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DENNIS KNOBLOCH
MONROE COUNTY RECORDER
WATERLOO, IL

STATE OF ILLINOIS
ST. CLAIR COUNTY

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Mild T. [Signature]
RECORDER

BOOK _____ PAGE _____

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made
this 5th day of JANUARY, 2004, by Dennis R. Brand, Trustee of Brellinger
Trust, dated May 27, 2002, hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of the following described real estate, to wit:

A part of the South half of the Southeast quarter of Section 4, Township 1 South, Range 10 West
of the Third Principal Meridian, being in both St. Clair and Monroe Counties, State of Illinois,
conveyed as follows:

Beginning at an old iron "T" Post which perpetuates the corner common to Sections # 3,4,9, and
10 of Township 1 South, Range 10 West; being also the Southeast corner of Lot # 1 of the
referenced Section 4, shown on Page # 29 of the 'Surveyor's Official Plat Record "A"', in the
Monroe County Recorder's office; thence assuming a bearing of North 88 Degrees, 54 Minutes,
49 Seconds West, along the South line of Lot # 1 of Section 4, a distance of 1370.33 (record 20.6
chains) feet and to an old iron rod set in an iron pipe set in concrete which marks the Southwest
corner of Lot # 1 of Section 4; thence continuing North 88 Degrees, 54 Minutes, 49 Seconds

West, along the South line of the Southeast quarter of Section 4, a distance of 696.60 feet and to a #5 bar set; thence North 16 Degrees, 51 Minutes, 09 Seconds West, a distance of 783.57 feet and to a #5 bar set; thence South 69 Degrees, 33 Minutes, 13 Seconds East, a distance of 126.52 feet and to a #5 bar set; thence North 20 Degrees, 26 Minutes, 47 Seconds East, a distance of 125.65 feet and to a #5 bar set; thence North 85 Degrees, 44 Minutes, 01 Seconds East, a distance of 150.00 feet and to a #5 bar set; thence North 04 Degrees, 15 Minutes, 59 Seconds West, a distance of 476.24 feet and to a concrete monument set in the North line of Lot # 2 of the Southeast quarter of Section 4 of Township 1 South, Range 10 West, also shown on Page # 29 of the Surveyor's Official Plat Record "A", and being the South line of that tract described to Columbia Golf Club, Inc., by instrument in Deed Record Book # 140, Page # 52 in the Monroe County Recorder's office; thence South 89 Degrees, 30 Minutes, 21 Seconds East along the said North line of Lot # 2, a distance of 698.70 feet and to an old concrete monument in the County line between Monroe and St. Clair; thence South 89 Degrees, 33 Minutes, 45 Seconds East, a distance of 576.38 feet and to a #5 bar set; thence South 00 Degrees, 28 Minutes, 08 Seconds West, a distance of 395.52 feet and to a concrete monument set; thence South 49 Degrees, 55 Minutes, 53 Seconds East, a distance of 976.75 feet and to an iron pin set in the East line of the Southeast quarter of Section 4; thence South 00 Degrees, 23 Minutes, 40 Seconds West, a distance of 314.05 feet and to the Point of Beginning, containing 51.898 acres, more or less.

WHEREAS, Declarant intends to sell the above described property, restricting it in accordance with a common plan designed to preserve the value and residential qualities of said land, for the benefit of and enforceable by its future owners, and their heirs, successors and assigns, and to provide a plan enforceable by the Homeowners' Association or Governing Body of said "Brellinger."

NOW THEREFORE, in consideration of the mutual advantages to accrue to the Declarant, the Homeowners' Association as well as to the future owners of the parcels to be conveyed from the subject premises, there is hereby imposed on each parcel of the subject premises, and the "common ground" or property, the following easements, conditions, restrictions, reservations and limitations, to-wit:

1. RESTRICTION PERIOD. These restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date when these covenants are recorded, after which time said covenants shall be

automatically extended for continuing successive periods of thirty (30) years each, unless an instrument signed by the owners of seventy-five percent (75%) of the lots has been recorded, agreeing to change said covenants in whole or in part.

2. FULLY PROTECTED RESIDENTIAL AREA. All lots in this subdivision shall be used exclusively for residential purposes and buildings accessory to the principal residence only. Only one single-family dwelling may be built upon any lot. The rendering of commercial services, or the sale or manufacture of products from any structure is prohibited. Only intermittent, casual and irregular professional office-type services may be rendered from any dwelling, and no sign advertising same shall be permitted. Any business or occupation conducted on a lot in the Brellinger Subdivision must comply with the Home Occupation Ordinance of the City of Columbia, Illinois, Chapter 17.46 of the Columbia Municipal Code (as amended) in effect at time of reference.

3. ARCHITECTURAL CONTROL AND OPTION TO PURCHASE. No improvements including, but not limited to exterior remodeling, room additions, porches or decks shall be commenced, constructed, placed or altered on any lot or plot until the building plans including plot plans, building locations and specifications, and sufficient description for each allowed type of improvement have been in each instance submitted to the Declarant and in Declarant's sole discretion approved in writing; such approval to cover landscaping, conformity and harmony of the external design of all the improvements with existing structures; specifications and principal exterior materials and color schemes; potential of the proposed improvement to obstruct the views of other lots within reason; the location of the improvement in relation to lot lines, topography and grade; the location and character and method of

utilization of all utilities, including water supply and sewage disposal; and the quality of workmanship and materials. Declarant agrees to use reasonable judgment in passing upon such submitted plans and descriptions, but shall not be liable to any person for Declarant's actions in connection with submitted plans and descriptions. If Declarant fails to approve or disapprove the submitted plans and descriptions in any instance within thirty (30) days after same have been submitted to him personally, the approval of Declarant hereunder shall be presumed. A Five Hundred Dollar (\$500.00) fee shall be paid to Declarant and a Three Thousand Dollar (\$3,000.00) deposit shall be made with Declarant in order to insure that the obligations set out in Paragraph 3 are complied with. The Three Thousand Dollar (\$3,000.00) deposit will be refunded at the time the Occupancy Permit is issued.

The Declarant may, at his option, designate a Committee to be composed of three or more persons, or in the alternative, in the event that there shall have been formed a Home Owner's Association, Community Council or Board of Governors, whose purpose shall specifically include the control of all properties in the area with respect to conformance with the restrictions and covenants herein created, Declarant may, at his option, assign the control herein set up to said Home Owner's Association in lieu of the Committee hereinbefore authorized. In the event a lot owner elects to resell a lot prior to the commencement of the construction of a residence, trustee will have the first option to repurchase it. The lot owner agrees to resell the lot to trustee for the purchase price paid for the lot plus the actual costs of any permanent improvements made to the lot. This option will extend for a period of 30 days, commencing with the day lot owner has notified trustee in writing of their intention to resell the lot. If at the end of 30 days trustee has not indicated in writing its intention to exercise its option to purchase

the lot, lot owner is free to resell the lot to the general public. If trustee does indicate in writing to lot owner his intent to repurchase the lot, the closing on the repurchase will be accomplished within sixty (60) days of notification of intention to repurchase.

4. BUILDING LOCATIONS.

a. No building or structure, or any part thereof, may be erected or maintained in the space outside the front building lines shown on the recorded plat.

b. No building or structure, or any part thereof, may be erected or maintained nearer than the side yard and rear yard requirements of the Columbia, Illinois Zoning Code for an R-2 (One-Family Dwelling Zoned District).

c. Driveways shall not be constructed nor maintained nearer than five (5) feet from any adjoining lot.

5. BUILDING SIZE, TYPE OF CONSTRUCTION AND QUALITY.

a. All building plans, site plans and elevations for houses and accessory buildings shall require the approval of the Declarant in his sole judgment and shall be constructed under the supervision of a qualified contractor.

b. The proposed Contractor has to be approved by Declarant in his sole judgment and needs to supply four (4) like projects, a Certificate of Insurance and all the required licensing, for himself and all sub-contractors.

c. All one story homes must contain square footage, not including garages, porches, breezeways, verandas and terraces, of at least 2,000 square feet and which comply with the City of Columbia, Illinois Zoning Code for dwelling standards in an R-2 (One-Family Dwelling Zoned District), Section 17.14.070 of the Columbia Municipal Code, as amended.

d. All one and a half (1 ½) and two (2) story homes must contain square footage, not including garages, porches, breezeways, verandas and terraces, of at least 1,400 square feet on the first floor and at least 600 square feet on the second floor that comply with the City of Columbia, Illinois Zoning Code for dwelling standards in an R-2 (One-Family Dwelling Zoned District), Section 17.14.070 of the Columbia Municipal Code, as amended. Provided further, however, that the total square footage of a one and one-half story (1 ½) or two (2) story home must be a minimum total square footage of at least 2,400 square feet.

e. All residences must have at least a three-car attached garage in the minimum size of 700 square feet, and carports are prohibited.

f. Accessory buildings shall be no less than 300 square feet and no greater than 900 - square feet in size.

g. At least 50% of the total exterior wall or surface area (excluding roofs) of each residence shall be of brick or stone or cultured stone. No underground homes, log homes, mobile homes, or modular homes are permitted.

h. All driveways and parking areas shall be covered with asphalt or concrete, and such shall be done at the completion of the residential structure on the lot.

i. Each lot owner shall cause the lot to be seeded or sodded with grasses and to be landscaped with a minimum of six (6) trees and ten (10) shrubs within eight (8) months of the completion of the dwelling structure.

j. All lots are to have sidewalks designated as shown on the preliminary plat and/or the improvement plans approved by the City of Columbia and shall be required to construct sidewalks at their expense of the specifications shown thereon in front of their homes extending

the full width of their property. The sidewalks shall be completed at the time of the completion of the residential structure and before the structure is occupied.

k. Aluminum or vinyl additions or "add-on" rooms are prohibited unless approved by trustee.

6. ACCESSORY BUILDINGS. Appropriate accessory buildings, compatible with the permitted use, and style of the dwelling shall be permitted.

Size and materials of any out-building are to be submitted for approval and must be approved by the Declarant prior to its construction.

No accessory building is allowed before the primary residence is constructed and completed, and no such building shall be used or occupied for any residential, commercial or industrial use. An accessory building may be used for lawful storage of business tools, supplies, equipment or materials provided they are kept in an enclosed accessory building.

Only one accessory building is allowed per lot, however gazebos and bath houses shall be excluded in calculating this limitation as to number of accessory buildings.

All accessory buildings shall be of a complimentary nature to the residential building, shall be behind the residential building and shall not substantially block the immediate neighbors' view.

7. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any lot at any time as a residence, either temporarily or permanently, nor shall any person dwell in any structure which is not 100% completed, (excluding landscaping) and prior to receiving an occupancy permit from the City of Columbia, Illinois Code Administrator.

All structures will be completed within one (1) year of start of construction.

8. FENCES, WALLS AND LANDSCAPING. Fences, walls, or like structures, cannot be constructed or built in front of the point which is ten (10) feet in front of the back edge of the residence, except decorative fences which do not enclose an area. None of the aforementioned structures shall substantially block the immediate neighbors' view.

Fences, walls or other obstructions may not block off easements including utility easements.

No fence, unless approved by the Declarant, in writing, shall be erected or maintained, in the subdivision. All fences shall be of a quality and design compatible with the general decor of the subdivision. The owners shall not be entitled to recover any damages or indemnity caused by the removal of offending fences which violate these restrictions, or damages ensuing therefrom. No permanent fence or retaining wall shall be constructed or erected within any easements and/or utility property easement unless approved by Declarant. In any event, the removal of such fence for maintenance or other purpose, removal and/or replacement of such fence or other improvement shall be the responsibility of the property owner. However, in the event of removal of any hedge, shrub, fence, or like structures which violate these restrictions there shall be no liability accrued by those properly authorized to make such removal and no right for damages shall accrue to the property owner as a result of the aforesaid removal.

Owners of lots on the perimeter boundary of the subdivision shall be required to plant shrubs along the perimeter boundary line on five foot centers approximately three feet inside the property line. The shrubs will be planted before the residence is occupied and should be of a size and type approved by Declarant. This requirement will not apply to lots which already have

landscaping on their perimeter boundary lines which in the judgment of trustee satisfy this requirement or lots which are of such contour that a landscaped "buffer zone" with the Golf Course is in the judgment of the trustee unnecessary. In no event shall the shrubs substantially block the immediate neighbors' view and all shrubs will be maintained at a height not to exceed five feet. All fences allowed, installed and maintained in the Brellinger Subdivision shall comply with the Columbia, Illinois Subdivision Code and Zoning Code fence regulations.

9. EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Utilities include but are not limited to electric, water, sewer, gas, telephone and cable television. Within these easements the Declarant reserves the exclusive control of all the easements to be used for public utilities, sewers and drainage purposes. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

The sidewalks in Brellinger will extend approximately one foot (1') off of the public right of way and onto the adjacent lots. An easement to travel over sidewalks is specifically reserved for that part of all sidewalks that extend onto private lots.

10. DRAINAGE. Nothing shall be done on said lots to constitute an interference with surface water run off or rain water drainage from an adjacent lot so as to interfere with proper

drainage of any part of the subdivision as shown on the improvement plans, without prior approval of the subdividers and the City of Columbia, Illinois. All lots shall be so graded and sloped so that a drainage course shall be along the side property lines, equally spaced on both adjoining lots. Each lot owner shall at the time of improving his lot construct and continue thereafter to maintain a drainage swale at the side and back perimeter of his lot sufficient to prevent drainage of storm water onto the real estate bordering his property.

11. EARTH REMOVAL. No sod or earth may be removed from the subdivision without the written consent of the Declarant. If consent is not given, the earth or sod removed from any lot must be available for use by the Declarant in the development of Brellinger or any further additions thereto. The expense of transporting the earth or sod to a useable location will be the expense of the lot owner.

12. RESUBDIVISION. No grantee, or any assigns, shall further subdivide any lot in any way except with the express written permission of the Declarant and the City of Columbia, Illinois.

13. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done therein or thereon which may be, or may become, an annoyance or nuisance to the neighborhood, nor shall any lot be used for storage of wrecked, junked, or permanently disabled automobiles or trucks, or automobiles or trucks which are not currently licensed or for keeping and storing anything that may make the property unsightly. Any accumulation of trash or the failure to cut grass and weeds as required shall constitute a nuisance.

No vehicles of any kind shall be parked in driveways on a daily basis for continuous storage. A vehicle parked in a driveway for three (3) days without being used will be considered a "stored vehicle."

No permanent or temporary basketball or hockey goals shall be placed or used at any point in front of the residence but rather shall be located and used on the sides or back of the residence.

All garage doors shall be kept closed except when it is necessary to have them open for entry into or out of the garage.

No vacant lot is to be used for a parking lot. No commercial vehicles or equipment, including, but not limited to, gas or oil trucks, dump trucks, trailers, trucks (except small pick-up trucks less than one ton in size), tractors (except tractors under 30 horsepower), etc., shall be parked in the driveway of residences for overnight or daily storage.

No recreational vehicles, campers, trailers or boats shall be parked or stored outside the residential garage or accessory building for more than seven (7) days in any calendar year.

14. SIGNS. No signs of any kind shall be displayed to the public view on any lot, except one sign of not more than six square feet advertising the property for sale or for rent, or for use by the builder to advertise the property during construction.

15. ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purpose. Such pets shall not be permitted to be a nuisance to other property owners in the subdivision as a result of the noise they cause or their excretions.

16. GARBAGE AND REFUSE DISPOSAL. WEEDS. There shall not be permitted any accumulation of trash, garbage, or other debris on a lot. All trash, garbage and other debris shall be stored in closed refuse containers in such manner that the storage is not conducive to the attraction or breeding of insects, rodents, or vermin. All refuse and/or waste shall be disposed of on a weekly basis at a minimum.

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste material.

No weeds exceeding eight (8) inches in height, shall be allowed on any site sold, such violation of same thereby causing the Declarant to arrange mowing of said weeds or brush, which expense the lot owner shall pay. This charge may be added to the assessment when made for that year and become a lien upon the property.

No refuse, garbage, cans or bottles, or any deleterious material whatsoever, shall be thrown or deposited into any lake, creek or pond.

17. MAINTENANCE OF LAWN, LAND, ETC. The land and all improvements shall be maintained by the owner of any parcel, in good condition and repair. All lawns are to be kept properly cut and trimmed, not to exceed four (4) inches in height.

NO HUNTING ON GROUNDS on land sold by Declarant, except for muskrats or other damaging animals or rodents, according to control to be determined by the Declarant.

No tree cutting beyond five (5) inch diameter, said tree to be measured six (6) inches above ground (except with written permission of Declarant).

Any grading of the parcel that the grantee shall undertake shall be in accordance with established and recognized landscaping and/or engineering practices in order that proper

drainage shall be provided. In the event any grade is disturbed or changed by any purchaser or occupant, the Declarant is herewith held harmless from any and all consequences to adjacent parcels and such owner or occupant disturbing or changing any grade shall be considered as having violated this Declaration. In the event that dirt is removed in constructing a driveway and/or lane, the dirt must be removed from the lot or used so as not to interfere with surface drainage as established above, or for terracing immediately adjacent to the foundation of the house only.

Parcel owners in Brellinger may not cut down or harvest the trees on their parcel to the extent that it has the effect of clearing in excess of 85% of the land area of any parcel. The intention of this paragraph being to promote the natural aesthetics by maintaining wooded areas on 15% of the land area of all parcels.

18. MOTORIZED VEHICLES, CYCLES AND CARTS. Motorized cycles or carts not requiring license registration with the State of Illinois (excluding construction, landscaping or maintenance equipment) shall be prohibited from using the streets or common areas in the subdivision.

No bicycles, carriages, or other vehicles shall be upon the common ground or outside the residential units of the owner thereof, except when in use and except for automobiles parked in areas designated therefor.

19. NOXIOUS, OFFENSIVE ACTIVITIES. No noxious or offensive activities shall be carried on upon any parcel, nor shall anything be done thereon which may be, or become an annoyance or a nuisance to the occupants of the other parcels.

Noise emanating from any use shall not be of such volume or frequency as to be unreasonably offensive at or beyond the property line. Unreasonably offensive noises, due to intermittence, beat frequency, or shrillness, shall be muffled so as not to become a nuisance to adjacent property owners.

No noxious, toxic or corrosive matter, smoke, fumes or gases shall be discharged into the air, or across the boundaries of any lot in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare or to cause injury to person or damage to property.

20. SWIMMING POOLS. No public or private swimming pool shall be located in any front yard or side yard nor closer than fifteen (15) feet to any interior lot line. All pools must be of permanent structure, built below grade level; pools with walls extending more than two feet above grade level being expressly prohibited. Portable bubble-type enclosures or other temporary enclosures over swimming pools (not traditional covers) are forbidden except with the written permission of trustee.

21. SATELLITE DISHES, SOLAR PANELS, WINDOW AIR CONDITIONERS AND ANTENNAE.

- a. No satellite dishes larger than twenty inches in diameter may be placed on any lot. The location of satellite dishes smaller than twenty inches in diameter must be approved by Declarant and the Brellinger Homeowner's Association.
- b. No television or radio antennae are allowed on top of any buildings or elsewhere on the lot.
- c. No solar panels may be placed on any lot.
- d. No window unit air conditioners are permitted.

22. FUEL STORAGE. Flammable fuels such as gas, including L.P. gas, and oil may only be stored upon the lots in appropriate, safe tanks buried below the surface of the ground. This section is not intended to preclude the storage of less than ten (10) gallons of gasoline or diesel fuel in proper containers for private use.

23. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

24. MINERAL RIGHTS. The rights to all gas, oil or minerals underlying the lots and streets in this subdivision are reserved to the Declarant for a period of 30 years from the date hereof and shall then revert to the then owner of the respective lots.

25. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between three (3) and twelve (12) feet above the established street grade (as required by Section 17.02.040(I) of the Columbia Municipal Code) shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Fences or other structures installed or vegetation planted at street intersections shall comply with the open space requirements of the City of Columbia, Illinois Subdivision Code and Zoning Ordinance.

26. USE OF COMMON GROUND. Declarant or his assigns such as a Community Council or Homeowners' Association accepts no liability or responsibility for any injury or losses resulting from the use of the common grounds by anyone. Homeowners accept and assume the risk of using the common property.

Persons using any common property which abuts homeowners' yards shall not loiter. The common property abutting and adjacent to yards is to be used only for casual, temporary or intermittent ingress and egress; however, loitering or any activity that would cause any prolonged use of those common areas are forbidden. The purpose of this paragraph is to forbid any prolonged activity of any nature on the common property which is in close proximity to a homeowner's yard.

After Declarant deeds any common ground to the Homeowner's Association, there will be no continuing responsibility of the Declarant for the maintenance, design or any liability whatsoever in connection with the common ground. Declarant specifically disclaims any expressed or implied warranty in connection with the design, construction or maintenance of the common ground, including a warranty of habitability or suitability for a particular purpose.

27. LIGHTING CONTROLS. Any light used for the illumination of signs, parking areas, swimming pools or for any other purpose, shall be arranged in such a manner that the main beam of light is directed away from neighboring residential properties. Style and design must be

approved by the Declarant. Lighting of signs shall comply with the Street Graphic Control Ordinance of the City of Columbia, Illinois, as in effect at time of reference.

28. HOMEOWNERS' ASSOCIATION.

a. Whenever the phrase "Homeowners' Association" is used herein, same shall be defined as the not-for-profit corporation to be formed under the laws of the State of Illinois, for the purposes of assuming the rights and liabilities delegated the same in this document, said corporation to be known as "Brellinger HOMEOWNERS' ASSOCIATION", if permitted by law, and if not so permitted, then another appropriate name as may be used. Said not-for-profit corporation, or its successors, shall be the sole entity exercising the powers of, and assuming the duties of the "Homeowners' Association" as that phrase is herein used.

b. Each parcel, sold and unsold, of the subject premises automatically constitutes one vote in all matters of voting. In determining the number of votes entitled to be counted in member votes taken by the Homeowners' Association, each parcel of the subject premises constitutes one vote. All parcel owners are automatically members of the Homeowners' Association. If any parcel is held by co-owners, they shall delegate among themselves the party who shall exercise the vote of said parcel before the Homeowners' Association, and they shall further certify the name of said party to the Homeowners' Association.

c. Until the sale of 75% of the lots in Brellinger, Declarant will have the authority to make rules and regulations concerning the use, maintenance, possession and enforcement of all common property and landscaping easements.

After the sale of 30% of the lots in Brellinger, the succeeding Brellinger Homeowners' Association shall make such rules and regulations and appropriate by-laws as are deemed necessary subject to approval of a majority of the Homeowners.

29. ASSESSMENT.

a. There are areas within the subdivision which are common ground to be transferred by Declarant to a Homeowners' Association, community council or a like organization which is to be controlled by the lot owners of the subdivision.

b. Annual Assessments will be levied on January 1st of each year beginning January 1, 2003, and the same shall be due and payable on the date of a buyer's closing of his purchase of a lot, pro-rated from the date of closing to December 31st. Assessments will be due and owing to the Homeowners' Association or like organization, and unpaid assessments will draw interest from the date it is first overdue at the highest legal rate permitted under the laws of the State of Illinois.

c. In determining the amount of the subsequent annual assessment, there shall also be included in said assessments, sufficient sums to pay the various costs and expenses of the Homeowners' Association, including but not limited to fees, salaries, equipment, rentals, and supplies. Said costs and expenses need not relate to road maintenance or improvements, and may be incurred for any legitimate purpose for which the Homeowners' Association was created. Examples of expenses to be paid out of said assessment are as follows: e.g. - Maintenance of all common grounds, cul de sac, lake frontage, landscaping easements, etc., insurance and taxes for the common grounds, and trash pick-up, if any.

d. Until the Homeowners' Association is organized, the Declarant, and after organized, the Homeowners' Association and the Declarant shall determine the amount of each assessment.

e. Each assessment shall constitute a lien on each assessed parcel, and each assessment shall be paid within thirty (30) days of assessment, or within thirty (30) days of assessment due date as determined by the Declarant or the Homeowner's Association. If an assessment is not paid within thirty (30) days of said assessment due date, the Declarant (or Homeowners' Association, if organized) shall have the right to:

- i. Record a Statement of Lien with the Recorder of Deeds of Monroe County, Illinois, and
- ii. Institute suit against owners for all amounts due, and
- iii. Foreclosure upon the lien as in the case of other liens.

f. If the Homeowners' Association fails to pursue the collection of any assessment after a reasonable time, then any other party having an interest in the subject premises or any parcel may do the same for the benefit of the Homeowners' Association.

Assessments are to provide the funds necessary to make all payments and defray all costs, which may be incurred for the benefit of the property owners in said Subdivision.

Declarant has no obligation or duty to fund reserve accounts or collect from Lot owners funds in order to fund reserve accounts for the benefit of the property owners, Homeowners' Association or common grounds. The Lot owners and Homeowners' Association agree to indemnify Declarant from all expenses, including attorneys' fees, for any claim brought against Declarant or any developer of Brellinger for failure to do so.

g. In case any assessment is not paid when due, then, in addition to the amount of said assessment and interest thereon, all costs, attorneys' fees and expenses of whatever kind incident

to enforcing and collecting said assessment, shall also be a lien upon the lot involved and enforceable as such.

30. COMMON GROUND.

a. All of the property that shall be set aside by the Declarant as the "Common Ground", shall be held subject to the covenants, agreements, easements and restrictions set forth in this Declaration, to be and remain in effect until such time as amended, modified or revoked in accordance with the provisions of this Declaration.

b. The areas designated in the plat of Brellinger, filed in the offices of the Recorders for Monroe and St. Clair Counties, Illinois, as Common Areas, shall not be deemed to be dedicated by the Declaration for use by the general public but shall be deemed to be dedicated to the common use and enjoyment of the Homeowners in Brellinger, their families and guests, and to the use and enjoyment of those persons only in accordance with the provisions of the Declaration.

c. Declarant reserves the right to add improvements and fixtures upon the Common Area. Declarant further reserves the right to approve or disapprove any plans for improvements to be made upon the Common Areas by the Homeowners' Association or by any parcel owner, and no improvement shall be commenced without consent in writing from Declarant.

d. Declarant reserves the right to confer upon the owners of any property subdivided or developed by Declarant contiguous to Brellinger the right to go upon and use the Common Areas of Brellinger. Such rights may be conferred only if the persons given such rights and their property, are subject to easements, covenant, conditions, restrictions, reservations, and limitations substantially similar to those imposed on owners of and property in Brellinger by the

Declaration. Declarant's power to confer such shall be exclusive for 20 years, and thereafter shall be concurrent with the Homeowners' Association's power to confer such rights in accordance with its Articles of Incorporation.

e. Declarant will shape and rock any original walking paths on the common grounds; however, Declarant is not obligated to maintain or construct any further or future improvements on any such walking paths or common ground.

f. The Homeowners and Homeowners' Association will accept a deed to the common grounds and all the responsibilities set out in this Declaration in connection with said common grounds at such time as the Declarant in his sole judgment deems it appropriate to convey the common grounds to them. Said conveyance will not be later than the sale of 75% of the lots in Brellinger.

31. ENFORCEMENT OF COVENANTS. If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for any person or persons owning real property in the subdivision, including the Declarant, to institute proceedings at law or in equity to enforce the provisions of these covenants and restrictions to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorney fees, for such violation. No failure on the part of any such person, grantor or Declarant, to enforce any covenants immediately after any such cause may arise shall be deemed a waiver as to that cause or of any similar cause that may thereafter arise.

32. ENFORCEMENT. Any person possessing an interest in any parcel on the subject premises shall have the right to enforce the easements, conditions, restrictions, reservations, and limitations provided herein in a lawful manner.

In consideration of the sale of any parcel in this development, the purchaser and all subsequent owners of title to any plot agree to hold the Declarant harmless from any and all claim for damages or alleged damages, of any nature whatsoever, caused by any owners, renters, occupants, or anyone.

The Homeowners' Association, as agent of the property owners, under an irrevocable agency, coupled with an interest, is also vested with the right, in its own behalf, and in behalf of all owners and parties interested in the subject premises, to enforce all of the easements, conditions, restrictions, reservations and limitations herein contained.

Any party violating any of the easements, conditions, restrictions, reservations and limitations herein contained shall pay to the party enforcing the terms of this agreement, in addition to any other relief granted by law, said party's reasonable attorney fees, court costs, witness fees, deposition fees, investigation fees and surveying fees, provided, however, in no event shall the Declarant be responsible for the payment of the foregoing fees and costs.

No party petitioning for an injunction to enforce the provisions of this document shall be required to post bond, notwithstanding any statute to the contrary.

33. VACATION OF PLAT. The Declarant reserves the right, and it is covenanted and agreed that the Declarant may vacate any of the recorded plat so long as the right, title and interest in and to the lands in said portion of said plat to be vacated is owned by the Declarant.

34. SEVERABILITY. Invalidation of any of the covenants herein contained or any part thereof by any judgment, court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

35. DECLARANT'S RIGHTS ASSIGNABLE. All of the rights of the Declarant, herein reserved, including rights to act for architectural control and rights to enforce any and all of the covenants herein, shall be freely assignable, and any assignee shall succeed to all of the rights of any assignor thereof.

36. COVENANTS RUNNING WITH LAND. All of the provisions of this document are covenants running with the land at law, as well as in equity, and are binding upon, and inure to the benefit of, the heirs, successors and assigns of:

- a. The Declarant, and
- b. All present and future persons owning or having an interest in any portion of the premises, and
- c. The Homeowners' Association.

37. MODIFICATION, AMENDMENT OR ELIMINATION. These conditions, restrictions, reservations and limitations, and all of the terms herein, may be modified, amended or eliminated as follows:

- a. While the Declarant has retained ownership of any portion of the subject premises by majority affirmative votes of the property owners, including those of the Declarant, until thirty percent (30%) of the subject parcels are sold, and subsequent thereto, by unanimous affirmative votes of the property owners, including those of the Declarant.
- b. Thereafter, when the Declarant, or his assigns, heirs or successors, has conveyed the last parcel of the subject premises, by the affirmative vote of at least three-fourths of the voting membership of the Homeowners' Association.

