

V039773

DECLARATION OF PROTECTIVE COVENANTS
FOR
EAGLE SPRINGS

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\$169.00

THIS DECLARATION OF PROTECTIVE COVENANTS FOR EAGLE SPRINGS (this "Declaration") is made this 7th day of May, 2001, by Terrabrook Eagle Springs, L.P., a Delaware limited partnership ("Declarant"), as follows:

RECITALS:

A. Declarant is the owner of the real property described in Exhibit A attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

NOW THEREFORE, Declarant hereby declares that all of the real property described in Exhibit A and any additional property which is hereafter subjected to this Declaration by a Supplemental Declaration (as such term is defined herein), shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann. 81.001-81.210 (Vernon 1983).

Article I
Definitions

Section 1.1 "Architectural Guidelines" shall mean and refer to those guidelines described in, Section 11.5 of this Declaration.

Section 1.2 "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any Neighborhood become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility.

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Section 1.3 “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Incorporation of Eagle Springs Community Association, Inc. as filed with the Secretary of State of the State of Texas.

Section 1.4 “Association” shall mean and refer to Eagle Springs Community Association, Inc., a Texas nonprofit corporation, its successors or assigns. The “Board” shall be the elected body of the Association having its normal meaning under Texas corporate law. The use of the term “association” or “associations” in lower case shall refer to any condominium association or other owners association having jurisdiction over any part of the Properties.

Section 1.5 “Base Assessment” shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

Section 1.6 “By-Laws” shall mean and refer to the By-Laws of Eagle Springs Community Association, Inc., attached hereto as **Exhibit B** and incorporated herein by reference, as they may be amended from time to time.

Section 1.7 “Common Area” shall be an inclusive term referring to both General Common Area and Exclusive Common Area, as defined herein.

Section 1.8 “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association, and may include, without limitation, when determined by the Board, expenses incurred in bringing or defending lawsuits and other litigation expenses.

Section 1.9 “Community-Wide Standards” means those standards of aesthetics, environment, appearance, architectural design and style, maintenance, conduct and usage generally prevailing within the Properties in general, and within each Neighborhood in particular, as reasonably determined by the Board, NCC or MC at any given pertinent time and from time to time, including as to each particular Regulated Modification and each other matter or circumstance considered as of the date of the evaluation (i) prevailing standards as to harmony and compatibility with surrounding aesthetics, appearance and patterns of Maintenance, with surrounding buildings, structures and other improvements, and with surrounding grades, topography, finished ground elevations, locations, colors, finishes, styles, workmanship, type and quality of materials and designs, and (ii) compliance with this Declaration and other applicable Governing Documents, and with applicable governmental laws, ordinances and regulations.

Section 1.10 “Compliance Assessments” means special assessments levied against any Member individually or against Units within any Neighborhood as reimbursement for costs (including attorney’s fees) to obtain compliance with the Governing Documents as authorized and provided in Section 10.4.2 of this Declaration.

Section 1.11 "Declarant" shall mean and refer to Terrabrook Eagle Springs, L.P., a Delaware limited partnership, or its successors, successors-in-title or assigns who take title to any portion of the Properties for the purpose of development and/or sale and who are designated as Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

Section 1.12 "Declarant Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of directors, as provided in Article III, Section 2 of the By-Laws.

Section 1.13 "Equivalent Units" shall mean that number assigned to each Unit, as provided in Sections 10.1 and 10.2 of this Declaration, for purposes of allocating Base Assessments and Special Assessments among the Units subject to such assessments, as provided in Article X.

Section 1.14 "Exclusive Common Area" shall mean and refer to certain portions of the Common Area which are designated by Declarant to be for the exclusive use and benefit of one (1) or more, but less than all, Neighborhoods, as more particularly described in Article II of this Declaration.

Section 1.15 "General Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners, which is so designated by Declarant, in Declarant's sole discretion.

Section 1.16 "Governing Documents" means all documents and applicable provisions thereof as set forth in this Declaration, any Supplemental Declaration, the By-Laws and Articles of Incorporation of the Association, Rules and Regulations, Architectural Guidelines, all written decisions and resolutions of the NCC, MC and Board, and any lawful amendments to any of the foregoing.

Section 1.17 "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 1.18 "Modification Committee" or "MC" means the committee established pursuant to Section 11.2 of this Declaration.

Section 1.19 "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 1.20 "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 1.21 "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 1.22 "Neighborhood" shall mean and refer to a group of Units designated as a separate Neighborhood pursuant to this Declaration for purposes of sharing Exclusive Common

Areas and/or receiving other benefits or services from the Association which are not provided to all Units, and/or for the purpose of electing Voting Representatives. A Neighborhood will be comprised of more than one housing type and may include noncontiguous parcels of property.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Association (as defined in Section 14.5) having jurisdiction over the property within the Neighborhood. It shall not be necessary for any Neighborhood to be governed by a Neighborhood Association except in the case of a condominium or otherwise as required by law. Neighborhoods may be divided or combined in accordance with Section 14.5 of this Declaration.

Section 1.23 "Neighborhood Assessments" shall mean assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as more particularly described in Section 10.1 of this Declaration.

Section 1.24 "Neighborhood Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board and as more particularly authorized herein.

Section 1.25 "New Construction Committee" or "NCC" means the committee established pursuant to Section 11.1 of this Declaration.

Section 1.26 "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Association.

Section 1.27 "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 1.28 "Properties" shall mean and refer to the real property described in Exhibit A attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 1.29 "Public View". "Public View" shall mean, as to each Unit, visibility of a location on the lot or exterior of the Unit from a Street or Common Area.

Section 1.30 "Regulated Modification" means (without implication that any particular matter is permitted or prohibited by this Declaration and without limitation as to Article XI of this Declaration as set forth below) the commencement, placement, construction, reconstruction or erection of, or modification, alteration, or addition to, any building, structure, improvement, thing or device, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography generally prevailing within the Properties in general, and within each Neighborhood in particular, as of the date of establishment of the Regulated Modification, excluding any such matters or activities conducted by Declarant or Association, but including by way of illustration and not of limitation:

1.30.1 any building, garage, porch, shed, bathhouse, coup or cage, covered or uncovered patio, swimming pool, basketball goal, trampoline, children's play fort or play set and any other recreational devices or equipment used outside of a residence, fence, wall or other screening device, curbing, paving, wall, trees, shrubbery and any other landscaping, fountains, statuary, lighting fixtures, signs or signboard, or any temporary or permanent living quarters, and any other temporary or permanent modification or alteration;

1.30.2 any other building, structure, improvement, thing or device, and any activities related thereto and any usage thereof, as specified from time to time by applicable Architectural Guidelines, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography generally prevailing in the Properties.

Section 1.31 "Related Parties" means and applies as follows:

1.31.1 Tenants or other occupants of each Owner's Unit are Related Parties of that Owner, and with respect to each such Owner, tenant or other occupant, Related Parties include (i) their respective family and other household members (including in particular but without limitation all children and other dependents), (ii) their respective guests, invitees, servants, agents, representatives and employees, and (iii) all other Persons over which each has a right of control or under the circumstances could exercise or obtain a right of control.

1.31.2 Related Parties of the Association, NCC, MC and Declarant include their respective officers, directors, partners, co-venturers, committee members, servants, agents, representatives and employees regarding all acts or omissions related to any of the foregoing representative capacities.

Section 1.32 "Retail Purchaser" – intentionally omitted.

Section 1.33 "Rules and Regulations" shall mean the current applicable Rules and Regulations as same may be supplemented, amended, modified or repealed as provided in Section 9.3 of this Declaration.

Section 1.34 "Special Assessment" shall mean and refer to assessments levied in accordance with Section 10.4 of this Declaration.

Section 1.35 "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration. A Supplemental Declaration may, but need not, impose, expressly or by reference, additional restrictions and obligations on the land described therein, or may modify or delete any restriction or obligation of this Declaration as same applies to the land described therein. The term shall also refer to the instrument recorded by the Association pursuant to Section 8.2 of this Declaration to subject additional property to this Declaration.

Section 1.36 "Unit" shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of any lot owned as well as any structure thereon. In the case of an apartment building or other structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Unit.

Section 1.37 "Visible Location". Visible Location shall mean a location in the Properties which is in Public View.

Section 1.38 "Voting Representative" shall mean and refer to the representative selected by the Members of each Neighborhood to be responsible for casting all votes attributable to Units in the Neighborhood for election of directors, amending this Declaration or the By-Laws, and all other matters provided for in this Declaration and in the By-Laws.

Article II Property Rights

Section 2.1 "General Common Area". Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) this Declaration as it may be amended from time to time, any applicable Supplementary Declaration, and any restrictions or limitations contained in any deed conveying the Common Area to the Association;

(b) the right of the Board to limit the number of guests who may use the Common Area, and to adopt other rules regulating the use and enjoyment of the Common Area;

(c) the right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of this Declaration or the other Governing Documents, after notice and a hearing pursuant to Article III, Section 22, of the By-Laws;

(d) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area to the extent expressly authorized herein;

(e) the right of the Board to impose membership requirements and charge admission or other fees for the use of any recreational facility situated upon the Common Area;

(f) the right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of use fees established by the Board;

(g) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(h) the right of Declarant or the Association to grant to certain Owners the exclusive use of portions of the Common Areas, which areas are designated Exclusive Common Areas, as more particularly described in Section 2.2 below.

Any Owner may delegate his or her right of use and enjoyment to his or her Related Parties, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

Section 2.2 Exclusive Common Areas. Declarant, in Declarant's sole discretion, may designate portions of the Common Areas as "Exclusive Common Areas" which are reserved for the exclusive use of Owners and their Related Parties within one or more specified Neighborhoods. All costs associated with operation, maintenance, repair, replacement and insurance of Exclusive Common Areas shall be assessed as a Neighborhood Assessment, as defined herein, against the Owners of Units in only those Neighborhoods for whose benefit the Exclusive Common Areas are designated. By way of illustration and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments against such Neighborhood(s).

Declarant may designate any Exclusive Common Areas as such, and assign the exclusive use thereof, by any of (a) the deed conveying the Common Area to the Association, (b) the Supplementary Declaration covering the particular Neighborhood(s) benefited by the Exclusive Common Area, or (c) the recorded Plat covering the particular Neighborhood(s). Further, Declarant,

during the Declarant Control Period, or thereafter, the Association, may convert one or more areas of General Common Area to Exclusive Common Area for one or more particular Neighborhoods, or may convert Exclusive Common Area to General Common Area. Any such action by the Association will require the vote of both (i) a majority of the total Association votes, and (ii) a majority of the votes within the Neighborhood(s) to which the Exclusive Common Areas either is to be assigned or from which Exclusive Common Area is to be converted to General Common Areas.

Article III Membership and Voting Rights

Section 3.1 Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Unit owned. In the event the Owner of a Unit is more than one (1) Person, the vote for such Unit shall be exercised as provided below. The membership rights of a Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association, subject to the provisions of this Declaration and the By-Laws.

Section 3.2 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:

3.2.1 Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any. Each Class "A" Member shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Section 3.1 hereof (without adjustment for "Equivalent Units"); there shall be only one (1) vote per Unit. Unless otherwise specified in this Declaration or the By-Laws, the vote for each Unit shall be exercised by the Voting Representative representing the Neighborhood of which the Unit is a part.

3.2.2 Class "B". The Class "B" Member shall be Declarant. The Class "B" Member has the right to disapprove actions by the Board. Other rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the other Governing Documents, are specified elsewhere in this Declaration and the other Governing Documents. During the Declarant Control Period, the Class "B" Member shall have four (4) votes for each Unit within the Properties. Upon expiration of the Declarant Control Period, the Class "B" Membership shall cease, and only Class "A" Membership shall remain. Declarant, in Declarant's sole discretion, by a notice filed in the Official Public Records of Harris County, Texas, may elect to terminate the Declarant Control Period at any time, but shall not be required to do so.

3.2.3 Suspension of Voting Rights. The Board may elect to prohibit an Owner from exercising any voting rights as a Member of the Association during any period in which the Owner is delinquent in the payment of any Assessments.

3.2.4 Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Representative representing the Neighborhood, as provided in Section 3.3(b). The Voting Representative may cast all such votes as it, in its discretion, deems appropriate; provided, unless the Board otherwise permits, the Voting Representative shall cast all of the votes which he or she is entitled to cast as a block and shall not split the votes.

Section 3.3 Neighborhoods. Every Unit shall be located within a Neighborhood as defined in Article I. Due to the number of Units anticipated to be developed in Eagle Springs, the Governing Documents provide for a representative system of voting. The Owners of Units within each Neighborhood shall elect a Voting Representative to cast all Class "A" votes attributable to their Units on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. In addition, each Neighborhood shall elect an alternate Voting Representative who shall be responsible for casting such votes in the absence of the Voting Representative. Until such time as the Board first calls for election of a Voting Representative for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

The first election of a Voting Representative and alternate Voting Representative from each Neighborhood shall occur within one year after the sale of the first Unit in the Neighborhood to a Person other than a builder constructing a home for sale. Thereafter, the Board shall call for an election of Voting Representatives and alternates on an annual basis, either by written ballots cast by mail, computer, or at a meeting of the Class "A" Members within such Neighborhood, as the Board determines. Upon written petition signed by Class "A" Members holding at least 20% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Representatives may be nominated by the Board, a nominating committee which the Board may appoint, or from the floor at any meeting at which such election is to be held.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Neighborhood, the Board may appoint a Voting Representative or alternate Voting Representative to represent such Neighborhood until a successor is elected.

For any Neighborhood election, each Class "A" Member shall be entitled to one equal vote for each Unit which such Owner owns in the Neighborhood. The candidate who receives the greatest number of votes shall be elected as Voting Representative and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Representative. The Voting Representative and the alternate Voting Representative shall serve a term of one year and until their successors are elected.

Any Voting Representative may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Class "A" Members in the Neighborhood which the Voting Representative represents.

Section 3.4 Multiple Owners. When more than one Person holds an ownership interest in a Unit (such as husband and wife,), all such Persons are Members, but in no event will they be entitled to more than one vote with respect to each particular Unit owned. The single vote, approval, or consent of such joint Owners must be cast or given in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners will be permitted to vote, approve, or consent as to any such matter upon which a majority decision cannot be reached. The vote, approval or consent of any single Owner from among such joint Owners is conclusively presumed to be cast or given in accordance with the decision of the majority of the joint Owners and with their full authority, but the Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

Section 3.5 Appurtenant Right. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.

Article IV Maintenance

Section 4.1 Association's Responsibility. The Association shall use a reasonable standard of care in providing for the maintenance and repair of the Area of Common Responsibility, such maintenance and repair to be funded as hereinafter provided. This obligation shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements, including any private streets, fences or walls situated upon the Common Areas, landscaped medians within public rights-of-way throughout the Properties (subject to the terms of any license agreements pertaining thereto), and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplementary Declaration, or by a contract or agreement for maintenance thereof by the Association. The Area of Common Responsibility shall also include all lakes and/or ponds located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or in connection therewith. The Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless seventy-five (75%) percent of the Owners (for General Common Area) or of the Owners of Units located within a particular Neighborhood (as to Exclusive Common Area benefiting that Neighborhood) agree in writing to discontinue such operation. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if

the Board determines that such maintenance is necessary or desirable to maintain Community-Wide Standards.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, notwithstanding that the Association may be entitled to reimbursement from the owner(s) of certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Units located within the Neighborhood(s) to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

The Association shall also be responsible for maintenance, repair and replacement of other property within a Neighborhood to the extent designated in any Supplemental Declaration affecting the Neighborhood, and may assume maintenance responsibilities with respect to a Neighborhood in addition to those that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standards. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

Section 4.2 Owners' Responsibilities.

4.2.1 General. Except as otherwise expressly stated in this Article IV, all maintenance of each Unit, all fences, landscaping, structures, parking areas and all other improvements thereon, and all public right-of-way (from the Unit property line to the curb) is the sole responsibility of the Owner(s) thereof. Each Owner must maintain their Unit, all fences, landscaping, structures, parking areas and all other improvements thereon, and applicable portion of public right-of-way at all times in such manner as to obtain and maintain Community-Wide Standards on a continuing basis as may be more specifically determined by this Declaration and other Governing Documents.

4.2.2 Neighborhood Assumption of Responsibilities. Maintenance responsibilities as set forth in Section 4.2 may be assumed by or assigned to a Neighborhood Association pursuant to applicable provisions of this Declaration or other Governing Documents, but any such assumption or assignment must be specific and in writing and must otherwise comply with applicable provisions of the Governing Documents.

4.2.3 Adjacent or Adjoining Owners. No Owner or Owner's Related Parties will allow any conditions to exist or fail or neglect to provide any maintenance which adversely affects any adjoining Unit, Common Area, or any improvements thereon.

4.2.4 Residences and Other Improvements. Each Owner must maintain each Owner's Unit, including the residence and all other buildings, structures, fences, walls, recreational equipment and improvements located thereon, in an attractive, sound and well maintained condition and as reasonably necessary to obtain and maintain Community-Wide Standards, including proper maintenance and repair as needed of paint, bricks, siding, roofs, rain gutters, downspouts, exterior walls, driveways, parking areas and all other exterior portions of the Owner's residence. Without limitation of the foregoing, each Owner shall provide proper repair and maintenance as and when needed as follows:

(a) the exterior paint on each Owner's residence must be maintained so that no portion thereof peels, scales or cracks excessively, and all painted portions remain neat and free of mildew and discoloration;

(b) all windows and exterior light fixtures must be properly maintained and window coverings must be in place within sixty (60) days of occupancy (but aluminum foil, sheets and unsightly window film are not allowed);

(c) all exterior doors, including garage doors, must be maintained, repaired, replaced and/or repainted as needed to prevent an unsightly appearance and such as to maintain same in proper working condition, including replacement as needed of damaged or dented garage door panels and any cracked or broken glass in any door;

(d) the exterior siding and woodwork on each Owner's residence, and all windowsills, door jams and thresholds, framing, hinges, latches and locks, must be maintained so that same remains whole, sound, neat and fully operational;

(e) the roof on each Owner's residence must be maintained so that all shingles are properly secured, curled or damaged shingles are replaced and no worn areas or holes are permitted to remain;

(f) the rain gutters and downspouts on each Owner's residence, if any, must be maintained so that all are properly painted or treated to prevent rust and corrosion, are properly secured to roof, eaves, gables or exterior walls (as the case may be), are maintained without holes, and are promptly repaired or replaced if dented or otherwise damaged;

(g) all concrete areas on each Owner's Unit, including sidewalks and driveways, must be maintained so that all cracks are appropriately patched or surfaced as they appear, expansion joints are maintained, repaired or replaced, as needed, and oil, grease and other stains are removed as they appear;

(h) all fences or walls must be maintained to prevent any listing or leaning, so that all broken or damaged members and all holes and cracks are repaired as they appear and so that no portion thereof is permitted to decay beyond normal weathering;

(i) any swimming pool must be properly maintained to prevent algae buildup, deterioration of surfaces and decking and any other unkempt, unsightly or unsanitary condition, and in accordance with applicable laws, ordinances and codes; and

(j) all recreational equipment must be maintained to prevent any unsightly or unkempt condition, including for example but without limitation, proper maintenance of swing sets to prevent rust and corrosion, and proper maintenance of basketball goals to prevent rust and corrosion and by replacement as needed of torn or worn nets.

4.2.5 Landscaping. All grass, shrubbery, trees, flower beds and all other vegetation on each Unit must be maintained at all times in accordance with the seasons as reasonably necessary to obtain and maintain Community-Wide Standards, including as reasonably necessary to maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance.

4.2.6 Owners' Insurance; Casualty. Each Owner must comply with all requirements of Section 5.2 of this Declaration regarding maintenance of insurance and casualty repairs. The provisions of Section 4.2.8 specifically apply to any default regarding required casualty repairs.

4.2.7 Disturbance of Community Properties. In the event the performance of any Owner's maintenance responsibilities requires that any portion of any Common Area be modified, removed or disturbed, then such Owner must first pay a security deposit in such amount or amounts as from time to time are established by the Board to the MC and obtain the written consent of the MC as to same. All such work must be performed in accordance with plans and specifications approved by the MC.

4.2.8 Right of Entry and Inspection; Owner's Default. In the event the Board, NCC or MC determines that (i) an Owner may have or has failed or refused to discharge properly the Owner's maintenance obligations as provided in this Article, (ii) the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder may have or has been caused through the willful or negligent act or omission of an Owner, or the Owner's Related Parties, or (iii) a condition exists on a Unit which may increase the possibility of a fire or other hazards, then the Association may conduct inspections of any affected Unit and the residence and all buildings, structures and other improvements thereon (a "Compliance Inspection") and/or perform the repair, replacement or maintenance (the "Required Work") in accordance with the following:

(a) If the Board, NCC or MC determines that a violation of this Article may exist, the Board, NCC, MC and their representative may enter a Unit to inspect the exterior of the residence, the exterior of any other buildings, structures or improvements and all other portions of

the lot, and to conduct such tests, measurements and other investigative work as may be reasonably required to confirm that a violation does or does not exist. Except in the event of an emergency, the Association must give written notice of the Association's intent to conduct a Compliance Inspection. The notice must state generally the nature of the suspected violations. The notice must also state the name, address and telephone number of a contact with whom to schedule a date and time for the inspection within ten (10) days of the date of the notice (or such longer time as may be stated in the notice), and must state that if a date and time is not so scheduled the Compliance Inspection may be conducted at any time within forty-five (45) days after the date of the notice.

(b) Except in the event of an emergency, the Association must give written notice of the Association's intent to provide Required Work. The notice must set forth the Required Work with reasonable particularity. The Owner of the Unit to which the notice of Required Work pertains will have ten (10) days within which to complete the Required Work as set forth in such notice, or, in the event the Required Work is not capable of completion within a ten-day period, to commence the Required Work within ten (10) days and to complete same within a reasonable time not to exceed thirty (30) days unless otherwise specifically approved by the Board, NCC or MC. The affected Owner must give written notice of the completion of Required Work stating in detail the Required Work which has been completed. The Board, NCC or MC may also conduct a Compliance Inspection to confirm completion of all Required Work.

(c) A Compliance Inspection notice and a notice as to Required Work must be delivered or mailed to the street address of the affected Unit.

(d) If any Owner fails to schedule an inspection pursuant to a Compliance Inspection notice, the Association has the right (but not the obligation), through its designated representatives, to enter a Unit and to inspect the exterior of the residence, the exterior of any other buildings, structures or improvements and all other portions of the lot. If any Owner fails fully to comply with a notice as to Required Work, the Association has the right (but not the obligation), through its designated representatives, to enter upon the Unit and to do all things to the exterior of the residence, to the exterior of any other buildings, structures and other improvements, and to all other portions of the lot to commence and complete the Required Work. In case of emergency the Association has the right (but not the obligation), through its designated representatives, to immediate entry upon a Unit, and the residence and all buildings, structures and other improvements thereon, and upon entry to take all actions reasonably necessary to abate the emergency.

(e) The good faith determination by the Board, NCC or MC as to the need for a Compliance Inspection and as to all aspects of Required Work is final and conclusive, and extends to any thing or condition as to any Unit, or which adversely affects any other Unit or any Common Area. Neither the Association nor any of its representatives may be held liable for trespass or any other tort or claim for damages in connection with any actions or failure to act pursuant to this Section.

(f) If a violation is confirmed, all reasonable costs and expenses as to conducting a Compliance Inspection and as to all aspects of Required Work which is performed by the Association pursuant to this Section, as determined in the sole opinion of the Board, NCC or MC, shall be paid by the Owner of the Unit, and are secured by the continuing assessment lien established by this Declaration against such Owner's Unit.

(g) The provisions hereof are cumulative of the provisions of Section 2.1(c), Section 9.7, Section 10.4.2, and Section 13.11 of this Declaration, and otherwise as set forth in this Declaration.

Section 4.3 Neighborhood's Responsibility. Upon resolution of the Board, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, costs of maintenance of certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood, which may include, without limitation, the costs of maintenance of any right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within or adjacent to the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same. In lieu of paying these costs (or any portion thereof) through Neighborhood Assessments, as provided in Section 4.2.2 above, the Board may assign to a Neighborhood Association the obligation to maintain and irrigate any such portions of the Area of Common Responsibility; provided, however, that no Neighborhood Association shall have the right to remove trees, shrubs or similar vegetation from any such area without prior approval pursuant to Article XI hereof.

Any Neighborhood Association allocated any special maintenance obligations pursuant to a Supplementary Declaration or other Governing Document shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standards. If any such Neighborhood Association fails to perform its maintenance responsibility as required herein and in any additional covenants, the Association may perform such obligations and assess the costs of such maintenance against all Units within such Neighborhood as provided in Section 10.4 of this Declaration.

Section 4.4. Party Walls and Party Fences.

4.4.1 General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Units which shall serve and separate any two (2) adjoining Units shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

4.4.2 Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

4.4.3 Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it. If the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

4.4.4 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

4.4.5 Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other. The costs of such arbitration shall be assessed against the non-prevailing parties in the arbitration.

Article V Insurance and Casualty Losses

Section 5.1 Association's Insurance. The Board, or its duly authorized agent, shall have the authority to, and shall, obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

In addition to property insurance on the insurable improvements on the Common Area, the Association may, upon request of a Neighborhood, and shall, if so specified in a Supplemental Declaration applicable to the Neighborhood, obtain and continue in effect adequate blanket "all-risk" property insurance, if reasonably available, on the insurable improvements within or constituting the Common Area within the Neighborhood. If "all-risk" insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board deems appropriate and the face amount of the policy shall be sufficient to cover the full replacement cost of all insurable improvements to be insured. The costs thereof shall be charged only to the owners of Units within the benefited Neighborhood as a Neighborhood Assessment.

Insurance obtained on the insurable improvements within any Neighborhood, whether obtained by the Neighborhood Association for such Neighborhood, if any, or the Association, shall at a minimum comply with the applicable provisions of this Section 5.1, including the provisions of this Article applicable to policy provisions, loss adjustment, and all other subjects to which this Article applies with regard to insurance on the Common Area. All such insurance shall be in a face amount sufficient to cover the full replacement cost of all insured structures. All such policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Neighborhood Association, if any.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members, employees or agents, or any other person who has a right to occupy a Unit. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million (\$3,000,000.00) Dollar limit per occurrence, if reasonably available, and a Five Hundred Thousand (\$500,000.00) Dollar minimum property damage limit.

The Board, in the Board's discretion, may obtain fidelity insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, agents, employees, agents, employees or other individuals responsible for handling funds belonging to or administered by the Association. If funds of the Association are handled by a management agent, fidelity insurance coverage may also be obtained for the officers, employees or agents thereof handling or responsible for Association funds. The fidelity insurance must name the Association as the named insured and shall be written to provide protection in an amount not less than the lesser of (a) one-half times the Association's estimated annual operating expenses and reserves, (b) a sum equal to three months' aggregate Base Assessments plus reserves, or (c) the estimated maximum amounts of funds, including reserves, in the custody of the Association (or its management agent) at any one time. In connection with this coverage, an appropriate endorsement to the policy to cover any individual who serves without compensation shall be added if the policy would not otherwise cover volunteers. Any such coverage must also name the Association as an obligee.

The Board shall obtain a policy of "directors and officers" liability insurance, including errors and omissions coverage.

Premiums for the above-described coverages shall be Common Expenses of the Association and shall be included in the Base Assessment; provided, however, that premiums to insure Exclusive Common Areas shall be included only in the Neighborhood Assessment of the Neighborhood(s) benefited thereby unless the Board reasonably determines that other treatment of the premiums is more appropriate. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in Section 5.1.2 below. Such insurance shall be governed by the provisions hereinafter set forth:

5.1.1 Authorized Companies. All policies shall be written with a company authorized to do business in Texas which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

5.1.2 Beneficiaries of Policies. All policies shall be for the benefit of the Association and its Members; except that policies secured at the request of a Neighborhood, or insuring Exclusive Common Area, shall be for the benefit of the particular Neighborhood Association, if any, the Owners of Units within the Neighborhood, and their Mortgagees, as their interests may appear.

5.1.3 Authority to Adjust Losses. Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

5.1.4 No Contribution. In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

5.1.5 Inflation Guard. All property insurance policies shall have an inflation guard endorsement, if reasonably available, and, if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in Houston, Texas area.

5.1.6 Specific Requirements. The Board shall be required to use reasonable efforts to secure insurance policies that will provide the following:

- (a) a waiver of subrogation by the insurer as to any claims against the Board, officers, employees and manager, the Owners and their Related Parties;
- (b) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
- (c) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;

(d) a statement that no policy may be canceled, invalidated, suspended, or subject to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(f) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(g) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, and flood insurance, if reasonably available. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 5.2 Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" property insurance on such Owner's Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article V for insurance on the Common Area, unless either the Neighborhood in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner shall proceed promptly to rebuild in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration.

A Neighborhood may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within the Neighborhood and the standard for returning the Units to their natural state in the event the structures are not rebuilt or reconstructed.

Section 5.3 Common Area Damage and Destruction.

5.3.1 Adjustment of Claims. Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair

or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair. Any damage or destruction to the Common Area or property owned by any Neighborhood Association shall be repaired or reconstructed unless both Declarant (unless the Declarant Control Period has expired) and either (i) the Unit Owners representing at least seventy-five (75%) percent of the total Class "A" votes of the Association, if the damage is to the General Common Area, or (ii) the Unit Owners representing at least seventy-five (75%) percent of the total votes of a Neighborhood whose property or Exclusive Common Area was damaged, if the damage is to Neighborhood property or Exclusive Common Area, vote within sixty (60) days after the casualty, at a special meeting called for that purpose in accordance with the By-Laws, not to repair or reconstruct; provided, however, that if for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association or the Neighborhood, as applicable, within said period, then the period for voting shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Properties shall be repaired or reconstructed.

(c) No Repair. In the event that it should be determined in the manner described above that the damage or destruction to General Common Area, Exclusive Common Area or Neighborhood property shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be cleared of all debris and ruins and maintained by the Association, or the Neighborhood Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Section 5.4 Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association or a Neighborhood Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association (or Neighborhood Association) and placed in a capital improvements account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s), as their interests may appear, shall be retained by and for the benefit of the Association (or Neighborhood Association) and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

Section 5.5 Repair and Reconstruction. If the damage or destruction to the General Common Area or any Exclusive Common Area or Neighborhood property for which insurance

proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Members, levy a special assessment against those Owners of Units responsible for the premiums for the applicable insurance coverage under Section 5.1. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI No Partition

Section 6.1 No Partition. There shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration, nor shall it be construed to preclude Declarant from withdrawing any portion of the Properties in accordance with Article VIII below.

Article VII Condemnation

Section 7.1 Taking. Whenever all or any part of the Common Area shall be taken (or conveyed by the Board in lieu of and under threat of condemnation), each Owner shall be entitled to notice thereof. A decision by the Board to convey a part of the Common Area under threat of condemnation shall be binding on the Association so long as it is made in good faith. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which recreational improvements (such as swimming pools, tennis courts or similar structures) have been constructed, then, unless within sixty (60) days after such taking, both Declarant (if during the Declarant Control Period), and either (i) Owners representing at least seventy-five (75%) percent of the total Class "A" votes of the Association, if General Common Area is taken, or (ii) Owners representing at least seventy-five (75%) percent of the Units located within the Neighborhood whose Exclusive Common Area is taken, if Exclusive Common Area, shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area (or the Exclusive Common Area of a Neighborhood, if Exclusive Common Area) to the extent lands are available therefore, in accordance with plans approved by the Board. Neither the Board nor Declarant shall have any obligation to obtain or dedicate any Common Area in order to accomplish such a repair or restoration if such land is not available at the time of the condemnation. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any recreational improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article VIII

Annexation or Withdrawal of Additional Property

Section 8.1 Annexation By Declarant. During the Declarant Control Period, Declarant, acting without the consent or approval of the Association or any other Owner, shall have the right to bring within the scheme of this Declaration additional land (an "annexation") within the area described on Exhibit C attached hereto, so long as the owner of such land (if not Declarant) consents to such action. Such annexation shall be accomplished by filing in the Official Public Records of Harris County, Texas, a Supplemental Declaration annexing such property in the form prescribed below. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Section 8.2 Annexation By Association. Subject to the consent of the owner thereof, the Association may annex real property into the Properties at any time upon the affirmative vote of both Declarant (if during the Declarant Control Period) and Unit Owners representing a majority of the Class "A" votes of the Association present at a meeting duly called for such purpose. Such annexation shall be accomplished by filing of record in the Official Public Records of Harris County, Texas, a Supplemental Declaration in the form described below, signed by the President and the Secretary of the Association, and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

Section 8.3 Form of Supplemental Declaration. Each Supplemental Declaration must state that land is being annexed, and must contain at least the following provisions: (i) a reference to this Declaration, which reference shall state the document number under which this Declaration is recorded in the Official Public Records of Harris County, Texas; (ii) statement that the provisions of this Declaration shall apply to the annexed land, except as expressly provided otherwise therein; (iii) a legal description of the annexed land; and (iv) if Declarant or the Association is not the owner of the land being annexed, the signatures of both such owner and Declarant, if during the Declarant Control Period or the Association, if after the Declarant Control Period. A Supplemental Declaration may, but need not, contain a description of any Common Area within the annexed land.

Section 8.4 Common Area. At any time and from time to time during the Declarant Control Period, Declarant may convey to the Association fee simple or easement interests in real property, improved or unimproved. Upon such conveyance to the Association, such real property interest shall be accepted by the Association as General or Exclusive Common Area (as Declarant may specify) and thereafter shall be maintained by the Association at its expense. If Declarant does not designate whether Common Area is General Common Area or Exclusive Common Area, it shall be deemed to be General Common Area.

Section 8.5 Withdrawal of Property. During the Declarant Control Period, Declarant shall have the right at any time to remove or withdraw lands then owned by Declarant (or other Persons with Declarant's consent) from the Properties. Upon any such withdrawal this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to the lands withdrawn. In order to withdraw lands from the Properties hereunder, Declarant shall be required only to record in the Official Public Records of Harris County, Texas, a notice of withdrawal of land which contains (i) a reference to this Declaration (including the document number under which this Declaration is recorded in the Official Public Records of Harris County, Texas); (ii) a statement that the provisions of this Declaration shall no longer apply to the withdrawn land; (iii) if Declarant is not the owner of the land so withdrawn, the signatures of both such owner and Declarant; and (iv) a legal description of the withdrawn land.

Article IX Rights and Obligations of the Association

Section 9.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standards.

Section 9.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within or benefiting the Properties conveyed to it by Declarant.

Section 9.3 Rules and Regulations. The Board is hereby specifically authorized to promulgate, supplement, modify, amend and/or delete such reasonable Rules and Regulations applicable to the operation, use and occupancy of the Properties, including all Units and any Common Area, as the Board may from time to time deem beneficial to the Properties. Such authority includes but is not limited to: (i) traffic and parking regulations and other traffic control procedures; (ii) procedures and reasonable restrictions and limitations on the right to use any Common Area; and (iii) all procedural and substantive aspects for the establishment, levy, collection and payment of fines for any violations of any Governing Documents. No limitation is imposed or implied by classification as Rules and Regulations or Architectural Guidelines, it being intended that howsoever designated either may cover the subject matter of the other. Rules and Regulations are of equal dignity with and may be enforceable in the same manner as the provisions of this Declaration; provided

(a) Rules and Regulations may not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity ceases after enactment of the Rules and Regulations covering same, then the Rules and Regulations will apply to the activity thereafter);

(b) Rules and Regulations may not be incompatible with the provisions of this Declaration or any Supplemental Declaration; and

(c) Rules and Regulations will not become effective until thirty days after notice thereof is given to all Owners or such later date as stated in the notice (certification by the Association that proper notice was given in accordance with this Section to be conclusive absent proof of fraud).

Section 9.4 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the other Governing Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege so given to it or reasonably necessary to effectuate any such right or privilege.

Section 9.5 Governmental Interests. During the Declarant Control Period, Declarant shall have the right to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water, and sewer facilities, public schools and parks, and other public facilities.

Section 9.6 Powers of the Association with Respect to Neighborhoods. The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standards. The Association shall also have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Properties. Without limiting the generality of the foregoing, the Association may require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association, may require that a proposed budget include certain items and that expenditures be made therefore, and may veto or cancel any contract providing for maintenance, repair, or replacement of the property governed by such Neighborhood Association.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Association shall be taken within the time frame set by the Association in such written notice, which time frame shall be reasonable. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association. To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Units in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such

action in the manner provided in Section 10.4. Such assessments may be collected as a Special Assessment hereunder and shall be subject to all lien rights provided for herein.

Section 9.7 Enforcement.

9.7.1 General. Declarant, the Association, and their successors and assigns, and any Owner, have the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in this Declaration and in all other Governing Documents, and in order to prevent a breach thereof or to enforce the observance or performance thereof have the right, in addition to all legal remedies, and all other rights and remedies set forth in this Declaration, to an injunction either prohibitive or mandatory.

9.7.2 Right to Inspect and Cure Defaults. The provisions of Section 4.2.8 apply to any breach of this Declaration and any other applicable Governing Documents. In addition and without prior notice, the Association may photograph any violation or suspected violation at any time and otherwise obtain evidence to confirm the existence or non-existence of any suspected violation in any reasonable manner without liability in trespass or otherwise.

9.7.3 No Estoppel, Waiver or Liability. Failure of Declarant, the Association or any Owner to enforce any of the provisions of this Declaration or any other Governing Documents will in no event be deemed a waiver of the right to do so thereafter (including without limitation as to the same or similar violation whether occurring prior or subsequent thereto). No liability may attach to Declarant, the Association, or their respective Related Parties or committee members, for failure to enforce any provisions of this Declaration or any other Governing Documents.

9.7.4 Cumulative Rights and Remedies. Each right and remedy set forth in this Declaration and each other Governing Document is separate, distinct and non-exclusive, and all are cumulative. The pursuit of any right or remedy so provided or as provided by law, or the failure to exercise a particular right or remedy, will not be construed as a waiver of such right or remedy or any other right or remedy. Without limitation of the foregoing, the provisions of this Section are declared specifically to be cumulative of the provisions of Section 4.2 of this Declaration as hereinabove set forth and Article III, Section 22 of the By-Laws.

9.7.5 Liability for Conduct of Related Parties. Each Owner and any tenant of an Owner must ensure that their respective Related Parties strictly comply with all applicable provisions of this Declaration and all other Governing Documents. Each Owner is liable for all consequences of any such violation by the Owner's Related Parties, and each Owner and the Owner's tenant are jointly and severally liable for all consequences of any such violation by such tenant's Related Parties. To the same extent as aforesaid each Owner and each tenant must indemnify and hold harmless Declarant, the Association and their respective Related Parties from any and all claims, liabilities, damages, loss, costs, expenses, suits and judgments of whatsoever kind, including reasonable attorney's fees whether incurred prior to, during or after proceedings in a court of competent jurisdiction, resulting, directly or indirectly, from any such violation.

9.7.6 Obligation for Payment of Costs and Expenses Resulting from Violations.

Each Owner and tenant of an Owner found to have committed, or who is responsible for, a violation or violations of any of the provisions of this Declaration or any other Governing Documents is jointly and severally liable for payment to the Association for, and to indemnify and to hold and save harmless the Association and its Related Parties from, any and all claims, liabilities, damages, loss, costs, expenses, suits and judgments of whatsoever kind, including reasonable attorney's fees whether incurred prior to, during or after proceedings in a court of competent jurisdiction, incurred or attributable to any such violation(s), and must pay over to the Association all sums of money which the Association or its representatives may pay or become liable to pay as a consequence, directly or indirectly, of such violation(s). All such sums are secured by the continuing assessment lien established by this Declaration. All such sums are due and payable upon demand by the Association or its representative without the necessity of any other or further notice of any act, fact or information concerning the Association's rights or such Owner's or their tenant's liabilities under this Section; provided, in the case of indemnification the demand shall contain a statement setting forth the Association's payment or liability to pay the claim with sufficient detail to identify the basis for the payment or liability to pay.

9.7.7 Notice and Opportunity to be Heard. Substantial compliance with the procedures set forth in Article III, Section 22(a), (b) and (c) of the By-Laws is sufficient whenever this Declaration or other Governing Documents require notice and opportunity to be heard regarding any alleged violation of the Governing Documents. The right of appeal to the Board as provided in Article III, Section 22(c) includes appeal from the decisions of any Association committee except the NCC.

9.7.8 Filing of Notices of Non-Compliance. At any time the Board determines in good faith there probably exists any noncompliance with any provisions of this Declaration or any other Governing Documents, the Board may at its option direct that a notice of noncompliance be filed in the Official Public Records of Harris County, Texas covering the affected Unit or Units and the Owner(s) thereof at the sole cost and expense of such Owner(s). All such costs and expenses are due and payable upon demand, and are secured by the Association's continuing assessment lien.

Article X
Assessments

Section 10.1 Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board, to be commenced at the time and in the manner set forth in Section 10.7. There shall be three (3) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Units within a particular Neighborhood or Neighborhoods; and (c) Special Assessments as described in Section 10.4. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

Base Assessments shall be levied on each Unit, as provided in Section 10.2 below. Neighborhood Assessments shall be levied equally against all Units in the Neighborhood benefiting from the services supported thereby. Special Assessments shall be levied as provided in Section 10.4 below.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Texas law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board shall require any unpaid installments of the annual assessment and/or any other assessments to be paid in full immediately, unless exceptional circumstances exist (as determined by the Board in its sole discretion).

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of any assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 10.2 Computation of Base Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared, as provided in Section 10.6 of this Article.

The Base Assessments to be levied against each Unit for the coming year shall be determined by multiplying the total budgeted Common Expenses, including reserves, by a fraction, the numerator of which is the number of Equivalent Units assigned to such Unit, as described below, and the denominator of which is the total number of Equivalent Units assigned to all Units subject to assessment under Section 7 of this Article.

Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments determined pursuant to the above formula by taking into account:

- (a) other sources of funds available to the Association; and
- (b) assessments to be levied upon additional Units reasonably anticipated to become subject to assessment during the fiscal year.

For purposes of this Declaration, the number of Equivalent Units allocated to each Unit shall be as follows:

<u>Use or Proposed Use of Property</u>	<u>Equivalent Units</u>
Single-Family (Detached or Attached) Dwellings	
Improved Unit	1.00
Unimproved Units and Units Which Have Never Been Occupied	.50

During the Declarant Control Period, Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above); provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made available to the membership. The payment of such subsidy in any year shall under no circumstances obligate Declarant to continue payment of such subsidy in future years.

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The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by both Members representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition as provided for special meetings in Article II, Section 4, of the By-Laws, which petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 10.3 Computation of Neighborhood Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration or the By-Laws specifically authorizes the Board to assess certain costs, such as the cost of maintaining Exclusive Common Areas or other Neighborhood property, as a Neighborhood Assessment. Any Neighborhood may require that additional services or a higher level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood benefited thereby and levied as a Neighborhood Assessment.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Unit in the Neighborhood for the coming year to be delivered to each Owner of a Unit in the Neighborhood at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by a majority of the Owners of Units in the Neighborhood which the Neighborhood Assessment applies; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten (10%) percent of the Units in such Neighborhood; and provided, further, the right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

In the event the proposed budget for any Neighborhood is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 10.4 Special Assessments.

10.4.1 Entire Membership. The Association may levy Special Assessments against all the Members as follows:

(a) for purposes of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with, or the cost of, any construction or replacement of, a specific capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto; provided, however, that without the vote of a majority of a quorum (as specified in the Bylaws) of the Class A Members, and, if during the Declarant Control Period, the written consent of Declarant, the Association shall not impose a Special Assessment for the purposes described in this Section 10.4.1 in an amount that in any one year exceeds ten percent (10%) of the estimated annual Common Expenses for that year; and

(b) for purposes of providing any necessary funds for restoration and repair of damaged or destroyed Common Area or Areas of Common Responsibility in accordance with the provisions hereof, unless the Owners elect not to repair same pursuant to Section 5.3.1 of this Declaration.

Special Assessments levied against all the Members shall be allocated to the Units in proportion to their Equivalent Units unless the Board determines that another method is more equitable. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

10.4.2 Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member's Unit to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of this Declaration and the other Governing Documents, which Special Assessment may be levied upon the vote of the Board after compliance with Section 9.7. The Association may also levy a Special Assessment equally against the Units in any Neighborhood either (i) to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of this Declaration and the other Governing Documents, (ii) as, and to the extent, provided in a Supplementary Declaration, or (iii) if the Association, in its reasonable judgment, determines that a Neighborhood benefits in a substantial way from a particular feature, characteristic or service and other Lots outside the Neighborhood do not benefit or do not benefit as much from the feature, characteristic or service, to pay for the incremental cost incurred in connection with the feature, characteristic or service.

Special Assessments as aforesaid shall also include, without limitation of the foregoing:

(a) reasonable charges for:

- i. providing a statement of assessments or indebtedness, including resale certificates;
 - ii. transfer fees to reflect changes of ownership, tenancy or occupancy on the records of the Association; and
 - iii. processing of applications for architectural approval;
- (b) admission or usage fees applicable to any Common Area as from time to time established by applicable Rules and Regulations;
- (c) fines as from time to time established by applicable Rules and Regulations for any violation of this Declaration or other Governing Documents; and
- (d) all other monetary obligations established by or pursuant to this Declaration or other Governing Documents which are intended to apply to one or several Units but not to all Units, including all Compliance Assessments.

10.4.3 Managing Agent. The Board may from time to time contract with managing agents to provide any of the services and/or to perform any of the functions enumerated under this Section 10.4.2(a), and in connection therewith may, by contract or resolution, assign to such managing agent the right to set the amounts of and to receive payments of the applicable charges. The right and authority of any managing agent to set the amounts and receive payment as aforesaid is deemed to be assigned by virtue of contracting with a managing agent to provide the associated functions and services for so long as the applicable contract remains in effect unless the applicable contract expressly provides otherwise. A managing agent must give written notice to the Board as to the initial establishment of, and as to any subsequent increase in the amount of, charges under, Section 10.4.2(a). Subject to the aforesaid notice requirement as to a managing agent and as required regarding Rules and Regulations, the Board or its managing agent, as applicable, may adopt, amend, revise and repeal any such charges from time to time without notice.

10.4.4 Payment; Waiver. Special Assessments as authorized by Section 10.4.2 are due and payable immediately upon the occurrence of the event giving rise to liability for payment of same. Failure of the Association (or managing agent as applicable) to impose or collect any Special Assessment is not grounds for any action against the Association, any managing agent, or their respective directors, officers, agents or employees, and does not constitute a waiver of the right to exercise authority to collect any Special Assessments in the future. For good cause shown as determined in the sole opinion of the Board, the Board may waive, wholly or partially, imposition of any special Assessment authorized by Section 10.4.2, provided, any such waiver must be conditioned upon payment in full of all remaining monetary obligations or receipt of written commitment that same will be paid within a specified period of time.

Section 10.5 Lien for Assessments. All assessments provided for herein which are not paid when due, together with late fees, interest and collection costs and expenses as herein provided, shall be secured by a continuing lien and charge in favor of the Association on the Unit subject to such assessment, which shall bind such Unit and the Owner thereof and such Owner's heirs, devisees, personal representatives, successors or assigns. The obligation to pay assessments hereunder is part of the purchase price of each Unit when sold to an Owner, and an express vendor's lien is hereby retained to secure the payment thereof and is hereby transferred and assigned to the Association. Additionally, a lien with a power of sale is hereby granted and conveyed to the Association to secure the payment of such assessments. Except as expressly stated in this Declaration, such liens shall be superior to all other liens and charges against such Unit. To evidence any assessment lien hereunder, the Association may prepare a written Notice of Assessment Lien setting forth the amount of the unpaid assessments, the name of the Owner of the Unit subject to such assessments and a description of such Unit, which shall be signed by an officer of the Association and may be recorded in the Official Public Records of Harris County, Texas. Any assessment lien hereunder shall attach with the priority set forth herein from the date payment is due.

Each Owner, by acceptance of a deed to his Unit, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Unit and hereby vests in the Board the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid assessments and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, both judicially and by non-judicial foreclosure pursuant to Texas Property Code § 51.002 (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Unit, expressly GRANTS, BARGAINS, SELLS AND CONVEYS to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Unit, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid assessment, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and attested to by the Secretary of the Association and filed in the Official Public Records of Harris County, Texas. In the event of the election by the Board to foreclose the liens herein provided for nonpayment of sums secured to be paid by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such Unit, and all rights appurtenant thereto, at the door of the County Courthouse of Harris County, Texas, on the first Tuesday in any month between the hours of 10:00 a.m. and 4:00 p.m. to the highest bidder for cash at public vendue after the trustee and the Board, respectively, shall have given notice of the proposed sale in the manner hereinafter set forth and to make due conveyance to purchaser or purchasers, with general warranty of title to such purchaser or purchasers binding upon the Owner or Owners of such Unit and his heirs, executors, administrators and successors. The trustee shall give notice of such proposed sale by posting a written notice of time, place and terms of the sale in accordance with the provisions of Texas Property Code § 51.002 (as amended from time to time), and, by serving written notice on each Owner or Owners of such Unit in accordance with the provisions of Texas Property Code § 51.002

(as amended from time to time) at the address reflected in the records of the Association. Service of such notice shall be completed upon deposit of the notice, enclosed in a postpaid wrapper, properly addressed to such Owner or Owners at the most recent address as shown by the records of the Association, in a post office or official depository under the care and custody of the United States Postal Service. The affidavit of any person having knowledge of the facts to the effect that such service was completed shall be prima facie evidence of the fact of such service.

At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorneys' fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure, the occupants of such Unit shall be required to pay a reasonable rent for the use of such Unit and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Unit by forcible detainer without further notice.

This Section is intended to comply with the provisions of Texas Property Code § 51.002, relating to non-judicial sales by power of sale and, in the event of the amendment of said § 51.002 hereafter, which amendment is applicable hereto, the President of the Association, acting without joinder of any other Owner or Mortgagee or other person may, by amendment to this Declaration filed in the Official Public Records of Harris County, Texas, amend the provisions hereof so as to comply with said amendments to § 51.002.

During any period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 10.6 Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article.

Section 10.7 Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to each Unit on the first day of the month following the annexation of the Unit into the Properties. Assessments shall be due and payable in a manner and on a schedule as the Board may provide. The first annual Base Assessment levied on

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a Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Section 10.8 Subordination of the Lien. The lien of assessments, including interest, late charges (subject to the limitations of Texas law), and costs (including attorney's fees) provided for herein, shall be subordinate to tax liens and to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer unless the Owner against whom the original assessment was made is the purchaser at the foreclosure sale (in which event such lien shall remain in full force and effect). No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

Section 10.9 Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets, and public parks, if any.

Article XI

Architectural Standards and Review Committees

Section 11.1 New Construction Committee.

11.1.1 Organization. There is hereby established a New Construction Committee (herein sometimes referred to as the "NCC"). The NCC shall be composed of three persons who will be appointed by Declarant. Members of the NCC need not be Members of the Association. The NCC may from time to time designate any one of its members to act in its stead. The NCC will continue in existence throughout the Declarant Control Period, or until Declarant files a declaration of termination of the NCC as to some or all of the Properties in the Official Public Records of Harris County, Texas, whichever first occurs. Upon termination of the NCC all of its jurisdiction and authority will automatically transfer to and vest in the Modifications Committee.

11.1.2 Jurisdiction. The New Construction Committee has exclusive jurisdiction regarding: (a) all initial development and original construction on any portion of the Properties,

including initial construction of a residence and related improvements upon each Unit; and (b) promulgation of all Architectural Guidelines pertaining to initial development and original construction.

Section 11.2 Modifications Committee.

11.2.1 Organization. There is hereby established a Modifications Committee (herein sometimes referred to as the "MC"). The MC shall be a committee appointed by the Board in accordance with Section 11.2.3 of this Article, and formed and designated as the MC by resolution adopted by the Board. The Board shall serve as the MC unless a committee as aforesaid is appointed. The MC may from time to time designate any one of its members to act in its stead.

11.2.2 Jurisdiction. The Modifications Committee has exclusive jurisdiction regarding implementation of all provisions of this Article XI except as to jurisdiction specifically reserved to the NCC as provided in Section 11.1.

11.2.3 MC Committee. If a committee is appointed by the Board to act as the MC, then the provisions of this Section shall apply. Such committee must be composed of three or five persons appointed by the Board. After the Declarant Control Period a majority of such persons must be Owners. All such persons serve at the discretion of the Board. All decisions of the committee are subject to review and modification by the Board except as herein otherwise expressly provided, including specifically the right of any Owner to appeal any decision of the committee to the Board as provided in Article III, Section 22(c) of the By-Laws. In the event of the death or resignation of any person serving on the MC committee, the Board shall designate a successor or successors who will have all of the authority and power of his or their predecessor(s). Until such successor has been appointed, the remaining member or members have full authority to exercise all rights, duties and powers of the MC committee. Any such committee shall keep the Board informed as to its activities on a continuing basis, and shall submit a written report to the Board regarding same semi-annually or as otherwise required by the Board.

Section 11.3 Compensation. No person serving on the NCC or MC is entitled to compensation for services performed; provided, the NCC or MC may employ one or more architects, engineers, attorneys or other consultants to assist the NCC or MC in carrying out its duties, and the Association shall pay such consultants for services rendered. Members of the NCC or MC may also be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board.

Section 11.4 Submission of Plans Required. No Regulated Modification may be commenced, constructed, erected, placed, maintained or made upon any Unit or within or upon any part of the Properties unless and until complete plans and specifications have been submitted to and approved in writing by the NCC or MC, as applicable, as to compliance with applicable Architectural Review Criteria as set forth in Section 11.8. Two complete sets of plans and specifications must be submitted with each request for approval. In addition to any other applicable

requirements per applicable Architectural Guidelines, any plans and specifications to be submitted must specify, in such detail and form as the NCC or MC may reasonably require:

- (a) the location upon the Unit or within the Properties where the Regulated Modification will occur or be placed;
- (b) the dimensions, nature, kind, shape, height, and color scheme of, and all materials to be used in connection with, the Regulated Modification;
- (c) appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details;
- (d) intended uses; and
- (e) such other information, plans or specifications as may be requested or required by the NCC or MC which in the sole opinion of the NCC or MC is reasonably necessary to fairly and fully evaluate all aspects of the proposed Regulated Modification.

Section 11.5 Architectural Guidelines. The NCC, or the Board or the MC subject to Board approval, as applicable, may, from time to time, effective immediately, adopt, modify, amend and repeal such reasonable architectural guidelines applicable to the Properties, including Units and any Common Area, as it deems appropriate to maintain or reasonably enhance Community-Wide Standards at the time of adoption. Such authority includes, but is not limited to, the right to specify:

- (a) specific procedural guidelines for submission of requests for, and plans, specifications and other information and documentation necessary to obtain, NCC or MC approval, and procedural requirements for the conducting of all activities necessary to accomplish same;
- (b) the amount and manner of payment of any fees or charges reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advice or consultation, and all other costs and expenses in connection with review and evaluation of an application (such costs and expenses herein referred to as the "Architectural Review Fee");
- (c) specific types of Regulated Modifications which may be commenced, constructed, erected or maintained upon any Unit or anywhere within the Properties;
- (d) a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of Regulated Modifications;
- (e) minimum setbacks;

(f) the location, height, and extent of fences, walls or other screening devices, walks, decks, patios or courtyards;

(g) the orientation of structures and landscaping with respect to streets, walks, driveways and structures on adjacent properties; and

(h) in general, all requirements reasonably deemed necessary to maximize compliance with Architectural Review Criteria as set forth in Section 11.8.

WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE ARCHITECTURAL GUIDELINES MAY PROVIDE FOR A FINE OF UP TO \$10,000/00 AGAINST ANY OWNER AND UNIT SUBJECT TO THIS DECLARATION FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE NCC OR THE MC OR FOR FAILURE TO COMPLY WITH ANY APPROVAL OF THE NCC OR MC, OR MAY REQUIRE A SECURITY DEPOSIT TO ASSURE COMPLIANCE WITH APPLICABLE REQUIREMENTS.

Section 11.6 Manner and Effect of Adoption of Architectural Guidelines. Architectural Guidelines shall be made available to Owners, builders, and developers upon request. Architectural Guidelines may also be (but are not required to be) filed in the Official Public Records of Harris County, Texas. Architectural Guidelines are of equal dignity with, and shall be enforceable in the same manner as, other provisions of this Declaration, provided: (a) such Architectural Guidelines shall not be deemed a waiver, modification, or repeal of any of the provisions of this Declaration; (b) such Architectural Guidelines shall not be enacted retroactively except that all repairs, modifications or maintenance performed subsequent to adoption shall be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with all then applicable Architectural Guidelines; and (c) such Architectural Guidelines shall not conflict with this Declaration.

Section 11.7 Variances. The NCC or MC or Board may grant specific variances to Architectural Guidelines and to any architectural or use restrictions set forth in this Declaration upon specific findings of compliance with the grounds for granting of a variance as set forth hereafter. A variance may be granted only in writing and only with respect to specific instances upon written request therefore, is not binding with respect to any other request for a variance whether or not similar in nature, and does not constitute a waiver, modification or repeal of any of the provisions of this Declaration or other Governing Documents except for the limited purpose of and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings that the variance is necessary due to unusual circumstances which are reasonably beyond the control of the applicant to mitigate or rectify, and that the granting of a specific variance will not materially and adversely affect the architectural, aesthetic or environmental integrity of the Properties or the scheme of development therein. The good faith determination of the NCC or MC or Board that the conditions for granting of a variance have been met are final.

Section 11.8 Architectural Review Criteria. The NCC or MC will evaluate all submitted applications for approval on the individual merits of the particular application, and based on evaluation of the compatibility of the proposed Regulated Modification with Community-Wide Standards as of the date of submission of an application and compliance with applicable Governing Documents, including this Declaration and applicable Architectural Guidelines and other Rules and Regulations. The NCC or MC must also use reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated Modifications. To this end, consideration will be given to (but the NCC or MC is not bound by) similar applications for architectural approval and the decisions and actions of the NCC or MC with regard thereto.

Section 11.9 Disapproval by NCC or MC. It is understood and agreed by each Person having or acquiring an interest in the Properties that the NCC or MC will include aesthetic judgment in its decision making process, and approval of submitted plans will not be required simply because the plans satisfy stated objective requirements. The NCC or MC may disapprove any request for approval for any reasons, including the following: (i) failure to comply with any applicable Architectural Review Criteria as set forth in Section 11.8; (ii) lack of sufficient information, plans or specifications as reasonably determined by the NCC or MC to enable the NCC or MC to fairly and fully evaluate the proposed Regulated Modification or the uses thereof; or (iii) failure to include any information, plans or specifications required by applicable Governing Documents, or as may be reasonably requested by the NCC or MC. In the event of disapproval, the NCC or MC shall so notify the applicant in writing; and if disapproval is based on lack of sufficient information, plans or specifications, then the NCC or MC shall also notify applicant of the additional information, plans or specifications required.

Section 11.10 Approval and Conditional Approval by NCC or MC.

11.10.1 Manner. The NCC or MC may fully approve any request for approval or approve any such request subject to compliance with conditions stated in a conditional approval. Conditions for approval may include, without limitation, requirements for modifications to plans and specifications such as upgrading or other changes as to materials or changes as to color or design or location, or requirements for addition of other improvements such as sight barrier landscaping or other devices to screen a proposed Regulated Modification from Public View. A conditional approval is effective only upon full compliance with the stated condition(s). The NCC or MC shall notify the applicant in writing of such approval (together with any qualifications or conditions of approval).

11.10.2 Effect. Except for fraud, misrepresentation, accident or mistake, approval or conditional approval is final as to each Regulated Modification covered thereby, and may not be revoked or rescinded once given except as stated in Section 11.10.1 regarding conditional approvals. Except as to compliance with this Article XI, approval or conditional approval does not constitute a waiver, modification or repeal of any covenant or restriction contained in this Declaration or other Governing Documents, or preclude by estoppel or otherwise full enforcement of all provisions hereof. Approval or conditional approval may not be deemed a waiver of the right of the NCC or

MC to subsequently disapprove similar requests for approval, or any of the features or elements included therein.

Section 11.11 Submission and Response; Failure of NCC or MC to Act.

11.11.1 Submission and Response. Applications for NCC or MC approval and requests for variances are deemed submitted to the NCC or MC only upon actual receipt. All responses by the NCC or MC shall be in writing, and are deemed given when delivered to, or when deposited in the United States mail, postage prepaid and addressed to, the applicant at the address specified in the application or request for variance or the last known address of the applicant according to the records of the Association. The NCC or MC has no duty to respond to, and the provisions of this Section do not apply regarding, any application or request for variance if the Person(s) identified in the application do not appear as Members or Owners according to the books and records of the Association unless and until receipt of such confirmation of ownership as is satisfactory in the sole opinion of the NCC or MC. Lessees shall file applications or requests for variance in the name of their lessors, and shall also join therein. Where more than one Owner applies for approval or a variance, the delivery or mailing of a response to any one of the Owners as aforesaid constitutes notice to all such Owners.

11.11.2 Failure to Respond. In the event the NCC or MC fails to approve, conditionally approve or disapprove a request for approval or to request additional information and/or documentation reasonably required within sixty days after receipt of the request for approval, then the request for approval shall be deemed denied. In the event the NCC or MC or Board fails to approve, conditionally approve or deny a request for a variance or to request additional information and/or documentation reasonably required within sixty days after receipt of the request for a variance, then the request for a variance shall be deemed denied.

Section 11.12. Implied Conditions of Approval.

11.12.1 Applicability. Unless expressly waived or modified by the NCC or MC in writing, each and every approval or conditional approval of a Regulated Modification is subject to all provisions of this Section whether or not stated in the approval or conditional approval.

11.12.2 Commencement and Completion of Work. Work on each Regulated Modification must commence within one year after MC approval or conditional approval is given, or new approval must be obtained. Upon commencement, the work must be prosecuted diligently to obtain completion of all work as reasonably soon thereafter as possible. Once original construction of a residence and related improvements has commenced, the work thereon must proceed diligently to the end that same will not remain in a partially finished condition any longer than is reasonably necessary for completion, and the NCC is fully authorized to set specific schedules for completion on a case by case basis and/or pursuant to applicable Architectural Guidelines.

11.12.3 New Construction Materials Required. Only new construction materials may be used in construction of any Regular Modification except as otherwise approved by the NCC or MC (such as the use of used brick).

11.12.4 Compliance With Plans. All work on a Regulated Modification must proceed in strict compliance with the application and plans and specifications approved by the NCC or MC, all conditions stated by the NCC or MC, if any, and all applicable Governing Documents and governmental rules, regulations and ordinances.

11.12.5 Permit Requirements. Applicant is solely responsible for full compliance with all permitting requirements of all governmental agencies having jurisdiction, and shall apply for and diligently pursue obtaining of all required permits promptly after approval or conditional approval is received. Without limitation of the foregoing, the NCC or MC may deny approval pending, or conditional approval upon, prior compliance with applicable permitting requirements or upon receipt of certification satisfactory to the NCC or MC that no such permitting requirements exist.

11.12.6 Compliance With Laws and Governing Documents. Each applicant is solely responsible for insuring that, and nothing in the Governing Documents or any written decision of the NCC or MC shall be construed as a covenant, representation, guaranty or warranty that, any proposed Regulated Modification will be in compliance with applicable governmental laws, ordinances or regulations (including building codes or permit or licensing requirements), or with applicable requirements of the Governing Documents except as provided in Section 11.10.2.

Section 11.13. Inspection Rights. Upon reasonable notice (oral or written), any member of the NCC, MC or the Board, or their designated representatives, may enter a Unit without liability for trespass or otherwise for purposes of inspecting work in progress and/or as to completion of any Regulated Modification in compliance with the approved plans, specifications, information and documentation for same, and as to compliance with any applicable provisions of the Governing Documents.

Section 11.14. Records. Neither the NCC nor the MC are required to maintain records of any of their meetings. The NCC and MC must keep and maintain records evidencing their respective final decision(s) regarding all requests for approval and requests for variance for not less than four years. The NCC and MC must also maintain a record of all current Architectural Guidelines, and must provide copies to Owners upon request.

Section 11.15. Limitation of Liability. Neither Declarant, the Association, the NCC nor the MC, nor their respective Related Parties, are liable to any Owner, the Owner's tenants, the Related Parties of either, or to any other Person for any actions or failure to act or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of an application or related plans or specifications and no

publication of Architectural Guidelines may ever be construed as representing or implying that, or as a covenant, representation, warranty or guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements, or as to any matters relating to the health, safety, workmanship, quality or suitability for any purpose of the Regulated Modification. The provisions hereof are cumulative of the provisions of Section 13.16.

Section 11.16. Limitation of Applicability; Amendment. Except as provided in Section 11.15, none of the provisions of this Article XI apply to any activities of Declarant or the Association.

Article XII Architectural and Use Restrictions

Section 12.1 Signs.

12.1.1 General. No signs, billboards, posters, banners, pennants or advertising devices of any kind, including without limitation business, professional, promotional or institutional signs, are permitted on any Unit, or upon any residence thereon, or within any residence if in Public View, or within or upon any portion of the Properties without the prior written consent of the MC except as otherwise provided in this Section. The Board or MC may remove or cause to be removed any sign, billboard, poster, banner, pennant or advertising device of any kind which is not approved as aforesaid or is otherwise prohibited under this Declaration or other Governing Documents and may dispose of same as debris without liability for trespass or otherwise.

12.1.2 Prohibited Signs. No sign is permitted which is vulgar, obscene or otherwise patently offensive to persons of ordinary sensibilities. Permitted signs must be professionally printed and prepared, and must be properly installed and maintained, to avoid unsightly appearance. The good faith determination of the Board or MC as to any of the foregoing is final. No sign is permitted to be larger than four square feet. No sign may be illuminated. No sign may be placed on any Unit closer than ten feet from any street or any side or back lot line, or within any traffic sight line area as defined in Section 12.16. No Owner (or their tenants, guests or invitees) is permitted to place any sign on another Owner's Unit or upon any Common Area. Distressed, foreclosures and bankruptcy references are specifically prohibited.

12.1.3 Permitted Signs. To the extent required by law or in any event upon prior approval of the MC, but subject to applicable provisions of Section 12.1.2 above, each Owner is permitted to place upon (and only upon) such Owner's Unit (i) one sign advertising the particular Unit on which the sign is located for sale or for rent, (ii) "political signs" whereby such Owner is promoting a political candidate, party or issue, (iii) "school" signs at the discretion of the Board and (iv) security monitoring signs. The MC may reasonably regulate the period(s) of time political signs may be permitted, and the number of permitted political signs and in relationship thereto their size and location. The NCC or MC may (but are not obligated to) allow builders within the Properties

to construct and maintain such signs, billboards, banners, pennants, and advertising devices as are customary in connection with the sale of newly constructed residential dwellings.

Section 12.2 Parking, Garages and Prohibited Vehicles.

(a) Parking. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the NCC, nor may any portion of a garage be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. In particular, but not in limitation of the foregoing, no portion of any garage may be used as a residence or as living quarters. Notwithstanding the foregoing, however, a builder may temporarily convert a garage into a sales or construction office, provided that it is converted back to a garage within thirty (30) days after cessation of construction and sale of new homes within the Properties by such builder.

(b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors (except those of a size to be parked in a home's garage), vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the Neighborhood Association, if any, having jurisdiction over parking areas within a particular Neighborhood. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages. Notwithstanding the foregoing, vehicles that become inoperable while on the Properties must be removed within seventy-two (72) hours thereof. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 22 of the By-Laws.

Section 12.3 Occupants Bound. All provisions of this Declaration or any other Governing Documents which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Related Parties of any Owner. Each Owner shall comply, and shall cause all of such Owner's Related Parties to comply, with this Declaration and the other Governing Documents, and shall be responsible for all violations thereof and/or all damage or loss to the Association caused by such occupants, notwithstanding the fact that such Related Parties are fully liable and may be sanctioned for any violation of this Declaration or the other Governing Documents. Any failure in compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the

Association may avail itself of any and all remedies provided in this Declaration or the other Governing Documents.

Section 12.4 Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in a Unit. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Units or the owner of any portion of the Properties shall be removed upon request of the Board; if the owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Unit be confined on a leash held by a responsible person.

Section 12.5 Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might unreasonably disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. Noise typically associated with ball fields and recreational centers, normal amounts of dogs barking and children playing is not prohibited.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Unit. The use and discharge of firecrackers and other fireworks is prohibited within the Properties.

Section 12.6 Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Section 12.7 Antenna and Satellite Dish Systems. No exterior antennae, aerials, satellite dish receivers or other devices designed to transmit or receive television, radio, satellite or other signals of any kind shall be placed, allowed or maintained upon a Visible Location *unless* a Visible Location is the only location on a Unit where signals may be received or transmitted without substantial interference with reception. If a Visible Location is the only location on a Unit where signals may be received or transmitted without substantial interference with reception, such a device may be placed in a Visible Location approved by the MC, which approval shall not be unreasonably withheld. The MC may require screening of any device placed in a Visible Location, unless such screening (i) unreasonably delays installation or unreasonably increases the cost of installation, maintenance or use of the antenna, or (ii) precludes reception of an acceptable quality signal. To the extent permitted by the Telecommunications Act of 1996, as amended from time to time (the "Telecommunications Act"), without MC approval: (a) no direct broadcast satellite dish or multipoint distribution service antenna larger than one (1) meter in diameter will be allowed on a Lot, (b) no television broadcast antenna mast may extend above the height of the center ridge of the roof of the residence on the Lot, and (c) no multipoint distribution service antenna mast may exceed the height of twelve feet (12') above the center ridge of the roof. This Section 12.7 shall be interpreted to be as restrictive as possible, while at all times complying with the provisions of the Telecommunications Act. Terms used in this Article XII, Section 7, shall be deemed to have the meanings set forth in the Over-The-Air Reception Devices Rule ("OTARD") promulgated under the Telecommunications Act or other rules and regulations promulgated pursuant thereto, and where OTARD, the Telecommunications Act, or any other rule or regulation promulgated thereunder requires the MC to act reasonably, or respond promptly, such obligation shall be deemed a part of the MC's obligations under this provision. In the event of an amendment to the Telecommunications Act which conflicts with this provision, the conflicting provision herein automatically shall be deemed deleted, and Declarant, without the joinder of any other Owner(s), may amend this provision so as to comply with the amended Telecommunications Act.

Section 12.8 Clotheslines, Garbage Cans, Tanks, Etc. No clotheslines shall be erected or installed in a Visible Location and no clothing, linens or other material shall be aired or dried in a Visible Location. All garbage cans, above-ground storage tanks, mechanical equipment, woodpiles, yard equipment and other similar items on Units shall be located or screened so as to be concealed from Public View. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

Section 12.9 Subdivision of Unit and Time Sharing. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant without Board approval. No division, boundary line change, or replatting shall violate applicable subdivision or zoning regulations. No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years, except that Declarant hereby

reserves the right for Declarant and its assigns to operate such a program with respect to Units which it owns.

Section 12.10 Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

Section 12.11 Pools. No above-ground swimming pools shall be erected, constructed or installed on any Unit.

Section 12.12 Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties, except that the Association shall have the right to draw water from such sources for the purpose of irrigating the Common Areas. All sprinkler and irrigation systems serving Units shall draw upon public water supplies only and shall be subject to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Properties. This Section 12.12 shall not apply to Declarant or its activities upon the Properties.

Section 12.13 Tents, Mobile Homes and Temporary Structures. Except as may be permitted by Declarant or the NCC during initial construction within the Properties and except as set forth in Article XV, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Unit, provided it receives the prior approval of the NCC or MC, as appropriate, in accordance with Article XI hereof. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

Section 12.14 Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Septic tanks and drain fields, other than those installed by or with the consent of Declarant, are prohibited within the Properties. No Owner or its Related Parties shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, stream, pond or lake within the Properties.

Section 12.15 Tree Removal. No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees of such size and

number, and in such locations, as such committee may determine necessary in its sole discretion, to mitigate the damage.

Section 12.16 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 12.17 Air Conditioning Units. Any air conditioning unit installed in a Unit shall be located or screened so as not to be in Public View.

Section 12.18 Lighting. Except for traditional holiday decorative lights, which may be displayed for two (2) months prior to and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article XI of this Declaration.

Section 12.19 Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation or permanent flagpoles shall be permitted in a Visible Location on a Unit. No exterior sculpture, fountains, flags and temporary flagpoles (except on traditional flag flying holidays such as the 4th of July and Memorial Day), birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article XI of this Declaration.

Section 12.20 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Unit unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof. No windmills, wind generators or other apparatus for generating power from the wind shall be erected or installed on any Unit.

Section 12.21 Lakes, Ponds and Other Water Bodies. No use of the lakes, ponds, streams or other bodies of water within the Area of Common Responsibility, if any, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior approval of the Board; provided, if any such use is permitted, it shall be subject to Declarant's and the Association's superior use rights as provided below and to all rules and regulations that may be promulgated by the Board. No internal combustion engines shall be operated on any lakes, ponds, or streams within the Area of Common Responsibility except by the Association and Declarant (during the Declarant Control Period), for purposes of maintenance and irrigation. Notwithstanding the above, model boats with internal combustion engines may be operated during special events with prior approval of the Board. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by Declarant or the Association. Notwithstanding the foregoing, the Association and Declarant (during the Declarant Control Period)

may use and regulate the use of any lakes, ponds, streams or other bodies of water for the irrigation of the Common Areas or for any other purpose deemed appropriate by the Board or Declarant, subject to the terms of any easement agreement(s) affecting such use. Declarant's rights under this Section 21 shall be superior to the rights of the Association.

Section 12.22 Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Unit without prior written approval of the MC in accordance with Article XI hereof. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 12.23 Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit except as approved in accordance with Article XI of this Declaration.

Section 12.24 Use.

12.24.1 General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for Declarant or the Association). Any Supplemental Declaration or additional covenants imposed on property within any Neighborhood may impose stricter standards than those contained in this Article. The Association, acting through its Board, shall have standing and the power to enforce such standards. Except for uses by Declarant or the Association, as described in the preceding sentences, each and every Unit is hereby restricted to single family residential use only, and occupancy of each residence located upon a Unit is restricted to one single family.

12.24.2 No Business, Professional, Commercial or Manufacturing Use. No business, professional, commercial or manufacturing use may be made of any Unit or any improvement located thereon, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the Unit as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, an Owner or Owner's Related Parties residing in a Unit may conduct business activities within the Unit so long as:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit;
- (b) the business activity conforms to all zoning requirements for the Properties;
- (c) the business activity does not involve persons coming onto the Properties or the Unit or door-to-door solicitation of residents of the Properties; and

(d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

12.24.3 Residential Use Only. Without limitation of the foregoing, as used herein the term "residential use" shall be construed to prohibit the use of any Unit or the residence thereon for operation of a boarding or rooming house or residence for transients, or the use of any garage or permitted outbuilding as an apartment or residential living quarters.

12.24.4 Single Family Defined. As used herein the term "single family" means either: (i) husband and wife, their dependent children and their dependent parents, grandparents, grandchildren, brothers and sisters who are maintaining a common household and who are members of a single family related by blood, marriage or adoption; or (ii) one or more natural persons not so related but who are maintaining a common household in a single family residence on a nonprofit, noncommercial basis with a common kitchen and dining area; and (iii) the bona fide domestic servants of either. "Dependent children" means the sons and daughters, by blood or adoption, of the husband and/or wife who do not maintain a separate residence. "Dependent parents, grandparents, grandchildren, brothers and sisters" means such relatives who do not maintain a separate residence and are not able to maintain a separate residence due to a physical or mental impairment that substantially limits their ability to maintain a separate residence; and, in addition in the case of grandchildren, where their parents are similarly impaired or are deceased.

12.24.5 Maximum Occupancy. In addition to the limitations above set forth, in no event may a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single family residence as originally constructed multiplied by two.

12.24.6 Additional Standards and Regulations. The Association, acting through the Board, shall have authority to make and to enforce additional Rules and Regulations governing the use of the Properties. Such Rules and Regulations shall be binding upon all Owners and their Related Parties until and unless overruled, canceled or modified in a regular or special meeting of the Association by the vote of both Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Section 12.25 On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 12.26 Golf Carts. No gasoline-powered golf carts shall be operated within the Properties. All golf carts shall be powered by electricity or by similar noncombustion means.

Section 12.27 Leasing of Units. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument. Units may be leased only in their entirety; no fraction or portion may be rented. All leases shall be in writing and shall be for an initial term of no less than thirty (30) days, except with the prior written consent of the Board. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of this Declaration and the other Governing Documents. The Board may adopt reasonable rules regulating leasing and subleasing.

Section 12.28 Laws and Ordinances. Every Owner and such Owner's Related Parties, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 12.29 Unoccupied Residences. The Owner of a Unit with an unoccupied residence, including any builder, mortgagee in possession and any mortgagee obtaining title to a Unit by foreclosure or by any deed or other arrangement in lieu of foreclosure, is liable for full observance and performance of all terms and conditions of this Declaration and all other Governing Documents, including in particular but without limitation: (i) proper maintenance of the Unit and all improvements thereon; (ii) securing of the unoccupied residence, including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use; and (iii) such other maintenance as required to avoid an appearance of abandonment or other unsightly or unkempt appearance.

Section 12.30 Water and Mineral Operations. No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Unit. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected and maintained or permitted on any Unit.

Section 12.31 Undeveloped Lots. The Owner of any Unit upon which a single family residence has not been constructed, including any builder, mortgagee in possession and any mortgagee obtaining title to a Unit by foreclosure or by any deed or other arrangement in lieu of foreclosure, must maintain such Unit in a neat, sanitary and attractive condition and in accordance with other applicable provisions of this Declaration and other Governing Documents, including without limitation, periodic and regular removal of trash and debris therefrom and mowing of grass and other vegetation thereon as necessary to prevent growth to more than eight inches (8") in height.

Section 12.32 Maintenance of Utilities Required. All utility services intended to be provided to each single family residence as originally constructed, including without limitation

water, sewage, electric and gas services, must be maintained by the Owner at all times when a residence is occupied.

Article XIII General Provisions

Section 13.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association, each Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 13.2 Amendment. During the Declarant Control Period, Declarant, acting alone, shall have the sole right to amend this Declaration. After the Declarant Control Period, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of Units representing seventy-five (75%) percent of the total votes in the Association. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Official Public Records of Harris County, Texas.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 13.3 Easements for Utilities, Drainage, Etc. There is hereby reserved unto Declarant, during the Declarant Control Period, the Association, and the designees of each (which may include, without limitation, Harris County, Texas, the City of Houston, and any water district, municipal utility district or other utility), blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems (including altering drainage and water flow), levees, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably

interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, and natural gas supplier, easements across all Units and the Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Board or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to Harris County, the City of Houston, Texas, or to any other local, state, or federal governmental entity.

Section 13.4 Easements for Lake Maintenance and Flood Water. Declarant reserves for the benefit of the Association and its successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the lakes, ponds and streams located within the Area of Common Responsibility (a) to install, keep, maintain and replace pumps therein or thereon in order to provide water therefrom for the irrigation of any of the Area of Common Responsibility, (b) to construct, maintain and repair any wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris therefrom and fulfill their maintenance responsibility as provided in this Declaration. The Association shall have an easement over and across any portion of the Properties abutting or containing any portion of any of the lakes, ponds or streams for the purpose of allowing the Association to exercise its rights and responsibilities as herein and otherwise set forth; provided, however, that the Association shall use reasonable care in the exercise of such easement and shall repair any damage caused in the exercise of such easement. There is further reserved herein and hereby, for the benefit of Declarant and the Association, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Units (but not the dwellings thereon) adjacent to or within one hundred (100) feet of lakes, ponds and streams within the Properties, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Properties; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the lakes, ponds and streams within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such lakes, ponds and streams; and (d) to enter upon and across such portions of the Properties for the purpose of exercising its or their rights under this Section.

Section 13.5 Easements to Serve Additional Property. Declarant and its duly authorized agents, representatives, and employees, as well as its successors, assigns, licensees and mortgagees,

shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of any land owned by Declarant within one (1) mile of the Properties (as same may change from time to time, the "Additional Property"), whether or not the Additional Property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on the Additional Property. Declarant agrees that if the easement is exercised for permanent access to the Additional Property and such Additional Property or any portion thereof is not made subject to this Declaration, Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving the Additional Property. Such agreement shall provide for sharing of costs based on the ratio which the number of residential dwellings on that portion of the Additional Property which is served by the easement and is not made subject to this Declaration bears to the total number of residential dwellings within the Properties and on such portion of the Additional Property.

Section 13.6 Perimeter Wall Easement. There is hereby created an affirmative easement in favor of Declarant, the Association, and their Related Parties, upon, over and across each Unit adjacent to the perimeters boundaries of the Properties (and each Lot adjacent to public right of way or the perimeter boundaries of any Neighborhood) for reasonable ingress, egress, installation, replacement, maintenance and repair of any perimeter wall that is located along a perimeter boundary of the Properties, a perimeter boundary of a Neighborhood, or a public right of way.

Section 13.7 Declarant Easement. There is hereby created a nonexclusive easement for ingress and egress over, for the right to go over, under and across, and for the right to enter and remain upon, all portions of the Properties, including but not limited to, Units (except the interior of an occupied dwelling unit) and Common Area (including, but not limited to any private streets and a right of access through any guard gates, key gates or other access control points) for the purpose of enabling Declarant, and Declarant's Related Parties and their respective invitees, licensees, contractors and guests to exercise Declarant's rights and obligations hereunder, and to engage in activities reasonably related to the development, management, administration, operation, maintenance, advertisement and sale or rental of the portions of the Properties and the Additional Property owned by Declarant. This easement shall be in favor of Declarant and its Related Parties and appurtenance to portions of the Properties and the Additional Property owned by Declarant. The rights of access established in this section shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Unit by its Owner or any Occupant. This easement shall continue until termination of the Declarant Control Period.

Section 13.8 Association Easement. There is hereby created a nonexclusive easement in favor of the Association for ingress and egress over all the Properties (except the interior of an occupied dwelling unit) for the purpose of enabling the Association and its contractors and Related Parties to implement the provisions of this Declaration. The rights of access established in this Section shall be exercised so as to reasonably minimize interference with the quiet enjoyment of a Lot by its Owner and any Occupant. Every Unit is also hereby subjected to a nonexclusive easement for overspray and runoff of water from any irrigation systems serving the Common Area or Areas

of Common Responsibility. Under no circumstance will the Association or any Related Part of the Association be responsible for any property damage or personal injury resulting from any overspray or from the operation of the irrigation systems serving the Common Area or Areas of Common Responsibility.

Section 13.9 Access Control. The Association, or its duly delegated representative, may operate an access control system for the Properties, any portion of the Properties, or any Neighborhood in the Property.

Section 13.10 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 13.11 Right of Entry. In addition to the rights set forth in Section 4.2.8, the Association shall have the right, but not the obligation, to enter into any Unit for emergency, security, and safety reasons, which right may be exercised by the Board, or the Association's officers, agents, employees, or managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Section 13.12 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 13.13 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Declarant (if during the Declarant Control Period) and a vote of seventy-five (75%) percent of the Class "A" Members. In the case of such a vote, and notwithstanding anything contained in this Declaration or the Association to the contrary, a Voting Representative shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of seventy-five (75%) percent of all Members of the Neighborhood represented by the Voting Representative. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

Section 13.14 Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any

Neighborhood shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

Section 13.15 Use of the Words "Eagle Springs". No Person shall use the term "Eagle Springs" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, any Owner may use the term "Eagle Springs" in printed or promotional matter where such term is used solely to specify that their particular property is located within Eagle Springs and the Association shall be entitled to use the term "Eagle Springs" in its name.

Section 13.16 Limitation of Liability; Indemnification.

13.16.1 In General. To the maximum extent permitted by Article 2.22A of the Texas Non-Profit Corporation Act (the "Act") (without regard, however, to Section Q of such Article), the Association shall indemnify the following Persons against all expenses and liabilities actually incurred by such Persons in connection with a proceeding (as defined in Article 2.22A), including but not limited to, attorneys' fees, witness fees (including expert witness fees), costs, and litigation related expenses, reasonably incurred or imposed upon them in connection with any proceeding to which they may be parties, or in which they may become involved, by reason of their being or having served in those capacities on behalf of the Association (or by reason of having appointed, removed or controlled or failed to control members of the Board, the NCC or the MC), or any settlement of any such proceeding: (i) every director and officer of the Association, (ii) every member of the NCC or MC, or other committees of the Association, (iii) Declarant and the Declarant Related Parties, and (iv) all employees of the Association. The Board further may elect to indemnify any agent of the Association. Any Person described in phrases (i), (ii), (iii) and (iv) of the first sentence of this Section shall be entitled to indemnification whether or not such Person is serving in the specified capacity at the time the expenses are incurred, and the Association shall pay or reimburse reasonable expenses incurred by any such Person who was, is or is threatened to be made a party in a proceeding, in advance of the final disposition of the proceeding, to the maximum extent permitted by Article 2.22A; provided, however, that payment or reimbursement of expenses pursuant to the procedures set out in Section K of Article 2.22A may be conditioned upon a showing, satisfactory to the Board in its sole discretion, of the financial ability of the Person in question to make the repayment referred to in such Section. This right of indemnification shall be in addition to, and not exclusive of, all other rights to which the Person to be indemnified may be entitled at law or otherwise.

13.16.2 Non-Liability of Officials. To the fullest extent permitted by law, none of the following Persons (the "Released Persons") shall be liable to any Member, Owner, Occupant, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which the following Persons reasonably believed to be within the scope of their representative duties: (i) every director and officer of the Association, (ii) every member of the NCC or MC, or other committees

of the Association, (iii) Declarant and the Declarant Related Parties, and (iv) all employees of the Association. Each Owner, Occupant and other Person having any interest in the Properties or entering upon or using any portion of the Properties is deemed to acknowledge and accept the following:

(a) None of the Released Persons shall be liable or responsible for, or in any manner be guarantor or insurer of, the health, safety, or welfare of any Owner, Occupant or other Person entering upon or making use of any portion of the Properties. Each Owner, Occupant and other Person assumes all risks associated with the use and enjoyment of the Properties, including but not limited to, any recreational facilities upon or within the Properties.

(b) None of the Released Persons shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of any utility line, equipment or substation, adjacent to, near, over, or on the Properties. Each Owner, Occupant and other Person assumes all risks of personal injury, illness or other loss or damage arising from the presence of malfunction of any utility line, equipment or substation adjacent to, near, over or on the Properties.

(c) No provision of this Declaration or any other Governing Document shall be construed or interpreted as creating a duty by any of the Released Persons to protect or further the health, safety or welfare of any Person, even if funds of the Association are used for such a purpose.

13.16.3 Liability Arising From Conduct of Owners. Each Owner, tenant and their respective Related Parties must indemnify and keep indemnified, and hold harmless, Declarant, the Association, and their Related Parties from and against all claims, damages, suits, judgments, court costs, attorney's fees, attachments and all other legal actions caused through the willful or negligent act or omission of an Owner, a tenant or their respective Related Parties.

13.16.4 Subsequent Statutory Authority. If the Act, the Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this Section 16, then liability will be eliminated or limited and right to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

13.16.5 No Impairment. Any repeal, amendment or modification of this Section 13.16 may not adversely affect any rights or protection existing at the time of the amendment.

Section 13.17 Notice of Sale or Transfer of Title. In the event that any Owner desires to sell or otherwise transfer title to his or her Unit, such Owner shall give the Association at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Until such written

notice is received by the Association, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Unit.

Article XIV

Mortgagee Provisions

The following provisions are for the benefit of holders of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 14.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, therefore becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder or any Exclusive Common Area serving the Neighborhood within which such Unit is located;

(b) any delinquency in the payment of assessments or charges owed on a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of this Declaration or other Governing Documents relating to such Unit or the Owner or occupant thereof which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association and covering the Unit upon which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; or

(d) any proposed action which would require the consent of a specified percentage of Eligible Holders.

Section 14.2 No Priority. No provision of this Declaration or the other Governing Documents gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 14.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Section 14.4 Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, By-Laws, or Texas law for any of the acts set out in this Article.

Section 14.5 Neighborhood. Any Supplementary Declaration annexing a Neighborhood under this Declaration may provide that the Units within that particular Neighborhood are subject to additional, fewer, or different covenants and/or that the Owners within such Neighborhood are all members of another owners association ("Neighborhood Association") in addition to the Association. No Neighborhood Association shall be required except in the case of a condominium or otherwise as required by law.

Each Neighborhood, upon the affirmative vote, written consent, or a combination thereof, of a majority of the Owners of Units located within the Neighborhood, may require that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood. In such event, the Association shall provide such services and the cost of such services shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment pursuant to Article X hereof.

Declarant, during the Declarant Control Period, and thereafter, the Board, may elect to divide any single Neighborhood into more than one (1) Neighborhood or to combine two (2) or more Neighborhoods into one (1) Neighborhood at any time. Upon a petition signed by a majority of the Owners of Units located in the Neighborhood(s) affected, any Neighborhood may apply to Declarant, during the Declarant Control Period, or thereafter, to the Board, to divide the property comprising such Neighborhood into two (2) or more Neighborhoods or to combine two (2) or more Neighborhoods into one (1) Neighborhood. Any such application shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed Neighborhood(s) or otherwise identifies the Units included within the proposed Neighborhood(s). Neighborhood consolidations shall automatically be deemed granted upon the applicant filing the required documents with the Board. Neighborhood divisions requested by a Neighborhood shall automatically be deemed granted unless the Board denies such application in writing within thirty (30) days of its receipt thereof. The Board may deny an application at its sole discretion. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

Article XV Declarant's Rights

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the other Governing Documents may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the other Governing Document, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the public records of Harris County,

Texas. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the Additional Property in any manner whatsoever.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any builder designated by Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and Declarant and such designated builder(s) shall have easements for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, Declarant's Related Parties or contractors, or parties designated by Declarant in connection with the construction, completion, sale or leasing of the Units, Common Areas, the Properties or the Additional Property (whether or not annexed under this Declaration). Without limiting the generality of this Article XV in any way, and notwithstanding anything to the contrary contained in this Declaration, (a) Declarant is expressly exempted from the provisions of this Declaration requiring submission to or authorizations by the NCC or MC, (b) Declarant shall have the right to erect, operate and maintain one or more administrative and sales offices on any portion of the Properties owned by or leased to Declarant or the Association (including but not limited to Units), and (c) neither the provisions of Article XI, nor the Architectural Guidelines, nor any comparable provisions in any Governing Document shall apply to improvements built by Declarant, and any improvements built by Declarant may have an architectural style and present general aesthetics that are quite different from the architectural style and aesthetics elsewhere in the Properties.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

[Signatures on following page]

IN WITNESS WHEREOF, Declarant has executed this Declaration this 7th day of May, 2001.

TERRABROOK EAGLE SPRINGS, L.P., a
Delaware limited partnership

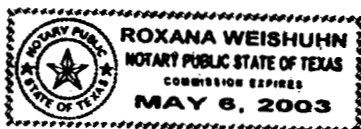
By: Westerra Management, L.L.C., a
Delaware limited liability company,
Authorized Agent

By: W. F. Nelson
Name: Walter F. Nelson
Title: Vice President



THE STATE OF TEXAS §
 §
COUNTY OF Harris §

This instrument was acknowledged before me on the 7th day of May, 2001, by Walter F. Nelson, Vice President of WESTERRA MANAGEMENT, L.L.C., a Delaware limited liability company, the authorized representative of TERRABROOK EAGLE SPRINGS, L.P., a Delaware limited partnership, on behalf of said limited liability companies.



Roxana Weishuhn
Notary Public

NEED LIENHOLDER SIGNATURE AND NOTARY

EXHIBIT "A"

The Subdivision known as Eagle Springs Section One (1), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code No.464089 of the Map Records of Harris County, Texas.

The Subdivision known as Eagle Springs Section Two (2), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code No.464096 of the Map Records of Harris County, Texas.

The Subdivision known as Eagle Springs Section Three (3), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code No.464103 of the Map Records of Harris County, Texas.

The Subdivision known as Eagle Springs Section Four (4), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code No.464110 of the Map Records of Harris County, Texas.

The Subdivision known as Eagle Springs Section Five (5), a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Film Code No.464117 of the Map Records of Harris County, Texas.