonable reserves for contingencies, replacements, and working capital, taxes and assessments on the Common Property, management fees, legal and accounting fees, capital improvements and additions for Common Property, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the By-Laws.
- 3.3 Initial Assessment. Upon each initial conveyance of a Lot by the Developer, Primary Builder or a Builder to the Owner, the Owner shall pay an initial assessment of \$400.00. The initial assessment shall be used as working capital for the Association and not collected in lieu of any installments of the annual assessment. The initial assessment is non-refundable. No initial assessment shall be due on any Lot purchased from an Owner other than the Developer, Primary Builder or a Builder, nor shall any initial assessment be due on any Lot purchased from the Developer by a Builder or the Primary Builder.
- 3.4 Annual Assessment. The annual assessment or prorated portion thereof for each Lot Owner in each respective Phase or Section of the Development shall commence on the first day of the month following the conveyance of the first Lot from Developer, Primary Builder or Builder to an Owner (other than a Primary Builder or Builder) in that Phase or Section of the Development. Notwithstanding anything herein to the contrary, (i) there shall be no annual assessment allocated to Lots, owned by Developer, if they are not occupied, and (ii) the annual assessment allocated to Lots owned by Primary Builder or Builder, if such Lots are not occupied, shall be equal to fifty percent (50%) of the annual assessment allocated to Lots owned and occupied by others. Not later than the initial conveyance of a lot in a Phase or Section to an Owner (other than Primary Builder or Builder), the Developer shall convey all Common Property within that specific Phase or Section of the Development to the Association. The Board shall have the right to require the annual assessment to be

paid in periodic installments during the year or in a single installment as determined by the Board and shall be due and payable on such date or dates as determined by the Board. It shall be the duty of the Board to determine the amount of the annual assessment allocated to each Lot. The Board shall make reasonable efforts to determine the assessment amount for the following year, by the first day of December of each year, and shall at that time, prepare a roster of the Lots and the portion of the assessment allocated thereto, which shall be open for inspection by any Owner upon reasonable notice to the Board. The Board shall be entitled to change the method of collection of assessments as it may, from time to time, elect.

Failure to act within any time period established in the Declaration shall not affect the rights of the Board to collect assessments as provided herein.

3.5 Calculation of Annual Assessment. Each Owner shall be responsible for and shall pay that portion of the annual assessment allocable to the Owner's respective Lot as determined by the Board. The annual assessment per Lot shall be determined based upon the estimate of the Common Expenses for the year plus an amount determined by the Board as adequate to provide a reserve fund for future use by the Association for maintenance and/or replacement of the Common Property, and the number of Lots then subject to this Declaration as adjusted for Lots not subject to full annual assessment as specifically provided herein. The Board during any calendar year shall be entitled to increase the annual assessment for that year if it should determine that the estimated or current assessment is insufficient to cover Common Expenses for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners.

3.6 Special Assessment (Operating Shortfalls). If in any year the Common Expenses exceed the income from the annual assessment, the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment.

3.7 Individual Assessment. If any portion of the Common Property that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of an Owner or Owner's guest or invitee, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair and replacement is in the sole discretion of the Board. The cost so incurred by the Board shall be assessed as an individual assessment against all Lots owned by the Owner responsible for the damage. No such assessment may be levied against Lots owned by the Developer without the written consent of the Developer or Lots owned by the Primary Builder without the consent of Primary Builder.

3.8 Interest. Delinquent assessments shall bear interest at such interest rates as are from time to time established by the Board (which interest rate shall not exceed the maximum legal interest rate allowed to be charged to an individual under the laws of the State). The Board shall have the right to establish a late charge for delinquent payments in addition to interest charges.

3.9 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed, shall be deemed to have covenanted and agreed to pay to the Association the Assessments. The Assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a continuing lien upon the property against which each such Assessment is made. Each such Assessment, together with interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment was made. The personal obligation for a delinquent Assessment shall not pass to a successor in title, unless expressly assumed by such successor (although any liens for assessments established hereunder shall run with the land). If the obligation is so assumed by a successor in title, the successor and the former Owner shall be jointly and severally liable for payment of the amount due and payable.

The Association shall also have the authority, through the Board, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any provisions of this Declaration, which breach shall require the expenditure of time or money, or both, by the Association for the repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each Assessment levied by the Association on his Lot within ten (10) days after receipt of an invoice for the same, and further covenants that if said charge shall not be paid within thirty (30) days from the date that said invoice is deposited, postage prepaid in the United States mail, in an envelope addressed to the Owner at the address of the Lot, the amount of such charge shall become a lien upon said Owner's Lot and shall continue to be such lien, until fully paid. The Association may perfect such lien by recording a notice of lien in the public records of the county in which the Lot is located. The lien shall be prior to all other liens and encumbrances whatsoever, except real estate taxes and assessments, liens of record in favor of the United States of America, the State, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages.

3.10 Enforcement of Lien. Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage. In any enforcement proceeding, the amount that may be recovered by the Association shall include all costs of the proceeding, and, to the extent permitted by law, reasonable attorney's fees. In any foreclosure sale, the Association may purchase the Lot.

3.11 Purchaser at Foreclosure Sale. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all of the provisions of this Declaration. When the purchaser of a Lot acquires title to the Lot as a result of a foreclosure action, the purchaser shall not be solely liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the

acquisition of title to that Lot. Instead, any unpaid share of the Assessments that became due and payable prior to the date of purchase shall be deemed to be part of the Assessments collectible from all of the Lots, including that of the purchaser.

ARTICLE 4 - COVENANTS AND RESTRICTIONS

4.1 Real Covenants. The provisions of this Declaration are for the benefit of Developer, Primary Builder, Builders and Owners as provided herein, and run with the land and shall be binding on all parties and all persons claiming ownership under them, except as otherwise specifically provided herein.

4.2 Residential. All of the Lots shall be used for private residential purposes exclusively, except that an Owner may conduct business activities within the Lot as long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the outside; (b) the activity conforms to all zoning requirements for the Property; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Property; and (d) the activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Developer or the Board. This Subsection shall not apply to any activity conducted by Developer, Primary Builder or other Builder with respect to its development and sale of the Property or its use of any Lots which it owns within the Property.

4.3 Activity Restrictions. Except for the activities of Developer or Primary Builder prior to the date on which the Developer and Primary Builder have sold and conveyed all Lots in Development:

- A. No noxious or offensive trade shall be carried on or upon any Lot or within any improvement situated upon the Property, nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood or the Owners; provided that this shall not apply to the construction of Dwelling Units on the Lots or any construction, maintenance or replacement of facilities on the Common Property.
- B. The maintenance, keeping, boarding or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot, except that this shall not prohibit the keeping of dogs, cats, caged birds or aquarium fish or other domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the rules and regulations of the Association. No Owner shall permit or conduct an activity which may violate any applicable law affecting any Lot.

- C. No burning of any trash, accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Lot or the Common Property.
- D. Except as provided herein, no commercial vehicle, trailer, trucks of more than one ton, motorcycle, camper, camp truck, horse trailer, boat or the like shall be kept or used on the Property unless totally enclosed within an improvement or garage, so as not to be visible from the exterior thereof. No junk vehicle, inoperative or unlicensed motor vehicle, structure of a temporary character, mobile home, tent, shack, barn, or other outbuilding shall be kept or used upon any Lot, nor (except for bona fide emergencies) shall the major repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. Notwithstanding the provisions hereof, Developer, Primary Builder or any other Builder and their contractors may, for purposes of business use in connection with the development of the Lots or construction of the Dwelling Units, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.
- E. Trash and garbage containers shall not be permitted to remain in the public view except on days of trash collection.
- F. No signs of any character shall be erected, posted, or displayed upon any Lot, except street and identification signs installed by the Association, the Developer or the Primary Builder and excepting one (1) temporary real estate sign not to exceed six (6) square feet in area erected upon any Lot which advertises the same upon the market for sale or rent. This restriction shall not apply to Builders or Primary Builder, who may erect such signs as are authorized by the Developer or Primary Builder.
- G. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with an easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction of flow of any drainage channels.
- H. No vegetable garden shall be larger than 300 square feet and must be maintained so as not to be unsightly. No Owner shall be allowed to store more than two cords of firewood on any Lot. Firewood must be neatly stacked and free of unsightly debris, and storage of firewood by Owners is not permitted on the Common Property.
- I. No oil drilling, quarrying, or mining operation shall be permitted on any Lot or the Common Property.
- J. No above-ground swimming pools shall be permitted on any Lot or the Common Property.

K. Swingsets, jungle-gyms, playhouses or similar yard equipment, basketball courts, trampolines or any other recreational facilities may not be placed, installed or maintained on any Lot without prior approval of the Board. (Tennis courts shall not be permitted, unless on the Common Property.)

L. Mailboxes shall be of uniform design as specified by the Developer or Primary Builder or as approved by the Board. Mailboxes may be located within the signage, entrance way and landscaping easement.

M.

(i) No fence or any portion thereof may be installed on that part of any Lot which is closer to the street than the primary rear wall of the Dwelling Unit on the Lot. The "primary rear wall" shall be determined by lineal feet of wall area at the rear of the Dwelling Unit, and garage walls shall not be included in the calculation of the primary rear wall if the garage extends further to the rear of the Dwelling Unit than does the living area of the Dwelling Unit.

(ii) All fences shall be of a type and quality approved by Developer, Primary Builder or the Board; provided that any fence enclosing a swimming pool and located entirely within thirty (30) feet of such pool may be of a design and construction as is from time to time required by applicable government authorities for enclosure of swimming pools.

N.

(i) The Association may regulate the location, manner of installation, color and screening of any satellite dish or any television broadcast antenna placed outside a Dwelling Unit (each, a "Reception Device"), as long as such regulation does not (a) unreasonably delay or prevent the installation of an Owner's chosen Reception Device(s), (b) unreasonably increase the cost of the installation, maintenance or use of an Owner's Reception Device(s), or (c) preclude reception of an acceptable quality broadcast signal.

(ii) If an acceptable quality signal can be received by placing Reception Devices inside a Dwelling Unit without unreasonable delay or unreasonable cost increase, then installation outside a Dwelling Unit is prohibited. If not so prohibited, then Reception Devices may be no larger or installed no higher than is absolutely necessary for reception of an acceptable quality signal. Reception Devices may not encroach upon any Common Property.

(iii) The Association may require an Owner to paint a Reception Device to match the Dwelling Unit with a specific type and color of paint, as

long as such paint will not preclude reception of an acceptable quality signal or void a manufacturer's warranty for a Reception Device. The Association may require repainting or replacement if the exterior surface of a Reception Device deteriorates. The Association may require camouflaging of Reception Devices through inexpensive screening or plantings at the Owner's expense if the Reception Device is visible from other Dwelling Units or the Common Property.

(iv) Prior to the installation of a Reception Device, a Unit Owner must notify the Association in writing of the type of Reception Device and proposed location and provide the Association with a copy of any required permit.

O. There shall be no violation of any rule or regulation for the use of any Common Property which may from time to time be adopted by the Board and promulgated among the Members in writing. The Board is hereby in this Declaration authorized to adopt such rules.

P. The Owner of a Lot upon which a portion of the Common Property is located shall not alter the Common Property and shall not otherwise adversely affect or interfere with the intended use of the Common Property.

Q. There shall be no violation of any additional restrictions which may be, from time to time, reasonably imposed on the Owners by the Association in their use and enjoyment of the Lots.

4.4 Right of Association to Remove or Correct Violations. The Association, Developer and/or Primary Builder may, in the interest of the general welfare of the Owners, and after reasonable notice to an Owner, enter upon any Lot within reasonable hours on any day for the purpose of directing Owner to correct any violations or breach or any attempted violation of any of the covenants and restrictions contained in Article 4, or violation of the rules and regulations of the Board, or for the purpose of directing an Owner to abate anything herein defined as a prohibited use or nuisance, provided, however, that no such actions shall be taken without a resolution of the Board. Before any improvements constructed may be altered or demolished pursuant to this Article, the Association, Developer or Primary Builder must have participated in binding arbitration with such Owner. Such arbitration should be conducted in accordance with the commercial rules of arbitration of the American Arbitration Association. The arbitration award shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State. If the Owner refuses to participate in binding arbitration as provided for herein, then judicial proceedings must be brought against the Owner in order to alter or demolish any constructed improvements. Notwithstanding the foregoing, any signs which are prohibited by Article 4.3(F) may be removed pursuant to a resolution of the Board and without arbitration or judicial proceedings. All charges incurred by the Association, Developer or Primary Builder in correcting a violation hereunder, (including arbitration or court costs and reasonable attorneys'

fees) shall constitute a charge against the Lot and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of such lien amount, which lien shall be subordinate to real estate taxes and assessments, liens of record in favor of the United States of America, the State in which the Lot is located, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages, as provided in Section 3.9

4.5 Board Hearing. In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such dispute unless the arbitration provided for herein has occurred, or unless the parties have waived the requirement for arbitration.

ARTICLE 5 - COMMON PROPERTY

5.1 Rights of Enjoyment in Common Property. Each Owner shall have a right and a nonexclusive easement for the use and enjoyment of the Common Property. This right and easement shall be appurtenant to, and shall pass with the title to the Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Property to that Owner's Lot, which shall be appurtenant to the ownership of the Lot. These rights and privileges shall be subject, however, to the following:

- A. The right of the Board to levy the Assessments.
- B. The right of the Board to adopt, enforce and amend reasonable rules and regulations pertaining to the use of the Common Property.
- C. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for any infraction of the rules and regulations relating to the Common Property, which period of suspension shall not exceed 60 days per infraction.
- D. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for the nonpayment or delinquency of any Assessments until paid.
- E. All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Article 7

F. The right of the Board to convey such Common Property to eliminate any existing setback violation, encroachment or zoning violation created by the original construction of Developer or Primary Builder, free, clear and unencumbered from any and all easements and/or licenses granted pursuant to the Declaration.

5.2 Subordination to Mortgage or Other Lien. The rights and privileges provided in this Article shall be subordinate to any mortgage or other lien given by the Association for purposes of acquiring, improving or maintaining the Common Property.

5.3 Maintenance and Management of Common Property. The Association shall provide for the maintenance, repair, replacement and management of all Common Property as provided in Section 3.6. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company upon such terms and conditions as shall be agreed upon by the Board and the management company.

Until such time as the Developer and Primary Builder have sold and conveyed all Lots within Development, the design of landscaping and plant, shrub and tree varieties installed on and/or comprising part of the Common Property shall be maintained as initially installed unless otherwise approved by Primary Builder, (or, if the Primary Builder is no longer the Class C Member, the Developer). Thereafter, modifications to landscaping design and plant, shrub and tree varieties shall be approved by the Board.

5.4 Use of Common Property by Developer and Primary Builder. In addition to the rights described in Section 5.1, Developer and Primary Builder shall have the right during the period Developer or Primary Builder owns any Lot, to use the Common Property, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes.

ARTICLE 6 - LOT MAINTENANCE

6.1 General Maintenance. Subsequent to transfer of a Lot to an Owner, the Owner thereof shall keep the Lot well-landscaped and in a good and well-maintained condition. In the event that a portion of the Common Property encumbers a Lot, the Owner thereof shall be responsible for the maintenance of the Lot occupied or affected by the Common Property to the extent that the Association, Developer or Primary Builder does not maintain the same.

6.2 Maintenance of Common Drives. All Owners who share a common driveway for ingress and egress to their Lots shall participate in the cost and maintenance, repair or replacement of said common driveway based on their allocable use thereof. An Owner's allocable use shall be calculated by taking the longest distance within the common driveway which is being used for access by the Owner and dividing that distance by the sum of all the longest distances of every Owner's use of the common

driveway. The maintenance, repair or replacement of a common driveway shall be agreed upon by the Owners of said Lots. In the event Owners fail to agree on the manner in which such maintenance, repair or replacement of the common driveway is to be performed, or the amount of each Owner's allocable share thereof, then the same shall be determined by the Board upon application by and interested Owner. The decision of the Board shall be final and non-appealable. No parking shall be permitted on any portion of the common driveway which serves another Lot.

6.3

Private Sewer Line. The maintenance, repair or replacement of utility distribution lines and connections or private sewer laterals (which connect a Lot to sewer main) and are located on or exclusively service the Lot shall be the responsibility of the Owner using the line, connections or laterals. If more than one Owner is using a line, connection or lateral and the Owners fail to agree on a formula to determine their share of the cost or in the event the Owners fail to agree on the manner in which such maintenance, repair or replacement shall be done, then the Board shall make such determination upon application by an interested Owner. The decision by the Board shall be final and non-appealable.

6.4

Storm Water Control Structures. The Association shall be responsible for the care and maintenance of only those storm water control structures constructed by Developer, Primary Builder or at the direction of the Association and located on the Common Property and/or within private drainage easements and/or private storm sewer easements (including detention basin structures, outlet structures, paved channels, headwalls and any and all other storm drainage structures) which are located outside the public right of way and which easements are specifically shown on the record plat or plats applicable to the Development except for those specifically assumed by governmental authorities. All such care and maintenance shall comply with and confirm to the requirements, standards and specifications of the governmental authorities. Each Owner of a Lot shall be responsible for the care and maintenance of private drainage easements and private storm sewer easements located on such Lot other than the care and maintenance of storm water control structures for which the Association is responsible.

ARTICLE 7 - EASEMENTS AND LICENSES

7.1

Utility and Support Easements. Developer hereby grants, conveys, and reserves non-exclusive easements over the Property as indicated on any record plat of the Development for the purpose of (i) the construction, reconstruction, alteration, and maintenance of all facilities necessary to provide utility services, including without limitation, telephone, water, gas, sanitary and storm sewer services to each Lot and the Common Property, and (ii) the cutting, grading and maintaining of slopes, retention walls and other supports, both for the benefit of each Lot and the Common Property. Developer further reserves the right to grant easements or modify existing easements over any portion of the Property for any of the purposes set forth in this Section 7.1. Upon sale of the last Lot in the Development by Developer to an Owner, Developer's rights under this Section 7.1 shall automatically pass to the Association.

7.2 Common Property Easement. Developer hereby grants, conveys, establishes and reserves an exclusive easement for the benefit of the Developer, Primary Builder and Association over the Common Property for the purpose of the construction, reconstruction, alteration, maintenance and use thereof by Developer, Primary Builder and the Association. Developer further grants, conveys, establishes and reserves a non-exclusive easement over that portion of the property not defined as the Common Property for the temporary occupation thereof in order to facilitate the exercise of any of the foregoing easements by either Developer, Primary Builder or Association.

7.3 Owner License. Developer hereby grants, conveys and reserves unto each Owner a non-exclusive license over the Common Property designated by the Primary Builder or Developer, or the Association upon the termination of the Class B and Class C membership therein, as defined in Article 2, for the use and enjoyment of the individual Owners and of the Lots, including without limitation, utilities, and sidewalks, roadways and similar amenities, if any.

7.4 Self-Help Easement. In the event that an Owner should violate any of the provisions of the Declaration, the Association, the Developer and the Primary Builder are hereby granted a non-exclusive easement over the Lot of the violating Owner so as to permit the Association to occupy the same and to rectify such breach as set forth in Sections 4.4 or 12.6 hereof.

7.5 Prohibition. No Owner, other than Developer or Primary Builder, shall grant an easement, right of way or license over a Lot, without the prior consent of the Association.

7.6 Easement to Run with the Land. All easements and rights described in this Declaration shall run with the land, perpetually in full force and effect, and at all times shall insure to the benefit of and be binding on the Developer, Primary Builder, the Association, and any Owner, purchaser, mortgagee or other person now or in the future having an interest in any part of the Property.

ARTICLE 8 - ARCHITECTURAL CONTROL

8.1 Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or change (including any change in color) or alteration thereof be made, until a detailed set of plans and specifications is submitted to and approved by the Board. Notwithstanding the foregoing (1) initial construction of Dwelling Units and improvements by a Builder, Primary Builder or the Developer shall be under the exclusive control of the Primary Builder (or, if Primary Builder is no longer the Class C Member, Developer) as provided in Section 8.4, below and (2) until the expiration of the Development Period (i) the right of architectural control shall be vested in the Primary Builder or, if the Primary Builder is no longer the Class C Member, the Developer, and (ii) all references in this Section 8.1 to the Board shall be deemed to mean the Primary Builder or, if the Primary Builder is no longer the

Class C Member, the Developer. In the event that the right of architectural control is vested in Developer pursuant to this Section 8.1, Developer shall approve Primary Builder's plans for initial construction of Dwelling Units, so long as the Dwelling Units made the subject of such plans are consistent with and similar in value, price, appearance, size and architectural style with Dwelling Units already constructed on the Property by Primary Builder. All plans and specifications shall be delivered to the Board, in such form and shall contain such information as the Board may reasonably require, including but not limited to any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross-sections, floor plans and elevations; evidence of conformity with building codes; the exterior design, color and the location of the proposed improvements in relation to the surrounding improvements and topography of the surrounding Property. Review of the plans and specifications shall include the following considerations: the continued maintenance of the Development as a residential community of high aesthetic quality; the promotion of the health, safety and welfare of all Owners, the preservation, beautification and maintenance of the Property and all structures thereon; the preservation and promotion of environmental quality; and the assurance of adequate water, sewer and drainage facilities and other utilities and services. The Board shall (i) approve the plans and specifications, (ii) disapprove them, or (iii) approve them with conditions of qualifications. The approval of the plans and specifications by the Board shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws. In the event the Board fails to approve or disapprove such design and location and notify Owner of its decision within thirty (30) days after plans and specifications have been received by it, the Owner may give written notice to the Board of the Board's failure to so approve or disapprove. The Board shall have seven (7) days after receipt of such notice to approve or disapprove such design and location and notify Owner of its decision, otherwise, approval will not be required and this Article 8 will be deemed to have been fully complied with. Such submission to the Board shall be in person, or by registered or certified mail, with return receipt, directed to the Association manager, or if there is no manager, to its President.

8.2 Enforcement. In the event of a violation of the provisions of this Article 8, the Association shall have the right to enforce this Article by any proceedings authorized in this Declaration, the By-Laws, or by law. In the event that the Association fails to enforce the provisions of this Article 8, the Developer and the Primary Builder each shall have the right to enforce this Article upon prior written notice to the Association.

8.3 Fees. The Board may charge reasonable fees for the processing of said plans and specifications and any inspections. Any modifications to be undertaken to the exterior of a Dwelling Unit and Lot or the Common Property shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically

handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board. The approved contractor shall provide an adequate performance bond for the benefit of the Association.

Notwithstanding the other provisions herein, including those requiring approval of the Members, the Board is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Dwelling Unit and Lot, including the Common Property.

8.4 Approval of Plans by Developer. Each Builder, other than the Primary Builder, prior to initial construction of a Dwelling Unit and/or accessory structures on a Lot shall deliver its plans and specifications to Primary Builder and secure the approval by Primary Builder (or, if Primary Builder is no longer the Class C Member, by Developer) of such plans and specifications (as defined in Section 8.1, above). Such approval of plans and specifications by Primary Builder or Developer shall be conducted in the same manner and in the same time frame as set forth in Section 8.1, above. Primary Builder and Developer shall have all legal and equitable remedies available under this Declaration to enforce their decision against Builders, Owners, or their successors.

8.5 Handicap Accessibility. Notwithstanding the other provisions herein, an Owner of any Dwelling Unit and Lot may, at his expense, have such reasonable modifications made to the interior and exterior of his Dwelling Unit and Lot and the Common Areas as may be necessary to afford the physically handicapped a Lot in connection therewith. Fees shall be paid at the time the plans and specifications are submitted to the Board.

ARTICLE 9 - ANNEXATION AND ALTERATIONS TO THE PROPERTY

The provisions of this Declaration are imposed upon the Property including the Lots, Dwelling Units, and Common Property located thereon. Developer shall have the right at any time to remove any portion of the Property from the scope of this Declaration or to subject any Additional Property to the provisions of the Declaration by the execution and recording of an amendment or supplement to the Declaration.

The Developer may annex to this Declaration any Additional Property without the consent of the Members of the Association, within seven (7) years after the date this Declaration is filed for record. However, the Developer is not bound to annex any of the Additional Property to this Declaration, and until such time as any of the Additional Property is annexed, the same shall not be subject to the provisions of this Declaration.

Any annexations made pursuant to this Article 9 shall be evidenced by filing an amendment or supplement to this Declaration in the public records of the county in which such Additional Property is located, which supplement or amendment shall extend this Declaration to such Additional

Property. The supplement or amendment to this Declaration may contain additional covenants, conditions, restrictions, easements and liens as the Developer or Primary Builder shall deem appropriate for the purpose of completing the development of the any Additional Property. Such Additional Property shall enjoy the benefit of all amenities in the Development.

ARTICLE 10 - INSURANCE

10.1 Maintenance of Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board, Developer, Primary Builder, all Owners and Members of their respective families and other persons residing with them in the residence, their tenants, and all persons lawfully in possession or control of the Lots, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from, the Common Property and the portions of the Lots to be maintained by the Association, such insurance to afford protection with limits of not less than \$500,000.00 with respect to bodily injury, disease, illness or death suffered by any one person and of not less than \$1,000,000.00 with respect to bodily injury, disease, illness or death suffered by more than one person in any one occurrence, and not less than \$500,000.00 with respect to damage to or destruction of property arising out of one accident.

10.2 Other Insurance. The Association shall have a right to maintain officers and Trustees liability insurance and such insurance or extended coverage insurance insuring the Common Property in such amounts, against such perils, for such time periods and under such circumstances as the Association through its Board determines, in their sole discretion, is appropriate and in the best interest of the Development.

10.3 Insurance Limitation. Except as otherwise provided in Section 10.1, the policies of insurance maintained by the Association pursuant to this Article 10 shall not insure against liability for personal injury or property damage arising out of or relating to the Lots. Each Owner shall be responsible for obtaining insurance with respect to any Lot and improvements thereon and the contents thereof and any personal liability to the extent not covered by insurance provided in this Article 10. All insurance procured by the Association shall have such deductibles as the Board shall, from time to time, determine necessary and appropriate.

10.4 Dwelling Unit Insurance. The Association shall have no responsibility or liability to obtain or maintain any type of insurance upon any Dwelling Unit constructed on Lots and such insurance shall be the sole responsibility of the Owner.

10.5 Premiums. All premiums paid for any insurance procured by the Association hereunder shall be deemed to be a Common Expense.

10.6 Insurance Proceeds. Any and all insurance proceeds received by the Association shall be held by the Association and used for the benefit of the Owners, the Common Property and the Lots as the Board shall, from time to time, determine. No Owner shall have any right in or to the proceeds of any such insurance.

10.7 Casualty. In the event that any portion of the Common Property is damaged or destroyed, the Association shall restore the affected portion of the Common Property to substantially its condition existing immediately prior to such damage or destruction to the extent reasonably practicable. If such damage or destruction is not covered by insurance maintained by the Association or the proceeds are insufficient to fully restore the affected portion of the Common Areas as a result thereof, then the Association shall effect the restoration thereof in such a manner as the Association may determine appropriate in its sole judgment and shall levy a special assessment against each Owner for any deficiency in a proportion to its respective share thereof.

ARTICLE 11 - REAL ESTATE TAXES AND ASSESSMENTS

11.1 Real Estate Taxes. Each Owner shall be responsible for and pay all taxes and assessments, general and special, levied or imposed upon their respective Lot and its improvements.

11.2 Allocation. Prior to the time the applicable taxing authorities establish separate tax parcels for each Lot, the Primary Builder (or, if Primary Builder is no longer the Class C Member, the Developer) shall allocate the real estate taxes and assessments upon the Property among and against the Lots and the Common Property in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots as well as the remainder of the Common Property within the Development. The allocation made in accordance with the terms hereof shall be binding upon all Owners and shall be paid by Owners in the same manner as provided in Section 3.9.

11.3 Common Property. Taxes and assessments, general and special, charged against the Common Property of the Development shall be paid by the Association when due and deemed a Common Expense.

ARTICLE 12 – MISCELLANEOUS

12.1 Duration. Except where permanent or perpetual easements or other permanent rights or interests are herein created, the terms and provisions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument signed by the Owners of two-thirds (2/3) of the Lots have been recorded, agreeing to terminate the Declaration. Notwithstanding the foregoing, this Declaration may not be terminated without Developer's prior written consent as long as Developer owns any Lot.

12.2 Assignment by Developer, Primary Builder. Developer shall be entitled to assign to any party, by a separate recorded instrument or instruments, all or a portion of the rights and benefits contained in this Declaration which are reserved to the Developer. In the event of any assignment by Developer, the assignee shall be deemed to be a "Developer" to the extent of the rights and benefits hereunder which are assigned. Any such rights and benefits of the Developer contained herein shall not be assignable or transferable without an express assignment hereof by Developer. Such assignments may transfer rights and benefits exclusively or non-exclusively. Primary Builder shall be entitled to assign, by a separate recorded instrument, all or a portion of the rights and benefits contained in this Declaration which are reserved to the Primary Builder; however, such assignment shall be made only in connection with the assignment or transfer of the right of Primary Builder to acquire additional Lots in the Development or, if no such right exists, in connection with the conveyance by Primary Builder of its remaining Lots in the Development. In the event of any assignment by Primary Builder, the assignee shall be deemed to be the "Primary Builder" to the extent of the rights and benefits hereunder which are assigned. Any such rights and benefits of the Primary Builder contained herein shall not be assignable or transferable without an express assignment hereof by Primary Builder. Such assignments may transfer rights and benefits exclusively or non-exclusively.

12.3 Amendment. The Declaration may be amended, from time to time as follows:

A Class B Members and Class C Members. The Developer and the Primary Builder reserve, for the benefit of the Developer and the Primary Builder, the right and power and each Owner by acceptance of a deed to a Lot is deemed to and does grant to each of the Developer and the Primary Builder a Power of Attorney coupled with an interest, the burden of which interest shall run with the title to the Lot, and shall be irrevocable except by Developer and the Primary Builder for a period of seven (7) years from the date hereof, to amend this Declaration without the approval of the Lot Owners: (i) to correct or clarify the legal description of the Property or the Additional Property; (ii) to expand the Development pursuant to Article 9; (iii) to correct clerical or typographical errors; (iv) to make nominal changes in the Declaration; (v) to clarify Developer's original intent; (vi) to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, (including the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency); or (vii) to the extent necessary to enable Developer or Primary Builder to meet any other reasonable need or requirement including those associated with completion of the development of the Property and to facilitate the making and marketing of first mortgages upon any of the Lots. The rights of Developer or Primary Builder hereunder may not be amended or altered without the prior written consent of Developer and/or Primary Builder, as the case may be. Any amendment must be recorded and shall be effective upon recording.

B. Lot Owners. This Declaration may be amended at any time by an instrument executed by persons or entities able to exercise seventy-five percent (75%) of the voting power of all classes of the Association and approved by eligible first mortgage holders representing Lots having at least fifty-one percent (51%) of the voting power and for whom the Association has received written notice of such mortgage; provided, however, that rights of Developer or Primary Builder hereunder may not be amended or altered without the prior written consent of Developer and/or Primary Builder, as the case may be. Any amendment must be recorded and shall be effective upon recording.

12.4 Personal Liability. Nothing in this Declaration, the Articles, or By-Laws, of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any Trustee or any officer of the Association acting in their capacity as such, for the maintenance, repair or replacement of any Dwelling Unit or part of the Common Property or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct and each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Trustee, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such person is covered by insurance and in such event the amount of recovery shall be limited to the amount of insurance.

12.5 Notices. Any notice required to be sent to a Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner appearing on the records of the Association at the time of such mailing.

12.6 Enforcement. The Association shall have the right to enforce these covenants and restrictions. In the event that the Association fails to enforce these covenants and restrictions, Developer and Primary Builder each shall have the right to enforce these covenants and restrictions upon prior written notice to the Association. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, to restrain and/or to enjoin violation and/or to recover damages, and against the Property to enforce any lien created by these covenants; and the failure or forbearance by the Association, Developer, Primary Builder or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of a violation of the provisions of the Articles or By-Laws, the Association shall have the right to enforce any covenant or restriction by proceedings authorized in this Declaration, the Articles, By-Laws or by law.

12.7 Severability. Invalidity of any one of these covenants or restrictions by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

12.8 Conflicts, Applicable Law. In the case of any conflict between this Declaration and either the Articles or By-Laws of the Association, the Declaration shall control. This Declaration shall be governed by the laws of the State.

12.9 Rights of Mortgage Holders. Any mortgagee of a Lot may pay any taxes or other charges which are in default and which may or have become a charge against the Common Property or any part thereof any may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy, for such Common Property, and such mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

The holder, insurer or guarantor of the first mortgage on any Lot shall be entitled to timely written notice of the following:

- A. Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage;
- B. Any sixty (60) days delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- C. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- D. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders; and
- E. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

A mortgage holder, insurer or guarantor shall send a written request to the Association, stating both its name and address and the Lot number or address upon which it holds a mortgage, in order to obtain the foregoing notices.

12.10 Condemnation.

- A. In the event any Lot or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Owner and the holder of the first mortgage, to the extent of their respective interests. Each Owner shall give the holder of a first mortgage on the Owner's Lot timely written notice of such proceeding or proposed acquisition.
- B. In the event any Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or otherwise sought to be acquired by a condemning authority, the proceeds of any award

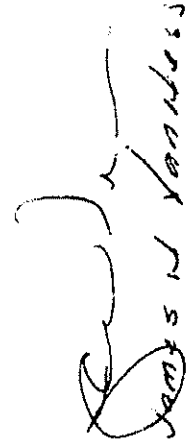
or settlement shall be distributed to the Association for the common benefit of the Owners and their mortgagees, as their first interests appear.

12.11 Existing Residence. As of the date of this Declaration, a residence exists on Lot 69 of the record plat for the Development, which existing residence (hereinafter the "Existing Residence") is titled in the name of the Developer and may, in Developer's sole discretion, subsequently be sold by Developer. Notwithstanding anything in this Declaration to the contrary, while new fences upon and additions and modifications to the Existing Residence are subject to architectural approval under Section 8.1 of this Declaration, the Existing Residence is hereby deemed to have received all of the architectural approvals necessary for its existence under this Declaration. The Existing Residence shall be deemed a Lot for all other purposes hereunder.

IN WITNESS WHEREOF, Developer has executed this instrument at the time and place set forth above.

Signed and acknowledged in the presence of:

CROSSMANN COMMUNITIES PARTNERSHIP, an Indiana general partnership



Print Name: James W Vandenberg

By: **CROSSMANN COMMUNITIES, INC.**
an Indiana corporation




Print Name: RICHARD H. CROSSER
Title: PRESIDENT

Print Name: Lynda N Hitchcock

STATE OF INDIANA)
) SS.
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared **RICHARD H. CROSSER**, the **PRESIDENT**, of Crossmann Communities, Inc., a corporation organized and existing under the laws of the State of Indiana, general partner of Crossmann Communities Partnership, a general partnership organized and existing under the laws of the State of Indiana, and acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Restrictions, Liens and Reservations of Easements for and on behalf of said corporation and general partnership, and who, has been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 30th day of May, 2000.

Signature: 
Printed Shirley J. White a Notary Public
Residing in Hendricks County, Indiana.



My commission expires: 5-21-01

7-49965.06

EXHIBIT A

Legal Description of Property

EXHIBIT "A"

Part of the Southwest Quarter of Section 33, Township 18 North, Range 5 East of the Second Principal Meridian, Hamilton County, Indiana, described as follows:

Commencing at a PK nail at the Northeast corner of said Quarter; thence South 00°27'28" West (assumed bearing) along the East line thereof a distance of 2,656.10 feet to a Harrison monument at the Southeast corner of said Quarter section; thence South 89°50'15" West along the South line of said Quarter section a distance of 620.02 feet to the POINT OF BEGINNING; thence continuing South 89°50'15" West along the South line of said Quarter section a distance of 1,075.49 feet to a PK nail at the Southeast corner of Rockhill Subdivision recorded in Plat Cabinet 2, Slide 58 in the Office of the Hamilton County Recorder; thence North 00°27'07" East along said East line and along the East line of a tract of land described to David and Agnes Wolverton recorded as Instrument No. 98-9801511 in said recorder's office a distance of 955.27 feet; thence North 89°54'47" East a distance of 615.34 feet; thence North 07°07'01" West a distance of 49.78 feet; thence North 21°58'16" West a distance of 20.48 feet; thence North 55°34'09" East a distance of 195.58 feet; thence North 34°25'51" West a distance of 167.04 feet; thence North 55°34'09" East a distance of 150.00 feet; thence North 34°25'51" West a distance of 153.46 feet; thence North 55°34'09" East a distance of 135.00 feet; thence North 34°25'51" West a distance of 27.12 feet; thence North 55°34'09" East a distance of 185.00 feet; thence North 34°25'51" West a distance of 300.00 feet; thence North 26°35'16" West a distance of 137.62 feet; thence North 13°06'44" West a distance of 29.76 feet; thence North 76°53'16" East a distance of 353.06 feet; thence North 00°27'28" East parallel with East line of said Southwest Quarter section a distance of 493.51 feet to the North line of said Quarter section; thence North 89°59'19" East along said North line a distance of 355.01 feet to a PK nail at the Northwest corner of Hilly Acres Subdivision recorded in Plat Cabinet 2, slide 70; thence South 00°27'28" West parallel with East line of said Southwest Quarter and along the West line of said Hilly Acres Subdivision and along the west line of a tract of land described to RUSSEL AND OPAL I. JOHNSON recorded as Instrument No. 89-00517 a distance of 951.00 feet; thence North 89°59'19" East along the south line of said tract a distance of 87.07 feet; thence South 00°00'41" East a distance of 150.83 feet; thence South 59°03'05" West a distance of 292.70 feet; thence South 13°00'00" West a distance of 1,201.12 feet; thence South 26°07'08" East a distance of 206.13 feet; thence South 00°09'45" East a distance of 50.00 feet to the POINT OF BEGINNING containing 42.770 acres (1,863,050 square feet) more or less.

EXHIBIT B

By-Laws

EXHIBIT B

BY-LAWS AND
CODE OF REGULATIONS OF
ROLLING KNOLL HOMEOWNERS' ASSOCIATION, INC.

This instrument prepared by:

Jeffrey L. Zackerman, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

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BY-LAWS AND CODE OF REGULATIONS OF
ROLLING KNOLL HOMEOWNERS' ASSOCIATION, INC.

ARTICLE 1 - NAME AND LOCATION

- 1.1 Name and Location. The name of the corporation is Rolling Knoll Homeowners' Association, Inc., hereinafter referred to as "Association." The principal office of the Association shall be c/o Zaring Homes of Indiana, LLC, 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214. Meetings of the Association and Board may be held at such places within Marion County, Indiana or Hamilton County, Indiana, as designated by the Board.

ARTICLE 2 - DEFINITIONS

- 2.1 Declaration. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions, Liens and Reservation of Easements applicable to the Property recorded in the office of the Recorder of Hamilton County, Indiana, as the same may be amended, from time to time. The terms, provisions, conditions and restrictions of the Declaration, as related to the Association and its Members, the Board, officers and committees, are incorporated by reference with the same force and effect as is fully set out in these By-Laws (hereinafter referred to as the "By-Laws").
- 2.2 Association, Owner, Property, Lot, Common Property, Dwelling Unit, Member, Trustee, Board, Developer and Primary Builder. As used in these By-Laws, the terms "Association," "Owner," "Property," "Lot," "Common Property," "Dwelling Unit," "Member," "Trustee," "Board" "Developer" and "Primary Builder" shall have the same meaning as defined in the Declaration.

ARTICLE 3 - MEETING OF ASSOCIATION

- 3.1 Annual Meeting. The annual meeting of the Association Members for the purpose of electing Trustees and for the transaction of such other business as may properly come before the Association shall be held annually at such time and place as determined by the Board.
- 3.2 Special Meetings. Special meetings of the Association shall be called at any time by the President of the Association or by the Board, or upon written request of the Members who are entitled to vote one-third (1/3) of all the votes of Membership.
- 3.3 Notice of Meeting; Waiver. Reasonable written notice of each meeting of the Association shall be given to each Member. Each notice shall specify the date, time and location of the meeting, and, in the case of a special meeting, shall specify the purpose of the meeting. The notice shall be delivered personally or mailed postage prepaid to all

Members. Failure by a Member to receive a properly mailed notice shall not affect the validity of action taken by the Board at any meeting for when the notice was issued.

3.4 Quorum. The presence at the meeting of Members entitled to vote, or of proxies entitled to vote, fifty percent (50%) of the votes, including the Class B Member (if Class B membership then exists) or the Class C Member (if Class C membership then exists), shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. Whether or not a quorum is present, the majority of the Members present at a meeting may by vote adjourn that meeting.

3.5 Proxies. At all meetings of the Association, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association prior to commencement of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot.

3.6 Voting. The affirmative vote of a majority of all of the votes entitled to be cast, including the Class B Member (if Class B membership then exists), the Class C Member (if Class C membership then exists) and the Class A Members present, either in person or by proxy, shall decide any issues brought before the Association, unless the issue is one upon which a quorum or a different vote is required by provision of the laws of the State of Indiana, the Declaration, the Articles of Incorporation or these By-Laws.

3.7 Action by Association Without Meeting. Any action that may be taken at a meeting of the Association may be taken without a meeting if written approval and consent, setting forth the action authorized shall be signed by the Class B Member (if the Class B membership then exists), the Class C Member (if the Class C membership then exists) and a majority of the total voting power of all Class A Members of the Association. This written consent shall be filed with and entered upon the records of the Association.

3.8 Suspension of Voting Privileges. No Member shall be eligible to vote or to be elected to the Board who is shown on the records of the Association to be more than thirty (30) days delinquent in the payment of any assessment due the Association.

ARTICLE 4 – BOARD OF TRUSTEES; SELECTION; TERM OF OFFICE

4.1 Number. Until altered by a vote of the Association, there shall be five (5) Trustees of the Association. It is not necessary that the Trustees be Members of the Association.

4.2 Term of Office. At the first annual meeting, the Primary Builder (or if no Class C membership exists, the Developer) shall elect three (3) Trustees for a term of one (1) year, and the Members, other than the Primary Builder (or the Developer), shall elect two (2) Trustees for a term of one (1) year, and at each annual meeting thereafter, the Class A Members shall elect two (2) Trustees and the Primary Builder (or if no Class C membership exists, the Developer) shall elect three (3) Trustees, for a term of one (1) year, or until their successors are elected and qualified. At such time as Class B membership and Class C membership terminate, as provided in the Declaration and the

Articles of Incorporation, all Trustees shall be elected by the Association for a term of one (1) year, or until their successors are elected and qualified.

4.3 Removal. Any Trustee may be removed from the Board, with or without cause, by a majority vote of the Association. In the event of death, resignation or removal of a Trustee, the successor shall be selected by the remaining Trustees on the Board and shall serve for the unexpired term of the Trustee's predecessor. However, any Trustee elected or appointed by a Class B Member or Class C Member may only be removed by a Class B Member or Class C Member, and the successor may only be appointed by the Class B Member or Class C Member so long as the Class B membership or Class C membership exists.

4.4 Compensation. Trustees shall serve without compensation except Trustees may be reimbursed for the actual expenses incurred in the performance of their duties.

4.5 Action Taken Without a Meeting. The Trustees shall have the right to take any action without a meeting which they could take at a meeting by obtaining the written approval of all Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE 5 - NOMINATION AND ELECTION OF TRUSTEES

5.1 Nomination. Nomination for election to the Board shall be made from the floor at the Association's annual meeting. Nominations may be made from among Members or non-Members. The Board of Trustees shall take as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

5.2 Election. Election to the Board shall be by secret written ballot. At such election, the Members, in person or by proxy may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Section 3.6 of these By-Laws. The individual receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 6 - MEETINGS OF TRUSTEES

6.1 Regular Meetings. The Board shall meet annually after the annual meeting of the Association. In addition to its annual meeting, the Board shall have regular meetings established as to time and location by resolution of the Board. In the event any regular meeting falls upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

6.2 Special Meetings. Special meetings of the Board shall be called by the President of the Association, or by any three (3) Trustees, after not less than three (3) days notice to each Trustee unless such notice period is waived.

6.3 Quorum. A majority of Trustees shall constitute a quorum for the transaction of business. Every business decision made by a majority of the Trustees present at a meeting at which a quorum is present shall be regarded as an act of the Board.

ARTICLE 7 – GENERAL POWERS AND DUTIES OF THE BOARD OF TRUSTEES

7.1 General Powers and Duties. The Board shall have the power to:

- 7.1.1 maintain corporate surveillance over all the Association's activities;
- 7.1.2 determine the Association's programs and policies, and assure ^{that} such policies and programs are designed to serve the philosophies, objectives and purposes of the Association;
- 7.1.3 approve organization aspects of the Association and delegation of authority on matters;
- 7.1.4 delegate to appropriate persons the authority to conduct the business of the Association and carry out the policies and programs approved by the Board;
- 7.1.5 appoint a competent staff and determine its authority and responsibilities;
- 7.1.6 make provisions for establishment of various auxiliaries to aid in accomplishing the objectives of the Association;
- 7.1.7 provide for financial stability;
- 7.1.8 analyze and evaluate the total operation, including all activities and services;
- 7.1.9 adopt and publish rules and regulations governing the use, maintenance, repair and replacement of all easement areas and Common Property;
- 7.1.10 suspend the voting rights and the right to use the Common Property and community facilities of a Member during any period in which such Member shall be in default in the payment of any assessments levied by the Association, such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days per infraction of published rules and regulations; and
- 7.1.11 employ a managing agent, and independent contractor, or such other employees as the Board deems necessary and to prescribe their duties.

ARTICLE 8 – OFFICERS

8.1 Number and Office. The officers of the Association shall consist of a President, Vice-President, Secretary and Treasurer. The Officers shall be elected by a majority vote at the first meeting of the Board following each annual meeting of the Members.

8.2 Powers and Duties. Subject to such limitations as the Board may from time to time prescribe, the officers shall each have powers and perform such duties as generally pertain to their respective offices and such further powers and duties as may be conferred from time to time by the Board.

8.3 Officers.

8.3.1 President. The President shall be the principal officer of the Association and shall be a Member of the Board.

8.3.2 Vice President. In the absence of the President, the Vice President shall assume the powers and the duties of the President.

8.3.3 Secretary. The Secretary shall be responsible for sending notice of all meetings of the Association and the Board. The Secretary shall keep the minutes of the Association and the Board meeting.

8.3.4 Treasurer. The Treasurer shall collect and disburse the funds of the Association and report on the financial condition of the Association.

8.4 Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year until a successor is elected, unless an officer shall resign, be removed or otherwise disqualified to serve.

8.5 Special Appointments. The Board may elect such officers as the affairs of the Association may require, each of whom shall hold office for such period, have the authority and perform the duties as the Board may, from time to time, determine.

8.6 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall take effect on the date the notice is received or at any time specified therein. The acceptance of such resignation shall not be necessary to make it effective.

8.7 Vacancies. A vacancy in an office shall be filled by an appointment by the Board. The officer appointed to a vacancy shall serve the remaining term of the officer replaced.

8.8 Multiple Offices. The office of Secretary and Treasurer may be held by the same individual. No individual shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 8.5 of this Article.

ARTICLE 9 – COMMITTEES

The Board is hereby authorized to appoint committees as deemed appropriate in carrying out its purposes as provided in the Declaration or By-Laws.

ARTICLE 10 – PROTECTION FROM LIABILITY

To the full extent permitted by the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended, or laws succeeding to or replacing such Act, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, contemplated or completed action, suit or proceeding, whether civil, administrative or investigative (whether by or in the right of the Association or otherwise) by reason of the fact that he or she is or was a Trustee of the officer of the Association, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement of or in connection with any such action, suit or proceeding, provided that such expenses, judgment, fine and amounts are in a reasonable sum and are reasonably incurred. The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled to under the Articles of Incorporation, these By-Laws or any agreement, vote of disinterested Trustees or otherwise, both as to action in his or her official capacity and as to action in another capacity once he or she ceases to be a Trustee, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE 11 – MISCELLANEOUS

- 11.1 Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, and any holder, insurer or guarantor of a first mortgage on a Lot. The Declaration, Articles and these By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.
- 11.2 Fiscal Year. The fiscal year shall begin on the first day of January every year, except that the first fiscal year of the Association shall begin on the date of incorporation. The commencement date of the fiscal year herein established may be changed by the Board should corporate practice subsequently dictate.
- 11.3 Execution of Association Documents. All notes, contracts, other documents, checks and other drafts shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time designated by the Board.
- 11.4 Conflict. In the case of any conflict between the Articles and these By-Laws, the Articles shall control; and in the case of conflict between the Declaration and these By-Laws, the Declaration shall control.
- 11.5 Amendments. These By-Laws may be amended at a regular or special meeting of the Association, by affirmative vote of a majority of the total number of votes cast. In addition to the foregoing, amendments of these By-Laws shall require the prior written consent of both the Class B Member, as long as the Class C membership continues to exist, and the Class C Member, as long as the Class B membership continues to exist; provided, however, that the rights of the Class B Member or the Class C Member hereunder may not be altered or amended without the prior written consent of the Class B Member or the Class C Member, as the case may be.

We, the undersigned Trustees of Rolling Knoll Homeowners' Association, Inc., a nonprofit Indiana corporation, No. _____, recorded on Roll _____ at Frame _____ of the records of incorporation and miscellaneous filings in the office of the Secretary of State of Indiana, do hereby approve the adoption of the foregoing By-Laws, for the government of said corporation.

Executed at _____ on _____, 2000.

Peter Hills, Trustee

Shad McConkey, Trustee

Jack Scheidt, Trustee

EXHIBIT C

Articles of Incorporation

F:\User\AMERICA\Zarrag-Rolling Knoll

EXHIBIT C

ARTICLES OF INCORPORATION
OF
ROLLING KNOLL HOMEOWNERS' ASSOCIATION, INC.

The undersigned sole incorporator, Tony Chaney, executes these Articles of Incorporation for the purpose of forming and hereby forms a non-profit corporation pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, in accordance with the following provisions:

ARTICLE 1 - NAME

The name of the corporation shall be Rolling Knoll Homeowners' Association, Inc.

ARTICLE 2 - TYPE OF CORPORATION

This corporation is a mutual benefit corporation.

ARTICLE 3 - PURPOSE

The purpose for which said non-profit corporation is formed, and other provisions pertaining to this non-profit corporation and its powers are set forth in the Articles herein. This non-profit corporation, hereinafter sometime referred to as the "Association," does not contemplate pecuniary gain or profit to its Members. The specific purposes for which this corporation is formed is to act as the Lot Owners' Association with regard to the Property specifically described in the Declaration of Covenants, Conditions and Restrictions, Liens and Reservation of Easements (the "Declaration") applicable to the Property (as defined in the Declaration). The Declaration will be recorded in the property records of Hamilton County, Indiana. Capitalized terms not defined herein shall have the meanings given such terms in the Declaration. In addition, this Association is formed to provide for the maintenance, preservation and architectural control of the Property and the buildings and improvements situated thereon under the terms of the Declaration, and to promote the health, safety and welfare of the residents and Owners of the Property and to act in the same manner with regard to any other property which may hereafter be brought within the jurisdiction of the Association as part of the same plan, and for these purposes:

- (a) to exercise all the power and privileges and to perform all of the duties and obligation of the Association as set forth in the Declaration or as the same may be amended from time to time;

- (b) to fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office, administrative, and other expenses incident to the conduct of business of the Association, including all license fees, taxes or governmental charges levied or imposed against the Property of the Association;
- (c) to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association and subject to the terms of the Declaration;
- (d) to borrow money, and with the assent of a majority of the voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, but only to the extent permitted by the Declaration;
- (e) to acquire additional Lots, casement areas, and Common Property, in addition to that described in the Declaration when it was first recorded, but only in accordance with the provisions of the Declaration;
- (f) to own, acquire, build and operate real and personal property in accordance with the Declaration;
- (g) to obtain, pay for and maintain insurance to the extent provided in the Declaration;
- (h) to do any other things necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes or which will promote the common benefit and enjoyment of the residents or Owners of the Lots, insofar as not prohibited by law or the Declaration; and
- (i) to have and to exercise any and all powers, rights and privileges which a corporation organized under the Indiana Nonprofit Corporation Act of 1991, as amended, by law may now or hereafter have or exercise, insofar as not prohibited by the Declaration.

ARTICLE 4 - REGISTERED OFFICE AND AGENT

The Association's initial registered office in Indiana is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214 and the initial registered agent at such address is Peter Hills.

ARTICLE 5 - ADDRESS

The mailing address of the Association's principal office is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214.

ARTICLE 6 - TRUSTEES

The Association shall be managed by the Board, who need not be members of the Association. The number of Trustees may be designated as not less than three (3) nor more than seven (7) members by said Association. The names and addresses of the persons who are to act in the capacity of initial Trustees until the selection of their successors are:

<u>Name</u>	<u>Term of Office</u>	<u>Address</u>
Peter Hils	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214
Shad McConkey	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214
Jack Scheidt	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214

ARTICLE 7 - MEMBERSHIP

The Association will have members. Every Owner (as defined in the Declaration) subject to the covenants contained in the Declaration, and to assessments levied by the Association, including purchasers on land installment contracts and contract sellers on forms of executory contracts for the sale of a Lot (as defined in the Declaration), but excluding those holding record title or a similar interest merely as security for the performance of an obligation, shall automatically upon acquisition of such ownership interest in a Lot be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Membership shall terminate upon the sale or other disposition by an Owner of his/her ownership interest, at which time the new Owner shall automatically become a Member of the Association.

ARTICLE 8 - VOTING RIGHTS

The Association shall have three classes of voting membership:

Class A - Class A Members shall be all Owners, except the Developer (as defined in the Declaration) for as long as Class B membership exists and the Primary Builder (as defined in the Declaration) for as long as the Class C membership exists, who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as the majority of such persons among themselves determine, but in no event shall more than one vote be cast with respect to any Lot notwithstanding the number of persons who may have an interest therein. The Board shall be entitled to suspend voting rights of a Member in the Association during the period in which the Member has breached the provisions of the Declaration or any of the By-Laws, rules or regulations of the Association.

Class B - The Class B Member shall be the Developer, and such Member shall be entitled to a number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, as long as (i) there is no Class C membership and (ii) the Class B membership continues to exist. So long as the Class C membership exists, the Class B Member shall not be entitled to any votes in the voting power of the Association and shall have no duties with respect to the management of the Association. The Class B membership shall continue to exist to the extent permitted by Indiana law and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- (a) Upon the sale of seventy-five percent (75%) of the Lots in the Property described in attached Exhibit A and any Additional Property annexed to this Declaration by the Developer;
- (b) Upon the expiration of ten (10) years from the date the Declaration is recorded.

Provided, further, that nothing contained in the Declaration or herein shall be construed to prohibit the Class B Member from converting its Class B membership to Class A membership with the results set forth above at any time prior to the occurrence of the alternative events referred to above, by a written statement executed by the Developer, with the written consent of the Primary Builder, and delivered to the Association.

Class C - The Class C Member shall be the Primary Builder, and such Member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class C membership continues to exist. The Class C membership shall continue to exist to the extent permitted by Indiana law, provided that Primary Builder has not defaulted (subject to any applicable notice and cure period) under and Developer has not terminated that certain lot purchase agreement between Developer, as Seiler, and Primary Builder, as Purchaser, effective May 25, 1999 (the "Lot Purchase Agreement"). Notwithstanding the previous sentence, in the event that Primary Builder has defaulted under (subject to any applicable notice and cure period) and Developer has terminated the Lot Purchase Agreement, the Class C membership shall continue to exist until the earlier of (i) ninety (90) days after such default under and termination of the Lot Purchase Agreement or (ii) the point in time when Primary Builder owns fewer than 25 Lots. The Class C membership shall be converted to Class A membership upon the happening of any of the following events, whichever occurs earlier:

- (a) Upon the sale of seventy-five percent (75%) of the Lots in the Property described in Exhibit A and any Additional Property annexed to this Declaration by the Developer;
- (b) In the event that Primary Builder has defaulted under (subject to any applicable notice and cure period) and Developer has terminated the Lot Purchase Agreement, upon the earlier of (i) ninety (90) days after such default under and termination of the Lot Purchase Agreement or (ii) the point in time when Primary Builder owns fewer than 25 Lots; or
- (c) Upon the expiration of ten (10) years after the date this Declaration is filed for record. Provided, further, that nothing herein shall be construed to prohibit the

Class C Member from converting its Class C membership to Class A membership with the results set forth above at any time earlier by written statement executed by Primary Builder and delivered to the Association.

ARTICLE 9 - DISSOLUTION

Upon dissolution of the Association, any assets remaining after payment or adequate provision for payment of all debts and obligations of the Association shall be expended in furtherance of the purposes set forth herein. If no successor in interest to the Association is formed to administer the property of the Association, its assets shall be distributed by the Board consistent with the provisions of the Indiana Nonprofit Corporation Act of 1991, as then in effect.

ARTICLE 10 - DURATION

The Association shall exist perpetually, unless dissolved earlier under the terms of these Articles.

ARTICLE 11 - AMENDMENTS

Amendments of these Articles shall require the assent of Members holding at least seventy-five percent (75%) of the total voting power of the Association, except as provided in the Declaration. In addition to the foregoing, amendments of these Articles shall require the prior written consent of both the Class B Member, as long as the Class B membership continues to exist, and the Class C Member, as long as the Class C membership continues to exist; provided, however, that the rights of the Class B Member or the Class C Member hereunder may not be altered or amended without the prior written consent of the Class B Member or the Class C Member, as the case may be.

ARTICLE 12 - DEALINGS WITH ASSOCIATION

A Trustee or officer of the Association shall not be disqualified by his/her office from dealing or contracting with the Association as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the Association be void or voidable or in any way affected or invalidated by reason of the fact that any Trustee or officer or any firm which such Trustee or officer is a member, or any corporation of which such Trustee or officer is a shareholder, director or officer, is in any way interested in such transaction, contract or act. No Trustee or officer shall be accountable or responsible to the Association for or in respect to any such transaction, contract or act, or for any gains or profits realized or by any organization affiliated with him/her as a result of such transaction, contract or act. Any such Trustee or officer may be counted in determining the existence of a quorum at any meeting of the Board which shall authorize or take action in respect to any contract, transaction or act, and may vote to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if the Trustee or officer were not interested in such transaction, contract or act.

ARTICLE 13 - INDEMNIFICATION OF TRUSTEES, OFFICERS OR EMPLOYEES

The Association shall indemnify any and every Trustee or officer against expenses, judgments, fines, penalties or amounts paid in settlement in connection with the defense of any pending or threatening action, suit or proceeding, to which such Trustee or officer is or may be made a party by reason of being or having been such Trustee or officer provided a determination is made by the Trustees in the manner set forth in the Indiana Nonprofit Corporation Act of 1991, as amended, to the effect (a) that such Trustee or officer was not, and has not been adjudicated to have been, negligent or guilty of misconduct in the performance of their duty to the Association of which they are a Trustee or officer, and (b) that they acted in good faith in what they reasonably believed to be the best interest of the Association. Such indemnification shall not be deemed exclusive of any other rights to which such Trustee or officer may be entitled under these Articles, the rules and regulation of this Association, any agreement or any insurance purchased by this Association, or by vote of the Members, or otherwise.

IN WITNESS WHEREOF, for the purpose of forming this Association under the laws of the State of Indiana the undersigned Incorporator of this Association has executed these Articles of Incorporation on this _____ day of _____, 2000.

Tony Chaney, Incorporator
2629 Waterfront Parkway East Drive, Suite 301
Indianapolis, Indiana 46214

ORIGINAL APPOINTMENT OF REGISTERED AGENT

The undersigned, being the sole incorporator of ROLLING KNOLL HOMEOWNERS' ASSOCIATION, INC. hereby appoints Peter Hills, a natural person and resident of the State of Indiana, upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. The complete address of Peter Hills is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214.

Date: _____, 2000

Tony Chaney, Incorporator

ACCEPTANCE

I, Peter Hills, hereby accept appointment as registered agent of Rolling Knoll Homeowners' Association, Inc., and any process, notice or demands required or permitted by law to be served upon the Association may be served upon me.

Date: _____, 2000

Peter Hills