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Drawn by and HOLD FOR:
PERRY, PATRICK, FARMER & MICHAUX, P.A. (gmt)

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FOR
REGISTRATION

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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE
COTSWOLD COMMUNITY ASSOCIATION, INC.

LAURA M. RICHMOND
REGISTER OF DEEDS
HILLS COUNTY

CONTENTS

	<u>Page</u>
PREAMBLE	1
ARTICLE I - DEFINITIONS	2
Section 1 - Association	
Section 2 - Common Area	
Section 3 - Declarant	
Section 4 - Lot	
Section 5 - Member	
Section 6 - Owner	
Section 7 - Properties	
ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE COTSWOLD COMMUNITY ASSOCIATION, INC.	3
Section 1 - Existing Property	
Section 2 - Additions to Existing Property	
ARTICLE III - MEMBERSHIP AND VOTING RIGHTS	3
Section 1 - Membership	
Section 2 - Voting Rights	
Section 3 - Vacant/Leased Residences	4
ARTICLE IV - PROPERTY RIGHTS	4
Section 1 - Owners' Easements of Enjoyment and Access	
Section 2 - Delegation of Use	5
Section 3 - Conveyance of Title to the Association	
Section 4 - Regulation and Maintenance of Common Area	
ARTICLE V - COVENANT FOR MAINTENANCE ASSESSMENTS	7
Section 1 - Creation of the Lien and Personal Obligation of Assessments	

46-

Section 2 -	Purposes of Assessments	7
Section 3 -	Maximum Annual Assessment	
Section 4 -	Special Assessments	8
Section 5 -	Assessment Rate; Collection Period	
Section 6 -	Notice and Quorum for Any Action	8
	Authorized Under Sections 3 and 4	
Section 7 -	Date of Commencement of Annual Assessments; Amount of Initial Annual Assessment; Amount of Subsequent Annual Assessments; Certificate of Payment	
Section 8 -	Effect of Nonpayment of Assessments;	9
	Remedies	
Section 9 -	Subordination of the Lien to Mortgages	
Section 10 -	Exempt Property	
Section 11 -	Working Capital Fund	10
ARTICLE VI -	RIGHTS OF LENDERS	10
Section 1 -	Books and Record	
Section 2 -	Notice to Lenders	
Section 3 -	Approval of Owners and Holders of First Deeds of Trust	
Section 4 -	Payment of Taxes and Insurance Premiums	11
ARTICLE VII -	EASEMENTS	11
Section 1 -	Access and Utility Easements	
Section 2 -	Easements for Governmental Access	12
Section 3 -	Easement and Right of Entry for Repair, Maintenance and Reconstruction	
ARTICLE VIII	ARCHITECTURAL CONTROL	12
ARTICLE IX -	GENERAL PROVISIONS	13
Section 1 -	Enforcement	
Section 2 -	Severability	
Section 3 -	Amendment	
Section 4 -	FHA/VA Approval	14
Section 5 -	Non-Liability of the City	
Section 6 -	Declarant's Right to Change Development	
Section 7 -	Enforcement	
Section 8 -	Recreation Area	15

DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE
COTSWOLD COMMUNITY ASSOCIATION, INC.

THIS DECLARATION is made on the date hereinafter set forth by **CENTEX HOMES**, a Nevada General Partnership (hereinafter referred to as "Declarant"):

W I T N E S S E T H:

WHEREAS, Declarant is the owner of a 81.14 acre tract of land located in the Town of Cary, Holly Springs Township, Wake County, North Carolina, more fully described in the deeds recorded in Book 7884, Page 301 and Book 7884, Page 305, Wake County Registry;

WHEREAS, Declarant desires to create on such property an exclusive residential community of single-family homes to be known as COTSWOLD Subdivision (hereinafter sometimes referred to as "Cotswold" or the "Subdivision");

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Common Area and to provide a vehicle for ensuring that the storm water drainage systems and facilities for the Subdivision are properly maintained, and, to that end, desires to subject all of the property within the Subdivision to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Common Area, to administer and enforce covenants and restrictions applicable to the Subdivision, and to collect and disburse the assessments and charges hereinafter created, and Declarant has therefore incorporated under North Carolina law as a non-profit corporation, the COTSWOLD COMMUNITY ASSOCIATION, INC., for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Declarant declares that the real property described in Section 1 of Article II of this Declaration and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE IDEFINITIONS

Section 1. "Association" shall mean and refer to the **COTSWOLD COMMUNITY ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to the real property, together with any improvements thereon, owned by the Association, whether in fee, by easement or otherwise, for the common use and enjoyment by the Owners of Lots within the Subdivision, including, but not limited to, any sewer, water or storm water drainage lines or facilities not within a public easement. The Common Area shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein.

Section 3. "Declarant" shall mean and refer to **CENTEX HOMES**, a Nevada General Partnership. It shall also mean and refer to any person, company or entity to whom or which Declarant shall assign or delegate the rights and obligations of Declarant by an assignment of Declarant's rights recorded in the Wake County Registry.

Section 4. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown on any recorded subdivision map of the Properties, with the exception of any Common Area owned in fee by the Association and any street rights-of-way shown on such recorded map. In the event that any Lot is increased or decreased in size by recombination or resubdivision through recordation of new subdivision plats, any newly-platted lot shall thereafter constitute a Lot.

Section 5. "Member" shall mean and refer to every person or entity who or which holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers and owners of an equity of redemption, but excluding those having an interest in a Lot solely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to the "Existing Property" described in Article II of this Declaration and any additional property annexed pursuant said Article II.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE COTSWOLD COMMUNITY ASSOCIATION, INC.

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and which is within the jurisdiction of the Association, is described on Exhibit A attached hereto.

Section 2. Additions to Existing Property. At any time prior to December 31, 2005, additional lands within the property described in Exhibit B to this Declaration may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed, provided, however, that such property must be contiguous to property already subject to this Declaration and must be approved by the Town of Cary and, if appropriate, by the Federal Housing Administration and/or Veterans Administration. Any or all of the Exhibit B property may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this Section may increase the cumulative number of Lots within the Properties and, therefore, may alter the relative maximum voting strength of the various types of Members of the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The voting rights of the membership shall be appurtenant to the ownership of the Lots.

There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. Ownership of a Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant or by any builder(s) who or which acquired such Lot(s) from the Declarant for the purpose of constructing a residence thereon and which have not been converted to Class A Lots as provided in subparagraphs (1) or (2) below. Declarant and such builder(s) shall be entitled to three (3) votes for each Class B Lot owned by them.

The Class B Lots shall cease to exist and shall be converted to Class A Lots upon the earlier of the following to occur:

(1) When the total number of votes appurtenant to the Class A Lots equals the total number of votes appurtenant to the Class B Lots; provided, however, that all Lots owned by Declarant shall revert to Class B Lots and thereby be reinstated with all rights, privileges and responsibilities of such Class if, after the conversion of Class B Lots to Class A Lots, additional Lots within the Properties are formed by the recording in the Wake County Registry of a new map of Lots as set forth in Article II hereof, thus making Declarant the Owner, by virtue of the newly-recorded Lots and of other Lots owned by Declarant, of a sufficient number of Class B Lots to cast a majority of votes (it being hereby stipulated that the conversion and reconversion shall occur automatically as often as the foregoing facts shall occur); or

(2) on December 31, 2005.

When the Class B Lots cease to exist and are converted to Class A Lots, Declarant shall have the same voting rights as other Owners of Class A Lots; however, such Lots shall continue to be treated as Class B Lots for assessment purposes.

Section 3. Vacant/Leased Residences. If the Owner of any Lot ceases to occupy the dwelling constructed thereon as his/her own personal living quarters or if any dwelling within the Properties is leased or rented to tenants, the vote as expressed by the Owners of such vacant and rental units shall not be entitled to any weight greater than forty-nine (49) percent on any matter pending before the Association.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment and Access. Except as limited by Section 2 of this Article IV and by the rules and regulations adopted by the Members and/or the Board of Directors of the Association, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to:

(a) the right of the Association to charge reasonable admission and other fees for the use of any facilities hereafter situated or constructed on the Common Area and to limit the

use of such facilities to Owners who occupy a residence on the Properties and to their families, tenants and guests, as provided in Section 2 of this Article IV.

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each Class of Lots agree to such dedication, sale or transfer and signify their agreement by a signed and recorded document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewage, utility (including CATV), and drainage facilities upon, over, under and across the Common Area without the assent of the Members when such easements, in the opinion of said Board, are necessary for the convenient use and enjoyment of the Properties. Notwithstanding anything herein to the contrary, the Common Area shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the Town of Cary or to another non-profit corporation for the aforementioned purposes.

(d) the right of the Association, with the assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots, to mortgage, pledge, deed in trust or otherwise hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of any such lender or mortgagee shall be subordinate to the property rights of the Owners as set forth herein.

(e) the right of the Association, with the approval of the Town of Cary, to exchange all or part of the Common Area for other property and consideration of like value and utility, which exchange may be approved by the Board of Directors without the consent of the Members.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Wake County, North Carolina.

(b) Tenants. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Wake County, North Carolina.

(c) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests of such Owners, tenants or contract purchasers, subject to such rules and regulations as may be established by the Board of Directors.

Section 3. Conveyance of Title To The Association. Declarant covenants, for itself, its successors and assigns, that it will convey title to the Common Area within each phase or section of the Subdivision to the Association prior to the conveyance of the first Lot within such phase or section to an Owner. Declarant reserves an easement over and across the Common Area so long as it owns any Lots within the Properties for the purpose of constructing any improvements on the Common Area as it deems necessary or advisable. Except as otherwise stated herein, all conveyances by Declarant to the Association shall be free and clear of all encumbrances and liens, except utility and drainage easements of record or shown on the recorded plats of the Subdivision. Any improvements placed on the Common Area by Declarant shall become the property of the Association upon completion of such improvements.

Section 4. Regulation and Maintenance of Common Area. It is the intent of the Declarant that the Common Area be preserved to the perpetual benefit of the Owners within the Subdivision. To that end, Declarant will, prior to the conveyance of the first Lot to an Owner, reserve on a recorded plat or grant to the Association an easement over and across that portion of any Lot on which a Common Area easement lies. It is the intent of the Declarant that the easement area shall be maintained in the same state as when the Lot upon which such easement lies was conveyed to the Owner.

(a) Rights and Responsibilities of the Lot Owners. Each Owner of a Lot upon which a Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area easement. Notwithstanding any other provision of this Declaration, no Owner or other person shall, without the prior written consent of the Association: (1) remove any trees or vegetation within the Common Area; (2) erect gates, fences, or other structures on the Common Area; (3) place any garbage receptacles on or in the Common Area; (4) fill or excavate the Common Area or any part thereof; or (5) plant vegetation or otherwise restrict or interfere with the use, maintenance, and preservation of the Common Area.

(b) Rights and Responsibilities of the Association. The Association shall have the right and obligation to ensure that the Common Area is preserved to the perpetual benefit of the Owners within the Subdivision and, to that end, shall: (i) maintain the Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its free use by the Owners within the Subdivision; (ii) procure and maintain adequate liability insurance, in an amount not less than \$1,000,000.00, covering the Association and its Members against any loss or damage suffered by any person, including the Owner of the Lot upon which Common Area lies, resulting from use of the Common Area; and (iii) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.

ARTICLE VCOVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot that it owns within the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments and special assessments, such assessments to be established and collected as hereinafter provided. All assessments which are unpaid when due, together interest and late charges set forth in Section 8 of this Article V and all costs of collection, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment or charge, together with interest and costs of collection, including reasonable attorney's fees, shall also be the personal or corporate obligation of the person(s), firm(s) or corporation(s) owning such Lot at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and, in particular, for: (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) repair and reconstruction of improvements on the Common Area, including storm water infiltration devices and other storm water drainage facilities constructed on or serving the Properties, including but not limited to, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments levied against the Common Area owned by the Association in fee; (iv) procurement and maintenance of insurance in accordance with the Section 4(b) of Article IV of this Declaration; (v) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vi) payment of principal and interest on funds borrowed for Association purposes; and (vii) such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1, 2000, the maximum annual assessment shall be \$300.00 per Class A Lot (\$25.00 per month) and, subject to the provisions of Sections 3(c) and 3(d), below, \$75.00 per Class B Lot (\$6.25 per month).

(a) From and after January 1, 2000, the Maximum Annual Assessment may be increased by the Board of Directors effective January 1 of each year without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the maximum assessment for the previous year unless such increase is approved as set forth in Section 3(b), below.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the Maximum Annual Assessment may be increased without limitation if such increase is approved by the Class B Member and not less than two-thirds (2/3) of the votes cast by the Class A Members, in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum (including zero); provided, however, that, except as otherwise provided in this subparagraph (c), the assessment established for each Class B Lot shall always be one-fourth (1/4) of the assessment for a Class A Lot.

In the event that Class B Lots are converted to Class A Lots, or Class A Lots are reconverted to a Class B Lots, the assessment with respect to such Lots shall be prorated and charged according to their class as of the date of each conversion and reversion.

A Lot containing a dwelling used as a model or sales center and not as a residence shall be assessed at the Class B rate. A Class B Lot that is occupied as a residence shall be assessed at the Class A rate, but shall remain a Class B Lot for all other purposes.

(d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by the Board.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, for repayment of indebtedness and interest thereon, or for any other purpose, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article and shall be in the ratios provided in Section 3(c) of this Article.

Section 5. Assessment Rate; Collection Period. The annual assessment shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, quarterly, monthly or semi-annual basis as determined by the Board of Directors. In the event the annual assessment is collected on an annual or semi-annual basis, the Board of Directors shall determine the specific date(s) of collection. The special assessment shall also be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, quarterly, monthly or semi-annual basis, as determined by the Board of Directors.

Section 6. Notice of Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days prior to the meeting. At such meeting, the presence of members or of proxies entitled to cast sixty-seven (67%) percent of the votes appurtenant to each Class of Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the

same notice or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Payment. Unless a different commencement date is set by the Board of Directors, the annual assessments provided for herein shall commence as to all Lots in any phase on the first day of the month following the conveyance to the Association of all or any part of the Common Area within that phase. Unless a lower amount is set by the Board of Directors, the first annual assessment shall be the "maximum annual assessment" set forth in Section 3 of this Article and shall be prorated according to the number of months remaining in the calendar year.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 8. Effect of Nonpayment of Assessments; Remedies. Any assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of fourteen percent (14%) per annum or the highest rate allowed by law, whichever is less. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot for which such assessment is due. Interest, late payment charges, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Lot. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of a Lot pursuant to such a foreclosure of a mortgage or deed of trust, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

Section 10. Exempt Property. All property dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. Notwithstanding the foregoing, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Working Capital Fund. At the time of closing of the initial sale of each dwelling constructed on each Lot, a sum equal to one-sixth (1/6) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such dwelling and transferred to the Association as part of its working capital. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid to pursuant to this Section shall not be considered as an advance payment of any regular assessment.

ARTICLE VI

RIGHTS OF LENDERS

Section 1. Books and Records. Any owner or holder of a first deed of trust on any Lot, or its agent(s), shall have the right, during normal business hours, to examine copies of this Declaration, the Articles of Incorporation, By-laws, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

Section 2. Notice to Lenders. Upon written request to the Association, the owner or holder of a first deed of trust on any Lot shall be entitled to timely written notice of:

- (a) Any 60-day delinquency in the payment of assessments or charges owed by the Owner of the Lot securing its loan.
- (b) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (c) Any proposed action that requires the consent of a specified percentage of owners or holders of first mortgages on the Lots.

Section 3. Approval of Owners and Holders of First Deeds of Trust. Unless at least seventy-five percent (75%) of the owners and holders of the first deeds of trust on Lots located within the Properties have given their prior written approval, the Association shall not:

- (a) By act or omission seek to abandon, partition, sub- divide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the

Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause. Notwithstanding anything herein to the contrary, the property owned by the Association, whether in fee, by easement, or otherwise, shall be preserved to the perpetual benefit of the Owners or of the public in general and shall not be conveyed except to the Town of Cary or to another non-profit corporation for the aforementioned purposes. Nothing herein shall be deemed to prohibit the Association, with the consent of the Town of Cary, to exchange Common Area for other real property as provided in the Cary Code of Ordinances, or to require the approval of such exchange by the holders of first deeds of trust on the Lots.

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

(c) Fail to maintain hazard insurance on insurable improvements on the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement, or reconstruction of the damaged improvements.

Section 4. Payment of Taxes and Insurance Premiums. The owners or holders of first deeds of trust on Lots, jointly or singly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

ARTICLE VII

EASEMENTS

Section 1. Access and Utility Easements. Easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved as shown on the recorded plats of the Properties. The Association may reserve or grant easements over the Common Area as provided in Article IV, Section 1(c), of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of twenty-five (25) years from the date hereof, Declarant reserves an easement and right of ingress, egress and regress on, over and under the Properties to maintain and correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action that it deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable, but shall not be required to replace any trees, bushes or shrubbery necessarily removed. Declarant shall give reasonable notice of its intent to take such action to all affected Owners.

Section 2. Easements for Governmental Access. An easement is hereby established over the Common Area and every Lot within the Properties for the benefit of applicable governmental agencies for: installing, removing, and reading water meters; maintaining and replacing water, sewer and drainage facilities; and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 3. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of such dwelling. Such work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as nearly the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

ARTICLE VIII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, nor shall a building permit for such improvement or change be applied for or obtained, nor shall any major landscaping or relandscaping of any Lot be commenced or made (such construction, alteration and landscaping are hereinafter referred to as the "Improvements") until plans and specifications showing the nature, kind, shape, heights, materials, color and location of same shall have been submitted to and approved in writing by the Declarant. If the Declarant fails to approve or disapprove such proposed Improvements within thirty (30) days after complete plans and specifications have been received by it, approval will not be required, and this Article shall be deemed to have been complied with. The Declarant shall have the right to charge a reasonable fee, not to exceed \$75.00, for receiving and processing each application. The Declarant shall have the right to promulgate and from time to time amend written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may

establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. The Declarant shall not approve any Improvements which it determines, in its discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Subdivision.

Declarant may, at any time, delegate the review and approval authority contained in this Article VIII to the Board of Directors of the Association or to an Architectural Committee composed of three or more persons appointed by the Board. Such delegation shall be made by the Declarant by recording in the Wake County Registry an Assignment Of Declarant's Rights. Declarant shall delegate such authority no later of the date upon which Declarant no longer owns any Lots within the Properties or December 31, 2005, whichever is earlier. Any use of the term "Declarant" in this Article VIII shall be deemed to apply to Declarant and, when appropriate, to the Board of Directors or the Architectural Committee. Nothing herein shall be construed to permit interference with the development of the Lots by Declarant in accordance with its general plan of development.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of the Owners as set forth below. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. No amendment shall be effective unless it has been approved, if required by Section 4 of this Article IX, by the Federal Housing Administration or Veterans Administration, and is recorded in the office of the Register of Deeds of Wake County.

Section 4. FHA/VA Approval. In the event that Declarant has arranged for and provided purchasers of Lots with FHA-insured or VA-guaranteed mortgage loans, then, as long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mortgaging of real property owned by the Association, deeding of such real property to persons other than the Association, and amendment of this Declaration.

Section 5. Non-Liability of the Town. The Town of Cary shall not be responsible for failing to provide any emergency or regular fire, police or other public service to the Properties, any Lot, or any Owner or occupant when such failure is due to the lack of access to the Properties or any Lot thereof due to inadequate design or construction of such access, blocking of access routes, or any other factor within the control of the Declarant, the Association, an Owner, or an occupant of any Lot.

Section 6. Declarant's Right To Change Development. With the approval of the Town of Cary, and subject to such terms and conditions as the Town may impose, Declarant shall have the right, as to any of the Properties still owned by Declarant, without consent or approval of the Owners, to create dwelling units, add Common Area, change unit types and reallocate units within, and withdraw real property from the cluster development.

Section 7. Enforcement. In addition to any other rights and remedies that the Association may have under this Declaration, the Association may impose sanctions for violations of this Declaration, the By-Laws of the Association, the rules and regulations adopted Association, or the Restrictive Covenants applicable to the Properties, in accordance with procedures set forth in the By-Laws, which sanctions may include, but are not limited to, reasonable monetary fines (which fines shall constitute a lien upon the Lot of the violator) and suspension of the right to vote and the right to use any facilities within the Common Area during the pendency of the violation.

In addition, as provided in the By-Laws, the Association may exercise self-help to cure violations (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) and may suspend any services it provides to the Lot of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. The Association shall at all times have the right and easement to go upon any Lot for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the architectural guidelines applicable to the Properties. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce its rights and remedies, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 8. Recreation Area. Declarant currently intends to construct within the Subdivision an amenities package consisting of a swimming pool, cabana and parking lot (the "Recreation Area"), which shall be owned and maintained as part of the Common Area. The Association shall have the right to adopt rules and regulations governing the use of the Recreation Area, which may require persons entering the Recreation Area to carry identification which may be checked by an agent of the Association.

Declarant and the Association reserve the right, but shall not be obligated, to construct additional recreational facilities on the Recreation Area or on other Common Area within the Subdivision. The decision as to whether or not to construct additional recreational facilities and the construction of same shall be in the sole discretion of the Declarant or the Association.

Neither the Declarant nor the Association shall be obligated to provide supervisory personnel for the Recreation Area, including, without limitation, lifeguards. Any person using the Recreation Area shall do so at his or her own risk and, by use of same, agrees to and does hold the Declarant and the Association harmless from and against any claim or loss arising from such use.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed on this the 4th day of December, 1998.

CENTEX HOMES, a Nevada General Partnership

(Seal)

By: **Centex Real Estate Corporation,**
a Nevada corporation,
Managing General Partner

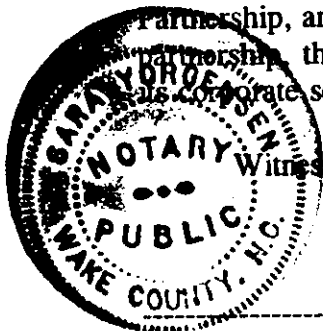
(Corporate Seal)

By: E. Scott Batchelor
E. Scott Batchelor
Division President

Attest: Matthew Christensen
Matthew Christensen
Assistant Secretary

STATE OF NORTH CAROLINA -- WAKE COUNTY:

I, SARA YORGENSEN, a Notary Public of the County and State aforesaid, certify that MATTHEW CHRISTENSEN personally appeared before me this day and acknowledged that he is an Assistant Secretary of CENTEX REAL ESTATE CORPORATION, a Nevada corporation and Managing General Partner of CENTEX HOMES, a Nevada General Partnership, and that, by authority duly given and as the act and deed of the corporation and the Partnership, the foregoing Deed was signed in its name by its Division President, sealed with its corporate seal, and attested by him as its Assistant Secretary.



Witness my hand and seal, this the 4th day of December, 1998.

Sara Yorgensen
Sara Yorgensen
My Commission Expires: 10/23/2001

STATE OF NORTH CAROLINA -- WAKE COUNTY:

The foregoing certificate of SARA YORGENSEN, Notary Public, is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first the first page hereof.

LAURA M. RIDDICK, Register of Deeds

By: Meta W. Hams
Deputy/Assistant Register of Deeds

EXHIBIT A**COTSWOLD SUBDIVISION
Phase 1**

Lying and being in the Town of Cary, Holly Springs Township, Wake County, North Carolina, and being more particularly described as follows:

TRACT ONE

All of the real property, containing 4.84 acres, more or less, shown and identified on the plat entitled "COTSWOLD SUBDIVISION, A PORTION OF PHASE 1", prepared by Withers & Ravenel Engineering & Surveying (Project No. 97134), and recorded in **Book of Maps 1998, Page 1561**, Wake County Registry, which property includes Lots 1-9 in COTSWOLD Subdivision, a Portion of Phase 1, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

TRACT TWO

All of the real property, containing 24.84 acres, more or less, shown and identified on the plat entitled "COTSWOLD SUBDIVISION, A PORTION OF PHASE 1", prepared by Withers & Ravenel Engineering & Surveying (Project No. 97134), and recorded in **Book of Maps 1998, Pages 1758-1759**, Wake County Registry, which property includes Lots 10-61, inclusive, and Lots 63-77, inclusive, in COTSWOLD Subdivision, a Portion of Phase 1, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

LESS AND EXCEPT from the above described Tract Two that certain parcel containing 0.71 acres, more or less, shown and identified as the "Pump Station Lot" on the plat entitled "COTSWOLD SUBDIVISION, A PORTION OF PHASE 1" as recorded in Book of Maps, Pages 1758-1759, Wake County Registry, to which plat reference is hereby made for a more particular description.

EXHIBIT B

Lying and being in the Town of Cary, Holly Springs Township, Wake County, North Carolina, and being more particularly described as follows:

BEING all of the real property, containing 81.14 acres, more or less, described in the deeds recorded in Book 7884, Page 301 and Book 7884, Page 305, Wake County Registry.

SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

TRACT ONE

All of the real property, containing 4.84 acres, more or less, shown and identified on the plat entitled "COTSWOLD SUBDIVISION, A PORTION OF PHASE 1", prepared by Withers & Ravenel Engineering & Surveying (Project No. 97134), and recorded in **Book of Maps 1998, Page 1561**, Wake County Registry, which property includes Lots 1-9 in COTSWOLD Subdivision, a Portion of Phase 1, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.

TRACT TWO

All of the real property, containing 24.84 acres, more or less, shown and identified on the plat entitled "COTSWOLD SUBDIVISION, A PORTION OF PHASE 1", prepared by Withers & Ravenel Engineering & Surveying (Project No. 97134), and recorded in **Book of Maps 1998, Pages 1758-1759**, Wake County Registry, which property includes Lots 10-61, 63-77 and that certain lot identified as "Pump Station Lot" in COTSWOLD Subdivision, a Portion of Phase 1, as shown on the aforesaid recorded plat, to which plat reference is hereby made for a more particular description of same.