

RESTRICTION AGREEMENT FOR  
RIDGEFIELD HILLS

47527  
12th THIS RESTRICTION AGREEMENT ("Agreement") made and entered into as of the day of October, 1992 by and between ROUNDABOUT HILL, INC., a Missouri corporation ("Grantor") and ED HOLTHAUS, SR., an individual, ED HOLTHAUS, JR., and individual and JILL F. VONGRUBEN, an individual, as trustees (collectively "Trustees"),

WITNESSETH:

WHEREAS, Grantor is the owner of a tract of land situated in the County of Warren, State of Missouri, described on Exhibit "A", attached hereto and by this reference made a part hereof;

WHEREAS, Grantor desires, at some point in the future, to cause said tract of land to be part of a residential subdivision known as Ridgefield Hills (the "subdivision");

WHEREAS, Grantor desires to restrict all the property which will eventually constitute said subdivision (including the tract of land described on Exhibit A) with a general plan of subdivision as evidenced by these restrictions, it being the intent of the Grantor that said subdivision be a residential subdivision; and

WHEREAS, Grantor desires to establish the position of Trustees and empower them with sufficient authority, and also sufficient right, title and interest in said tract of land, to carry out the purposes of the Agreement,

WHEREAS, all reservations, restrictions, agreements, limitations, conditions, easements and covenants contained herein are jointly or severally for the benefit of all persons who may purchase, hold or own from time to time, any of the Lots covered by this Agreement including, but not limited to, Grantor, Trustees, Lot owners and lessees of Lots,

NOW, THEREFORE, in consideration of the premises and of the Agreement and consent of the Trustees to act as Trustees hereunder, Grantor, for itself and its successors and assigns, and for and on behalf of all persons who may hereafter claim or derive title to, or otherwise hold through it or its successors or assigns, this tract of land, or any of the property which may now or hereafter be part of in said subdivision, or any part thereof, covenants and agrees with the Trustees, and for the benefit of the owners of said property and each of them, as follows:

PROTECTIVE COVENANTS

1. LOT USE AND BUILDING TYPE. No lot shall be used except for single family residential purposes. No improvements shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family dwelling and a garage for not more than four (4) cars, without prior written approval from a majority of the Trustees.

2. HOME QUALITY AND SIZE. No home that does not meet the minimum size and

quality standards established by this Agreement shall be erected on any Lot. The minimum sizes for homes shall be as follows: For any home that can be seen from Hwy EE, from any future road installed in the subdivision, or from any Optimum Building Site on a Lot, a minimum of 1200 square feet of heated living space, with a minimum of 900 square feet on the main level for 1 1/2 story and 2 story homes. The aforesaid measurements apply to heated, finished living space and do not include garages or finished basement areas completely underground. Carports, either attached or detached, will not be allowed on any Lot in the subdivision if they are visible from any future road or Optimum Building Site. Each home must be completed twelve (12) months after construction begins. Any home built on a Lot, where the Actual Building Site is not visible from any road or Optimum Building Site on a Lot may be of any size, but must be approved in advance in writing by a majority of the trustees. No mobile homes will be allowed on any lots.

3. LOT AREA. No home shall be erected or placed on any Lot having less than three (3) acres. No Lot may be less than three (3) acres in size.

4. BUILDING LOCATION. The building line on all Lots in the subdivision shall be no less than one hundred (100) feet from the center line of any future road platted for the subdivision or Highway EE ("road") except on Lots that have woods nearer than one hundred (100) feet from the center line of the road, in which case the building line shall be seventy-five (75) feet from the center line of the road. No home shall be located on any Lot nearer than fifty (50) feet to the rear Lot line. Minimum side yard of forty (40) feet must be maintained.

#### 5. VARIANCE.

(a) The Trustees may grant a variation from these restrictions when their strict application would result in extreme practical difficulties and undue hardships by reason of the unusual shape of a Lot or exceptional topographic conditions. In granting any variance, the Trustees may prescribe such conditions as will secure the objectives of this Agreement.

(b) No variance shall be granted unless the Trustees find that minimal detriment will be caused to the public welfare and minimal damage will be caused to other Lots in the vicinity of the Lot for which the variance is requested, and that the variance will not substantially impair the intent and purpose of this Agreement. Approval of the majority of Trustees in writing is necessary for a variance to be granted.

6. NUISANCES. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the surrounding Lots.

7. MAINTENANCE OF LOTS. Lot owners are obligated to care for their Lot(s) and to keep it free from unsightly accumulations of debris and other waste matter. Failure to comply with this provision shall constitute a nuisance within the meaning of this Agreement. The Trustees are hereby empowered to remedy all nuisances at the sole cost and expense of the Lot owners, including the right to clean up the waste and debris. The owners of said Lot (and the Lot itself) may be charged with reasonable expenses incurred in eliminating the nuisance. The Trustees or their representatives, agents or employees shall not be deemed guilty or liable for any trespass in any action taken pursuant to the powers herein

granted.

8. SIGNS. No sign of any kind shall be displayed to public view on any Lot except one sign of not more than 5 square feet advertising the Lot for sale or rent. No sign other than the entry sign, street name and traffic signs are to be displayed in any road right-of-way. This provision does not apply to Grantor's signs while Lots are being developed and sold by Grantor.

9. SATELLITE DISHES. A satellite dish may not be located where it is visible from a road or a Lot's Optimum Building Site. Satellite dishes must be either black, dark green or dark brown in color and of a mesh, not solid, design.

10. VEHICLES AND TEMPORARY STRUCTURES. No vehicles, campers, trailers, or structures of temporary character including, without limitation, mobile homes, trucks, trailers, tents, shacks, garages, barns or other outbuildings or improvements shall be used on any Lot at any time as a residence, either temporarily or permanently, nor shall the same be permitted to be stored on any Lot except in an area screened by adequate landscaping or walls which block the view of same from all roads and Lots. No vehicle other than a passenger car, pick-up truck or van shall be permitted to be parked on private roads of any Lot at any time, or in yards or driveways of any lot except in an area screened by adequate landscaping or walls which block the view of same from all roads and Lots.

11. OUTSIDE STORAGE. Except for firewood, nothing shall be stored, kept or placed on a Lot outside of a building, if it can be seen from a road or an adjoining Actual Building Site or Optimum Building Site including, but not limited to boats, motor homes, campers, trailers, unlicensed cars or trucks or licensed vehicles that are not driveable, construction equipment, tractors or snow removal equipment, piles of brick, rock or stone, etc.

12. ROAD EASEMENTS. No easements for road, ingress or egress purposes running from any private roads in the subdivision to serve any property lying outside of the subdivision, except pursuant to any future development of Grantor, may be granted without the permission of a majority of the Trustees.

13. ELECTRIC SERVICE. The electric distribution facilities, exclusive of necessary through facilities in the subdivision shall be installed by the duly certificated electric public utility. Lot owners are to pay the electric company for any non-standard facilities or construction required for the Lot owners service facilities in accordance with electric company charges filed and approved by the Missouri Public Service Commission. The lot owner is to pay the electric company a fee per foot beyond the designated service connection point on the building, and if rock is encountered while installing the service lateral the Lot, owner is to pay the additional cost of going through rock at a cost per foot charge established by the electric company's tariffs on file with the Missouri Public Service Commission.

14. SEWAGE DISPOSAL. All sanitation facilities, baths, sinks and land drains on each Lot shall be connected to a disposal system that meets the requirements of the Missouri Clean Water Commission, the rules and regulations of Warren County and the subdivision Trustees. Sewage disposal must be by an approved, single-family septic system or a system of equal quality.

THE TRUSTEES

1. ORIGINAL TRUSTEES AND THEIR SUCCESSORS.

(a) Ed Holthaus, Sr., Ed Holthaus, Jr., and Jill F. VonGruben are the original Trustees. Upon the death, refusal to act or incapacity of any of them, the remaining Trustees or Trustee shall appoint a successor or successors, who shall continue the term of the original Trustee whom he/she succeeds.

(b) The Trustees shall serve until such time as the first to occur of the following: (i) fifteen (15) years from the date this Agreement is recorded; or (ii) the Subdivision becomes subject to the Warren County Subdivision Regulations; or (iii) after 50% of the Grantors property is sold and conveyed. At that time, one-third (1/3) of the Trustees shall be chosen by owners of the Lots in said subdivision. When ninety-five percent (95%) of the Grantors property has been sold and conveyed, two-thirds (2/3) of the Trustees shall be chosen by the owners of Lots. When all of the Grantors property has been sold, all Trustees shall be chosen by the owners of lots.

(c) The owners of the Lots in the subdivision shall cause an election to be held to fill the vacancies created by the terms of subparagraph (b) hereof and the newly elected Trustees shall hold their offices for staggered terms of three (3) years, the original terms of successor Trustees to be established so that the terms of such original successor Trustees shall terminate one (1) each year, so that annually thereafter Lot owners shall elect one (1) Trustee to a term of three (3) years. Thereafter, the office of Trustee, on becoming vacant for any reason whatsoever, shall be filled by election of the Lot owners within the subdivision. Notice of the meeting for the holding of any such election shall be mailed first class to the last known mailing address of each lot owner at least ten (10) days prior to any such meeting. The owners of Lots shall be entitled to one (1) vote for each Lot, and the person or persons receiving a majority of the votes cast shall be declared elected. Voting shall be by secret ballot unless no Lot owner present at the meeting objects to a voice vote.

(d) Where the provisions of this Agreement cannot be fulfilled by reason of unfilled vacancies among the Trustees, the Warren County Circuit Court may, upon the petition of any concerned Lot owner of the subdivision, appoint one (1) or more Trustees to fill vacancies until such time as Trustees are elected in accordance with this Agreement. Any person so appointed who is not a resident or Lot owner within the subdivision shall be allowed a reasonable fee for his services by the order of appointment, which fee shall be levied as a special assessment against all of the property in the subdivision and which assessment shall not be subject to limitations on special assessments contained herein.

2. POWER OF TRUSTEES. The Trustees have the power to prevent, in their own name as Trustees, any violation of the provisions of this Agreement, to compel the performance of any restrictions set out in the Agreement or established by law and to employ counsel. The Trustees may impose fines as outlined under "Enforcement." This power granted the Trustees is discretionary and not mandatory.

3. LIABILITY OF TRUSTEES. The Trustees shall not be personally liable for any act taken by them in good faith and shall only be held accountable for their

willful misconduct or gross negligence. Each of the Trustees and their successors duly elected or appointed hereby accepts only the trusts upon condition that each of said Trustees shall be responsible only for his own wrongful acts or willful misconduct and not for those of the other Trustees. Trustees shall not be required to expend money in excess of the assessments and shall expend only such sums for maintenance and improvements as they, in their sole discretion, deem necessary. The Grantor, the Lot owners and the funds held in trust hereunder shall indemnify and hold harmless each of the Trustees against any and all claims, losses, liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise thereof or as fines and penalties, and attorneys' fees, reasonably incurred by them in connection with the defense or disposition of any action, suit or other proceeding in which they may be involved, either individually or collectively, or with which they may be threatened while in office as a Trustee or thereafter, by reason of their being or having been such a Trustee, except with respect to any matter as to which he/she shall have been adjudicated to have acted in bad faith, with willful misconduct, reckless disregard of his/her duties, or not to have acted in good faith and the reasonable belief that his/her action was in the best interests of this Agreement and its purposes.

4. TRUSTEES NOT TO BE COMPENSATED. Trustees and successor Trustees, other than Trustees appointed by the Warren County Circuit Court under paragraph 1(d) hereinabove, shall not be entitled to any compensation for services performed under this Agreement.

5. COMPLIANCE WITH REGULATIONS. Notwithstanding any other condition herein, the Trustees shall make suitable provision for compliance with all subdivision and other ordinances, laws, rules and regulations of Warren County or any municipality of which the subdivision may become a part, and nothing herein shall be construed contrary to any such ordinances, laws, rules and regulations.

6. MAJORITY OF TRUSTEES TO ACT. All trusts created by this Agreement shall vest in, and inure to the benefit of, and may be fully exercised by a majority of the Trustees, provided that any successor chosen or appointed to fill a vacancy as provided in this Agreement shall, from and after the date of his or her acceptance of the position of Trustee, be included in determining the number which will constitute a majority of the Trustees.

7. RESIGNATION OF TRUSTEES. Any Trustee may at anytime resign as such Trustee by instrument in writing, signed and acknowledged by him/her. Said resignation shall be kept with the records of the subdivision. Thereafter, his successor shall be elected as herein provided.

#### MISCELLANEOUS

1. TERMS. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date they are recorded. These covenants will be automatically extended for successive periods of ten (10) years unless cancelled by an instrument duly executed by the owners of a majority of the Lots any time after the original twenty (20) year period and recorded with the Warren County Recorder of Deeds.

## 2. AMENDMENTS.

(a) Prior to the sale and conveyance by Grantor of 50 lots in the subdivision, the Trustees shall have the right to amend this Agreement by written instrument filed with the Warren County Recorder of Deeds, with notice of said amendment mailed by first class mail, postage prepaid, to the Lot owners at their last known mailing address. Amendments must be adopted by a majority of the Trustees. It is Grantor's intention that until 50 lots have been sold and conveyed, the Trustees be and are hereby granted sole discretion and broad authority in enforcing the terms of this Agreement and are hereby granted the right to amend this Agreement to deal with all matters foreseen and unforeseen and any contingencies which may hereafter arise; provided, however, that it is also the grantor's intention that any unilateral amendments by the Trustees during this time shall not cause an increase in any assessment of any Lot previously encumbered by this Agreement without the approval of the owners of fifty-one percent (51%) or more of the Lots of the subdivision. It is acknowledged that the actions taken by the Trustees pursuant to the powers herein granted to them shall and will be governed by the Trustees' fiduciary duty to the Lot owners to deal fairly with each and all of them, with the enhancement of value of each Lot owner's Lot as the Trustees' primary consideration.

(b) After such time as 50 Lots are sold and conveyed, this Agreement may be amended from time to time by written instrument signed by the owners of fifty-one percent (51%) or more of the Lots of the subdivision, provided any such amendment shall require the written concurrence of Grantor so long as it is the owner of one or more Lots in the subdivision. Notice of the time, place and date of a meeting to discuss said amendment and the text of said proposed amendment shall be mailed by the Trustees to all Lot owners at their last known mailing address by first class mail, postage prepaid, at least ten (10) days prior to the date of such meeting. After said meeting, the Trustees will mail ballots to vote on said amendment to each Lot owner, who shall have the right to fill out the ballot and return it to the Trustee. The owner(s) of Lots shall be entitled to cast one (1) vote, collectively, for each Lot owned by said Lot owner(s).

## 3. ASSESSMENT.

(a) In order to pay necessary expenses of the Trustees in performing their duties hereunder, each year the Trustees shall determine the total amount required for such purposes and establish an assessment on each Lot in the subdivision sufficient to provide the amount so determined to be required, provided that such assessment shall not exceed Twenty-five Dollars (\$25.00) per lot per year. The Trustees shall notify each property owner of the amount of such assessment and payment shall be due May 1st of each year in advance. If the assessment is not paid by June 1st of each year, the Trustees are empowered to file notice of assessment against the Lot in the Recorder's Office of Warren County, Missouri. The amount of said assessment as given in said notice shall be and become from the date of such notice a lien upon and against the Lot described in said notice as fully and completely as if secured by a deed of trust. The assessment shall bear interest at the highest rate allowable by the governing authorities, from May 1st. The Trustees are authorized and empowered to institute suit in law or equity against any owner in default in the payment of any assessment authorized herein, so as to compel payment of the amount in default, with interest, plus the amount of court costs and attorney's fees, in each and every case.

(b) The Trustees shall deposit the funds coming into their hands at the City and Village Tax Office, or a similar entity should the City & Village Tax Office become too expensive or nonexistent. The City and Village Tax Office shall deposit the funds in a bank account and the Trustees shall authorize disbursement of the funds. No disbursement of funds shall be made without the written approval of two (2) Trustees. The Trustees shall provide for distribution of an Annual Report to all Lot owners each year through the City and Village Tax Office or their successor.

#### 4. ENFORCEMENT.

(a) Enforcement of the terms and conditions hereof shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant herein, either to restrain violations or to recover damages. Proceedings shall be instituted by the Trustees or Lot owners. The Trustees shall be entitled to recover from violating Lot owners legal fees, and costs and expenses incurred in the enforcement of this Agreement, which amounts, if unpaid after ten (10) days from demand, may be filed as a lien of the Trustees against the Lot.

(b) The Trustees may institute a fine of up to \$10 per day for any violation of this Agreement that has not been rectified within a reasonable period of time as specified by the Trustees. The Trustees shall give written notice to such violating owner and shall specify a period of time in which to rectify the problem before any fines may be instituted. The Trustees shall designate a time period at their discretion to suit the situation, and it may be from 7 days to 30 days or longer, depending on the amount of time it would reasonably take to correct the problem, weather being taken into account if it could be an obstacle. The fine shall be billed monthly and shall be delinquent 30 days after billing, with interest accruing after the due date at the highest rate allowed by law.

5. SUCCESSORS. This Agreement shall be binding upon the Grantor, its successors and assigns, as owners of Lots in the subdivision.

6. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

7. LOT DEFINITION. A "Lot" as referred to in this Agreement shall be considered any parcel or parcels of land in the subdivision owned under a single title. Ex. a) A. Jones owns 40 acres under one title - he has one lot; b) B. Smith owns 10 acres on one title and 15 acres on another title - he has two lots; c) C. Ball owns three 10 acre parcels but they are Parcels 1, 2 and 3 on one title - he owns one lot.

8. OPTIMUM BUILDING SITE. Each Lot shall have an Optimum Building Site determined in the sole discretion of the Trustees which, in the Trustees's opinion, is, in terms of seclusion, the least likely part of the lot to be visible from any road or other Lot and from which any road or other Lot is least visible. The Optimum Building Site will conform to all setback lines and shall take maximum advantage of topography and foliage prevalence and configuration. The Optimum Building Site on each Lot, as referred to in this Agreement, shall be determined by the Trustees, not the Lot owner. Should a Lot owner decide to

built extremely close to a property line, instead of in the center of the Lot, when a suitable Optimum Building Site (as determined by the Trustees) was available in or near the center of the Lot, the strict enforcement of some of the conditions of this Agreement may be reviewed by the Trustees and a waiver of their application may be determined for that reason.

9. ACTUAL BUILDING SITE. The Actual Building Site shall be the location selected by the property owner where the home is built.

10. FUTURE ROAD MAINTENANCE AGREEMENT. At such time as roads are platted within the subdivision, Grantor shall cause to be filed a Roadway Maintenance Agreement which shall be a restriction upon some, but not all, of the Lots of the subdivision.

11. HAZARDOUS MATERIALS. All Lots shall be kept free of all Hazardous Materials (as hereinafter defined) and shall not be used to generate, manufacture, treat, store, handle, dispose, produce or process Hazardous Materials. No Lot owner shall cause, permit or allow any Hazardous Materials to be brought upon, placed in, on, over or under or kept or used in or about a Lot by anyone, including but not limited to Lot owner, its agents, employees, contractors or invitees and no Lot owner shall allow or cause any Hazardous Materials to be spilled, leaked, poured, or emptied, discharged, dumped, or otherwise disposed of, on, or allow or cause any Release (hereinafter defined) onto or from, a Lot. Lot owner, at Lot owner's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities pertaining to Lot owner's use of the Lot. These include, without limitation, all applicable federal, state and local laws, regulations or ordinances, as may now or at any time hereafter be in effect, pertaining to air and water quality, Hazardous Materials, waste disposal, air emissions and other environmental matters, and any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Lot owner with respect to the use or occupation of the Lot. As used herein "Hazardous Materials" shall mean: (a) "Hazardous Substances" or "Toxic Substances" as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., or the Hazardous Materials Transportation Act, 49 U.S.C. §1802, all as amended and hereafter amended; (b) "Hazardous Waste" as that term is defined by the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6902 et seq. as amended and hereafter amended; and (c) any pollutant or contaminant or hazardous or dangerous or toxic chemicals, materials or substances within the meaning of any applicable federal, state or local law, regulation, ordinance or requirement (including consent decrees and administration orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste substance or material, all as amended or hereafter amended; (d) crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); (e) any radioactive materials, including any source, special nuclear or by-product material as defined at 42 U.S.C. §2011 et seq. as amended or hereafter amended; (f) asbestos in any form or condition; (g) radon; (h) polychlorinated biphenyls or substances or compounds containing same; and (i) noxious chemicals used in any construction on the Lot. "Release" shall have the meaning given such term or any similar term in any applicable environmental law or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree regulating, relating to or

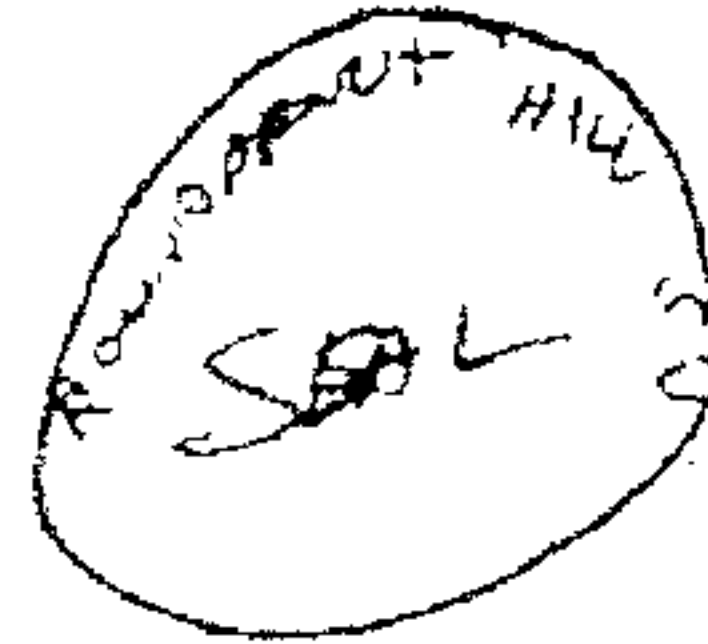
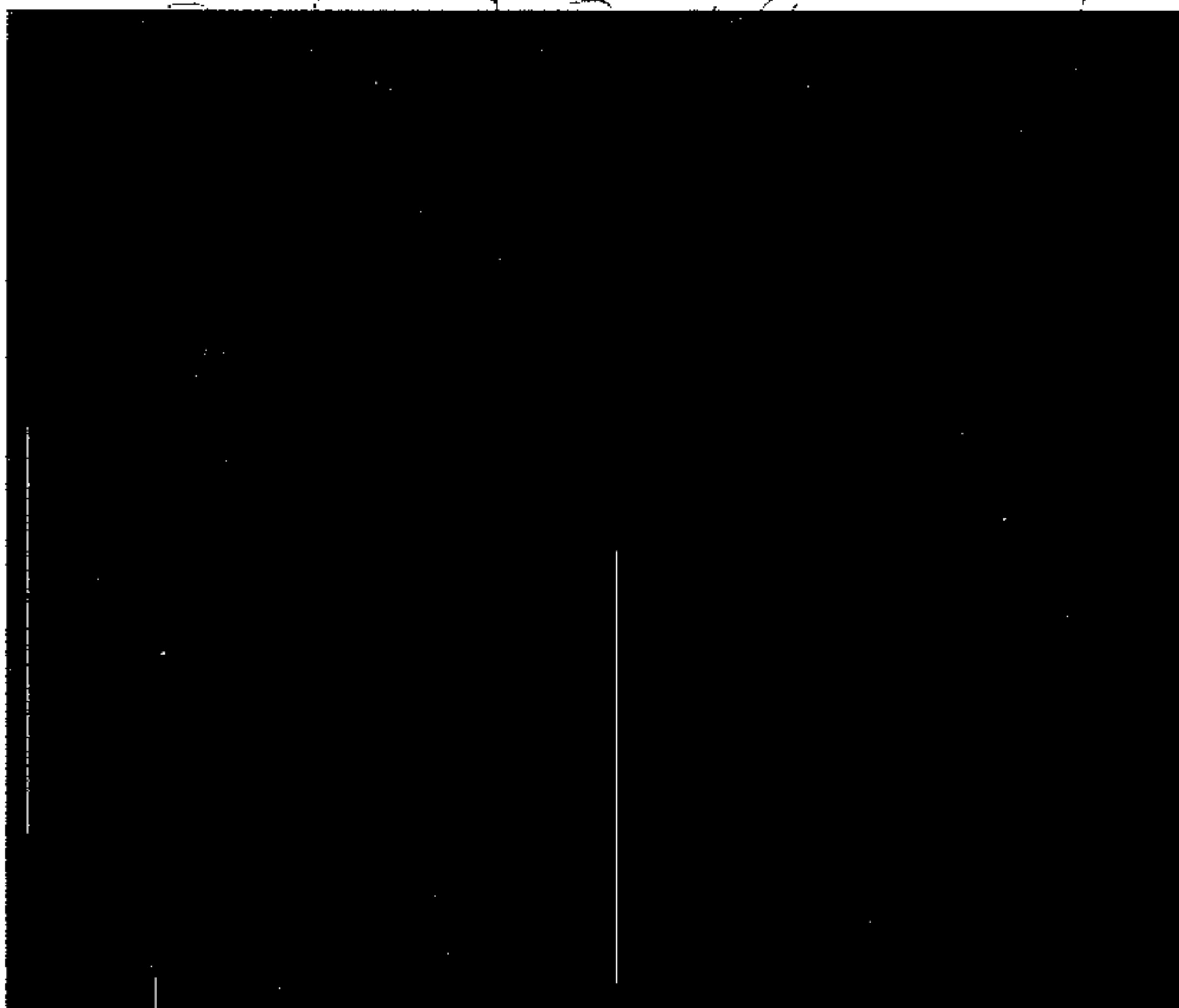
imposing liability or standards of conduct concerning Hazardous Materials as may now or at any time hereafter be in effect.

12. ADJOINING PROPERTY. The Trustees are authorized and empowered to cooperate and to contract with trustees and/or landowners of adjoining or nearby tracts in the development and maintenance of facilities insuring to the benefit and general welfare of the inhabitants of the entire area. The Trustees are hereby empowered and authorized to subject additional property to these restrictions from time to time.

IN WITNESS WHEREOF, The Grantor has caused this Agreement to be executed by its duly authorized officer and the Trustees have joined in execution of the same to evidence their acceptance of the trusts hereby created.

GRANTOR:

ROUNABOUT HILL, INC.



STATE OF MISSOURI ) SS.  
COUNTY OF ST. LOUIS )

On this 12<sup>th</sup> day of October, 1992, personally appeared before me, John R. McCormack, being by me duly sworn, did say that he is the President of Roundabout Hill, Inc., a Corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, and the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors; and said President acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my

official seal in the County and State aforesaid the day and year first above written.

My term expires: 3-4-96

[Redacted Signature]

ROSALIE SUTHERLIN  
NOTARY PUBLIC - STATE OF MISSOURI  
MY COMMISSION EXPIRES MAR. 4, 1996  
ST. LOUIS COUNTY



STATE OF MISSOURI )  
 ) SS.  
COUNTY OF ST. LOUIS )

On this 12<sup>th</sup> day of October, 1992, personally appeared before me Ed Holthaus, Sr., Ed Holthaus, Jr. and Jill F. VonGruben, who, being by me duly sworn, did state that they executed the foregoing Agreement as their free act and deed as Trustees.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

My commission expires: 3-4-96

[Redacted Signature]

ROSALIE SUTHERLIN  
NOTARY PUBLIC - STATE OF MISSOURI  
MY COMMISSION EXPIRES MAR. 4, 1996  
ST. LOUIS COUNTY



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