

11.2.2 Services. The Association will be authorized (unless prohibited by the requirements of any Federal, State or local governing body) to provide such services required to promote the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

(iv) Maintain the landscaping, roadways, road shoulders, roadway medians, parkways, lakes, waterways, drainage areas and easements, and other Common Areas and areas of Common Responsibility within or adjacent to the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;

(v) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors to supplement the service provided by the state and local governments;

(vi) The services necessary or desirable in the judgment of the Board of Directors to carry out the Association's obligations and business under the terms of this Declaration and to collect Annual Assessments, Special Assessments, Emergency Special Assessments, specific Assessments, and other fees and charges collectable from the Owners hereunder;

(vii) To set up and operate an architectural review board in the event that the Association is assigned the whole or any portion of the function of the ARC by the Declarant.

(viii) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services authorized herein;

(ix) To provide administrative services including but not limited to legal, accounting and financial; and communications services informing Members of activities, notice of meetings, Referendums, etc., incident to the above listed services;

(x) To provide liability and hazard insurance covering improvements and activities on Common Areas and areas of Common Responsibility;

(xi) To provide for hearings and appeal process for violations of rules and regulations.

11.3 Agreements Subject to the prior approval of Declarant during the Declarant Control Period, all agreements and determinations lawfully authorized by the Board of Directors will be binding upon the Association and all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development will comply with and be subject to the authorized actions of the Board of Directors. In performing its responsibilities hereunder, the Board of Directors, will have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association will deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager will be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and will be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors will determine, and may be bonded in such a manner as the Board of

Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

11.4 Mortgage or Pledge Subject to the provisions of Section 6.2.1, the Board of Directors will have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans will be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association will not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

11.5 Personal Property and Real Property for Common Use The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, will be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot or Dwelling also transfers the membership in the Association which is an appurtenance to such Lot and Dwelling.

11.6 Rules and Regulations As provided in Article 13 hereof, the Association may make, amend, revoke and enforce reasonable rules and regulations governing the use of the Lots, Dwellings, Common Areas and areas of Common Responsibility, which rules and regulations will be consistent with the rights and duties established by this Declaration.

11.7 Reduction in Services During the calendar years of 2001 and 2002, and during the first two years when any additional property may be added to this declaration, the Board will define and list a minimum level of services which will be furnished by the Association. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association will not reduce the level of services it furnishes below such minimum level. Such minimum level of service will expressly include an obligation of the Association to maintain the Common Areas and areas of Common Responsibility and pay the costs and expenses set forth in any lease or use agreement therefor.

11.8 Obligation of the Association. The Association will not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 11.7 above. The functions and services to be carried out or offered by the Association at any particular time will be determined by the Board of Directors taking into consideration the funds available to the Association and the needs of the Members of the Association. Special Assessments will be submitted for approval as herein provided. Subject to the provisions of Section 11.7 above, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the sole approval of the Declarant during the Declarant Control Period, and thereafter, the functions and services which the Association is authorized to carry out or to provide may be added or reduced by the Board acting on the vote of fifty-one percent (51%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting).

## ARTICLE 12. ASSESSMENTS

12.1 Purpose of Assessments. The Assessments for Common Expenses provided for herein will be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

12.2 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed or other conveyance thereof, whether or not it will be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments, such Assessments to be established and collected as provided in Section 12.3, (b) Special Assessments, such Assessments to be established and collected as provided in Section 12.5, (c) Emergency Special Assessments, such Assessments to be established and collected as provided in Section 12.6, (d) individual or specific Assessments pursuant to Section 12.8. Any such Assessments payable, together with late charges, simple interest at a rate established from time to time by the Board of Directors, and court costs and attorneys' fees incurred to enforce or collect such Assessments, will be an equitable charge and a continuing lien upon the property of the Owner thereof who is responsible for payment. Each Owner will be personally liable for Assessments, coming due while he is the Owner of a property, and his grantee will take title to such property subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments will be subordinate to the lien of any unpaid taxes and any Institutional Mortgage or Mortgage held by Declarant. Sale or transfer of any Lot or Dwelling will not affect the lien of the Assessments; however, the sale or transfer of any Lot or Dwelling, which is subject to any Institutional Mortgage or Mortgage of Declarant, pursuant to a decree of foreclosure or any proceeding or conveyance in lieu of foreclosure, will extinguish the lien of the Assessments as to payment thereof which became due prior to such sale or transfer. In the event of co-ownership of any property subject to this Declaration, all of such co-Owners will be jointly and severally liable for the entire amount of such Assessments. Assessments will be paid in such manner and on such dates as may be fixed by the Board of Directors in accordance with Section 12.3.3, provided that unless otherwise provided by the Board, the Annual Assessments will be paid in equal quarterly installments. To the extent any subordinated lien and permanent charge for any Assessment is extinguished by foreclosure of any Institutional Mortgage or Mortgage of Declarant, then the amount or amounts otherwise secured thereby which cannot otherwise be collected will be deemed a Common Expense collectible from all Owners, including the person who acquires title through the foreclosure sale.

12.3 Establishment of Annual Assessment Until an initial budget of Common Expenses of the Association has been prepared by either the Declarant or the Board of Directors and a copy of the initially adopted budget and the Annual Assessments established thereby is provided to each owner, no Annual Assessments shall be charged to or collected from the Owners. Upon adoption of the initial budget and Annual Assessments, any full, annual budget amount being prorated for the remainder of the fiscal year in which so adopted, the Association shall bill each Owner for his or her share of the Annual Assessments, as hereinafter provided, and each Owner shall pay said amount. It will be the duty of the Board of Directors at least ninety (90) days prior to the first day of the Association's first full fiscal year after the fiscal year in which the initial budget and Annual Assessments are adopted, and each fiscal year thereafter, to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a reserve account, if necessary, for the capital needs of the Association. The Board will cause the budget and the proposed total of the Annual Assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner at least thirty (30) days prior to the first day of the fiscal year for which the budget and Assessments are established. The total Annual Assessments will be divided among Lots and Dwellings equally, each unimproved Lot bearing the same Assessment as a Dwelling.

12.3.1 Disapproval of Annual Assessments The annual budget and Annual Assessments, as determined by the Board of Directors, as hereinabove provided, will become effective unless disapproved (a) solely by

the Declarant in writing during the Declarant Control Period, and (b) thereafter by two-thirds (2/3) or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the quorum required for any such meeting Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are disapproved or in the event the Board of Directors fails for any reason to determine an annual budget and to set the Annual Assessments, then and until such time as a budget and Annual Assessment will have been determined as provided herein, the budget and Annual Assessments will be the Default Budget and Default Annual Assessments calculated in accordance with Section 12.4.

12.3.2 Special Board Action to Increase If the Board of Directors determines that the important and essential functions of the Association will not be properly funded in any year by the Annual Assessment herein provided, it may increase such Assessment; provided, however, an increase in Annual Assessments in any year pursuant to special Board action as aforesaid will in no way affect Annual Assessments for subsequent years.

12.3.3 Billing of Annual Assessments The Annual Assessments will be billed quarterly, and will be due and payable on or before the last day of the month in which billed.

12.3.4 Rounding All Annual Assessments charged by the Association will be rounded off to the nearest dollar.

12.3.5 For Common Expenses The Common Expenses to be funded by the Annual Assessments may include, but will not necessarily be limited to, the following:

- (i) management fees and expenses of administration, including legal and accounting fees;
- (ii) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (iii) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and other insurance coverage determined by the Board to be in the interests of the Association and the Owners;
- (iv) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;
- (v) the expenses of any architectural review board established to receive and administer the whole or any portion of the ARC functions transferred and conveyed to the Association which are not defrayed by plan review charges;
- (vi) ad valorem real and personal property taxes assessed and levied against the Common Areas;
- (vii) such other expenses as may be determined from time to time by the Board to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and
- (viii) the establishment and maintenance of a reasonable reserve fund or funds (i) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the

Association and which must be maintained, repaired, or replaced on a periodic basis, (ii) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (iii) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

12.4 Determination of Default Budget and Default Annual Assessment Upon the failure of the Board of Directors to adopt a budget, or upon the disapproval of any budget pursuant to Section 12.3.1, the Default Budget and Default Annual Assessments will be the greater of:

(a) The then existing budget and Annual Assessments, increased in proportion to the percentage increase, if any, in the "CPI-U," as hereinafter defined, from December of the preceding year to November of the then current year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent, whichever is greater; or

(b) The budget and Annual Assessments for the year in which this Declaration is filed Of Record by the Declarant, increased to the year in which the said maximum budget and Annual Assessment is being determined in proportion to the percentage increase, if any, in the "CPI-U," as hereinafter defined, from December of the year preceding the year in which this Declaration is filed Of Record to November of the year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent per annum, compounded, whichever is greater.

The "CPI-U" will mean the Consumer Price Index for All Urban Consumers (1982-84=100), or, if such index is discontinued or revised, by reference to such other government index or computation with which it is replaced or which would produce substantially the same measure as would be obtained if such index had not been discontinued or revised.

12.4.1 Change in Default Amounts Upon Merger or Consolidation The limitations of Section 12.4 will apply to any merger or consolidation in which the Association is authorized to participate under Section 2.2.3.

12.5 Special Assessments for Improvements and Additions In addition to the regular, Annual Assessments authorized by Section 12.3 hereof, the Association may levy Special Assessments, for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) To provide for the necessary facilities and equipment to offer the services authorized herein;

(c) To cover any shortfall, whether by way of deductible or otherwise, in insurance proceeds recovered; and

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

12.5.1 Special Assessments: Approval by Declarant and Disapproval by Members Except as otherwise permitted in Sections 6.2.6, 9.2, 10.1 and 12.6 hereof, any Special Assessment will only be levied if: (a) during the Declarant Control Period the Declarant approves, in writing, such Special Assessment; and (b) after the Declarant Control Period the Special Assessment is not disapproved by sixty-seven percent (67%) or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the quorum required for any such meeting.

12.5.2 Apportionment Special Assessments will be apportioned among the Lots and Dwellings in the same manner as Annual Assessments.

12.6 Emergency Special Assessments In addition to the Annual Assessments authorized by Section 12.3 and the Special Assessment authorized by Section 12.5 hereof, the Association may levy Assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Declarant during the Declarant Control Period, and/or by the Board of Directors, in their sole discretion ("Emergency Special Assessment"). Any Emergency Special Assessment may be imposed without a vote of the Members. Emergency Special Assessments will be apportioned equally among the Lots and Dwellings in the same manner as Annual Assessments unless it is determined by the Declarant and/or Board that another apportionment thereof is more reasonable and more equitably justified by the circumstances giving rise to such emergency.

12.7 Declarant's Properties Anything contained herein to the contrary notwithstanding, Declarant will be exempt from the payment of Annual Assessments, Special Assessments and Emergency Special Assessments with respect to unimproved Lots and unoccupied Dwellings owned by the Declarant and subject to this Declaration. The Declarant hereby covenants and agrees, however, that during the Declarant Control Period it will annually elect either to pay an amount equal to the Annual Assessment for each such Lot and Dwelling owned by it or to pay the difference between the amount of Assessments collected on all other Lots and Dwellings not owned by Declarant and the amount of actual expenditures by the Association during the fiscal year, but not in a sum greater than the Annual Assessments Declarant would pay if not exempt therefrom. Unless the Declarant otherwise notifies the Board in writing at least sixty (60) days before the beginning of each fiscal year, the Declarant will be deemed to have elected to continue paying on the same basis as existed during the immediately preceding year. Furthermore, so long as the Declarant owns any Lot or Dwelling for sale, the Declarant may, but will not be obligated to, reduce the Annual Assessment for any year to be paid by Owners. Any such reduction in the amount assessed against the Owner will be funded as a subsidy by the Declarant. Any such subsidy will, in the Declarant's sole discretion, be (a) a contribution to the Association, (b) an advance against future Annual Assessments due from said Declarant, or (c) a loan to the Association. The amount and character (contribution, advance or loan) of such payment by the Declarant will be conspicuously disclosed as a line item in the budget and will be made known to the Owners. The payment of such a subsidy in any year will under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant. Any such subsidy payment by Declarant may be made in-kind.

12.8 Individual Specific Assessments Any expenses incurred by the Association or the Declarant because of the actions of one or more Owners or Occupants, or because of their failure to act, and with respect to which such expenses are chargeable thereto and recoverable therefrom pursuant to any provision of this Declaration, and any fines as may be imposed against an Owner in accordance with Article 13 hereof will be specially assessed as a specific Assessment against each such Owner and the Owner's Lot or Dwelling.

12.9 Effect of Nonpayment; Remedies of the Association An Assessment shall be due in full not later than the last day of the month in which the Assessment is billed, and any Assessment or portions thereof which is not paid when so due will be delinquent. Any delinquent Assessment will incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, will also commence to accrue simple interest at the rate set by the Board of Directors from time to time. A lien and equitable charge as herein provided for each Assessment installment shall attach simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment will include all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law, subordinate only to liens for unpaid taxes, any Institutional Mortgage and any Mortgage held by Declarant as provided in Section 12.2 above. In the event that the Assessment remains unpaid sixty (60) days following

the date when so due, the Association may institute suite to collect such amounts and to foreclose its lien. The Association shall possess, and by acceptance of a deed each Owner hereby is deemed to grant to the Association the power of sale.. The equitable charge and lien provided for in this Section will be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments as a debt and/or to foreclose the aforesaid lien in like manner as a mortgage of real property. The Association will have the power to bid on the Lot or Dwelling at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot, and an Owner will remain personally liable for Assessments, including interest and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot.

12.10 Certificate The Treasurer, any Assistant Treasurer, or the manager of the Association will, within ten (10) days of a written request and upon payment of a fee set from time to time by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate signed by the Treasurer, Assistant Treasurer, or manager setting forth whether the Assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges, as well as such other information as shall be required to be provided pursuant to Chapter 207 of the Property Code of the State of Texas. Such certificate will be conclusive evidence against all but such Owner of payment of any Assessments stated therein to have been paid.

12.11 Date of Commencement of Assessments Beginning January 1, 2002, the Assessments provided for herein will commence on the date on which a Lot is conveyed to a person other than Declarant and will be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments, Special Assessments and Emergency Special Assessments will be adjusted for such property according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such property is first conveyed.

12.11.1 Working Capital Collected At Initial Closing (Closings Prior to January 1, 2002) Notwithstanding anything to the contrary in this Declaration, a working capital fund will be established for the Association by collecting from each Owner who acquires title to his Lot from the Declarant a working capital amount equal to 2/12ths of the Annual Assessment then in effect, which Assessment will be due and payable, and will be transferred to the Association, at the time of transfer of each Lot by the Declarant to any other Owner. Such sum is and will remain distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment. The working capital receipts may be used by the Association in covering operating expenses as well as any other expense incurred by the Association pursuant to this Declaration and the Bylaws.

## ARTICLE 13. RULE MAKING

13.1 Rules and Regulations Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, and the Common Areas, and facilities located thereon. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which will govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto will be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations will be binding upon the Owners and Occupants until and unless any such rule or regulation is specifically overruled, cancelled, or modified by the Board of Directors or any such rule or regulation is disapproved by a majority or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the Bylaws, which percentage will also constitute the

quorum required for any such meeting. Any action by the Board to adopt, overrule, cancel or modify any rule or regulation, or any vote of Members disapproving any rule or regulation, will not be effective and binding upon the Owners and Occupants until and unless the same is approved by the Declarant during the Declarant Control Period.

13.2 Authority and Enforcement Subject to the provisions of Section 13.3 hereof, upon the violation of this Declaration, the Bylaws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board will have the power (i) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific Assessment, (ii) to suspend an Owner-Member's right to vote in the Association, or (iii) to suspend an Owner's or Occupant's right to use any of the Common Areas. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fine is due. An Owner or Occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Occupant. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

13.3 Procedure Except with respect to the failure to pay Assessments, the Board will not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

13.3.1 Demand to Cease and Desist Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

- (i) The alleged violation;
- (ii) The action required to abate the violation; and

(iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

13.3.2 Notice of Hearing Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice, in accordance with Section 16.14 of a hearing to be held by the Board in executive session. The notice will contain:

- (iv) The nature of the alleged violation;
- (v) The time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;
- (vi) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (vii) The proposed sanction to be imposed.

13.3.3 Hearing The hearing will be held in executive session of the Board of Directors pursuant to the notice and will afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such



proof will be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any.

#### ARTICLE 14. ALTERNATIVE DISPUTE RESOLUTION & LITIGATION

14.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes The Declarant, Association, Owners, and any persons not otherwise subject to the Declaration who agree to submit to this Article 14 (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes between and among themselves involving this Declaration or the Development, and to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances and disputes (including those in the nature of counterclaims or cross-claims) between Bound Parties involving the Declaration or the Development, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement thereof (collectively "Claims"), except for "Exempt Claims" under Section 14.2, are subject to the procedures set forth in Section 14.3.

14.2 Exempt Claims The following Claims ("Exempt Claims") are exempt from the provisions of Section 14.3:

(a) any suit by the Association against a Bound Party to enforce any Assessments or other charges hereunder; and

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Association hereunder until the matter may be resolved on the merits pursuant to Section 14.3 below; or

(c) any suit between Owners which does not include the Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration and the Development; or

(d) any suit in which an indispensable party is not a Bound Party; or

(e) any suit which otherwise would be barred by any applicable statute of limitation; or

(f) any suit involving a matter which is not an Exempt Claim under (a) through (e) above, but as to which matter the Bound Party against whom the Claim is made waives the mandatory provisions of Section 14.3 below.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 14.3, but there is no obligation to do so.

14.3 Mandatory Procedures for Non-Exempt Claims Any Bound Party having a Claim ("Claimant") against a Bound Party involving this Declaration or the Development, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 14.2, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with the procedures set forth in Exhibit "B" to this Declaration, and then only to enforce the results hereof:

14.4 Litigation No judicial or administrative proceeding, including any mandatory procedure under Section 14.3 above, with an amount in controversy exceeding \$25,000.00, will be commenced or prosecuted by the Association unless approved by 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required for any such meeting. This Section will not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitations, the foreclosure of liens); (b) the imposition and collection of Assessments; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Article 14 and the procedures therefor set forth in Exhibit "B" to this Declaration, if applicable.

#### 14.5 Miscellaneous Alternative Dispute Resolution Provisions

14.5.1 Conflicting Provisions Any conflict or discrepancy between the terms and conditions set forth in this Article 14 and the procedures set forth in Exhibit "B" and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein and in Exhibit "B" will control.

14.5.2 TIME IS OF ESSENCE All periods of time set forth herein or calculated pursuant to provisions of this Article 14 will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

### ARTICLE 15. MORTGAGEE PROTECTION

15.1 Introduction This Article 15 establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain mortgages. This Article 15 is supplemental to, and not in substitution for, any other provisions of the Declaration, the Bylaws of the Association and the Articles of Incorporation of the Association (the "Constituent Documents"), but in the event of conflict, this Article shall control. Unless the Board of Directors shall vote to suspend this provision, the Board shall periodically amend this Article from time to time, to be consistent with generally applicable requirements of the Federal National Mortgage Association governing mortgagee approval requirements. When used herein, the term "Limited Common Area" will mean the Common Area of the Association set aside pursuant to this Declaration or any Supplemental Declaration for the exclusive use and benefit, and subject to specific Assessment for the maintenance, repair, replacement and insuring thereof as may be set forth in this Declaration or any Supplemental Declaration, of one or more but not all Owners.

15.2 Eligible Mortgagees Wherever in the Constituent Documents the approval or consent of a specified percentage of "Eligible Mortgagees" is required, it shall mean the approval or consent of the Institutional Mortgagees holding first lien Mortgages on Lots which have provided to the Association written requests, stating their names and addresses and the street addresses of the Lots to which their Mortgages relate, to receive written notice of the matters for which they are entitled to vote, and which in the aggregate have allocated to them such specified percentage of votes in the Association when compared to the total allocated to all Lots then subject to first Mortgages held by Eligible Mortgagees.

15.3 Notice of Actions The Association shall give prompt written notice to each Eligible Mortgagee of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community or any Lot in which there is a first Security Interest held, insured, or guaranteed by such Eligible Mortgagee or Eligible Insurer as applicable;

(b) Any delinquency in the payment of Assessments owed by an Owner whose Lot is subject to a first Mortgage held, insured, or guaranteed, by such Eligible Mortgagee which remains unpaid for a period of sixty (60) days.

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 15.4; and

(e) Any judgment rendered against the Association.

15.4 Consents Required; Constituent Documents' Changes Notwithstanding any lower requirement permitted by the Constituent Documents or the Nonprofit Corporation Act, no amendment of any material provision of the Constituent Documents by the Owners described in this Section 15.4 may be effective without the vote of sixty-seven percent (67%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members (which percentage will also constitute the quorum required for any such meeting), or any greater vote required in the Constituent Documents or the Nonprofit Corporation Act, and until approved in writing by at least fifty-one percent (51%) of the Eligible Mortgagees (or any greater Eligible Mortgagee approval required by the Constituent Documents). The foregoing approval requirements do not apply to amendments effected by the exercise of any rights of the Declarant to amend the Constituent Documents during the Declarant Control Period. Consent of an Eligible Mortgagee is deemed granted if no denial is received within thirty (30) days after the Eligible Mortgagee receives notice of the proposed changes. Material provisions requiring such Members' vote and Eligible Mortgagees' approval include, but are not limited to, any provision affecting:

(a) Assessments, assessment liens, or subordination of assessment liens;

(b) Voting rights;

(c) Reserves for maintenance, repair and replacement of the Common Areas and areas of Common Responsibility;

(d) Responsibility for maintenance and repairs;

(e) Reallocation of interests in the Common Areas or Limited Common Areas except that when Limited Common Areas are reallocated by agreement between Lot Owners, only those Lot Owners and only the Eligible Mortgagees which hold Mortgages on such Lots must approve such action;

(f) Rights to use Common Areas and Limited Common Areas;

(g) Boundaries of Lots except that when boundaries of only adjoining Lots are involved, or a Lot is being subdivided, then only those Lot Owners and the Eligible Mortgagees holding mortgages on such Lot or Lots must approve such action.

(h) Convertibility of Lots into Common Areas or Common Areas into Lots;

(i) Expansion or contraction of the Development, or the addition, annexation or withdrawal of property to or from the Development;

(j) Insurance or fidelity bonds;

(k) Leasing of Lots;

(l) Imposition of restrictions on a Lot Owner's right to sell or transfer his or her Lot;

(m) Establishment of self-management when professional management had been required previously by the Constituent Documents or by an Eligible Mortgagee;

(n) Restoration or repair of the Property after a hazard damage or partial condemnation in a manner other than that specified in the Constituent Documents;

(o) Termination of the legal status of the Development after occurrence of substantial destruction or condemnation; and

(p) Any provision that expressly benefits Mortgage holders, insurers or grantors.

15.5 Actions Notwithstanding any lower requirement permitted by the Constituent Documents or the Nonprofit Corporation Act, the Association may not take any of the following actions without the approval of at least fifty-one (51%) of the Eligible Mortgagees or such higher percentage as set forth herein:

(a) The conveyance or encumbrance of the Common Areas or any portion thereof, as to which at least a sixty-seven percent (67%) approval by Eligible Mortgagees is required. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas for the benefit of the Development shall not be deemed a conveyance or encumbrance within the meaning of this clause;

(b) The restoration or repair of the Property after damage or a partial condemnation in a manner other than that specified in the Constituent Documents;

(c) The termination of the legal status of the Development for reasons other than substantial destruction or condemnation, as to which at least sixty-seven percent (67%) approval by Eligible Mortgagees is required;

(d) The alteration of any partition or creation of any aperture between adjoining Lots when Lot boundaries are not otherwise being affected, in which case only the owners of Lots affected and Eligible Mortgagees of those Lots need approve the action;

(e) The merger of the Association with any other common interest community;

(f) The granting of any easements, leases, licenses and concessions through or over the Common Areas excluding, however, any utility easements serving or to serve the Development and excluding any leases, licenses or concessions for no more than one year;

(g) The assignment of the future income of the Association, including its right to receive Common Expense assessments; and

(h) Any action taken not to repair or replace the Property.

The foregoing consents do not apply to the exercise of any right reserved by the Declarant in the Constituent Documents.

15.6 Change From Quarterly Assessment The Association may not change the period for collection of regularly budgeted Common Expenses Assessments to other than quarterly without the consent of all Eligible Mortgagees.

15.7 Declarant's Reserved Rights No rights reserved by the Declarant may be voluntarily abandoned or terminated by the Declarant unless all persons holding security interests in the Declarant's reserved rights consent to the abandonment or termination.

15.8 Inspection of Books The Association shall permit any Eligible Mortgagee to inspect the books and records of the Association during normal business hours.

15.9 Financial Statements The Association shall provide any Eligible Mortgagee which submits a written request, with a copy of an annual financial statement within one hundred twenty (120) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if the number of Lots is 50 or more, or if the number of Lots is less than 50 and no audited statement is otherwise required under the Constituent Documents, any Eligible Mortgagee may have an audited statement prepared at its own expense.

15.10 Enforcement The provisions of this Article 15 are for the benefit of Eligible Mortgagees and their successors, and may be enforced by any of them by any available means, at law, or in equity.

15.11 Attendance at Meetings Any representative of an Eligible Mortgagee may attend any meeting which a Lot Owner may attend.

## ARTICLE 16. GENERAL PROVISIONS

16.1 Control of Declarant NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BYLAWS OF THE ASSOCIATION, Declarant hereby retains for the duration of the Declarant Control Period the right to appoint and remove any member or members of the Board of Directors and any officer or officers of the Association. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant will have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 16.1. The provisions of this Section 16.1 are supplemental to, and not in substitution of, other rights retained by Declarant pursuant to this Declaration.

16.1.1 Voting Agreement and Proxy By acceptance of a deed or other conveyance of a real estate interest subject hereto, an Owner-Member does hereby grant, and if further required, does agree to vote in a manner to provide, to Declarant all voting rights and other corporate powers specifically reserved to and designated for Declarant under this Declaration. **IN CONNECTION WITH THIS VOTING AGREEMENT, EACH MEMBER APPOINTS DECLARANT AS PROXY FOR SUCH MEMBER WITH FULL POWER OF SUBSTITUTION TO VOTE FOR THE MEMBER ON ALL SUCH MATTERS ON WHICH THE MEMBER MAY BE ENTITLED TO VOTE, AND WITH RESPECT TO WHICH THERE IS A RESERVATION OR DESIGNATION OF VOTING RIGHTS IN DECLARANT UNDER THIS DECLARATION, AND WITH ALL POWERS WHICH THE MEMBER WOULD POSSESS IF PERSONALLY PRESENT AT ANY MEETING OF MEMBERS. SUCH APPOINTMENT WILL BE, UPON A MEMBER'S ACCEPTANCE OF A DEED OR OTHER CONVEYANCE AND WITHOUT THE NECESSITY OF FURTHER ACTION BY THE DECLARANT OR THE MEMBER, A POWER COUPLED WITH AN INTEREST AND IRREVOCABLE.** Such appointment will be effective as of the date on which a deed or other conveyance of an interest to the Owner-Member is filed Of Record. This irrevocable proxy will automatically terminate on the date Declarant's voting rights as a Type B Member terminate. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Declarant herein provided, which will run with the Property.

16.1.2 Creation of New Board Upon the expiration of the Declarant Control Period, election of the Board will pass to the Owners as provided in the Bylaws. Following election of a new Board of Directors, Declarant will deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

16.2 Amendments by Declarant During the Declarant Control Period, the Declarant may amend this Declaration or the Bylaws by an instrument in writing filed Of Record without the approval of any Owner or Mortgagee; provided, however, that, (a) in the event that such amendment adversely affects the title to any Lot or Dwelling, such amendment will be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; and (b) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment will be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section 16.2 will be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and will be effective only upon it being filed Of Record or at such later date as will be specified in the amendment itself. Furthermore, following the Declarant Control Period, this Declaration and the Bylaws may be amended solely by the Declarant filing same Of Record if such amendment is necessary, in the reasonable determination of the Declarant, (i) to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which will be in conflict therewith, (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any properties subject to this Declaration, (iii) if such amendment is 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 any properties subject to this Declaration, or (iv) to enable any governmental agency or reputable private insurance company to insure Mortgages on the properties or other improvements subject to this Declaration. Each Owner by acceptance of a deed or other conveyance of a Lot or Dwelling agrees to be bound by amendments permitted by this Section 16.2 and further agrees, if requested by the Declarant, such Owner will consent to such amendment.

16.3 Amendments by the Association Amendments to this Declaration or the Bylaws, other than those authorized by Section 16.2 hereof, will be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment will be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and will be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or Members of the Association. Such amendment must be approved by sixty-seven percent (67%) or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving a proposed amendment, which percentage will also constitute the quorum required for any such meeting; provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; (ii) during the Declarant Control Period, such amendment must be approved by Declarant; and (iii) in the event that such amendment also is an amendment to the Bylaws, the amendment will be adopted pursuant to the applicable procedures of the Nonprofit Corporation Act.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration pursuant to this Section 16.3 will be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement will state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration will become effective only when filed Of Record or at such later date as may be specified in the amendment itself.

Anything contained in this Section 16.3 to the contrary notwithstanding, no amendment under this Declaration shall be made, or any vote therefor effective, if the result or effect thereof would have a material adverse effect upon Declarant or any right, limitation, approval or easement of Declarant without the prior written approval of the Declarant, including, but not limited to, this Section 16.3 and any matter set forth in Sections, 2.2.1, 2.3, 2.4, 5.4, 5.15, 5.18, 5.20, 6.2.2, 6.2.5, 6.5, 6.6, 6.7, 11.1, 12.7, 16.2, 16.7, 16.8 and 16.13.

16.4 Duration The provisions of this Declaration will run with and bind title to the Property, will be binding upon and inure to the benefit of all Owners and Mortgagees, and will be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed Of Record, provided that rights and easements which are stated herein to have a longer duration will have such longer duration. Upon the expiration of said thirty (30)-year period, this Declaration will be automatically renewed for successive ten (10)-year periods. The number of ten (10)-year renewal periods will be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10)-year renewal period for an additional ten (10)-year period; provided, however, that there will be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30)-year period or the last year of any ten (10)-year renewal period, 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required, approve terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination will be filed Of Record, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration will run with and bind title to the Property as provided hereby.

16.5 Termination of the Association In the event that this Declaration is declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially

as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years following the date of recording this Declaration, all Common Area belonging to the Association at the time of such adjudication will revert to the Declarant, and the Declarant will own and operate said Common Areas as Trustee for use and benefit of Owners within the Property as set forth below. If said adjudication will occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided for in Section 16.4, all Common Areas owned by the Association at such time will be transferred to a properly appointed Trustee, which Trustee will own and operate said Common Areas for the use and benefit of Owners within the Property as set forth below:

(a) Each lot, parcel or tract of land located within the Property will be subject to an Annual Assessment which will be paid by the Owner thereof to the Declarant or Trustee, whichever becomes the successor in title to the Association. The amount of such Annual Assessment and its due date will be determined solely by the Declarant or the Trustee, as the case may be, but the amount of such Annual Assessment on any particular lot, parcel or tract of land will not exceed the amount actually assessed against that lot, parcel or tract of land in the last year that Assessments were levied by the Association, subject to the adjustment set forth in subparagraph (b) immediately below.

(b) The rate of the Annual Assessment which may be charged by the Declarant or Trustee hereunder on any particular lot or parcel may be automatically increased each year by either five (5%) percent or the percentage increase between the first month and the last month of the Annual Assessment period in the CPI-U issued by the U.S. Bureau of Labor Statistics in its monthly report, whichever of these two percentage figures is larger. The actual amount of such increase in the regular Annual Assessment on a parcel will equal the regular Annual Assessment on such lot or parcel for the previous year multiplied by the larger of the two percentage factors set forth above. If the CPI-U is discontinued, then there will be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

(c) Any past due Annual Assessment together with interest thereon at the greater of fifteen (15%) percent or the maximum annual rate permitted by law from the due date and all costs of collection including reasonable attorney's fees will be a personal obligation of the Owner at the time that the Annual Assessment becomes past due, and it will also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Declarant, or the Trustee, as the case may be, will be required to use the funds collected as Annual Assessments for the operation, maintenance, repair and upkeep of the Common Areas and areas of Common Responsibility. Declarant or Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. Neither the Declarant nor the Trustee will have the obligations to provide for operation, maintenance, repair and upkeep of the Common Areas and areas of Common Responsibility once the funds provided by the Annual Assessment have been exhausted.

(e) The Declarant will have the right to convey title to the Common Areas and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee will have the power to dispose of the Common Areas (subject to the limitations of Article 4), free and clear of the limitations imposed hereby; provided, however, that such disposition will first be approved in writing by fifty-one (51%) percent of the Owners of Property within the Property or in the alternative will be found, in the exercise of reasonable business judgment, to be in the best interest of the Owners of property within the



Property. The proceeds of such a sale will first be used for the payment of any debts or obligations constituting a lien on the Common Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of such Property, then for the payment of any obligations distributed among the Owners of property within the Development, exclusive of the Trustees, in a proportion equal to the portion that the Default Annual Assessment on property owned by a particular Owner bears to the total Default Annual Assessment for all property located within the Property.

16.6 Interpretation In all cases, the provisions set forth or provided for in this Declaration will be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof will be liberally interpreted and, if necessary, they will be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration will be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration will be the date of its filing Of Record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration will be construed under and in accordance with the laws of the State of Texas.

16.7 No Affirmative Obligation Unless Stated **ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THIS DECLARATION WILL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.**

16.8 No Implied Liabilities or Duties **ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THIS DECLARATION WILL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.**

16.9 Gender and Grammar The singular wherever used herein will be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, will in all cases be assumed as though in each case fully expressed.

16.10 Severability Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property will be prohibited or held invalid, such prohibition or invalidity will not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

16.11 Rights of Third Parties This Declaration will be filed Of Record for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party will have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners will have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

16.12 Notice of Sale, Lease, or Mortgage In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

16.13 No Trespass Whenever the Association, Declarant, or the ARC are permitted by this Declaration to enter upon, correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action will not deem to be trespass.

16.14 Notices Notices required hereunder will be in writing and will be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners will be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association will be delivered to such address as the Association may from time to time notify the Owners. All notices to Declarant will be delivered or sent to such address as Declarant may from time to time notify the Association. Notices to Mortgagees will be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder will be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as will, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration this 15th day of June, 2001.

**DECLARANT**

SOUTHERN LIFESTYLES X TX  
LIMITED PARTNERSHIP

By: SOUTHERN LIFESTYLES IX LLC  
Its: General Partner

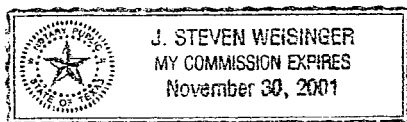
By:   
RODERICK L. BROUSSARD

Title: Special Manager

THE STATE OF TEXAS

COUNTY OF MONTGOMERY

This instrument was acknowledged before me on the 15th day of June, 2001, by RODERICK L. BROUSSARD, Special Manager of SOUTHERN LIFESTYLES IX LLC, General Partner of SOUTHERN LIFESTYLES X TX LIMITED PARTNERSHIP.



  
NOTARY PUBLIC, STATE OF TEXAS

**EXHIBIT "A"**

THE FRENCH QUARTER ON LAKE CONROE, SECTION ONE, a subdivision of 55.255 acres of land in the Elijah Collard Survey A-7, in Montgomery County, Texas according to the map or plat thereof recorded in Cabinet Q, Sheets 36 and 37, of the Map Records of Montgomery County, Texas

## EXHIBIT "B"

1. Mandatory Procedures for Non-Exempt Claims. Any Claimant with a Claim against a Respondent shall comply with the following procedures.

1.1 Notice. Within a reasonable time after the Claim in question has arisen, and in each event prior to the date when institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitation, Claimant will notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

1.1.1 the nature of the Claim, including applicable date, time, location, persons involved, Respondent's role in the Claim and the provisions of the Declaration or other authority out of which the Claim arises:

1.1.2 what Claimant wants Respondent to do or not do to resolve the Claim; and

1.1.3 that Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss, in good faith, ways to resolve the Claim.

1.2 Negotiation.

1.2.1 Each Claimant and Respondent (the "Parties") will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation, not later than 30 days following the Notice, unless otherwise agreed by the Parties.

1.2.2 Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint an attorney licensed to practice law in the State of Texas to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes his or her efforts will be beneficial to the Parties. Such an attorney will have been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments and will not have a conflict of interest with any of the Parties.

1.3 Final and Binding Arbitration.

1.3.1 If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiation"), a Claimant will have 30 days within which to submit the Claim to binding arbitration under the auspices and the Commercial Arbitration Rules of the American Arbitration Association; and in accordance with the substantive and procedural laws of the state of Texas, except as said rules, procedures and substantive laws are applied otherwise as follows:

(a) Unless the parties mutually set another date, within ten (10) days following Termination of Negotiation, Claimant and Respondent will jointly select one arbitrator, whose decision will be absolutely binding on all Parties; provided, however, if Claimant and Respondent are unable to jointly select one arbitrator within said ten (10)-day period, or on or before any later day set by them by which to select an arbitrator, the arbitrator will be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration will be conducted in Montgomery County, Texas before a neutral person who is a member

of the Bar of the State of Texas, who has been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments, and who has no conflict of interest with any Party. The arbitrator may award any remedy or relief that a court of the State of Texas could order or grant, including, without limitation, specific performance of any obligation created under this Declaration, or the issuance of an injunction, as well as the imposition of sanctions for abuse or frustration of the arbitration process; provided, however, the arbitrator will have no authority to award punitive damages or any other damages not measured by the actual damages of the "Prevailing Party," as said term is hereinafter defined, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Declaration.

(b) In the event Claimant does not submit the Claim to binding arbitration as aforesaid, the Claim is deemed abandoned, and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim; provided, nothing herein will release or discharge Respondent from any liability to a person not a Party to the foregoing proceedings, or the mandatory requirements of this Paragraph 14.3 with respect to any subsequently arising new dispute or claim by the Claimant which is identical or similar to the Claim previously deemed abandoned under this Paragraph 1.3.1(b).

This Paragraph 1 is an agreement of the Bound Parties to arbitrate all Claims against Respondent, except Exempt Claims, and is specifically enforceable under Texas law. The arbitration award (the "Award") is final and binding on the Parties, and judgment upon the Award rendered by the arbitrator may be entered upon it in any court of competent jurisdiction.

## 2. Allocation of Costs of Resolving Claims.

2.1 Costs of Notice and Negotiation. Each Party will bear all of its own costs incurred prior to and during the proceedings described in Paragraphs 1.1 and 1.2, including the fees of its attorney or other representative. Claimant and Respondent will share equally the costs and expenses of any attorney appointed by the Board pursuant to Paragraph 1.2, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the Board is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses.

2.2 Arbitration Costs. In the event the Claim proceeds to arbitration pursuant to Paragraph 1.3, the "Prevailing Party," as hereinafter defined, will receive from the non-Prevailing Party, all of its costs and expenses, including reasonable expert and attorney's fees, incurred from commencement of selection of the arbitrator under Paragraph 1.3 to the issuance of the Award. Furthermore, the non-Prevailing Party will pay all costs and expenses of the arbitration, including the costs and expenses of any attorney appointed by American Arbitration Association pursuant to Paragraph 1.3, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the American Arbitration Association is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses. The "Prevailing Party" will be determined as follows:

2.2.1 Not less than ten (10) days prior to the first day of the proceeding, a Party or Parties may file and serve on the other Party(ies) an offer of settlement, and within five (5) days thereafter the Party(ies) served may respond by filing and serving such Party(ies) its own offer of settlement. An offer of settlement will state that it is made under this paragraph and will specify the amount which the Party(ies) serving the settlement offer is/are willing to agree constitutes a settlement of all claims in dispute, including the Claim and all counterclaims.

2.2.2 An offer of settlement is considered rejected by the recipient unless an acceptance, in writing, is served on the Party(ies) making the offer prior to the first day of the proceeding.

2.2.3 If an offer of settlement is rejected, it may not be referred to for any purpose in the proceeding, but may be considered solely for the purpose of awarding fees, costs and expenses of the proceeding under Paragraph 1.3 and as provided in this section.

2.2.4 If the Claimant makes no written offer of settlement, the amount of the Claim made or asserted by the Claimant during the action is deemed to be such Claimant's final offer of settlement hereunder.

2.2.5 If the Respondent makes no written offer of settlement, the final offer of settlement by the Respondent will be the amount asserted during the action to be due in satisfaction of the Claimant's claims, otherwise the Respondent's offer of settlement hereunder is deemed to be zero.

2.2.6 If the respondent asserts a counterclaim, then offers of settlement shall take into consideration such counterclaim in the manner above provided. Furthermore, any Award shall also take into account such counterclaim.

2.2.7 The Party(ies) whose offer, made or deemed made, is closer to the Award granted in the proceeding is considered the "Prevailing Party" hereunder. If the difference between Claimant's and Respondent's offers and the Award is equal, neither Claimant nor Respondent is considered to be the Prevailing Party for purposes of determining the award of fees, costs and expenses of arbitration.

3 Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Paragraph 1.2 and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party thereafter fails to comply with the Award, then any other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Paragraph 14.3. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties jointly and severally) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

**SCHEDULE 1**

**MINIMUM SQUARE FOOTAGE OF LIVING SPACE  
The French Quarter on Lake Conroe, Section One**

Block 1, Lots 1-18, 22-44, 49-59; Block 2, Lots 1, 2;	single story	2,000
Block 3, Lots 1-14, Block 4, Lots 1-11	multi level	2,400
Block 1, Lots 19-21 and 45-48	single story	2,500
	multi level	3,000

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NOTARY PUBLIC CLERK  
MONTGOMERY COUNTY TEXAS

*[Signature]*  
NOTARY

STATE OF TEXAS  
COUNTY OF MONTGOMERY

I hereby certify that the instrument was filed in  
the office of the Notary Public on the date and at the time  
stamped herein by the Notary Public RECORDED in  
the official Public Records of said Property of  
Montgomery County, Texas.

JUN 26 1977



*Mark J. [Signature]*  
COUNTY CLERK MONTGOMERY TEXAS

RETURN TO:  
J. STEVEN WEISINGER  
ATTORNEY AT LAW  
P.O. Box 2666  
Conroe, TX 77305  
409-539-2233