

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

Nov 13 1 03 PM '91

NORTH TRACE

FILED  
MESNE CONVEYANCES  
CLARA L. BARTLETT

This Declaration is made as of the 11<sup>th</sup> day of November, 1991, by CENTEX REAL ESTATE CORPORATION, a Nevada corporation, hereinafter referred to as "Declarant", with reference to the following facts:

WITNESSETH

Declarant is the owner of certain real property (hereinafter referred to as the "Property") in Richland County, South Carolina which is described on Exhibit "A" attached hereto.

Declarant desires to impose certain conditions, restrictions and architectural control upon the development of the Property for the enhancement of the Property.

**NOW THEREFORE**, Declarant, as owner of the Property, for itself and its successors and assigns, declares as follows:

1. Residential Use. Except as otherwise provided in this Declaration, lots shall be used as a residence for a single family and for no other purpose. Except as provided in Section 12, no owner shall use or cause or permit his lot to be used for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose.

2. Unlawful Activity. No unlawful activity shall be conducted on any lot or in any other part of the Property. Nothing shall be done within the Property that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Property, or that unreasonably interferes with the quiet enjoyment of occupants of lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

3. Parking. No boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left (a) on any party of a common area, (b) in any driveway or (c) on any other part of a lot unless the same are fully enclosed within the garage located on the lot, or are kept behind the front line of the house on the lot and behind a fence no less than 6 feet in height and which fully screens them from the view of the public walking by such lot. Any automobile, motorcycle or truck shall be parked, stored or left wholly within the garage located upon the lot, except to the extent a garage is already occupied to capacity,

in which case such vehicle may be parked temporarily in the driveway. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant and its agents and contractors in the conduct of their business. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living or dwelling area within the Property. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway or in any garage within the Property, except in the case of an emergency.

4. Signs and Curtains. No owner shall place on or about any window metallic foil or other coating, substance or material which similarly acts as a reflector of light and no owner shall display, hang, store or use any signs, curtains, draperies, shades, stained glass or other articles whatsoever outside of the dwelling on any lot or in any dwelling so as to be visible from outside the lot. Notwithstanding the foregoing, one sign of customary and reasonable dimensions, conforming to such reasonable standard as may be adopted by Declarant, advertising a lot for sale or rent may be placed by the owner on his lot in such manner that it will be visible from outside the lot. The prohibitions in this sections shall not apply to Declarant or its agents, who may erect such signs as Declarant seems desirable to promote the sale of lots.

5. Antennas. Except as may be permitted by the architectural control committee, no owner shall construct, install, erect or maintain any television or radio pole, antenna, aerial, satellite dish, tower or support thereof upon any lot or improvement thereon.

6. Laundry. No laundry or wash shall be dried or hung upon the exterior of any lot or any place visible within the Property from outside such lot.

7. Fences.

(a) Fences in General. No fence or wall shall be erected on any lot closer to the street than the side street setback or the front of the building facade except for temporary decorative fencing installed by the builder on a model home. Chain link or other similar metal fencing is expressly prohibited, except that 2" x 4" mesh may be used with split rail fencing to contain animals within the yard. Owners are put on notice that the construction of any fence upon the Property requires the prior written consent of the Architectural Control Committee as more specifically set forth in Section 14 of this Declaration.

(b) Pool Fences. It shall be a requirement within the Property that any pool constructed within the Property, whether above ground or in-ground shall be surrounded by a non-climbable perimeter fence of at least five feet in height

and equipped with a self-closing mechanism on all gates. The design for swimming pool construction must be submitted to the Architectural Control Committee for prior approval, and said approval will not be given unless the plans therefore include a perimeter fence in compliance with this section. The minimum fence requirements contain in Section 7(a) shall apply to any pool fences constructed within the Property.

8. Pets.

(a) No animals shall be raised, bred or kept on any lot or a common area, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets, such as dogs, cats, et cetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months of age. Owners are responsible for cleaning up any mess that a pet creates or repairing any damage caused by a pet within a common area or on any lot, including the pet owners own lot. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience or nuisance to any other owner. If Declarant shall afford the owner of such animal a notice and opportunity for hearing, and if Declarant finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, Declarant may require that such animal be removed from the Property.

(b) Declarant may adopt rules and regulations concerning animals which are more restrictive than the provision of this Declaration including rules requiring that all animals be kept on a leash when in a common area or lot and that animals be restricted to designated areas within a common area. Declarant may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Property at the time such rule is adopted. In any event, Declarant at any time may require that any animal found to be an unreasonable annoyance, nuisance, or danger be removed as provided in Section 8(a).

9. Trash and Vegetation. No trash, rubbish, garbage or other waste material shall be kept or permitted upon any lot or a common area, except in sanitary containers located in an appropriate area screened and concealed from view. No weeds, vegetation, rubbish, debris, garbage, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate on any lot or any portion of the Property which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity. Grass, hedges, shrubs, vines and mass planting of any

type on any lot or any portion of the Property shall be kept trimmed and shall at regular interval be mowed, trimmed and cut so as to appear neat and attractive. Trees, shrubs, vines and plants which die shall be promptly removed.

10. Wells. No well for the production of, or from which there is produced, water, oil, gas or other substance shall be dug or operated anywhere within the Property without the consent of Declarant.

11. Nuisance. No noxious or offensive activity shall be carried on in or upon any lot or a common area nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Property or unreasonably interferes with the quiet enjoyment of occupants of lots. No owner shall permit anything to be done or kept on his lot which would result in the cancellation of insurance on any other residence or any part of a common area or which would be in violation of any law.

12. Declarant's Rights. Notwithstanding anything to the contrary contained in this Declaration, Declarant, its agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and Declarant, its agents, employees and contractors shall have the right to do such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Property as a residential community and for the sale, rental or other disposition of lots and residences constructed thereon in the Property. The rights of Declarant, its agents, employees and contractors shall include, without limitation:

(a) The right and easement of ingress and egress in, over and upon the Property for the purpose of performing on any part or parts thereof acts deemed necessary, advisable or convenient for the completion and improvement of the Property as a residential community and for the sale, rental or other disposition of lots and residences constructed thereon;

(b) The right to erect, construct, maintain, modify, expand, contract, alter, demolish or remove structures and other improvements on the Property as it deems necessary, advisable or convenient for the completion and improvement of the Property as a residential community and for the sale, rental or other disposition of lots; and

(c) The right to use lots and improvements owned by Declarant as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aides on or about any portion of the Property.

13. Right to Enter. Any governmental agency, including, but not limited to Richland County, as well as any utility company, their agents, and employees, shall have the right of immediate access to the Property at all times if necessary or advisable for the preservation of public health, safety and welfare.

14. Architectural Control.

(a) Review of Plans and Specifications. Declarant shall review and approve or reject all of the plans and specifications, and all other facts which in its sole discretion are relevant, for any building, addition, hardscape, landscape, irrigation system, swimming pool, spa, receiving or transmitting antennae or satellite dish, fence, wall or similar improvement, including any exterior changes or alterations in any existing improvement. Prior to commencement of any construction or installation of any improvement on the Property, the plans and specifications therefor shall be submitted to the Declarant and construction thereof may not commence unless and until the Declarant has approved such plans and specifications in writing. The Declarant shall have such other rights it deems incidental to the foregoing including, but not limited to, the inspection of construction in progress to assure its conformance with plans and specifications approved by the Declarant.

Declarant shall approve plans and specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area or the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Declarant may condition its approval of plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. The Declarant may also issue guidelines regarding anything relevant to its functions, including, but not limited to, minimum standards, procedures for the submission of plans and specifications for approval, and fines or other reasonable penalties for prosecution of work in violation of this Section 14. The Declarant may require a reasonable fee to accompany each application for approval. The Declarant may require such detail in plans and specifications submitted for its review and such other information as it deems proper, including without limitation an environmental impact statement. Until receipt by the Declarant of all required plans and specifications and other information, the Declarant may postpone review of anything submitted for approval. Upon receipt by the Declarant of all required plans and specifications and other information the Declarant shall have

thirty day in which to approve or disapprove such plans and specifications in writing. If, after the submission of all plans, specifications and other information, materials or the like requested by the Declarant, the Declarant fails to so approve or disapprove within said thirty day period, the plans and specifications shall be deemed to have been approved as though written approval had been given by the Declarant. All plans and specifications and plot plans are to be submitted to the Declarant at the following address:

Centex Real Estate Corporation  
810 Dutch Square Boulevard, #115  
Columbia, South Carolina 29210

The Declarant may change its address from time to time by delivering notification to each lot owner.

(b) Formation of the A.C.C.. In the event the Declarant deems it to be necessary or advisable, the Declarant shall have the right to appoint an Architectural Control Committee ("A.C.C.") to investigate and advise the Declarant with regard to any matters brought before the Declarant under this Section 14. The A.C.C. shall be composed of three (3) or more representatives appointed by the Declarant from the owners of lots within the Property and/or employees of the Declarant. Declarant shall have no responsibility or liability for maintaining the active status of the A.C.C.. Declarant shall have the exclusive right to appoint members to the A.C.C.

(c) Waiver of Future Approvals. The approval or consent of the Declarant to any plans or specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Declarant shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans or specifications or other matter whatever subsequently or additionally submitted for approval or consent.

(d) Nonliability of the Declarant. The Declarant shall not be liable to any owner for any loss, damage or injury arising out of or in any way connected with the performance of the Declarant under this Declaration unless due to the wilful misconduct or bad faith of the Declarant. The Declarant shall review and approve or disapprove all plans and specifications submitted to it for any proposed improvement, including the construction, alteration or addition thereof or thereto, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the surrounding area and the Property generally. The Declarant shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar

feature, but shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

(e) Declarant Exempt. Declarant's construction of homes and other improvements constructed on lots within the Property shall be exempt from the review and approval processes specified in this Section 14.

15. Formation of Home Owners Association. After the Declarant has sold ninety (90%) percent of the lots within the Property, the Declarant shall have the right, but not the obligation to form a home owners association ("H.O.A."). The H.O.A. shall be a corporation having a non-profit status of such is permissible by law. The lot owners may join the H.O.A. on a voluntary basis subject to all fees, membership dues and the like which are applicable at the time and which apply with equal force to all lot owners. In the event the Declarant elects to form the H.O.A. the Declarant will notify all lot owners of the initial meeting of the H.O.A. and a majority of lot owners attending and paying the applicable fee, dues and the like shall be members and shall have the right to elect the directors and officers of the H.O.A.. Until a majority of the attending member lot owners elect directors and officers the Declarant may act as the sole director and officer of the H.O.A. reserving unto itself the right to resign at any time.

The Declarant shall have the further unilateral right, but not the obligation to assign, convey, grant and the like to the H.O.A. any and all rights, easements, duties, obligations, authorities or the like it has under this Declaration or relating to the Property or any part or portion of the foregoing to the H.O.A. including, but not limited to the right to enforce the provisions of this Declaration and easements and duties relating to the Entrance Feature. In the event the Declarant does so assign, convey, grant or the like any of the foregoing the Declarants obligations and duties with regard thereto shall cease without any liability to Declarant.

16. Floor Space. The interior floor space of each residence, exclusive of basements, garages, porches, patios, decks, balconies and overhangs, shall be not less than eight hundred (800) square feet.

17. Reconstruction of Residences. In the event of damage or destruction to a residence by fire or other casualty, the owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original plans and specifications thereof; provided, however, that such residence shall be restored so that

the exterior appearance thereof substantially resemble their appearance in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any owner of a damaged residence may request permission the A.C.C. to reconstruct or repair his residence in accordance with revisions in the plans and specifications. The Declarant shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Property in a manner generally consistent with the plan and development thereof.

18. Maintenance of Entrance Feature. The subdivision entrance monument and landscaping located at the intersection of North Springs Road and North Trace Court, (hereinafter the "Entrance Feature") are located within easements granted to various utility companies. The Declarant does hereby also reserve unto itself, its successors and assigns an easement for the construction and maintenance of the Entrance Feature and any landscaping incidental thereto said easement being shown on a plat entitled "Entrance Walls, North Trace Subdivision" prepared for Centex Homes Corporation, dated November 6, 1991 and recorded in the Office of the Register of Mesne Conveyances for Richland County, South Carolina and further described in Exhibit "A" attached hereto (and incorporated herein by reference) along with a reasonable right of ingress and egress for purposes of maintenance ("Sign Easements"). The utility companies have not agreed to assume maintenance responsibility for the Entrance Feature and have not waived any right to remove the Entrance Feature if such interferes with the utility companies' rights. Declarant will maintain the Entrance Feature for as long Declarant owns 10% or more of the lots within the Property. The Declarant does not warrant the continued existence of the Entrance Feature. The Declarant shall have the further right to abandon the Sign Easements at any time. At such time as Declarant has conveyed 90% or more of the lots within the Property to owners of single family detached houses, Declarant shall provide its final maintenance and/or repair of the Entrance Feature! Any further maintenance, repair or upkeep of the Entrance Feature shall be at the discretion of the lot owners and shall be done on a voluntary basis unless such maintenance, repair or upkeep is assigned or otherwise conveyed to a Home Owners Association formed pursuant to the provisions of this Declaration.

19. Interpretation and Enforcement. The provisions of this Declaration of Covenants, Conditions and Restrictions are declared to create mutual, equitable covenants and servitudes for the benefit of Declarant, each lot owner or contract purchaser of a lot, and their successors in interest. The Declarant shall have the authority, in its absolute discretion, to interpret, and resolve all disputes regarding the covenants and restrictions contained in this Declaration. Any controversy or claim arising out of or relating to this Declaration may be settled by arbitration in accordance with the rules of the American Arbitration Association, or by any proceeding at law or in equity



against any person or persons violation or attempting to violate any covenant, condition or restriction either to restrain violation and/or to recover all costs and damages suffered by the enforcing party as a result of such violation, including all costs and attorney's or other professional fees incurred by the enforcing party to prevent or correct the violation. Failure of Declarant to enforce any covenant, condition or restriction, or exercise any rights herein contained shall in no event be deemed a waiver of the right to do so thereafter. All costs incurred in enforcement (including attorney's fees and court costs) shall be at the expense of the violator or violators.

20. Invalidation. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any of the other covenants, conditions or restrictions or other provisions contained in this Declaration which shall remain in full force and effect.

21. Easements.

(a) Easement for Encroachment and Overhang. If any portion of a dwelling constructed upon a lot encroaches upon or overhangs any easement provided herein or any adjoining lot, including any future encroachment or overhang arising or resulting from the repair or reconstruction of a residence subsequent to its damage, destruction, or condemnation, a valid easement shall and does exist on the surface, for subsurface support below such surface and for overhangs, and for the maintenance of same so long as they shall exist.

(b) The Utility Easement. There is hereby created an easement upon, across, over and under each lot within the Property limited to the front ten feet and rear ten feet of each lot and the side three feet of each lot for utilities and the installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, gas, telephone electricity and cable television lines, if any. by virtue of this easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the lots and to affix, repair and maintain, water, sewer and gas pipes, electric, telephone and television wires, circuits, conduits and meters. Notwithstanding anything to the contrary contained in this section, no sewer, electric, water or gas lines or other utilities or service lines may be installed or relocated on the Property or any lot except as initially programmed and approved by Declarant or thereafter approved by Declarant. This easement shall in no way affect any other recorded easements on the Property.

(c) There is hereby created a three foot wide easement on each side of a side lot line on each lot covered by this Declaration for the purpose of providing incidental drainage

from and across each lot. Owners of lots are expressly prohibited from doing any site work or landscaping which would adversely impact or alter the grade or topography of each lot in this easement area. Any boundary fence or wall constructed within this easement area must have the prior approval of the Declarant and must be built so as not to materially impede drainage within this easement area. This easement is provided for the express purpose of benefiting the drainage from and across each lot within the Property.

22. Amendment. This Declaration of Covenants, Conditions and Restriction may be amended only by an affirmative vote of the owners of not less than seventy-five percent (75%) of the lots and further, this amendment provision shall not be amended to allow any amendment by vote of the owners of less than seventy-five percent (75%) of the lots. The foregoing to the contrary notwithstanding, during the period of Declarant control, Declarant may amend this Declaration of Covenants, Conditions and Restrictions without the approval of any lot owners provided the amendment does not materially alter or change any owner's right to the use and enjoyment of such owner's lot as set forth in this Declaration and the amendment does not adversely affect the title to such owner's lot.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this Declaration as of the date first above set forth.

WITNESSES:

Robert J. O'Connell  
Henry R. Keen

DECLARANT:

CENTEX REAL ESTATE CORPORATION  
a Nevada corporation

By: Gene Bass  
Division President

ATTEST:

Buddy Powell  
Secretary

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

PROBATE

Personally appeared before me the undersigned witness and made oath that (s)he saw the within-named CENTEX REAL ESTATE CORPORATION by its duly authorized signatory, sign, seal and as its act and deed, deliver the within-written DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for the uses and purposes therein mentioned, and that (s)he with the other witness subscribing above, witnessed the execution thereof.

SWORN to before me this 11<sup>th</sup>  
day of November, 1991.

Robert C. Connelly  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 6-20-98

Stacy K. Keen

EXHIBIT "A"

DESCRIPTION OF SIGN EASEMENTS

The Declarant as more specifically set forth in Section 18 above, reserves unto itself certain Sign Easements affecting Lot(s) 132 and 133 (as shown on the plat referenced below) in the North Trace Subdivision and constituting a portion of the Property. Said Sign Easements having the following metes and bounds:

**SIGN EASEMENT AFFECTING LOT 132**

BEGINNING at a point located along the western boundary of Lot 132 where such intersects with North Springs Road; thence turning and running CH BRG= S 75°04'19" E, CH= 29.45, R= 30.00, Δ= 58°47'01" to a point; thence turning and running S 44°19'11" W for a distance of 10.00 feet; thence turning and running CH BRG= S 84°33'00" W, CH= 30.54, R= 20.00, Δ= 99°32'23" to a point; thence turning and running N 48°42'09" W for a distance of 4.93 feet to a point; thence turning and running N 41°17'51" E for a distance of 19.15 feet to the point of beginning.

**SIGN EASEMENT AFFECTING LOT 133**

BEGINNING at a point located along the western boundary of Lot 133 where such intersects with North Springs Road; thence turning and running N 41°17'51" E for a distance of 18.76 feet to a point; thence turning and running S 48°42'09" E for a distance of 5.18 feet to a point; thence turning and running CH BRG= S 01°47'24" E, CH= 30.45, R= 20.00, Δ= 99°08'51" to a point; thence turning and running S 38°38'11" W for a distance of 10.00 feet to a point; thence turning and running CH BRG= N 27°43'08" W, CH= 29.68, R=30.00, Δ= 59°17'22" to the point of beginning.

All references herein made are more specifically set forth on that certain plat ("Plat") prepared for Centex Homes Corporation entitled "Entrance Walls, North Trace Subdivision" dated November 6, 1991 and prepared by Power Engineering Company, Inc. and recorded in the Office of the Register of Mesne Conveyances for Richland County, South Carolina in Plat Book 53 at Page 729. All measurements being a little more or less and reference to said Plat being craved for a more specific and definite description.

HCCjr/srk

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