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Instrument  
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9809865744  
Filed for Record in  
HAMILTON COUNTY, INDIANA  
MARY L CLARK  
On 11-17-1998 At 11:11 am.  
DEC COV RES 78.00

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

ROYALWOOD

PROPERTY OWNERSHIP



CHICAGO TITLE

TABLE OF CONTENTS

	<u>Page</u>
1. <u>Definitions</u> .....	1
2. <u>Declaration</u> .....	3
3. <u>Description of Royalwood</u> .....	3
4. <u>Lot Boundaries</u> .....	3
5. <u>Common Area</u> .....	3
6. <u>Ownership of Common Area</u> .....	3
7. <u>Delegation of Use of the Common Area</u> .....	4
8. <u>Easements in Common Area</u> .....	4
9. <u>Corporation: Membership; Voting; Functions</u> .....	4
(a) <u>Membership in Corporation</u> .....	4
(b) <u>Voting Rights</u> .....	4
(c) <u>Functions</u> .....	5
10. <u>Board of Directors</u> .....	5
(a) <u>Management</u> .....	5
(b) <u>Initial Board of Directors</u> .....	5
(c) <u>Additional Qualifications</u> .....	6
(d) <u>Term of Office and Vacancy</u> .....	6
(e) <u>Removal of Directors</u> .....	6
(f) <u>Duties of the Board of Directors</u> .....	6
(g) <u>Powers of the Board of Directors</u> .....	8
(h) <u>Limitation on Board Action</u> .....	8
(i) <u>Non-Liability of Directors</u> .....	9
(j) <u>Additional Indemnity of Directors</u> .....	9
(k) <u>Bond</u> .....	9
11. <u>Initial Management</u> .....	10

12.	<u>Real Estate Taxes</u> .....	10
13.	<u>Utilities</u> .....	10
14.	<u>Maintenance, Repairs and Replacements</u> .....	10
15.	<u>Architectural Control</u> .....	11
	(a) <u>The Architectural Review Board</u> .....	11
	(b) <u>Purposes</u> .....	12
	(c) <u>Conditions</u> .....	12
	(d) <u>Procedures</u> .....	12
16.	<u>Assessments</u> .....	12
	(a) <u>Annual Accounting</u> .....	12
	(b) <u>Proposed Annual Budget</u> .....	12
	(c) <u>Regular Assessments</u> .....	13
	(d) <u>Special Assessments</u> .....	14
	(e) <u>Regular Assessments Prior to the Applicable Date</u> .....	15
	(f) <u>Failure of Owner to Pay Assessments</u> .....	16
	(g) <u>Subordination of Assessment Lien to Mortgage</u> .....	17
17.	<u>Mortgages and Unpaid Assessments</u> .....	17
	(a) <u>Notice to Corporation</u> .....	17
	(b) <u>Notice of Unpaid Assessments</u> .....	17
	(c) <u>Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums</u> .....	18
	.....	18
18.	<u>Insurance</u> .....	18
	(a) <u>Casualty Insurance</u> .....	18
	(b) <u>Public Liability Insurance</u> .....	18
	(c) <u>Other Insurance</u> .....	19
	(d) <u>General Provisions</u> .....	19
19.	<u>Casualty and Restoration of Common Area</u> .....	19
20.	<u>Covenants and Restrictions</u> .....	19
21.	<u>Expanding the Real Estate that is Subject to the Declaration</u> .....	24
22.	<u>Amendment of Declaration</u> .....	25
	(a) <u>Generally</u> .....	25
	(b) <u>Amendments by Declarant Only</u> .....	26

23.	<u>Acceptance and Ratification</u>	26
24.	<u>Negligence</u>	27
25.	<u>Costs and Attorneys' Fees</u>	27
26.	<u>Waiver</u>	27
27.	<u>Severability Clause</u>	27
28.	<u>Pronouns</u>	27
29.	<u>Interpretation</u>	27
30.	<u>The Plat</u>	27

Exhibit A - Legal description of Declarant's Real Estate

Exhibit B - Legal Description of Option Real Estate

Exhibit C - Phase I

Exhibit D - Conservation Area



CHICAGO TITLE

DECLARATION OF COVENANTS AND RESTRICTIONS  
OF  
ROYALWOOD PROPERTY OWNERSHIP

THIS DECLARATION made this 10<sup>th</sup> day of November, 1998, by CENTEX HOMES, a Nevada general partnership ("Declarant").

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title to certain real estate located in Hamilton County, Indiana, more particularly described in the attached Exhibit A, which is incorporated herein by reference (the "Declarant's Real Estate"). Declarant has the exclusive option to purchase additional real estate adjacent to the Declarant's Real Estate (the "Option Real Estate") as more particularly described on Exhibit B attached hereto and made a part hereof, pursuant to a Contract of Sale for Land to be Developed dated April 29, 1998 by and between Declarant and Precedent Residential Development, LLC (the Declarant's Real Estate and the Option Real Estate are hereinafter referred to as the "Real Estate").

B. Declarant is the sole owner of the fee simple title to that portion of the Real Estate more particularly described in Exhibit C attached hereto and made a part hereof (hereinafter referred to as the "Tract" or "Phase I").

C. Declarant by execution of this Declaration assures that all properties which are conveyed which are a part of the Tract shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Tract and be binding upon all parties having any right, title or interest in the Tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Applicable Date" means the date determined pursuant to paragraph 9 of this Declaration.

(b) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(c) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the Bylaws of the Corporation.

(d) "Bylaws" shall mean the Bylaws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation.

(e) "Common Area" means the ground designated as such upon the recorded Plat of Royalwood.

(f) "Common Expense" means expenses for administration of the Corporation, expenses for the upkeep, maintenance, repair and replacement of the Common Area and all sums lawfully assessed against the Members of the Corporation.

(g) "Corporation" means Royalwood Homeowners Association, Inc., its successors and assigns, a not-for-profit corporation, whose Members shall be the Owners of Lots, or appointees as provided in paragraph 9 of this Declaration; such Corporation being more particularly described in paragraph 9 of this Declaration.

(h) "Declarant" shall mean and refer to Centex Homes, a Nevada general partnership, and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Tract pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(i) "Dwelling Unit" means the living unit located upon a Lot.

(j) "Lot" means any plot of ground designated as such upon the recorded Plat of Royalwood and upon which one (1) Dwelling Unit is constructed, may be constructed or exists thereon. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(k) "Member" means a member of the Corporation.

(l) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(m) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(n) "Phase I" means the real estate described in paragraph B of the recitals above.

(o) "Flat" means the survey of Phase I and the Lots and Common Areas thereon, prepared by Stoeppelwerth & Associates, Inc., certified by Dennis D. Olmstead, a registered land surveyor, under date of 11-17-08, recorded as Instrument No. 9809265MS in the Office of the Recorder of Hamilton County, Indiana, and incorporated herein by reference and any additional plat that may be filed, subjecting additional portions of the Real Estate to this Declaration.

(p) "Royalwood" means the name by which the Tract, which is the subject of this Declaration, shall be known.

(q) "Tract" means the real estate described in paragraph B of the recitals above and such other portions of the Real Estate which have, as of any given time, been subjected to this Declaration either by this Declaration or a Supplemental Declaration as herein provided.

2. Declaration. Declarant hereby expressly declares that the Tract shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. Description of Royalwood. Royalwood consists of 60 Lots numbered 1 through 60 inclusive, together with the Common Area as designated on the Plat. The Common Area and the size of the Lots are as designated on the Plat. The legal description for each Lot in Royalwood shall be as follows:

Lot \_\_\_\_\_ in Royalwood, a subdivision in Hamilton County, Indiana, as per plat thereof recorded \_\_\_\_\_ as Instrument Number \_\_\_\_\_, in the Office of the Recorder of Hamilton County, Indiana. ®

4. Lot Boundaries. The boundaries of each Lot in Royalwood shall be as shown on the Plat.

5. Common Area. Common Area includes all the area designated as such on the recorded Plat of Royalwood, including, but not limited to, the lakes, ponds, drainage areas and recreational areas, if any, but excluding all Lots. Declarant has the right, but not the obligation, to construct recreational facilities in any of the Common Area, and if such facilities are constructed, such facilities shall be part of the Common Area.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration, including but not limited to, the following:

(a) The right of the Corporation, upon approval by a written instrument signed by two-thirds (2/3) of all Class A Members, two-thirds (2/3) of all Class B Members, and by two-thirds (2/3) of all first mortgagees, to dedicate or transfer all or any part of the Common Area to any

public agency, authority or utility for such Common Area purposes and subject to such conditions as may be agreed by the Corporation.

(b) The right of the Corporation to adopt such rules and regulations regarding the Common Area as it deems necessary as provided in paragraph 10.

(c) The Common Area in Royalwood shall be conveyed to or owned by the Corporation on the Applicable Date or earlier; provided, however, that the conveyance of the Common Area to the Corporation shall not prevent Declarant from improving the Common Area as Declarant deems appropriate (including, but not limited to construction and fencing of lakes and recreational facilities) at any time prior to the Applicable Date.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment, and use of the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

8. Easements in Common Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in the Common Area. Such easement and right to use shall pass with title to the Lot even though not expressly mentioned in the document passing title.

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the Common Area and Lots to perform its duties; provided, however, except in the case of an emergency, reasonable notice shall be given to the Owner(s) of such Lots(s).

9. Corporation; Membership; Voting; Functions.

(a) Membership in Corporation. Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Corporation and shall remain a Member until such time as his ownership of a Lot ceases at which time his membership shall terminate and will be transferred to the new Owner of his Lot; provided, however, that any person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a Member of the Corporation.

(b) Voting Rights. The Corporation shall have two (2) classes of membership with the following voting rights:

(i) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the



Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the resident agent of the Corporation. Each Class B Member shall be entitled to four (4) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of the Corporation. The Class B membership shall cease and terminate upon the Applicable Date, which shall be the first to occur of (1) the date upon which the written resignation of the Class B Members as such is delivered to the resident agent of the Corporation, (2) the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or (3) January 1, 2008.

(c) Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Area, to pay taxes assessed against and payable with respect to the Common Area and to pay any other necessary expenses and costs in connection with the Common Area, and to perform such other functions as may be designated for it to perform under this Declaration.

#### 10. Board of Directors.

(a) Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or is a person appointed by Declarant as provided in subparagraph (b) of this paragraph 10.

(b) Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated in the Articles, to-wit: Ed Hackett, Tom Kutz and Joe Keel (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Declaration, the Articles or the Bylaws (i) the Initial Board shall hold office until the Applicable Date, and (ii) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any method shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which Members of the Corporation are entitled to vote under the Declaration, the Articles, the Bylaws or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each

person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a Member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of the Corporation).

(c) Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

(d) Term of Office and Vacancy. Subject to the provisions of subparagraph (b) of this paragraph 10, one (1) member of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date (which, if appropriate, may be a special meeting) one member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, and one for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. If such election is at a special meeting, the Directors elected shall serve for the applicable period plus the time from the special meeting to the first annual meeting. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of subparagraph (b) of this paragraph 10 as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this paragraph 10. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

(e) Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the

functions and duties of the Corporation, including, but not limited to, providing for the administration of the Corporation, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners) and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

(i) Protection, surveillance and replacement of the Common Area; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(ii) Landscaping, maintenance and upkeep of the Common Area;

(iii) Assessment and collection from the Owners of each Owner's respective share of the Common Expenses;

(iv) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;

(v) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year, such accounting shall be delivered to each Owner simultaneously with deliver of the proposed annual budget for the current year;

(vi) Procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

(vii) Paying taxes assessed against and payable with respect to the Common Area and paying any other necessary expenses and costs in connection with the Common Area; and

(viii) Cause to be maintained any and all street lights originally installed by Declarant with photo cells in quantity and content approximately equal to those originally installed by Declarant.

(ix) Cause to be maintained Street Trees as defined and provided in paragraph 14.

(g) Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(i) To employ a Managing Agent to assist the Board in performing its duties;

(ii) To purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

(iii) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;

(iv) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;

(v) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;

(vi) To open and maintain a bank account or accounts in the name of the Corporation; and

(vii) To promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Tract and the Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners.

(h) Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00) without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

(i) Contracts for replacing or restoring portions of the Common Area damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;

(ii) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget; and

(iii) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

(iv) Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(i) Non-Liability of Directors The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

(j) Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in actions, suits or proceedings where such Director is adjudged liable for bad faith, gross negligence or willful misconduct in the performance of his duties. The Corporation shall also reimburse any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

(k) Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and

any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

11. Initial Management. The Initial Board of Directors has entered or will hereafter enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) for a term not to exceed three (3) years with either party having the right to terminate upon ninety (90) days' notice under which Declarant (or such affiliate of Declarant as appropriate) will provide supervision, management and maintenance of the Common Area, and in general, perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of three (3) or less years. Such management agreement is or will be subject to termination by Declarant (or its affiliate as appropriate) at any time prior to expiration of its term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Corporation and Declarant (or its affiliate as appropriate) is in effect, Declarant (or its affiliate as appropriate) shall have and Declarant hereby reserves to itself (or to its affiliate as appropriate), the exclusive right to manage the Tract and perform all the functions of the Corporation.

12. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Real Estate or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Real Estate or that part thereof that is assessed as a whole, which shall be the ratio that the square footage in his Lot bears to the total square footage of all the land comprising the Real Estate or part thereof assessed as a whole. Real estate taxes assessed on the improvements on the Real Estate shall be paid by the Owner of such improvements any other assessments including but not limited to legal drain assessment, which are assessed against any Lot or improvements thereon shall be paid by the Owner of such Lot or improvements. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

13. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered, including, but not limited to, any street light costs, shall be treated as and paid as part of the Common Expense unless otherwise determined by the Corporation.

14. Maintenance, Repairs and Replacements. Maintenance, repairs, replacements and upkeep of the Common Area shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

Each Owner shall be responsible for maintaining and keeping his Lot, Dwelling Unit and all other structural improvements located on his Lot in a good, clean, neat, sanitary and well maintained condition and shall do such work thereon as is required to cause such Lot and structural

improvements to be so maintained. Each Owner shall also maintain (i) the dusk-to-dawn lights (including any yard lights) installed on his Lot in good working condition, including but not limited to, replacement of photo cells; and (ii) mailboxes in good working condition. Any repair or replacement of mailboxes and/or posts shall be of the same design and quality as originally installed by Declarant. Declarant may plant one or more trees on a Lot, which trees shall be planted on such Lot in an area adjacent to the sidewalks (the "Street Trees"). In the event any Street Tree dies within one (1) year of being planted by Declarant, the Corporation shall, at its expense, replace such Street Tree. In the event that any Street Tree dies after said one (1) year date, the Owner of such Lot shall be responsible for replacing, at Owner's Expense, the Street Tree with a substantially similar tree. Each Owner shall be responsible for the maintenance of the Street Trees located on his Lot.

The obligation to maintain a Lot shall exist, whether or not a Dwelling Unit exists on such Lot, and the Owner of such Lot shall keep such Lot maintained in the same manner as such Lot would be maintained if a Dwelling Unit existed thereon.

Notwithstanding any obligation or duty of the Corporation to repair or maintain the Common Area, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

If any Owner shall fail (i) to maintain and keep his Lot, Dwelling Unit and other structural improvements located on his Lot in a good, clean and sanitary condition as determined by the Board of Directors; or (ii) to comply with the terms of this paragraph 14, the Corporation may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall be immediately due, and shall be secured by the Corporation's lien on the Owner's Lot.

So long as the Tract is subject to this Declaration each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Corporation, its agents and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

15. Architectural Control.

(a) The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more persons. Until the Applicable Date, the Architectural Review Board shall be the

Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors and may be different than or the same as the Board of Directors.

(b) Purposes. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract (including Common Area and Lots) and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures and improvements.

(c) Conditions. No improvements, alterations, excavation or changes in grade or other work which in any way alters any Lot or the exterior of any Dwelling Unit or other improvement thereon shall be made or done without the prior written approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. The Architectural Review Board shall approve the initial construction of a Dwelling Unit on a Lot. Notwithstanding the foregoing, in the event that Declarant or an entity related to or affiliated with Declarant is constructing the Dwelling Unit, Declarant or its related or affiliated entity shall not have to obtain approval of the Architectural Review Board. No building, fence, deck, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the plans therefore by the Architectural Review Board.

(d) Procedures. An Owner shall submit, in writing, to the Architectural Review Board, an application including an explanation of the proposed improvement(s) together with plans, drawings, specifications and any other items required by rules adopted by the Architectural Review Board. The Architectural Review Board shall notify such Owner within fifteen (15) days of its receipt of the application, of any additional items required. The Architectural Review Board shall have thirty (30) days from the date it receives all required information to approve or disapprove the application. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within such thirty (30) day period, approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a majority vote.

#### 16. Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accounting group approved by the Board, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget. Annually, before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis



for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners, notwithstanding any other provision in this Declaration, the Articles or the Bylaws, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of those Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until the annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area that must be repaired and replaced on a periodic basis, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton County, Indiana, selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Regular Assessments. The annual budget, as adopted by the Owners, shall, based on the estimated cash requirement for the Common Expenses in the current fiscal year as set forth in said budget, contain a proposed assessment, against each lot equal to the Common Expenses multiplied by a percentage equal to one divided by the total number of Lots in the Tract. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in two equal semi-annual installments with the first payment due on the first day of the first month of each fiscal year. Payment of the semi-annual installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors;

provided, however, the Owners may elect to pay assessments annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget:

(i) If the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year; or

(ii) If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to paragraph 17 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Semi-annual installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Board of Directors shall

have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(e) Regular Assessments Prior to the Applicable Date. During the period that Declarant is selling Lots and Dwelling Units are being constructed within the Tract, it is difficult to accurately allocate the Common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the Corporation to perform its duties and functions. Accordingly and notwithstanding any other provision contained in the Declaration, the Articles or the Bylaws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without any meeting or concurrence of the Owners; provided, however, the Regular Assessments shall be determined in accordance with the provisions contained in this paragraph 16.

Prior to the Applicable Date, the Corporation will enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) (hereinafter referred to as "Management Agent or Managing Agent") in accordance with the provisions of paragraph 11 of this Declaration. So long as such management agreement remains in effect, the Common Expenses or Regular Assessments shall be paid by Owners to Management Agent. Management Agent shall guarantee that until the earlier of (i) the termination of said management agreement, or (ii) December 31, 199\_\_, the yearly Regular Assessment shall not exceed Four Hundred Eighty Dollars (\$480.00) (the "Guaranteed Charge"). After December 31, 199\_\_, assuming that said management agreement has not been terminated and so long thereafter as said management agreement remains in effect and Management Agent continues to perform such functions, Management Agent guarantees that the yearly Regular Assessment shall not exceed the amount of the Guaranteed Charge, plus (1) the greater of an amount representing an increase thereof to reflect any increase in the Consumer Price Index (all items - all cities) published by the United States government over such index as existed in the month of December, 19\_\_, or (2) ten percent (10%). The amount to be added to the Guaranteed Charge shall be an amount equal to the same percentage of the Guaranteed Charge as the percentage increase in said Consumer Price Index or ten percent (10%), whichever is greater, or, if Declarant so determines, a lesser amount. Such adjustments to the Guaranteed Charge shall be made annually on the first day of each fiscal year so long as said management agreement remains in effect and Management Agent continues to perform such functions. Such yearly charge shall, during such guaranteed period, entirely defray the Owner's obligation for his share of Common Expenses or shall be the Owner's entire Regular Assessment. Management Agent shall be responsible for any deficit during such guarantee period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance

operations. Such expenditures would be covered through Special Assessments, or, if sufficient, the replacement reserve fund.

Fifteen percent (15%) of the Regular Assessment prior to the Applicable Date shall be designated as a reserve fund for maintenance, repairs or replacement of Common Areas that must be repaired and replaced on a periodic basis.

That portion of the Regular Assessment collected by Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board and if required, applied to the replacement of Common Areas. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Corporation at the Applicable Date.

Payment of the Regular Assessment prior to the Applicable Date with respect to each Lot shall commence on the closing date of the new Owner ("Commencement Date"). The first payment shall be payable on the Commencement Date prorated to the first day of the month when the next semi-annual payment is due. Thereafter, payment of the Regular Assessment shall be paid semi-annually beginning with the first day of the fiscal year or the first day of the seventh calendar month of the fiscal year, as applicable.

Each Owner hereby authorizes the Corporation and the Board of Directors and its officers to enter into the aforesaid management agreement described in paragraph 11 of this Declaration and to adhere to and abide by the same.

(f) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments and Special Assessments or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due the Board may, in its discretion accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board may, at its option, bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Corporation shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such assessments were due until paid at the rate equal to the prime interest rate as announced by Bank One, Indianapolis, NA, from time to time (or if said bank is no longer in

existence then such rate charged by a national bank in Hamilton County, Indiana, selected by the Board of Directors) during the unpaid period plus three percent (3%).

(g) Subordination of Assessment Lien to Mortgage. Notwithstanding anything contained in this Declaration, the Articles or the Bylaws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien cannot relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

#### 17. Mortgages and Unpaid Assessments

(a) Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee, as may be otherwise required by this Declaration, the Bylaws or otherwise, shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges

in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in paragraph 16 hereof.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums. Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any mortgagee making such payment shall be owed immediate reimbursement by the Corporation.

18. Insurance.

(a) Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Common Area in an amount equal to the full replacement value of the improvements which in whole or in part, comprise the Common Area, unless the Board determines that a lesser amount of insurance is appropriate. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (i) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (ii) contains an endorsement that such policy shall not be terminated for nonpayment of premiums without at least thirty (30) days prior written notice to Mortgagees who have provided the Corporation with notice of such Mortgage's desire to receive notice of the potential termination.

Each Owner shall be solely responsible for loss or damage to his Dwelling Unit and the contents thereof, however caused, and his personal property stored elsewhere on the Tract and the Corporation shall have no liability to the Owner for such loss or damage. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

(b) Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee of the Corporation or Board, any

Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Tract. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

(c) Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors, the proceeds of which are payable to the Board or the Corporation.

(d) General Provisions. The premiums for all insurance hereinabove described shall be paid by the Corporation as part of the Common Expenses.

19. Casualty and Restoration of Common Area.

In the event of damage to or destruction of any of the Common Area due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

In the event the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Area, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area to as near as possible the same condition as it existed immediately prior to the damage or destruction.

20. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Plat, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure

to the benefit of and be enforceable by any Owner or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family. No Lot shall be subdivided to form lots of less area.

(b) All Dwelling Units shall have the minimum square feet of finished living area (exclusive of garages, carports, basements and porches) required by applicable zoning laws or ordinances or as otherwise designated on the Plat.

(c) Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or on the Common Area which will cause an increase in the rate of insurance on any Common Area. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Area, or which would be in violation of any law or ordinance or the requirements or any insurance underwriting or rating bureau.

(d) No nuisance shall be permitted on any Lot.

(e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign of any kind, awning, canopy, shutter or other attachment shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Dwelling Unit or anywhere on a Lot without the prior consent of the Architectural Review Board.

(f) No antenna, satellite dishes or other device for the transmission or reception of radio, television or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground whether attached to a Dwelling Unit or otherwise on any Lot without the written approval of the Architectural Review Board.

Notwithstanding the foregoing, any such device may be installed and maintained on any Lot without the written approval of the Architectural Review Board if (i) it is not visible from neighboring Lots, streets or Common Area; or (ii) the Owner prior to installation has received the written consent of the Owners of all Lots who would have views of the device from their Lots and presented such consents to the Architectural Review Board; or (iii) the device is virtually indistinguishable from structures, devices or improvements such as heat pumps, air conditioning units, barbecue grills, patio furniture and garden equipment which are allowed by this Declaration; or (iv) it is a satellite dish two (2) feet or less in diameter.



(g) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance.

(h) All rubbish, trash or garbage shall be stored in closed sanitary containers, shall be regularly removed from the premises, and shall not be allowed to accumulate.

(i) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Tract.

(j) No structure of a temporary character, trailer, boat, camper, bus or tent shall be maintained on any Lot, nor shall any garage or other building, except a permanent residence, be used on any Lot at any time as a residence or sleeping quarters either temporarily or permanently.

(k) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Area or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area. Notwithstanding the foregoing, no Owner shall use any Common Area for any public gathering, reunion, party or activity without the prior written consent of the Board.

(l) No boats, campers, trailers of any kind, busses, mobile homes, recreational vehicles, trucks (larger than 3/4 ton), motorcycles, minibikes, mopeds or inoperable vehicles shall be permitted, parked or stored anywhere within the Tract, unless stored completely enclosed within a garage. No repair work shall be done on the Tract on any vehicles, including passenger automobiles unless completely enclosed within a garage. All passenger vehicles shall be parked in a garage or on the driveway of the Dwelling Unit. No vehicles shall be parked on the streets, in the yards or in any Common Areas.

(m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Area, except with express written permission from the Architectural Review Board.

(n) The Common Area shall be used and enjoyed only for the purposes for which it is designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Architectural Review Board.

(o) No Owner may rent or lease his Dwelling Unit for transient or hotel purposes.

(p) Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease which shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(q) There are designated on the Plat building lines. Except as required for utilities to serve the Tract or a Lot, no building or structure will be permitted within this no-build area.

(r) Each Owner by acceptance of a deed to a Lot shall be deemed to have waived such Owner's right to remonstrate against annexation of all or any portion of the Tract.

(s) All Owners are allowed to use and enjoy the lakes and other recreational facilities subject to such rules and regulations as may be from time to time promulgated and issued by the Architectural Review Board governing the operation, use and enjoyment of the lakes and other recreational facilities. In no event shall any Owner, members of their families, guests or invitees or occupants of any Dwelling Unit or other persons be entitled to use the lakes to swim, boat, ice skate or to engage in similar activities on the lakes.

Access to the lakes and recreational areas shall be only through the Common Areas identified on the Plat. Use of the lakes and recreational facilities is limited to daylight hours.

(t) No boat docks, decks, rafts or similar structures or improvements shall be permitted on or near the lakes. No Owner of any Lot shall do or permit to be done any action or activity which could result in the pollution of the lakes, diversion of water, change in elevation of the water level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper lake management and otherwise impair or interfere with the use of the lake for drainage and related purposes for the benefit of Royalwood.

(u) No detached structure, including storage sheds, shall be maintained on any Lot.

(v) Any fences to be constructed on a Lot must be constructed in accordance with the provisions hereof and must be approved by the Architectural Review Board. The Architectural Review Board will not approve any fence unless it complies with the following requirements:

(i) the fence is located in the rear yard of the Lot (the fence shall adjoin the rear side of the Dwelling Unit); there shall be no fences whatsoever constructed in the front yard of any Lot;

(ii) the fence shall be either a four (4) foot black vinyl fence or six (6) foot wood, shadowbox or dog-eared fence. No stockade fences will be allowed.

(iii) there shall be no fences or any other permanent improvements constructed in any part of any Lot which is part of the Common Area.

(iv) Only wrought iron or similar type material fences of four (4) feet or less will be allowed on any Lot adjoining a lake.

(v) Only a dog-eared fence with two (2) stringers of 5/4" x 6" treated lumber of four (4) feet or less will be allowed on any Lot adjoining a trail.

(w) A portion of the Real Estate contains a wooded natural area and wetlands (the "Conservation Area"). This Conservation Area is identified on Exhibit D attached hereto and incorporated herein. With respect to the Conservation Area, and notwithstanding anything to the contrary contained herein, the following additional restrictions apply:

- (i) the wetlands shall be protected in perpetuity as wetlands;
- (ii) there shall be no placement of fill materials in or excavation of the wetlands;
- (iii) upon completion of the construction and development work described herein and/or on the Plat, there shall be no physical disturbance of trees, soils or vegetation of the Conservation Area;
- (iv) only passive activities which do not disturb the Conservation Area shall be allowed thereon; and
- (v) after the Applicable Date, no improvements shall be constructed within the Conservation Area.

Notwithstanding anything to the contrary contained herein or in the Articles or Bylaws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Tract (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Tract at any time.

21. Expanding the Real Estate that is Subject to the Declaration. The Real Estate that is described herein as Phase I (in paragraph B of the recitals of this Declaration) is the Real Estate being subjected to this Declaration and constitutes Phase I of the general plan of development of the Real Estate. The balance of the Real Estate is the additional real estate that Declarant has the right to subject to the terms and provisions of this Declaration. The maximum number of Lots which may be developed on the Real Estate is 230, including the 60 Lots in Phase I. Subject to said limit as to the maximum number of Lots to be developed on the Real Estate, Royalwood and the obligations and restrictions contained in this Declaration may be expanded by Declarant to include additional portions of the Real Estate in one or more additional phases by the execution and recording of one or more amendments or supplements to this Declaration and one or more final plats; provided, however, that no single exercise of such right and option of expansion as to any part or parts of the Real Estate shall preclude Declarant from time to time further expanding Royalwood to include other portions of the Real Estate and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Real Estate so long as such expansion is done on or before January 1, 2008. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand Royalwood beyond Phase I or any other portion of the Real Estate which Declarant may voluntarily in its sole discretion, from time to time, subject to this Declaration by amendments or supplements to this Declaration as provided above. Simultaneously with the recording of the amendments or supplements to this Declaration expanding Royalwood, Declarant shall record an additional plat encompassing the portion of the Real Estate to be subjected to this Declaration. On the filing of a supplement to this Declaration, the portion of the Real Estate described in such amendment or supplement to this Declaration shall be governed in all respects by the provisions of this Declaration. To the extent allowed under applicable law, Declarant reserves the right to add additional contiguous real estate to the Real Estate, which additional real estate may have the use and benefit of the Common Areas provided herein.

22. Amendment of Declaration.

(a) Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.

(iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(v) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of this Declaration of paragraph 18 with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of paragraph 19 of this Declaration with respect to reconstruction or repair of the Common Area in the event of fire or any other casualty or disaster, or (4) the provisions of paragraph 15 of this Declaration establishing the Architectural Review Board and providing for its functions, or (5) the provisions of paragraph 16 of this Declaration with respect to the commencement of assessments on any Lot, or (6) the provisions of paragraph 22 of this Declaration with respect to amendments solely by Declarant without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(vi) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the Office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing & Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed but such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (iii) to bring this Declaration into compliance with any statutory requirements or (iv) to correct clerical, typographical or other errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this paragraph 22 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in

favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this paragraph 22 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Tract.

23. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles, and the Bylaws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles, the Bylaws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

24. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation.

25. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the Bylaws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Corporation shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

26. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

27. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the Bylaws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles, or the Bylaws, and each shall be enforced to the greatest extent permitted by law.

28. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.

29. Interpretation. The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

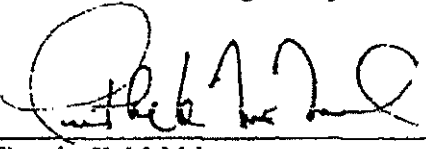
30. The Plat. The Plat of Royalwood Phase I is incorporated into this Declaration by reference and has been filed in the Office of the Recorder of Hamilton County, Indiana, as of the 17<sup>th</sup> day of November, 1999 as Instrument No. 9805745.



CHICAGO TITLE

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

CENTEX HOMES, a Nevada general partnership

By:   
Timothy K. McMahon,  
Indianapolis Division President

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for said County and State, personally appeared TIMOTHY K. McMAHON, by me known and by me known to be the Indianapolis Division President of CENTEX HOMES, a Nevada general partnership who acknowledged the execution of the foregoing "DECLARATION OF COVENANTS AND RESTRICTIONS OF ROYALWOOD PROPERTY OWNERSHIP" on behalf of said general partnership.

Witness my hand and Notarial Seal this 10<sup>th</sup> day of November, 1998.

  
Notary Public

Edward F. Hackett  
(Printed Signature)

My Commission Expires: 1-26-01

My County of Residence: Hamilton



This instrument prepared by Tammy K. Haney, Attorney-at-Law, Bose McKinney & Evans, 8888 Keystone Crossing, Suite 1500, Indianapolis, Indiana 46240.



THIS INSTRUMENT PREPARED BY:  
DENNIS D. OLMSTEAD  
STOEPPELWERTH AND ASSOCIATES INC.  
2240 ALLIANCE ROAD  
FISHERS, IN 46038  
PHONE: (317) 849-5035

DEVELOPED BY:  
CENTEX HOMES  
8602 EAST 75th STREET, SUITE 100  
INDIANAPOLIS, IN 46250  
(317) 915-2200

EXHIBIT "A" & "C"


Royalwood, Section 1

I, the undersigned Registered Land Surveyor, hereby certify that to the best of my knowledge, information and belief, that the attached plat correctly represents a subdivision of a part of the Southwest Quarter of Section 36, Township 18 North, Range 5 East in Fall Creek Township, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said Quarter Section; thence North 00 degrees 03 minutes 27 seconds East (assumed bearing) along the West line of said Quarter Section 1337.79 feet to the Southwest corner of the North Half of said Quarter Section, said point also being the POINT OF BEGINNING of this description; thence continuing North 00 degrees 03 minutes 27 seconds East along said West line 417.76 feet; thence North 89 degrees 33 minutes 27 seconds East parallel with the North line of said Quarter Section 974.81 feet; thence South 00 degrees 26 minutes 33 seconds East 170.00 feet; thence South 89 degrees 33 minutes 27 seconds West 30.90 feet; thence South 00 degrees 26 minutes 33 seconds East 128.60 feet; thence South 18 degrees 58 minutes 48 seconds West 84.88 feet; thence South 30 degrees 38 minutes 42 seconds East 76.04 feet; thence South 00 degrees 03 minutes 27 seconds West 242.13 feet; thence South 82 degrees 25 minutes 41 seconds West 169.51 feet to a point on a curve concave easterly, the radius point being North 82 degrees 25 minutes 41 seconds East 225.00 feet from said point; thence northerly along said curve 29.96 feet the point of tangency, the radius point being South 89 degrees 56 minutes 33 seconds East 225.00 feet from said point; thence North 00 degrees 03 minutes 27 seconds East 2.53 feet; thence North 89 degrees 56 minutes 33 seconds West 120.00 feet; thence North 00 degrees 03 minutes 27 seconds East 257.77 feet; thence South 89 degrees 25 minutes 16 seconds West 859.88 degrees to the place of beginning containing 10.884 acres, more or less.

This subdivision consists of 16 lots, numbered 1-16 (both inclusive). The size and width are shown in feet and decimal parts thereof.

Witness my signature this 5th day of November, 1998.

  
Dennis D. Olmstead  
Registered Land Surveyor  
No. 900012



OLUC ROAD

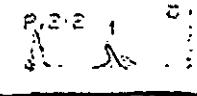
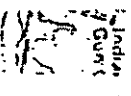
EXHIBIT "B"

Part of the West Half of Section 36, Township 18 North, Range 5 East in Foll Creek Township, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said section; thence North 00 degrees 03 minutes 27 seconds East (assumed bearing) 1337.79 feet along the West line of said Quarter Section to the Southwest corner of the North Half thereof, said point also being the POINT OF BEGINNING of this description, thence continuing North 00 degrees 03 minutes 27 seconds East along said West line 417.79 feet; thence North 89 degrees 33 minutes 27 seconds East parallel with the North line of said Southwest Quarter Section 1183.74 feet; thence North 00 degrees 03 minutes 27 seconds East parallel with the aforesaid West line 920.00 feet to a point on the aforesaid North line; thence North 89 degrees 33 minutes 27 seconds East along said North line 551.45 feet; thence North 01 degrees 17 minutes 28 seconds East 622.31 feet; thence North 82 degrees 58 minutes 36 seconds East 800.00 feet to a point on the East line of the Northwest Quarter of said Section; thence South 00 degrees 12 minutes 05 seconds West along said East line 725.21 feet to the Northeast corner of the aforesaid Southwest Quarter Section; thence South 00 degrees 04 minutes 12 seconds West along the West line of said Southwest Quarter 1351.52 feet to the Southeast corner of the South Half thereof; thence South 89 degrees 25 minutes 16 seconds West along the South line of said North Half 1056.72 feet; thence South 00 degrees 04 minutes 12 seconds West parallel with the aforesaid East line 658.19 feet; thence South 89 degrees 17 minutes 06 seconds West parallel with the South line of the North Half of the South Half of said Quarter Section 263.07 feet; thence South 00 degrees 03 minutes 48 seconds West 8.21 feet to a point on the aforesaid South line; thence South 89 degrees 17 minutes 05 seconds West along said South line 659.92 feet; thence North 00 degrees 03 minutes 27 seconds East parallel with the aforesaid West line of said Southwest Quarter 668.59 feet to a point on the aforesaid South line of the North Half of the Southwest Quarter; thence South 89 degrees 25 minutes 16 seconds West along said South line 659.86 feet to the place of beginning, containing 83,964 acres, more or less, subject to all legal highways, easements, rights-of-way, and restrictions of record.

EXISTING TOWNSHIP

148374



DENNIS D. OLNEY  
STOEPPER, WERTH AND ASSOCIATES INC.  
9940 ALLISONVILLE ROAD  
FISHERS, IN 46036  
PHONE: (317) 849-5935

DEVELOPED BY:  
CENTEX HOMES  
6602 EAST 75th STREET, SUITE 100  
INDIANAPOLIS, IN 46250  
(317) 915-2200

EXIST "A" & "C"


Royalwood, Section 2

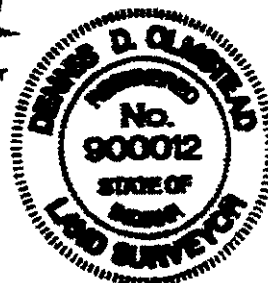
I, the undersigned Registered Land Surveyor, hereby certify that to the best of my knowledge, information and belief, that the attached plat correctly represents a subdivision of a part of the Southwest Quarter of Section 36, Township 18 North, Range 5 East in Fall Creek Township, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said Quarter Section; thence North 00 degrees 03 minutes 27 seconds East (assumed bearing) along the West line of said Quarter Section 1755.58 feet; thence North 89 degrees 35 minutes 27 seconds East parallel with the North line of said Quarter Section 974.51 feet to the POINT OF BEGINNING of this description; thence continuing North 86 degrees 33 minutes 27 seconds East parallel with said North line 209.05 feet; thence North 00 degrees 26 minutes 33 seconds West 13.74 feet; thence North 50 degrees 17 minutes 46 seconds East 227.74 feet; thence North 88 degrees 47 minutes 21 seconds East 56.73 feet; thence South 20 degrees 03 minutes 30 seconds East 7.84 feet; thence North 89 degrees 25 minutes 16 seconds East 195.66 feet; thence South 00 degrees 34 minutes 44 seconds East 65.00 feet to the point of curvature of a curve concave northeasterly, the radius point being North 89 degrees 25 minutes 16 seconds East 25.00 feet from said point; thence easterly along said curve 39.27 feet to a point on said curve, the radius point being North 00 degrees 34 minutes 44 seconds West 25.00 feet from said point; thence South 00 degrees 34 minutes 44 seconds East 50.00 feet; thence South 89 degrees 25 minutes 16 seconds West 10.00 feet; thence South 00 degrees 34 minutes 44 seconds East 155.00 feet; thence South 89 degrees 25 minutes 16 seconds West 91.89 feet; thence South 53 degrees 06 minutes 26 seconds West 281.74 feet; thence South 24 degrees 45 minutes 11 seconds West 314.25 feet; thence South 85 degrees 14 minutes 49 seconds East 170.00 feet; thence North 24 degrees 45 minutes 11 seconds East 120.00 feet; thence South 85 degrees 14 minutes 49 seconds East 120.00 feet; thence North 24 degrees 45 minutes 11 seconds East 210.00 feet; thence South 89 degrees 55 minutes 48 seconds East 26.26 feet; thence South 00 degrees 04 minutes 12 seconds West 594.47 feet; thence South 89 degrees 17 minutes 06 seconds West 263.07 feet; thence South 00 degrees 03 minutes 49 seconds West 8.21 feet; thence South 89 degrees 17 minutes 06 seconds West 659.92 feet; thence North 00 degrees 03 minutes 27 seconds East parallel with the aforesaid West line 410.82 feet; thence South 89 degrees 56 minutes 33 seconds East 120.00 feet; thence South 00 degrees 03 minutes 27 seconds West 2.53 feet to the point of curvature of a curve concave easterly, the radius point being South 89 degrees 56 minutes 33 seconds East 225.00 feet from said point; thence southerly along said curve 29.96 feet to a point on said curve, the radius point being North 82 degrees 25 minutes 41 seconds East 225.00 feet from said point; thence North 82 degrees 25 minutes 41 seconds East 169.51 feet; thence North 00 degrees 03 minutes 27 seconds East 242.13 feet; thence North 30 degrees 38 minutes 42 seconds West 76.04 feet; thence North 18 degrees 58 minutes 48 seconds East 84.99 feet; thence North 00 degrees 26 minutes 33 seconds West 128.40 feet; thence North 89 degrees 33 minutes 27 seconds East 38.00 feet; thence North 00 degrees 26 minutes 33 seconds West 170.00 feet to the place of beginning, containing 16.886 acres, more or less.

This subdivision consists of 44 lots, numbered 17-60 (both inclusive). The size and width are shown in feet and decimal parts thereof.

Witness my signature this 5th day of November, 1998.

  
Dennis D. Olney  
Registered Land Surveyor  
No. 900012



CLIO ROAD