

**Proposed Changes to the By-Laws of  
KELBY CREEK PROPERTY OWNERS ASSOCIATION  
A Missouri Mutual Benefit Nonprofit Corporation**

Article XII of the By-laws vests authority in the Board of Directors to make changes to the Bylaws of the Corporation. It states that “The Board of Directors of the Corporation shall have the power to make, alter, amend and repeal the Bylaws of the Corporation at any regular or special meeting of the Board.”

**I. First Amendment:**

Article IV governs Meetings of Members of the Corporation. Paragraph four provides for a quorum. It is proposed that Article IV be amended to increase the percentage necessary for a quorum from one-tenth of the aggregate voting power to one-fourth.

Paragraph 4 would be replaced as follows:

“4. **Quorum.** The presence, in person or by proxy, of members at a meeting of the Members representing one-fourth of the aggregate voting power of all Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, a quorum shall not be present or represented at any meeting, the Members entitled to vote at that meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented.”

It is suggested that this be noticed to the members and voted on and then ratified by the new Board of Directors at the annual meeting.

**II. Second Amendment:**

Article VII governs the terms for the officers of the Corporation. Paragraph 2 specifically provides that the officers serve at the pleasure of the Board of Directors for one (1) year terms or until a successor is appointed. It is proposed that Article VII Paragraph 2 be amended to have staggered terms.

Paragraph 2 regarding **Terms** is proposed to be amended as follows:

The existing second sentence of Article VII paragraph 2 of the Bylaws as to **Terms** is deleted and it shall now read: **“At each annual meeting of the Board of Directors thereafter, the Board of Directors shall elect officers to serve at the pleasure of the Board of Directors for a staggered terms as follows: President for three years; Treasurer for two years, vice president for two years, and secretary for one year all to serve until their successors are duly elected and qualified.”**

It is suggested that this be noticed to the members and voted on and then ratified by the new Board of Directors at the annual meeting.

This would be included in a Resolution of the Board and indicate the vote of the Board and the vote at the annual meeting of members. Thereafter, these changes would be maintained with the original Bylaws.

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Instr #: 2016L09620

Book: 2016 Page: 9522

Pages: 4

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*Electronically Recorded*  
Central Bank of Ozarks

Kelly Hall  
Recorder of Deeds

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**Title of Document:** Second Amendment to the Declaration of Restrictive Covenants of Kelby Creek Subdivision

**Date of Document:** July 25, 2016

**Grantor(s):** Central Bank of the Ozarks f/k/a Empire Bank  
1800 S. Glenstone,  
Springfield, MO 65804

**Grantee(s):** Kelby Creek Homeowner's Association

**Mailing Address(s):** When Recorded please mail to:  
Lee J. Viorel  
901 E. St. Louis Street, 20<sup>th</sup> Floor  
Springfield, MO 65806

**Legal Description:** ALL OF LOT ONE, FINAL PLAT SUNDANCE, a subdivision in the City of Nixa, Christian County, Missouri according to the recorded plat thereof.

**Reference Book and Page(s):** Book 2009 Page 11360 (Christian County)  
Book 2013 Page 15060 (Christian County)

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**SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIONS  
OF KELBY CREEK SUBDIVISION**

**THIS SECOND AMENDMENT TO THE DECLARATION OF RESTRICTIONS OF KELBY CREEK SUBDIVISION (hereinafter "Second Amendment")**, made on the \_\_\_\_ day of July, 2016, by Central Bank of the Ozarks f/k/a Empire Bank (hereinafter "Central Bank"), 1800 S. Glenstone, Springfield, MO 65804 as the Developer under the Declarations of Restrictions of Kelby Creek Subdivision states as follows.

WITNESSETH:

WHEREAS, on or about April 9, 2008 Central Bank entered into a deed of trust with Sundance Valley Development, LLC (hereinafter "Sundance") wherein Sundance pledged the real estate described herein to Central Bank as collateral for certain obligations and which deed of trust was filed of record in the Office of the Recorder of Deeds of Christian County, Missouri, on April 11, 2008 and recorded in Book 2008 at Page 5405 (hereinafter "Deed of Trust"); and

WHEREAS, on or about July 23, 2009 Sundance caused to be recorded certain restrictive covenants wherein Sundance imposed certain restrictions on the real estate for the unified and controlled development of the real estate which restrictive covenants (hereinafter "Restrictive Covenants") were recorded with the Christian County Recorder in Book 2009 at Page 11360; and

WHEREAS, on April 30, 2013 (hereinafter the "Sale Date") Central Bank foreclosed under the Deed of Trust dated April 9, 2008, and Central Bank was the successful bidder and the owner of the real estate described herein on the Sale Date for all of the following described real property:

**All of Lot One (1), Final Plat Sundance, a subdivision in the City of Nixa, Christian County, Missouri, according to the recorded plat thereof.**

**Except Lots One (1), Two (2), Three (3), Four (4), Eleven (11) and Thirteen (13), Final Plat Kelby Creek Phase 1, a planned unit development, being a replat of part of Lot 1, Sundance in the City of Nixa, Christian County, Missouri, according to the recorded plat thereof in Book H, at Page 703, in the Recorder's Office in Christian County, Missouri.**

**Also, except Lots One (1), Two (2), Eighteen (18), Twenty-two (22), Thirty-seven (37), Forty (40), Forty-one (41), Forty-two (42), Forty-four (44) and Sixty (60), Final Plat Kelby Creek Phase 2, a planned unit development being a replat of part of Lot 1, Sundance in the City of Nixa, Christian County, Missouri, according to the recorded plat thereof in Book H, at Page 704, in the Recorder's Office in Christian County, Missouri.**

**Also, except Lots Six (6), Eight (8), Nine (9), Ten (10), Twenty-five (25) and Twenty-six (26), Final Plat Kelby Creek Phase 3, a planned unit development being a replat of part of Lot 1, Sundance in the City of Nixa, Christian County, Missouri, according to the recorded**

**plat thereof in Book H, at Page 705, in the Recorder's Office in Christian County, Missouri.**

WHEREAS, subsequent to the sale date, Central Bank received all Declarant rights from Sundance and the Assignment was recorded with the Christian County Recorder of Deeds as of June 13, 2013 and recorded in Book 2013 at Page 8054; and

WHEREAS, Central Bank, along with the voting members at the last annual meeting agreed to the amendments set forth herein. Central Bank as the successor developer and Declarant as defined in the Restrictive Covenants is vested with the right and authority to amend the Restrictive Covenants; and

WHEREAS, Central Bank seeks to make certain amendments to the Restrictive Covenants as set forth below.

NOW, THEREFORE, Central Bank exercising its rights as the Developer and Declarant makes and records this First Amendment as set forth below:

1. Recitals. Central Bank acknowledges that the recitals are an integral part of this Second Amendment and adopts the recitals as if fully set forth here.
2. Defined Terms. All terms which are capitalized herein and not further defined have the meaning as set forth in the Restrictive Covenants.
3. Amendment. Central Bank with a unanimous vote of the members at the last annual meeting seeks to amend the provisions of the Restrictive Covenants excluding from the definition of "District" and "Lot" Preliminary Plat Phase VII and Lot 59 Phase II of Kelby Creek.
4. Second Amendment. Central Bank seeks to amend the Restrictive Covenants such that Preliminary Plat Phase VII and Lot 59 Phase II are excluded from the lots and real estate covered by the Restrictive Covenants such that said Preliminary Plat Phase VII and Lot 59 Phase II shall not pay assessments to the Property Owners Association. Said Preliminary Plat Phase VII and Lot 59 Phase II and the future owners of said properties shall not have the benefit of using the pool, clubhouse or lakes in Kelby Creek since they are excluded from being a part of the Homeowner's Association. It is the intent of this Second Amendment to exclude the owners of Preliminary Plat Phase VII and Lot 59 Phase II from future use of the pool, clubhouse or lakes.
5. Ratification. All other provisions of the Restrictive Covenants except as provided for herein shall continue in full force and effect. It is the intent of Central Bank that this shall bind the following described property:

**ALL OF LOT ONE, FINAL PLAT SUNDANCE, a subdivision in the City of Nixa, Christian County, Missouri according to the recorded plat thereof.**

6. Authority. Central Bank acknowledges and states that it is the holder of Declarant Rights, is the Developer and has the right, power and authority to execute this document for the amendment of the Restrictive Covenants pursuant to Article XXIV of the Restrictive Covenants.

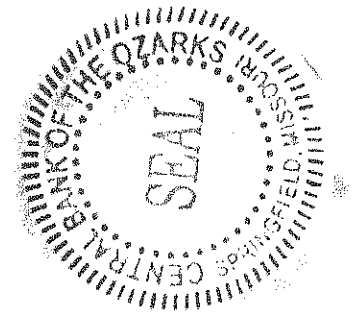
IN WITNESS WHEREOF, the undersigned has set his hand and seal this \_\_\_ day of July, 2016.

CENTRAL BANK f/k/a EMPIRE BANK

By: *[Signature]*  
Russell Marquart, President and CEO

(Corporate Seal)

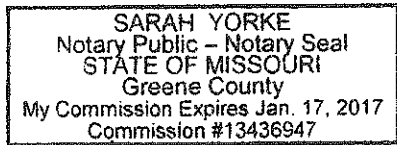
Attest: *[Signature]*



STATE OF MISSOURI     )  
  )     ss.  
COUNTY OF GREENE    )

On this 26th day of July, 2016, before me appeared **Russell Marquart**, to me personally known, who, being by me duly sworn did say that he is the President and CEO of Central Bank f/k/a Empire Bank, and that said instrument was signed and sealed on behalf of said corporation or association by authority of its board of directors or trustees, and said Russell Marquart acknowledged said instrument to be the free act and deed of said corporation or association and that said corporation has no corporate seal.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in Springfield, Missouri, the day and year first above written.



*[Signature]*  
Sarah Yorke, Notary Public

My Commission expires: Jan. 17, 2017



Recording Date/Time: 03/03/2025 at 09:41:21 AM

Instr #: 2025L02021

Book: 2025 Page: 1993

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KELBY CREEK POA



Kelly Hall  
Recorder of Deeds

### THIRD AMENDMENT TO DECLARATION OF RESTRICTIONS OF KELBY CREEK SUBDIVISION

DATE: March 3, 2025

GRANTOR/GRANTEE: Kelby Creek Property Owners Association, a Missouri non-profit corporation

GRANTOR'S ADDRESS: 1364 S. Kingscliffe Ct., Nixa, Missouri 65714

LEGAL DESCRIPTION: See Exhibit A

REFERENCES: Declaration of Restrictions at Book 2009, Page 11360  
 First Amendment to Declaration of Restrictive Covenants of Kelby Creek Subdivision at Book 2013, Page 15060  
 Second Amendment to Declaration of Restrictive Covenants of Kelby Creek Subdivision at Book 2016, Page 9522  
 Certificate of Completion at Book 2018, Page 9977

**THIRD AMENDMENT TO DECLARATION OF RESTRICTIONS OF  
KELBY CREEK SUBDIVISION**

This **THIRD AMENDMENT TO DECLARATION OF RESTRICTIONS OF KELBY CREEK SUBDIVISION**, (the "Third Amendment") is made on this \_\_\_\_ day of \_\_\_\_\_, 2025, by the undersigned Owners.

**WITNESSETH:**

WHEREAS, the Declaration of Restrictions of Kelby Creek Subdivision was filed by Developer, **Sundance Valley Development, L.L.C.**, and Bank, **Citizens National Bank**, in the Office of the Recorder of Deeds of Christian County, Missouri on the 4th day of August, 2009 at 3:15 p.m., in Book 2009 at Page 11360, as amended by that certain First Amendment filed November 8, 2013 at 12:04 p.m. in Book 2013 at Page 15060, and amended by that certain Second Amendment filed July 26, 2016 at 1:19 p.m. in Book 2016 at Page 9522 (collectively, the "**Declaration**"); and

WHEREAS, a Certificate of Completion for the Declaration was filed by Central Bank of the Ozarks f/k/a Empire Bank in the Office of the Recorder of Deeds of Christian County, Missouri on the 1<sup>st</sup> day of August 2018 at 7:55 a.m.; and

WHEREAS, Article XXIV, Section (b) of the Declaration provides that the Owners of at least two-thirds of the Lots within the District may amend, modify, or terminate the Declaration by written instrument; and

WHEREAS, the undersigned Owners are the Owners of at least two-thirds of the Lots within the District; and

WHEREAS, the Owners have determined that the amendment to the Declaration contained in this Third Amendment is in the best interests of the District; and

WHEREAS, all capitalized terms used in this Third Amendment shall have the meaning given to such terms in the Declaration, unless otherwise defined herein.

NOW, THEREFORE, the Owners hereby amend the Declaration, pursuant to XXIV Section (b) therein, as follows:

1. The term "Owner" as defined in Article 1, Section (l) currently states:

**The term "Owner" shall mean the record owner(s) of title to any Lot, including but not limited to the Developer, and for purposes of all obligations of the Owner hereunder, shall include, where appropriate, all family members and tenants of such Owner and all of their guests and invitees.**

The term "Owner" as defined in Article 1, Section (l) shall be amended and restated in its entirety to read as follows:

**The term "Owner" shall mean the record owner(s) of title to any Lot, including but not limited to the Developer, and for purposes of all obligations of the Owner hereunder, shall include, where appropriate, all family members of such Owner, the trustees and**

beneficiaries if such Owner is a trust, the majority equity owners if such Owner is an entity, and all of their respective agents, guests, and invitees.

2. The first sentence of Article 2 currently states:

**Except as otherwise expressly provided herein, none of the Lots may be improved, used or occupied for other than single-family, private residential purposes by anyone other than the Developer.**

The first sentence of Article 2 shall be deleted and replaced as follows:

**Except as otherwise expressly provided herein, the Lots shall only be used or occupied for single-family, private residential purposes by the Owners of each Lot and their immediate family members. For any Owner that is an entity, by such entity's majority equityholders and immediate family members may reside at the Lot. For any Owner that is a trust, such trust's trustees and beneficiaries as well as the immediate family members of such persons may reside at the Lot. Owners are prohibited from leasing the Lots or otherwise using the Lots as rental properties.**

3. The first sentence of Article 7 subsection (b) currently states:

**All fences on the perimeter of a Lot shall be constructed of wood, wrought iron or other ornamental materials and the quality and appearance shall be pre-approved by the Design Review Board from plans submitted by the Lot Owner, and shall not exceed six (6) feet in height, except that any fencing which abuts a common area can not exceed four (4) feet in height.**

The first sentence of Article 7 subsection (b) shall be deleted and replaced as follows:

**All fences constructed or replaced after the date of this Third Amendment on the perimeter of a Lot shall only be constructed of aluminum or other ornamental materials, subject to the approval of the Design Review Board, and the quality and appearance shall be pre-approved by the Design Review Board from plans submitted by the Owner and shall not exceed six (6) feet in height, except that any fencing which abuts a common area can not exceed four (4) feet in height. The construction of wood or chain link fencing is expressly prohibited.**

4. All other provisions of the Declaration not inconsistent with the above provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Owners have caused this Third Amendment to the Declaration of Restrictions of Kelby Creek Subdivision to be executed for recordation effective as of the date and year first above written.



## EXHIBIT A LEGAL DESCRIPTION

THAT CERTAIN PARCEL OR TRACT OF LAND BEING A PART OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 26 AND A PART OF NORTHEAST QUARTER (NE1/4) OF SECTION 35, ALL IN TOWNSHIP 27 NORTH, RANGE 22 WEST, CHRISTIAN COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING IRON PIN AT THE NORTHWEST CORNER OF THE WEST ONE-HALF (W1/2) OF THE NE1/4 OF SAID SECTION 35; THENCE N00°02'15"E (N01°52'11"E DEED), ALONG THE WEST LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE SE1/4 OF SAID SECTION 26 ALSO BEING THE EAST LINE OF AUTUMN RIDGE ESTATES, A SUBDIVISION IN CHRISTIAN COUNTY, MISSOURI, A DISTANCE OF 671.50 FEET (653.16' DEED) TO AN EXISTING IRON PIN AT THE NORTHWEST CORNER OF THE SOUTH ONE-HALF (S1/2) OF SAID SW1/4 OF THE SE1/4 SAID POINT ALSO BEING THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN BOOK 127 AT PAGE 95 IN THE CHRISTIAN COUNTY RECORDER'S OFFICE; THENCE N89°15'38"E (S89°16'47"E DEED), ALONG THE NORTH LINE OF SAID S1/2 OF THE SW1/4 OF THE SE1/4 ALSO BEING THE SOUTH LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 127 AT PAGE 95, A DISTANCE OF 1340.92 FEET (1341.59' DEED) TO AN EXISTING IRON PIN AT THE NORTHEAST CORNER OF SAID S1/2 OF THE SW1/4 OF THE SE1/4 SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID TRACT OF LAND; THENCE N00°02'10"W (N01°48'45"E DEED), ALONG THE WEST LINE OF THE NE1/4 OF THE SE1/4 AND THE NORTH ONE-HALF (N1/2) OF THE SW1/4 OF THE SE1/4 ALSO BEING THE EAST LINE OF SAID TRACT OF LAND AND THE EAST LINE OF A TRACT OF LAND DESCRIBED IN BOOK 290 AT PAGE 1247 IN SAID CHRISTIAN COUNTY RECORDER'S OFFICE, A DISTANCE OF 1571.84 FEET (1577.63' DEED) TO AN EXISTING IRON PIN AT THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN BOOK 115 AT PAGE 367 IN SAID CHRISTIAN COUNTY RECORDER'S OFFICE; THENCE N89°00'03"E (S89°15'51"E DEED), ALONG THE SOUTH LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 115 AT PAGE 367, A DISTANCE OF 183.00 FEET (183.03' DEED) TO AN EXISTING IRON PIN AT THE SOUTHEAST CORNER OF TRACT OF LAND; THENCE N00°02'10"W, ALONG THE EAST LINE OF SAID TRACT OF LAND, A DISTANCE OF 450.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT OF LAND SAID POINT BEING ON THE NORTH LINE OF SAID NE1/4 OF THE SE1/4; THENCE N89°00'03"E, ALONG THE NORTH LINE OF SAID NE1/4 OF THE SE1/4, A DISTANCE OF 984.38 FEET TO AN EXISTING IRON PIN ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 160, AS IT NOW EXISTS; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING SIXTEEN (16) COURSES: 1) THENCE S77°37'53"W, A DISTANCE OF 40.27 FEET; 2) THENCE S01°11'05"E, A DISTANCE OF 30.00 FEET TO AN EXISTING RIGHT-OF-WAY MARKER ON THE APPARENT SOUTH RIGHT-OF-WAY LINE OF ROSEDALE ROAD AS IT NOW EXISTS; 3) THENCE S78°58'54"E, A DISTANCE OF 146.64 FEET TO AN EXISTING RIGHT-OF-WAY MARKER AT STATION 295+10; 4) THENCE S14°07'00"E, A DISTANCE OF 195.82 FEET TO AN EXISTING RIGHT-OF-WAY MARKER AT STATION 297+00; 5) THENCE S00°46'47"W, A DISTANCE OF 156.72 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 6) THENCE S05°17'58"W, A DISTANCE OF 495.05 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 7) THENCE S13°57'27"E, A DISTANCE OF 116.18 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 8) THENCE S00°42'28"W, A DISTANCE OF 231.26 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 9) THENCE S00°43'36"W, A DISTANCE OF 306.07 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 10) THENCE N00°40'21"W, A DISTANCE OF 848.98 FEET TO AN

EXISTING RIGHT-OF-WAY MARKER; 11) THENCE S12°31'01"W, A DISTANCE OF 102.65 FEET TO AN EXISTING RIGHT-OF-WAY MARKER; 12) THENCE S00°38'58"W, A DISTANCE OF 349.12 FEET TO AN EXISTING RIGHT-OF-WAY MARKER AT STATION 322+98.5 (STATION 323+00 PLAN); 13) S00°38'04"W, A DISTANCE OF 498.81 FEET TO AN EXISTING RIGHT-OF-WAY MARKER AT STATION 328+00; 14) THENCE S11°44'00"W, A DISTANCE OF 201.94 FEET TO AN EXISTING RIGHT-OF-WAY MARKER AT STATION 330+00; 15) THENCE S12°07'40"E, A DISTANCE OF 307.79 FEET TO AN EXISTING IRON PIN AT STATION 333+00; 16) THENCE S00°50'15"W, A DISTANCE OF 184.14 FEET TO AN EXISTING IRON PIN ON THE SOUTH LINE OF THE NE1/4 OF THE NE1/4 OF SAID SECTION 35 SAID POINT BEING THE NORTHEAST CORNER OF A TRACT OF LAND DESCRIBED IN BOOK 190 AT PAGE 482 IN SAID CHRISTIAN COUNTY RECORDER'S OFFICE; THENCE S89°18'04"W (N89°01'01"W DEED), ALONG THE SOUTH LINE OF SAID NE1/4 OF THE NE1/4 ALSO BEING THE NORTH LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 190 AT PAGE 482, A DISTANCE OF 1289.78 FEET (1277.02 DEED) TO AN EXISTING IRON PIN AT THE SOUTHWEST CORNER OF SAID NE1/4 OF THE NE1/4 SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 190 AT PAGE 482; THENCE S40°02'09"W, A DISTANCE OF 366.53 FEET TO AN IRON PIN SET; THENCE S11°44'02"W, A DISTANCE OF 482.28 FEET TO AN IRON PIN SET; THENCE N71°18'27"W, A DISTANCE OF 313.10 FEET TO AN IRON PIN SET; THENCE N43°42'26"W, A DISTANCE OF 424.30 FEET TO AN IRON PIN SET; THENCE N47°45'54"W, A DISTANCE OF 321.52 FEET TO AN IRON PIN SET; THENCE N89°25'47"W, A DISTANCE OF 175.00 FEET TO AN IRON PIN SET ON THE WEST LINE OF THE SW1/4 OF THE NE1/4; THENCE N00°34'13"E (N01°52'11"E DEED), ALONG THE WEST LINE OF SAID SW1/4 OF THE SE1/4 AND THE WEST LINE OF THE NW1/4 OF THE NE1/4, A DISTANCE OF 1448.69 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS 189.848 ACRES (MORE OR LESS) AND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, AND RESTRICTIONS OF RECORD. *90*

Except,

Preliminary Plat phase VII and Lot 59 Phase II of Kelby Creek

*Also known as Kelby Creek  
Kelby Creek POA,  
Phase I, Phase II, Phase III, Phase IV,  
Phase V, Phase VI.*