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(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 a minimum of 1,300 square feet of finished living area (exclusive of garages, carports, basements and porches).

(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 of 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, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Dwelling Unit without the prior consent of the Architectural Review Board.

(f) 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.

(g) 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.

(h) 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.

(i) 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.

(j) 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.

(k) No boats, campers, trailers of any kind, busses, mobile homes, recreational vehicles, trucks (larger than 3/4 ton), motorcycles, minibikes or mopeds 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.

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

(m) 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 Board.

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

(o) 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.

(p) 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.

(q) 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.

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 Section I (in paragraph B of the recitals of this Declaration) is the Real Estate being subjected to this Declaration and constitutes Section 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 113, including the Lots in Section I. Subject to said limit

as to the maximum number of Lots to be developed on the Real Estate, Waterwood of Carmel 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 Waterwood of Carmel 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, 2001. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand Waterwood of Carmel beyond Section 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 Waterwood of Carmel, 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.

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 21 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 (a) to comply with requirements of the Federal National Mortgage Association, the Government National 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 by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements or (d) 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 21 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 21 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 sub-paragraphs 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 Waterwood of Carmel Section 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 ~~24th~~ day of February, 1994, as Instrument No. 94-08887.

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

CENTEX HOMES COMPANY

By: Rex L. Gordon

Printed: REX L. GORDON

Title: DIVISION PRESIDENT

STATE OF INDIANA )  
 )SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared Rex L. Gordon, by me known and by me known to be the Division President of Centex Homes Company, who acknowledged the execution of the foregoing "Declaration of Covenants and Restrictions of Waterwood of Carmel Property Ownership" on behalf of said Corporation.

Witness my hand and Notarial Seal this 23<sup>rd</sup> day of February, 1994.



Glenn E. Christian  
Notary Public

Glenn E. Christian  
(Printed Signature)

My Commission Expires: April 30, 1994

My County of Residence: Hamilton

This instrument prepared by Philip A. Nicely, Attorney-at-Law, Bose McKinney & Evans, 8288 Keystone Crossing, Suite 1201, Indianapolis, Indiana 46240.

## EXHIBIT 'A'

A part of the Northeast Quarter of Section 2, Township 17 North, Range 3 East of the Second Principal Meridian in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said Northeast Quarter Section; thence South  $85^{\circ}26'00''$  West (assumed bearing), on and along the South line of said Quarter Section, a distance of 720.28 feet to the Southeast corner of land described in a deed to Thomas Meyer, recorded in Deed Book 358, Pages 95-96, in the Office of the Recorder of Hamilton County, Indiana; thence on and along the East and North lines, and the extension of the North line of said land the following two courses: 1) North  $00^{\circ}28'52''$  West, parallel with the East line of said Quarter Section, 400.00 feet; 2) thence South  $88^{\circ}26'00''$  West, parallel with the South line of said Quarter Section, 220.00 feet; thence South  $00^{\circ}28'52''$  East, parallel with said East line, 400.00 feet to the South line of said Quarter Section; thence South  $88^{\circ}26'00''$  West, on and along said South line, 411.40 feet to the Southwest corner of the Southeast Quarter of said Northeast Quarter Section; thence North  $00^{\circ}20'22''$  West, on and along the West line of said Quarter-Quarter, 829.18 feet; thence North  $89^{\circ}39'38''$  East 175.00 feet; thence South  $00^{\circ}20'22''$  East 78.39 feet; thence North  $88^{\circ}48'55''$  East 265.01 feet; thence North  $87^{\circ}38'43''$  East 67.15 feet; thence North  $79^{\circ}17'18''$  East 68.73 feet; thence North  $76^{\circ}42'17''$  East 180.00 feet; thence North  $81^{\circ}08'41''$  East 54.92 feet; thence South  $85^{\circ}07'15''$  East 50.94 feet; thence South  $71^{\circ}30'47''$  East 50.94 feet; thence South  $58^{\circ}19'47''$  East 52.47 feet; thence South  $50^{\circ}54'00''$  East 50.91 feet; thence North  $49^{\circ}04'24''$  East 160.00 feet to a non-tangent curve concave Southwesterly, having a central angle of  $02^{\circ}49'24''$  and a radius of 275.00 feet, the radius point of which bears South  $49^{\circ}04'23''$  West; thence Southeasterly along said curve an arc distance of 13.55 feet (said arc being subtended by a chord which bears South  $39^{\circ}30'55''$  East, a distance of 13.55 feet) to a non-tangent line; thence North  $51^{\circ}53'45''$  East 39.63 feet to the Southwest corner of land described in a deed to H. W. and Alice J. Jones, recorded as Instrument number 86-29282 in the Office of said Recorder; thence North  $89^{\circ}22'34''$  East, on and along the South line of said land, 200.80 feet to the East line of said Northeast Quarter Section; thence South  $00^{\circ}28'53''$  East, on and along said East line, 626.58 feet to the Point of Beginning; containing 22.236 acres, more or less; subject to rights-of-way, easements, and restrictions.

## EXHIBIT 'B'

A part of the Northeast Quarter of Section 2, Township 17 North, Range 3 East, located in Clay Township, Hamilton County, Indiana, being more specifically described as follows:

Beginning at the Southeast corner of the Southeast Quarter of said Northeast Quarter; thence South 88°26'00" West (assumed bearing), on and along the South line of said Quarter-Quarter Section, a distance of 720.28 feet to the Southeast corner of land described in a deed to Thomas Meyer, recorded in Deed Book 356, pages 95-96, in the office of the Recorder of Hamilton County, Indiana; thence on and along the East, and North lines of said land the following two (2) courses: (1) North 00°28'52" West, parallel with the East line of said Quarter-Quarter Section, a distance of 400.00 feet; (2) thence South 88°26'00" West, parallel with the South line of said Quarter-Quarter Section, a distance of 220.00 feet; thence North 76°09'20" West, 40.78 feet; thence South 88°37'10" West 120.15 feet; thence North 01°22'50" West 115.00 feet; thence South 88°37'10" West 248.58 feet to a point on the West line of said Quarter-Quarter Section; thence North 00°20'22" West, on and along the West line of said Quarter-Quarter Section, a distance of 302.09 feet; thence North 89°39'38" East 175.00 feet; thence South 00°20'22" East 78.39 feet; thence North 88°48'55" East 265.01 feet; thence North 87°38'43" East 67.15 feet; thence North 79°17'18" East 68.73 feet; thence North 76°42'17" East 180.00 feet; thence North 81°06'41" East 54.92 feet; thence South 85°07'15" East 50.94 feet; thence South 71°30'47" East 50.94 feet; thence South 58°13'47" East 52.47 feet; thence South 50°54'00" East 50.91 feet; thence North 49°04'24" East 160.00 feet to a point on a non-tangent curve concave Southwesterly, having a central angle of 02°49'21" and a radius of 275.00 feet; thence Southeasterly along said curve an arc distance of 13.55 feet (said arc being subtended by a chord having a bearing of South 39°30'55" East and a length of 13.55 feet); thence North 51°53'45" East 39.63 feet; thence North 89°22'34" East 200.80 feet to a point on the East line of said Northeast Quarter; thence on and along said East line South 00°28'52" East 826.56 feet to the Point of Beginning, containing 17.71 acres, more or less; subject to rights-of-way, restrictions and easements.

This Instrument Recorded **FEB 24 1994**  
Sharon K. Cherry, Recorder, Hamilton County, IN.