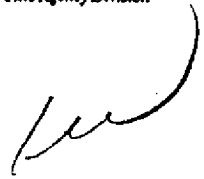


S722619

Alamo Title Company #23
Title Agency Division

**RESIDENTIAL DECLARATION OF PROTECTIVE COVENANTS
FOR LAKEWOOD FOREST NORTH, SECTION ONE**



STATE OF TEXAS §
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS:

11/07/97 100605478 S722619 #83.00

515-58-1448

RECITALS:

Louetta Development, Ltd. ("Developer"), a Texas limited partnership, is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Developer intends to impose upon the Residential Properties certain mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Residential Properties.

Developer hereby declares that all of the property described in Exhibit "A" and any additional property which is hereafter subjected to this Residential Declaration by Supplemental Declaration (as 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 value and desirability of, and which shall run with, the real property constituting the Residential Properties and which shall be binding on all parties having any right, title, or interest in the Residential Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

This Residential Declaration does not and is not intended to create condominium within the meaning of the Texas Uniform Condominium Act, Tex. Prop. Code Ann. §§ 82.001-82.164 (Vernon 1983), or any successor thereto.

Section A

Definitions

Sub-Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Residential Declaration, any Supplemental Declaration or other applicable covenants, become the responsibility of the Residential Association. The office of any property manager employed by or contracting with the Residential Association, if located on the Residential Properties, or any public rights-of-way within or adjacent to the Residential Properties, may be part of the Area of Common Responsibility.

Return to:

**BRIGHTON BUILDERS, INC.
13101 NORTHWEST FREEWAY
SUITE 312
HOUSTON, TEXAS 77040**

Sub-Section 2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Lakewood Forest North Homeowners Association, as filed with the Secretary of State of the State of Texas.

Sub-Section 3. "Base Assessment" shall mean and refer to assessments levied against all Units in the Residential Properties to fund Common Expenses.

Sub-Section 4. "Board of Directors" or "Board" shall be the elected body having its normal meaning under Texas corporate laws acting in such capacity for the Residential Association.

Sub-Section 5. "Bylaws" shall mean and refer to the Bylaws of Lakewood Forest North Homeowners Association, as they may be amended from time to time.

Sub-Section 6. "Class "B" 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 Section C, Sub-Section 2(b) hereof.

Sub-Section 7. "Common Area" shall mean all real and personal property which the Residential Association now or hereafter owns or otherwise has possessory or use rights for the common use and enjoyment of all Owners.

Sub-Section 8. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Residential 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 Residential Declaration, the Bylaws, and the Articles of Incorporation of the Residential Association, but shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction or installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total vote of the Residential Association.

Sub-Section 9. "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Residential Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Control Committee.

Sub-Section 10. "Declarant" shall mean and refer to Louetta Development, Ltd., or its successors or assigns who take title to all or substantially all of the property described on Exhibit "A" hereof for the purpose of development and/or sale and are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant. However, no person or entity merely purchasing one or more Units from Louetta Development, Ltd. in the ordinary course of business shall be considered a Declarant.

Sub-Section 11. "Equivalent Units" shall mean that number assigned to each Unit, as provided in Section J, Sub-Section 2, of this Residential Declaration, for purposes of allocating Base Assessments and Special Assessments among the Units subject to such assessments.

Sub-Section 12. "Homebuilder" shall mean and refer to each entity and/or individual (excluding Declarant or its affiliates) which: (i) is regularly engaged in the ordinary business of constructing residential dwellings on subdivision lots for sale to third-party homeowners as their intended primary residence; and (ii) has entered into a contract with the Declarant to purchase one or more Units.

Sub-Section 13. "Member" shall mean and refer to a Person entitled to membership in the Residential Association, as provided herein.

Sub-Section 14. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Sub-Section 15. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Sub-Section 16. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Sub-Section 17. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Residential 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.

Sub-Section 18. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Sub-Section 19. "Residential Association" shall mean and refer to Lakewood Forest North Homeowners Association, a Texas nonprofit corporation, its successors and assigns.

Sub-Section 20. "Residential Declaration" shall mean and refer to this Residential Declaration of Protective Covenants, together with all amendments or supplements hereto.

Sub-Section 21. "Residential 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 Residential Declaration by Supplemental Declaration.

Sub-Section 22. "Special Assessment" shall mean and refer to assessments levied in accordance with Section J, Sub-Section 3, of this Residential Declaration.

Sub-Section 23. "Supplemental Declaration" shall mean an amendment or supplement to this Residential Declaration executed by or consented to by Declarant which subjects additional property to this Residential Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Residential Association pursuant to Section H, Sub-Section 2, of this Residential Declaration to subject additional property to this Residential Declaration.

Sub-Section 24. "Unit" shall mean a portion of the Residential Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Residential Properties. The term shall include all portions of the lot owned as well as any structure thereon.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the recorded plat or the site plan approved by Declarant, whichever is more recent, until such time as one or more residential dwellings are substantially completed, as determined by the Board of Directors, on all or a portion thereof, after which the land on which such dwelling(s) have been constructed shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph. If there is no recorded plat or site plan approved by Declarant for a parcel of vacant land, it shall be deemed to contain 6 Units per acre.

Section B

Property Rights

Sub-Section 1. General. Every Owner shall have a nonexclusive right and easement of use, access and enjoyment in and to the Common Area, subject to:

- (a) this Residential Declaration as same may be amended from time to time, and subject to any restrictions or limitations contained in any deed conveying such property to the Residential Association;
- (b) the right of the Board to adopt rules regulating the use and enjoyment of the Common Area, including without limitation rules limiting the number of guests who may use the Common Area;
- (c) the right of the Residential Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section M, Sub-Section 4 hereof;

(d) the right of the Residential 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, subject to the approval requirements set forth in Section N, Sub-Section 2, hereof;

(e) drilling rights and other oil, gas and minerals on and under the Common Areas to the extent reserved to Persons other than the Residential Association;

(f) the right of the Board to suspend the right of an Owner to use any of 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 the Residential Declaration, Bylaws, or rules of the Residential Association;

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

(h) 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.

Any Owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, 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.

Sub-Section 2. Restricted Actions by Members. No Member shall permit anything to be done on or in the Common Area which would violate any applicable public law or zoning ordinance or which would result in the cancellation of or the increase of premiums for any insurance carried by the Residential Association, or which would be in violation of any law or any rule or regulation promulgated by the Board.

Sub-Section 3. Damage to the Common Area. Each Member shall be liable to the Residential Association for any damage to any portion of the Common Area caused by the negligence or willful misconduct of the Member or his family or guests.

Section C

Membership and Voting Rights

Sub-Section 1. Membership. Every Owner, as defined in Section A, shall be deemed to have a membership in the Residential Association. No Owner, whether one or more Persons, shall have more than one membership per Unit owned. In the event the Owner of a Unit is more than one Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges

of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Residential Declaration and the Bylaws. 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 Residential Association, subject to the provisions of this Section and the Bylaws.

Sub-Section 2. Voting. The Residential Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Members, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Unit in which they hold the interest required for membership under Sub-Section 1 hereof; there shall be only one (1) vote per Unit.

In any situation where a Member is entitled personally to exercise the vote for his Unit and more than one (1) Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Residential Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one (1) person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant and shall be entitled to three (3) votes for each Unit owned. The rights of the Class "B" Member, including the right to approve actions taken under this Residential Declaration and the Bylaws, are as specified herein and therein. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors until the first to occur of the following:

(i) when one hundred percent (100%) of the Units have been conveyed to Persons other than the Declarant; or

(ii) December 31, 2017; or

(iii) when, in its discretion, the Class "B" Member so determines.

Upon termination of the Class "B" Control Period, the Class "B" membership shall terminate and become converted to Class "A" membership.

Section D**Maintenance**

Sub-Section 1. **Association's Responsibility.** The Residential Association shall maintain and keep in good repair the Area of Common Responsibility. The Area of Common Responsibility shall include, but not be limited to, all landscaping and improvements on the Common Areas, landscaping within public rights-of-way in or adjacent to the Residential Properties, boundary fencing and walls and gates constructed by Declarant and such portions of any additional property within the Area of Common Responsibility. The Area of Common Responsibility shall also include all ponds, streams and/or wetlands, if any, located within the Residential Properties which serve as part of the drainage and storm water detention system for the Residential 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 Residential Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless the Members representing seventy-five percent (75%) of the total votes in the Residential Association and the Class "B" Member, if such then exists, agree in writing to discontinue such operation. The Residential Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

There are hereby reserved to the Residential Association blanket easements over the Residential Properties as reasonably necessary to enable the Residential Association to fulfill its responsibilities under this Sub-Section.

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, subject to the right of the Residential Association to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Residential Declaration, other recorded covenants, or agreements with the owner(s) thereof.

Sub-Section 2. **Owner's Responsibility.** Each Owner shall maintain and keep in good repair his or her Unit and all structures, parking areas and other improvements comprising the Unit. Owners of Units which are adjacent to any portion of the Common Area on which walls, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the Common Area which lies between such wall and the Unit boundary. Owners of Units adjacent to any public or private roadway within the Residential Properties shall maintain driveways serving their respective Units, whether or not lying within the Unit boundaries, and shall maintain and irrigate landscaping on that portion of the Common Area, if any, or right-of-way between the Unit boundary and the back-of-curb of the adjacent street.

All maintenance required by this Sub-Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. In addition to any other enforcement rights available to the Residential Association, if any Owner fails properly to perform his or her maintenance responsibility, the Residential Association may perform it and assess all costs incurred by the Residential Association against the Unit and the Owner thereof in accordance with Section J, Sub-Section 4 of this Residential Declaration; provided, however, except when entry is required due to an emergency situation, the Residential Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Sub-Section 3. Party Walls and Party Fences.

(a) **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 Sub-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.

(b) **Sharing of Repair and Maintenance.** The cost 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.

(c) **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 or law regarding liability for negligent or willful acts or omissions.

(d) **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Sub-Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) **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 therefor by the Board of Directors, 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.

Section E**Insurance and Casualty Losses**

Sub-Section 1. **Insurance**. The Residential Association's Board of Directors, 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 of the Area of Common Responsibility. 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. Casualty, fire and extended coverage insurance may be provided under blanket policies covering both the Residential Association's properties and property of Declarant or affiliates of Declarant.

The Board shall also obtain, to the extent reasonably obtainable, a broad form comprehensive public liability policy covering the Area of Common Responsibility, insuring the Residential Association and its Members for all damage or injury caused by the negligence of the Residential Association, or any person for whose acts the Residential Association is held responsible. The public liability policy shall have such coverage limits as the Board may determine in the exercise of its business discretion.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment.

The Board shall also obtain such other insurance as may be required by law, including worker's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity, or other bonds as the Board shall deem necessary or desirable and the premiums therefor shall be a Common Expense.

Insurance 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 of Directors shall be governed by the following provisions:

(a) Exclusive authority to adjust losses under policies obtained by the Residential Association on the Residential Properties shall be vested in the Residential Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(b) In no event shall the insurance coverage obtained and maintained by the Residential Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.

Sub-Section 2. Individual Insurance. By virtue of taking title to a Unit subject to the terms of this Residential Declaration, each Owner covenants and agrees with all other Owners and with the Residential Association that in the event of loss or damage to the structures comprising his Unit, the Owner shall either: (a) 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 Section K of this Residential Declaration, or (b) clear the Unit of all damaged structures, debris and ruins, and thereafter maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Sub-Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Residential Properties covered by insurance written in the name of the Residential Association, the Board of Directors 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 Residential Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Residential 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) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Board of Directors shall decide within sixty (60) days after the casualty not to repair or reconstruct. 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 Residential Association within said period, then the period shall be extended until such funds or information shall be available; provided, however, such extension shall not exceed sixty (60) additional days. Except as provided in Section N hereof, no Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

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

Sub-Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Residential 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 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 Residential Association and placed in a capital improvements account.

Sub-Section 5. **Repair and Reconstruction**. If the damage or destruction to the Common Area 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 of Directors shall, without the necessity of a vote of the Members, levy a Special Assessment against all Owners of Units to cover the deficiency. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section F

No Partition

Except as permitted in this Residential Declaration or amendments hereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Residential Properties or any part thereof seek any judicial partition unless the properties have been removed from the provisions of this Residential Declaration. This Section shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Residential Declaration.

Section G

Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least sixty-seven percent (67%) of the total vote in the Residential Association and of the Declarant, as long as the Declarant owns any part of the Residential Properties) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibit "A" hereto, and Members representing at least seventy-five percent (75%) of the total vote of the Residential Association shall otherwise agree, the Residential Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands and funds are available, in accordance with plans approved by the Board of Directors of the Residential Association. If such improvements are to be

repaired or restored, the disbursement of funds therefor shall be made in accordance with the provisions of Section E above.

If the taking does not involve any 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 such restoration or replacement is completed, then such award or net funds shall be disbursed to the Residential Association and used for such purposes as the Board of Directors of the Residential Association shall determine.

Section H

Annexation of Additional Property

Sub-Section 1. Annexation Without Approval of Membership. Declarant shall have the unilateral right, privilege, and option, from time to time, to subject to the provisions of this Residential Declaration and the jurisdiction of the Residential Association any real property. Such annexation shall be accomplished by filing in the Real Property Records of Harris County, Texas, a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property, which is herein reserved to Declarant, provided such transferee or assignee shall be the developer of at least a portion of the real property to be annexed and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Sub-Section 2. Annexation With Approval of Membership. Subject to the consent of the owner thereof, the Residential Association from time to time may annex additional real property to the provisions of this Residential Declaration and the jurisdiction of the Residential Association. Such annexation shall require the affirmative vote of Members representing a majority of the total votes of the Residential Association (other than those held by Declarant) present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Section or which may become subject hereto in accordance with Sub-Section 1 hereof.

Annexation pursuant to this Sub-Section shall be accomplished by filing of record in the Real Property Records of Harris County, Texas, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Residential Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of

considering annexation of property pursuant to this Sub-Section 2 and to ascertain the presence of a quorum at such meeting.

Sub-Section 3. Acquisition of Additional Common Area. Declarant may convey to the Residential Association for the benefit of such class or classes of persons as are identified in the deed of conveyance additional real estate, improved or unimproved.

Sub-Section 4. Withdrawal of Property. Declarant reserves the right to amend this Residential Declaration unilaterally at any time and from time to time so long as it holds an unexpired option to expand the community pursuant to this Section H without prior notice and without the consent of any Person for the purpose of removing certain portions of the Residential Properties, then owned by the Declarant, its affiliates, or the Residential Association from the provisions of this Residential Declaration.

Sub-Section 5. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Residential Properties to additional covenants and easements, including covenants obligating the Residential Association to maintain and insure such property on behalf of the Owners thereof and obligating such Owners to pay the costs incurred by the Residential Association through Special Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

Sub-Section 6. Amendment. This Section H shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any part of the Residential Properties.

Section I

Rights and Obligations of the Residential Association

Sub-Section 1. Common Area. The Residential Association, subject to the rights of the Owners, 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 Standard.

Sub-Section 2. Personal Property and Real Property for Common Use. The Residential Association, through actions of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Residential Association, shall accept any real or personal property, leasehold, or other property interest within the Residential Properties conveyed to it by the Declarant.

Sub-Section 3. Rules and Regulations. The Residential Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Residential Properties, which rules and regulations shall be consistent with the rights and duties established by this Residential Declaration. Sanctions for violations of this Residential Declaration, the Bylaws, or the rules and regulations of the Residential Association may include reasonable monetary fines and suspension of the right to vote and the right to use any Common Area, including without limitation the recreational facilities thereon. In addition, the Residential Association, in accordance with the Bylaws shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Residential Association to any Owner or such Owner's Unit in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charges due to the Residential Association. The Board shall also have the power to seek relief in any court for violations or to abate nuisances. Impositions of sanctions shall be as provided in the Bylaws of the Residential Association.

The Residential Association, through the Board, by contract or other agreement, shall have the right to enforce federal, state, county and city laws, regulations, and ordinances applicable to the Residential Properties or any portion thereof.

The Residential Association, through the Board, may levy and collect special charges and fees for any and all extraordinary operation and maintenance of the Common Area and services which the Board determines to be necessary for the advancement, benefit and welfare of the Owners.

Sub-Section 4. Implied Rights. The Residential Association may exercise any other right or privilege given to it expressly by this Residential Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Sub-Section 5. Governmental Interests. For so long as the Declarant owns any part of the Residential Properties, the Residential Association shall permit the Declarant authority to designate sites within the Residential Properties, which may include Common Area owned by the Residential Association, for fire, police, water, and sewer facilities, public schools and parks, mailboxes and other public facilities.

Section J

Assessments

Sub-Section 1. Creation of Assessments. There are hereby authorized and created assessments for Residential Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Sub-Section 6 below. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Residential Association; and (b) Special Assessments as described in Sub-Section 3 below. Each Owner, by acceptance of a deed or recorded

contract of sale for any portion of the Residential Properties, is deemed to covenant and agree to pay these assessments.

Base Assessments shall be levied on each Unit on the basis of Equivalent Units, as provided in Sub-Section 2 below. Special Assessments shall be levied as provided in Sub-Section 3 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 attorneys' fees, shall be a charge on the land and a continuing lien upon each Unit as more particularly provided in Sub-Section 4 below, and shall also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. In the event of a transfer of title to a Unit, the 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 Residential Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Residential Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Residential Association of any assessments therein stated to have been paid. The Residential 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 of Directors and, if so specified by resolution of the Board, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance 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 may require any unpaid installments of the annual assessment and/or any other assessments to be paid in full immediately.

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 assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Residential Association or Board to take some action or perform some function required to be taken or performed by the Residential Association or Board under this Residential Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Residential 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.

During the Class "B" Control Period, the Residential Association may elect to borrow from Declarant on such terms and conditions as may be acceptable to the Board the difference between

the amount of assessments collected on all Units subject to assessment and the amount of actual expenditures required to operate the Residential Association during the fiscal year. The Declarant's loan to the Residential Association hereunder may be in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

The Residential 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.

Sub-Section 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 Residential 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 Sub-Section 5 below.

The Base Assessment 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 Sub-Section 6 below.

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

- (a) other sources of funds available to the Residential 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 Section, the number of Equivalent Units allocated to each Unit shall be as follows:

	<u>Equivalent Units</u>
Class A Member Units (excluding Homebuilders)	1.00
Homebuilders	.50
Class B Member Units	.00

During the Class "B" Control Period, the Declarant, at its option, may elect on an annual basis, to reduce the resulting Base Assessments for any fiscal year by payment of a subsidy (in lieu of a loan from Declarant under Sub-Section 1 above); provided, however, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and

shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

From January 1, 1998, until December 31, 1998, the maximum annual Base Assessment for each Class A Member Unit shall be \$350.00. From and after January 1, 1999, the maximum annual Base Assessment may be increased by a majority vote of the Board of Directors, without a vote of the Members, but shall not be increased to more than one hundred twenty percent (120%) above the prior year's Base Assessment. The Residential Association may increase the maximum annual Base Assessment by more than one hundred twenty percent (120%) above the prior year's Base Assessment only upon receipt of a two-thirds (2/3) approving vote of the Members at a meeting called to vote on such a proposed increase.

Sub-Section 3. Special Assessments.

(a) **Entire Membership.** The Residential Association may levy Special Assessments from time to time provided such assessments receive the affirmative vote or written consent of Members or their alternates representing a majority of the total votes in the Residential Association and the affirmative vote or written consent of the Class "B" Member, if such then exists. Special Assessments levied against the entire membership 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.

(b) **Less than All Members.** The Residential Association may levy a Special Assessment against any Member individually and against such Member's Unit to reimburse the Residential Association for costs incurred to bring a Member and his Unit into compliance with the provisions of this Residential Declaration, any amendments hereto, the Bylaws or the Residential Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Sub-Section 4. Lien for Assessments. Declarant hereby establishes, reserves, creates, and subjects all Units to a continuing perfected contractual lien for unpaid assessments prior and superior to all other liens except liens for (i) taxes, bonds, assessments and other levies which by law would be superior thereto, and (ii) the lien or charge of any first Mortgagee of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Declarant hereby assigns, without recourse, such lien to the Residential Association. The lien shall be self-operative, shall arise by virtue of the conveyance by Declarant of any Unit to the first Owner thereof, and shall continue thereafter in inchoate form without any deed of trust, mortgage, or other document being executed or granted, without such lien being reserved or referenced in any deed or other conveyance document, and without any other action being taken by any party.

To secure the full and timely payment of all assessments and other amounts due the Residential Association, including all Base Assessments, Special Assessments, fines and all attorneys' fees, court costs, and other expenses incurred by the Residential Association in collecting or attempting to collect such amounts, or in foreclosing or attempting to foreclose the lien created hereby or otherwise in exercising any of its rights, remedies, or recourses provided under this Residential Declaration, and any interest thereon as permitted pursuant to this Section, Declarant has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, and convey unto Julie R. Caggiano, Trustee ("Trustee") each of the Units in trust for the benefit of the Residential Association.

At the option of the Residential Association at any time, without cause or notice, and without procuring the resignation of the former Trustee, a successor or substitute Trustee may be appointed by written instrument. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

If any Owner fails to pay any amount it owes to the Residential Association, the Residential Association may, without prejudice to any other rights or remedies available at law or equity, request Trustee to foreclose the lien created by the first paragraph of this Sub-Section 4, whereupon Trustee shall (i) either personally or by agent give notice of foreclosure sale as required by the Texas Property Code for the sale of real property under a power of sale conferred by a deed of trust or other contract lien as then amended; (ii) sell and convey all or part of the property to the highest bidder for cash by general warranty binding upon the defaulting Owner; and (iii) from the proceeds of the sale, pay, in the following order, expenses of foreclosure, all amounts owing to the Residential Association, and the balance, if any, to the defaulting Owner, and/or to any other lienholders (if so required by applicable law).

Although no further action is required to create or perfect the lien, the Residential Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Residential Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Residential Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The lien may be foreclosed through judicial or, to the extent allowed by law, nonjudicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 (Vernon 1983), as it may be amended, in like manner as any deed of trust on real property. At any foreclosure proceeding, any Person, including but not limited to Declarant, the Residential Association, and any Owner shall have the right to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Residential 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 Residential 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.

Sub-Section 5. Reserve Budget and Capital Contribution. At the end of the Class "B" Control Period, the Board of Directors 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 Residential 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 Sub-Section 2 of this Section J.

Sub-Section 6. Date of Commencement of Assessments. The obligation to pay the assessments provided herein shall commence as to each Unit on the first day of the month following the later to occur of: (a) a month in which the Board of Directors first determines a budget and levies assessments pursuant to this Section; or (b) the month in which the Unit is made subject to this Section. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Base Assessment levied on a Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Sub-Section 7. Subordination of the Lien to First Mortgages. The liens 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 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. No sale or transfer shall relieve such Unit from lien encumbrances 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 Residential 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.

Sub-Section 8. Exempt Property. Notwithstanding anything to the contrary herein the following property shall be exempt from payment of Base Assessments and Special Assessments:

- (a) all Common Area;
- (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; and
- (c) any property owned by Declarant.

Section K

Architectural Standards

No structure shall be placed, erected or installed upon any Unit, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements, and no planting or removal of plants, trees, or shrubs shall take place except in strict compliance with this Section, until the requirements below have been fully met, and until the written approval of the Architectural Control Committee has been obtained pursuant to Sub-Section 1 below. The Board of Directors may establish reasonable fees to be charged by the Architectural Control Committee on behalf of the Residential Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

The Architectural Control Committee may, at its discretion, require that all dwellings constructed on any portion of the Residential Properties be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Residential Declaration shall not apply to the activities of the Declarant, nor to construction of improvements or modifications to the Common Area by or on behalf of the Residential Association.

The Board of Directors shall have the authority and standing, on behalf of the Residential Association, to enforce in courts of competent jurisdiction decisions of the Architectural Control Committee. This Section may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Residential Declaration or subject to annexation hereunder.

Sub-Section 1. Architectural Control Committee. The Architectural Control Committee ("ACC") shall consist of at least three (3) and not more than five (5) persons. Until one hundred (100%) percent of the Residential Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the ACC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the ACC, who shall serve and may be removed at the discretion of the Board of Directors. Members of the ACC may include architects or other persons who are not Members of the Residential Association. The ACC shall have exclusive jurisdiction over all new construction on any portion of the Residential Properties and modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto.

The ACC may, from time to time, promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with the Community-Wide Standard. In addition,

the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials, and location of such new construction, modifications, additions, or alterations, shall be submitted to the ACC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired; provided, however, modifications or alterations to the interior of screened porches, patios and similar portions of a Unit visible from outside the Unit shall be subject to approval. In the event that the ACC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed denied.

Sub-Section 2. **No Waiver of Future Approvals.** The approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or other subsequent matters.

Sub-Section 3. **Variance.** The ACC may authorize variances and waivers from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance or waiver shall be effective unless in writing. No previously granted variance or waiver shall ever operate in any manner to waive ACC guidelines or to estop the ACC from denying a variance or waiver in other circumstances.

Sub-Section 4. **Compliance With Guidelines.** Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the guidelines and procedures adopted or promulgated by the ACC may be excluded by the Board from the Residential Properties without liability to any person.

Sub-Section 5. **No Liability.** Review and approval of any application pursuant to this Section is made on the basis of subjective, aesthetic considerations only and neither the ACC nor any member thereof shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Residential Association, the Board of Directors, the ACC, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Unit or arising out of any mistake in judgment, negligence, or nonfeasance in connection with the approval or disapproval or failure to approve or disapprove any plans and specifications. Every Person who submits plans or specifications, and every Owner or lessee of each and every Unit, agrees that he will not bring any action or suit against Declarant, the Residential Association, the ACC, the Board or the officers, directors, managers, members, employees and agents of any of them,

to recover any such damages and hereby releases all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance.

Section L

Use Restrictions; Protective Covenants

The Residential Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Residential Association or business offices for the Declarant or the Residential Association, as may more particularly be set forth in this Residential Declaration and amendments hereto). As used herein, the term "residential purposes" shall be construed to prohibit the use of any Unit for duplex houses, condominiums, townhouses, or apartment houses. The Residential Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Residential Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Residential Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees, if any.

Sub-Section 1. Minimum Floor Space; Exterior Surfaces. Only one detached single family residence shall be built or permitted on each Unit. Each dwelling constructed on any Unit shall contain at least 1,800 square feet of air-conditioned living area (exclusive of all porches, patios, garages, or breezeways attached to the main dwelling). Each dwelling erected on any Unit shall provide fully-enclosed attached or detached garage space for a minimum of two (2) conventional automobiles, unless otherwise specifically approved by the ACC. The exterior surface of all residential dwellings shall be constructed of at least 51% masonry unless otherwise approved by the ACC.

Sub-Section 2. Setback Requirements. No residential structure or any other improvement shall be located on any Unit nearer to the front lot line than the minimum setback lines shown on the plat of the Residential Properties or stated in any applicable ordinance. No residence or any other structure or improvement shall be located on any utility easement or drainage swale. No main residential dwelling shall be located on any Unit closer than five (5) feet to any interior lot line. A detached garage which is sixty (60) feet or more to the rear of the front lot line shall not be located closer than three (3) feet to any interior lot line. For the purposes of this Sub-Section only, eaves, steps, fences, sidewalks and driveways shall not be considered as a part of a residence. This Sub-Section in no way supersedes local ordinances.

Sub-Section 3. Signs. A single "for sale" or "for lease" sign be permitted on any Unit being offered for sale or lease, provide it does not exceed two (2) feet by three (3) feet in size and does not stand higher than five (5) feet from the ground. No other signs of any kind shall be erected within

the Residential Properties, including upon any Unit if visible from outside the Unit, without the written consent of the Board of Directors, except signs installed by Declarant or the Residential Association.

If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign together with any limitation of term for display of such approved sign. The Residential Association, acting through the Board of Directors, and the Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Residential Properties shall be permitted to be displayed or posted within the Residential Properties. The Residential Association, acting through the Board, shall be authorized to enter upon any Unit and remove any sign, advertisement, billboard or other structure displayed in violation hereof, and in doing so shall not be subject to any liability for trespass or other tort in connection with or arising from such entry and/or removal.

Sub-Section 4. Parking and Prohibited Vehicles.

(a) Parking. Vehicles shall be parked only in the garage or driveway serving the Unit, or in such other paved areas as have been approved by the Board of Directors for parking vehicles. A maximum of two (2) occupant vehicles may be parked outside of the garage, if any, serving the Unit. For purposes of this provision, a vehicle shall be considered an "occupant vehicle" if it is parked on the Unit four (4) or more hours per each 24-hour day, or four (4) or more days in any seven (7) day period. The Board of Directors may authorize on-street parking on a temporary basis for visitors and guests, subject to reasonable rules and regulations. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally constructed unless alternative arrangements for enclosed parking are approved by the ACC; however, Declarant 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 Residential Properties by Declarant. Garage doors visible from any street within the Residential Properties shall remain closed except during ingress or egress or when the garage is actively being used by the Owner or occupant.

(b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, 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. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Residential Properties except within enclosed garages. Vehicles that become inoperable while on the Residential Properties must be removed within seventy-two (72) hours thereof. For purposes of this Sub-Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or covered for fourteen (14) consecutive days without prior approval of the Board. Notwithstanding

the foregoing, service and delivery vehicles may be parked in the Residential 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 Sub-Section or parking rules promulgated by the Board may be towed in accordance with the By-Laws.

Sub-Section 5. **Occupants Bound.** All provisions of the Residential Declaration, By-Laws, any applicable Supplemental Declaration, and any rules and regulations promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Units. Every Owner shall cause all occupants of his or her Unit to comply with the Residential Declaration, By-Laws, any applicable Supplemental Declaration, and all rules and regulations of the Residential Association. Every Owner shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Residential Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Sub-Section 6. **Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Residential 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 Residential 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 Residential 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 pet 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.

Sub-Section 7. **Quiet Enjoyment.** No portion of the Residential 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 Residential Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Residential Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Residential 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 Residential Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Residential 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 is prohibited within the Residential Properties.

Sub-Section 8. 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 Residential 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.

Sub-Section 9. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Residential Properties, including any Unit, without the prior written consent of the Board or its designee, except direct broadcast satellite antennas one meter or less in diameter, multipoint distribution system antennas one meter or less in diameter, or television broadcast antennas. The consent of the Board or its designee shall be exercised in conformity with the rules of the Federal Communications Commission. Any such apparatus permitted by the Board or its designee must be screened from view of adjacent Units by an approved fence or other approved structure no more than six (6) feet in height. The Declarant and/or the Residential Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Residential Properties.

Sub-Section 10. Clotheslines, Garbage Cans, Tanks, Etc. No clotheslines shall be erected or installed on the exterior portion of any Unit and no clothing, linens or other material shall be aired or dried on the exterior portion of any Unit. 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 view of neighboring Units, streets, and property located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Section K hereof and shall regularly be removed from the Residential Properties and shall not be allowed to accumulate thereon.

Sub-Section 11. 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 of Directors of the Residential Association. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant without such approval. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and 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.

Sub-Section 12. **Firearms.** The discharge of firearms within the Residential 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 Residential Association shall not be obligated to take action to enforce this Sub-Section.

Sub-Section 13. **Pools.** No above-ground swimming pools shall be erected, constructed or installed on any Unit.

Sub-Section 14. **Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, canals or other ground or surface waters within the Residential Properties shall be installed, constructed, or operated within the Residential Properties, except that the Declarant and the Residential Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility. All sprinkler and irrigation systems servicing Units shall draw upon public water supplies only and shall be subject to approval in accordance with Section K. of this Residential Declaration. Private irrigation wells are prohibited on the Residential Properties. This Sub-Section shall not apply to the Declarant, and it shall not be amended without Declarant's written consent so long as Declarant has the right to add property in accordance with Section H, Sub-Section 1.

Sub-Section 15. **Tents, Mobile Homes and Temporary Structures.** Except for trailers and temporary offices permitted by Declarant or the ACC during initial construction within the Residential Properties, no tent, shack, mobile home, trailer or other structure of a temporary nature shall be placed upon a Unit or any part of the Residential 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 ACC in accordance with Section K 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.

Sub-Section 16. **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. Declarant hereby reserves for itself and the Residential Association a perpetual easement across the Residential Properties for the purpose of altering drainage and water flow; provided, the exercise of such easement shall not materially diminish the value or interfere with the use of any adjacent property without the consent of the Owner thereof. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited within the Residential Properties. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous

or toxic substances, in any drainage ditch, sewer, stream, pond or lake within the Residential Properties.

Sub-Section 17. **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 Section K of this Residential Declaration. In the event of an intentional or unintentional violation of this Sub-Section, the violator may be required, by the ACC, to replace the removed tree with one (1) or more comparable trees in such size and number, and in such locations, as the ACC may determine necessary, in its sole discretion, to mitigate the damage.

Sub-Section 18. **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.

Sub-Section 19. **Lighting.** Except for traditional holiday decorative lights, which may be displayed for two (2) months prior to and end one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Section K of this Residential Declaration.

Sub-Section 20. **Artificial Vegetation, Exterior Sculpture, and Similar Items.** No artificial vegetation or permanent flagpoles shall be permitted on the exterior of any portion of the Residential Properties. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Section K of this Residential Declaration.

Sub-Section 21. **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 ACC pursuant to Section K hereof. No windmills, wind generators or other apparatus for generating power from wind shall be erected or installed on any Unit.

Sub-Section 22. **Wetlands, Bayous and Other Water Bodies.** No use of the wetlands, bayous, 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 of Directors; provided, if any such use is permitted, it shall be subject to the 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 of Directors. No internal combustion engines shall be operated on any river, pond, or stream within the Area of Common Responsibility except by the Residential Association and/or the Declarant, for purposes of maintenance and irrigation. The Residential 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, ponds, streams or other bodies of water within or adjacent to the Residential Properties. No docks, piers, or other structures shall be constructed by the Declarant or the Residential Association.

Notwithstanding the foregoing, the Residential Association and the Declarant may use and regulate the use of any bayous, ponds, streams, wetlands or other bodies of water within the Area of Common Responsibility for the irrigation of the Area of Common Responsibility, or for any other purpose deemed appropriate by the Board or the Declarant, subject to the terms of any applicable ordinance or easement agreement affecting such use. The Declarant's right under this Sub-Section shall be superior to any rights of the Residential Association.

Sub-Section 23. Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Unit without prior written approval of the ACC in accordance with Section K hereof. Any playground or other play areas or equipment furnished by the Residential Association or erected within the Residential Properties shall be used at the risk of the user, and the Residential Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Sub-Section 24. 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 Section K of this Residential Declaration. No chain link fence of any kind will be allowed. All Units which back up to the detention pond/lake (Reserve "A") will be required to install a four (4) feet high wrought iron fence along the rear property line. This fence will continue fifteen (15) feet toward the front of the Units along the interior lot line.

Sub-Section 25. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Unit, unless approved by the Board.

The term "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, (i) the leasing of a Unit, or (ii) professional or other home occupations where there is no external evidence thereof (such as signs advertising a business or consultation in person with clients or customers at the Unit) and no unreasonable inconvenience to such Owner's neighbors shall not be considered a trade or business within the meaning of this Sub-Section. This Sub-Section shall not apply to any activity conducted by the Declarant or by a Homebuilder with the approval of Declarant with respect to the development and sale of the Residential Properties or the use of any Units which Declarant owns within the Residential Properties.

Sub-Section 26. **On-Site Fuel Storage.** No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Residential 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 Residential Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Sub-Section 27. **Leasing of Units.**

(a) **Definition.** "Leasing", for purposes of this Section, 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.

(b) **Leasing Provisions.**

(i) **General.** Units may be rented 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 not less than thirty (30) days, except with the prior written consent of the Board of Directors. 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 Residential Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(ii) **Compliance with Residential Declaration, By-Laws and Rules and Regulations.** Every Owner shall cause all occupants of his or her Unit to comply with the Residential Declaration, By-Laws, any applicable Supplemental Declaration, and the rules and regulations adopted pursuant to the foregoing, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any such violation.

Sub-Section 28. **Laws and Ordinances.** Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Residential Properties and any violation thereof may be considered a violation of this Sub-Section; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Sub-Section 29. **Single Family Occupancy.** No Unit shall be occupied by more than a single family. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one (1) person who is not so related as a single household unit, or no more than (2) persons who are not related living together as a single household unit, and the household employees of either such household unit.

Sub-Section 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. Nothing in this Sub-Section shall be construed to prohibit use of Common Areas for any of the foregoing activities, or for access, ingress and egress in connection with such activities to the extent that such rights were reserved prior to conveyance by Declarant of the Common Areas.

Sub-Section 31. Doors and Windows. No "burglar bars," steel or wrought iron bars, or similar fixtures, whether designed for decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any dwelling, unless approved by the ACC. No signs, numerals or other writing shall be written on or placed in the doors, windows or exterior walls of any dwelling, either temporarily or permanently, except that the Board may, in its discretion, permit house numbers to be written temporarily on a single window of a dwelling while occupants are moving in, provided such numbers are removed within seventy-two (72) hours after the occupants have taken occupancy. All windows of an occupied dwelling on a Unit which are visible from the street or other Units shall have draperies, curtains, blinds or other permanent interior window treatments. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time after taking occupancy of the dwelling, as determined in the sole discretion of the Board of Directors.

Section M

General Provisions

Sub-Section 1. Terms. The covenants and restrictions of this Residential Declaration shall inure to the benefit of and shall be enforceable by the Residential Association or the Owner of any property subject to this Residential Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Residential 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 Owners representing a majority of the total votes in the Residential Association 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 Residential Declaration shall be modified or terminated as specified therein.

Sub-Section 2. Amendment. Prior to the conveyance of the first Unit, Declarant may unilaterally amend this Residential Declaration. After such conveyance, the Declarant may unilaterally amend this Residential Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or

purchaser to make or purchase mortgage loans on the Units; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as it still owns property described in Exhibit "A" for development as part of the Residential Properties, the Declarant may unilaterally amend this Residential Declaration for any other purpose, provided the amendment has no material, adverse effect upon any right of any Owner.

Except as otherwise specifically provided above and elsewhere in this Residential Declaration it may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven (67%) percent of the total votes in the Residential Association, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Section N hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes or other approval required for action to be taken under that clause. Any amendment to be effective must be recorded in the real property records of Harris County, Texas.

If an Owner consents to any amendment to this Residential 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 or the Class "B" Member without the written consent of Declarant, the Class "B" member, or the assignee of such right or privilege, respectively.

Sub-Section 3. Indemnification. The Residential Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member to the fullest extent permitted by Texas Non-Profit Corporation Act Section 1396-2.22A, as amended from time to time.

Sub-Section 4. Easements for Utilities, Etc. There are hereby reserved unto Declarant, so long as the Declarant owns any part of the Residential Properties, and the Residential Association, and the designees of each (which may include, without limitation, Harris County, Texas and any utility) access and maintenance easements upon, across, over, and under all of the Residential Properties to the extent reasonably necessary for the purposes of replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, mailboxes and all utilities, including, but not limited to, water, sewers, meter boxes,

telephone, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated for such purposes on recorded plats of the Residential Properties. Notwithstanding anything to the contrary herein, this easement does not authorize the construction or installation of any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto 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 the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes; provided, the exercise of this easement shall not extend to permitting entry into the dwelling on any Unit. Notwithstanding anything to the contrary contained in this Sub-Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Residential Properties, except as may be approved by the Board of Directors or as provided by Declarant.

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

Sub-Section 5. Easements for Bayou and Pond Maintenance and Flood Water. Declarant reserves for itself and its successors, assigns, and designees the non-exclusive right and easement, but not the obligation, to enter upon the bayous, ponds, streams, and wetlands located within the Areas of Common Responsibility (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any portion 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 and fulfill its maintenance responsibilities as provided in this Residential Declaration. Declarant's rights and easements hereunder shall be transferred to the Residential Association at such time as Declarant shall cease to own property subject to this Residential Declaration without transfer by written instrument, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Residential Association, and their designees shall have an access easement over and across any of the Residential Properties abutting or containing any portion of any of the bayous, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Sub-Section.

There is further reserved, for the benefit of Declarant, the Residential Association, and their designees, 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 fifty (50) feet of bayou banks, ponds, and streams within the Residential Properties in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Residential Properties, (b) to fill, drain,

dredge, deepen, clean, fertilize, dye and generally maintain the bayous, ponds, steams and wetlands within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such bayous, ponds, steams and wetlands; and (d) to enter upon and access such portions of the Residential Properties for the purpose of exercising its or their rights under this Sub-Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural disasters.

Sub-Section 6. **Severability.** Invalidation of any one of the covenants or restrictions in this Residential Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Sub-Section 7. **Right of Entry.** The Residential Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Section D hereof, and to inspect for the purpose of ensuring compliance with this Residential Declaration, the By-Laws, any Supplemental Declaration, and the rules of the Residential Association; provided, nothing herein shall authorize any person to enter any dwelling or other building constructed on a Unit without permission of the Owner unless reasonably believed to be necessary to avoid an imminent threat of personal injury or property damage. This right may be exercised by the Board of Directors, any agent or employee of the Residential Association acting with the authorization of the Board of Directors, 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. This right of entry shall include the right of the Residential Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after the request by the Board.

Sub-Section 8. **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.

Sub-Section 9. **Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Residential Association unless approved by a vote of Members representing seventy-five percent (75%) of the total number of Members. This Sub-Section shall not apply, however, to (a) actions brought by the Residential Association to enforce the provisions of this Residential Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Section J hereof, (c) proceedings involving challenges to ad valorem taxation, (d) the defense of and counterclaims brought by the Residential Association in proceedings instituted against it, or (e) the appeal of any adverse ruling in a proceeding sanctioned pursuant to this Sub-Section or to which this Sub-Section does not apply. This Sub-Section shall

not be amended unless such amendment is made by the Declarant or is approved pursuant to the same procedures necessary to institute proceedings as provided above.

Sub-Section 10. **Compliance.** Every Owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the Bylaws, and the rules and regulations of the Residential Association. Failure to comply 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 Residential Association or, in a proper case, by any aggrieved Unit Owner or Owners. In addition, the Residential Association may avail itself of any and all remedies provided in this Residential Declaration or the Bylaws.

Sub-Section 11. **Security.** The Residential Association may, but shall not be obligated to, maintain or support certain activities within the Residential Properties designed to make the Residential Properties safer than they otherwise might be. NEITHER THE RESIDENTIAL ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE RESIDENTIAL PROPERTIES, HOWEVER, AND NEITHER THE RESIDENTIAL ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY UNITS, TENANTS, GUESTS, AND INVITEES OF ANY OWNERS, AS APPLICABLE, ACKNOWLEDGE THAT THE RESIDENTIAL ASSOCIATION, THE BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL CONTROL COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE ARCHITECTURAL CONTROL COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY UNIT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE RESIDENTIAL ASSOCIATION, THE BOARD OF DIRECTORS, THE ARCHITECTURAL CONTROL COMMITTEE, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY UNIT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OF DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE RESIDENTIAL ASSOCIATION, THE BOARD OF DIRECTORS, THE ARCHITECTURAL CONTROL COMMITTEE, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT,

GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE RESIDENTIAL PROPERTIES.

Sub-Section 12. 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 Board of Directors 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 of Directors may reasonably require. The transferor shall be responsible for all obligations of the Owner of the Unit coming due prior to the date upon which such notice is received by the Board of Directors, including payment of assessments, notwithstanding the transfer of title to the Unit.

Section N

Mortgagee Provisions

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

Sub-Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Residential 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 affect a material portion of the Residential Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

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

(c) any lapse, cancellation, or material modifications of any insurance policy maintained by the Residential Association; or

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

Sub-Section 2. Additional Requirements. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply. Unless at least sixty-seven (67%) percent of the first Mortgagees or Members representing at least sixty-seven (67%) percent of the total Residential Association vote entitled to be cast thereon consent, the Residential Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Residential Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this Sub-Section);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (the issuance and amendment of architectural standards, procedures, variances, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Residential Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for purposes other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new insurance coverage upon the lapse of an Residential Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Residential Association.

Sub-Section 3. No Priority. No provision of this Residential Declaration or the By-Laws 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.

Sub-Section 4. Notice to Residential Association. Upon request, each Owner shall be obligated to furnish to the Residential Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

Sub-Section 5. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective

requirements which necessitate the provisions of this Section or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Section to be recorded to reflect such charges.

Sub-Section 6. Applicability of Section N. Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under this Residential Declaration, the By-Laws, or Texas law for any of the acts set out in this Section.

Sub-Section 7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Residential Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Residential Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Sub-Section 8. FHA/VA Approval. As long as there is a Class "B" membership, the following actions shall require the prior approval of the Federal Housing Administration or the Veterans Administration, if either such agency is insuring or guaranteeing the mortgage on any Unit: dedication of Common Area, mortgaging of Common Area, or material amendment of this Residential Declaration.

Section O

Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Residential Declaration or the By-Laws 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 By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the real property records of Harris County, Texas.

Notwithstanding any provisions contained in this Residential Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any Homebuilder 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 the 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 the Declarant and any clubhouse or community center which may be owned by the Residential Association, as models and sales offices, respectively.

So Long as Declarant continues to have rights under this Residential Declaration, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Residential 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 the Declarant.

This Residential Declaration may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Residential Declaration shall terminate upon the earlier of (a) forty (40) years from the date this Residential Declaration is recorded, or (b) upon recording by Declarant of a written statement relinquishing such rights.

EXECUTED in multiple copies on the date of the acknowledgments set forth below, to be effective as of November 1, 1997.

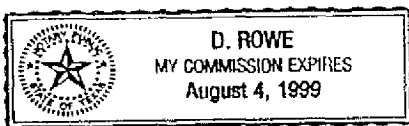
LOUETTA DEVELOPMENT, LTD.

By: Dunrich Development, L.L.C.,
its General Partner

By: [Signature]
Name: Cary Romer
Title: Vice President

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 1st day of Nov, 1997, by Cary Romer, VP of Dunrich Development, L.L.C., a Texas limited liability company, the General Partner of Louetta Development, Ltd., a Texas limited partnership, on behalf of said limited partnership.



[Signature]
Notary Public in and for
The State of Texas

AFTER RECORDING, RETURN TO:
~~BRIGHTON BUILDERS, INC.~~
~~13101 NORTHWEST FREEWAY~~
~~SUITE 312~~
~~HOUSTON, TEXAS 77040~~

515-58-1486

EXHIBIT "A"

Lot 1, Block 1, Lots 1-17 inclusive, Block 2, Lots 1-31, inclusive, Block 3, and Reserve "A," of Lakewood Forest North, Section 1, a subdivision in the Antonio Schouten Survey, A-685, Harris County, Texas, according to the map or plat recorded under Film Code No. 390017 of the Map Records of Harris County, Texas.

1

FILED

97 NOV -7 AM 11:36

Beverly L. Kaufman
COUNTY CLERK
HARRIS COUNTY, TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS } COUNTY OF HARRIS }

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me, and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas on

NOV 7 1997



Beverly L. Kaufman
COUNTY CLERK
HARRIS COUNTY TEXAS