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DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

MIRAMAR LAKE

Figure 1. Schematic diagram of the experimental setup. The subject is seated in a chair, viewing a video screen. The screen displays a target (a red dot) and a starting point (a black dot). The subject's hand is positioned at the starting point. The distance between the starting point and the target is 10 cm. The subject is instructed to move the hand from the starting point to the target. The video screen is 100 cm high and 100 cm wide. The starting point is 50 cm from the bottom edge of the screen. The target is 50 cm from the top edge of the screen. The subject's hand is 50 cm from the bottom edge of the screen. The distance between the starting point and the target is 10 cm. The subject is instructed to move the hand from the starting point to the target.

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

MIRAMAR LAKE

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**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

This Declaration of Covenants, Conditions and Restrictions for Miramar Lake (this "Declaration") is made on the date hereinafter set forth by Legacy/Monterey Homes, L.P., an Arizona limited partnership (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described on Exhibits "A" and "B" attached hereto and made a part hereof;

WHEREAS, Declarant is conveying a portion of such real property to Pendleton (as hereinafter defined), i.e. the real property described on Exhibit "B", and developing the balance of such real property into a single family home subdivision to be commonly known as Miramar Lake ("Subdivision"), i.e. the real property described on Exhibit "A"; and

WHEREAS, Declarant anticipates developing the Subdivision in three sections, named on their plats as Miramar Lake Sections One, Two and Three; and

WHEREAS, all sections of Miramar Lake plus the Pendleton Tract (as hereinafter defined) are the real property described in Exhibit "A"; and

WHEREAS, Declarant has caused an association to be incorporated under the name Miramar Lake Homeowners Association Inc. (the "Association") to provide for maintenance, preservation, and architectural control of the residential lots and common areas located within the Property and any additions thereto which may be subsequently brought within the jurisdiction of the Association; and

WHEREAS, the Declarant desires to impose the Declaration on all of the real property described on Exhibit "A" to adopt, establish and impose upon the Property certain reservations, easements, restrictions, covenants and conditions applicable thereto; and

NOW, THEREFORE, Declarant hereby declares that the real property described on Exhibit "A" to this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions,

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easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I

Definitions

Section 1. Specific Definitions.

"Annual Assessment" shall mean the assessment levied pursuant to Article X, Section 2 hereof.

"Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which, by the terms of this Declaration, a Supplemental Declaration or by contract or agreement with any Person, become the responsibility of the Association, including but not limited to any entrance areas and all landscape amenities and/or signage associated therewith, and any community identity fencing which Declarant may or may not install, at its sole discretion. If such community identity fencing (as distinguished from Builder fencing) is installed by Declarant, it will likely be located possibly along any of the perimeter of the Property and possibly also around the perimeter of the Lake, and other possible locations as the Declarant and thereafter the Association may determine. The office of any property manager employed by or contracting with the Association, whether or not located on the Properties, or any public rights-of-way within or adjacent to the Properties, or easements (pipeline, power, utility, etc.) may be part of the Area of Common Responsibility; however, public rights-of-way located adjacent or contiguous to Lots are not part of the Area of Common Responsibility.

"Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Miramar Lake Homeowners Association, Inc., as filed with the Secretary of State of the State of Texas.

"Assessment" shall mean an Annual Assessment, a Special Assessment, or a Reimbursement Assessment.

"Assessments" shall mean the Annual Assessment, the Special Assessment and the Reimbursement Assessment, collectively.

"Association" shall mean and refer to Miramar Lake Homeowners Association, Inc., a Texas non-profit corporation, its successors or assigns.

"Board of Directors" or "Board" shall mean the elected body of the Association having its normal meaning under Texas law pertaining to non-profit corporations.

"Builder" shall mean and refer to any homebuilding company who purchases a Lot from Declarant for the purposes of constructing a single family Dwelling Unit thereon and selling such Lot and Dwelling Unit to a homebuyer.

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"Bylaws or By-Laws" shall mean and refer to the By-Laws of Miramar Lake Homeowners Association, Inc. which may be amended from time to time.

"Common Area" shall mean all real property and improvements within the Properties, if any, owned acquired or leased by the Association, dedicated for the common use of the Owners and Declarant, and may include detention ponds serving the Property, if such detention ponds are not maintained by a municipal utility district.

"Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of Lot Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and/or the Articles of Incorporation.

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

"Dwelling Unit" shall mean a residential building designed for, and limited and restricted to, occupancy by a single family on a Lot or other portion of the Property, not including an accessory building or garage. A mobile home is not a Dwelling Unit.

"Improvement to Property" includes, without limitation: (a) the construction, installation or erection of any building, structure, fence, Dwelling Unit or other Improvement, including utility facilities; (b) the demolition or destruction, by voluntary action, of any building, structure, fence, or other Improvements; (c) the grading, excavation, filling, or similar disturbance to the surface of any Lot, including, without limitation, change of grade, change of ground level, change of drainage pattern, or change of stream bed; (d) installation or changes to the landscaping on any Lot (including but not limited to removal of any trees); (e) any exterior modification, expansion, change or alteration of any previously approved or previously existing Improvement to Property on any Lot (including the Pendleton Tract Lot) including any change of exterior appearance, color, or texture not expressly permitted by this Declaration, Architectural Guidelines, or Rules and Regulations; and (f) any subdivision or development of the Pendleton Tract into smaller tracts of real property and/or which results in the use of such Pendleton Tract as the residence for more than one family.

"Improvements" shall mean all structures and any appurtenances thereto of every type or kind, which are visible on a Lot (including the Pendleton Tract Lot), including, but not limited to: a Dwelling Unit, buildings, outbuildings, swimming pools, spas, hot tubs, patio covers, awnings, painting of any exterior surfaces of any visible structure, additions, sidewalks, walkways, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening, walls, retaining walls, stairs, decks, fixtures, windbreaks, basketball goals, flagpoles, or any other type of pole, signs, exterior tanks, exterior air conditioning fixtures and equipment, water softener fixtures, exterior lighting, recreational equipment or facilities, radio, conventional or cable or television antenna or dish, microwave television antenna, and landscaping that is placed on and/or visible from any Lot.

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"Lake" shall mean the body of water located within the Subdivision which will be owned by the Association as Common Area and maintained by the Association as provided herein.

"Lot" shall mean and refer to any plot or tract of land shown upon any recorded map(s) or plat(s) of the Properties, as same may be amended from time to time, which is designated as a lot therein and which is or will be improved with a Dwelling Unit in conformity with the building restrictions set forth herein. The Pendleton Tract shall be considered a single Lot hereunder, even though not platted. If such Pendleton Tract is allowed to be subdivided or developed into multiple Lots to contain residences for more than one family, then the Pendleton Tract would no longer be a single Lot but would be multiple Lots hereunder, each containing a Dwelling Unit for a single family.

"Maintenance Fund" or "Reserve Fund" shall mean any accumulation of the Assessments collected by the Association in accordance with the provisions of this Declaration and any Supplemental Declaration together with interest, attorneys' fees, penalties and other sums and revenues collected by the Association pursuant to the provisions of this Declaration and any Supplemental Declaration.

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

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

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

"Mortgagor" shall mean and refer to any Owner who gives a Mortgage.

"Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot, but excluding in all cases any Mortgagee or other party holding an interest merely as security for the performance of an obligation. For the purpose of exercising all privileges of membership in the Association, privileges of ownership are exclusive to each Owner unless otherwise conveyed to a specific Person in writing, with a copy of such written authority given to the Association. The owner of the Pendleton Tract shall be deemed an Owner hereunder.

"Pendleton" shall mean Clinton Pendleton, or his heirs, successors and/or assigns, as the current Owner of the real property described on Exhibit "B" attached hereto and made a part hereof (the "Pendleton Tract") at any given time. Such Pendleton Tract is considered a Lot herein and is a part of the Property but the Pendleton Tract and the Owner of the Pendleton Tract shall for certain purposes herein be treated differently than all the other Lots and the Owners of all of the other Lots, only if specifically set forth herein.

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

"Plans" shall mean the final construction plans and specifications (including a related site plan) of any Dwelling Unit, building or Improvement of any kind to be erected, placed, constructed, maintained or altered on any Lot, including the Pendleton Tract Lot.

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"Plat" shall mean the official plat or plats of all or any part of the Subdivision, for the various sections of Miramar Lake, which will be recorded in the real property records of Harris County, Texas, as same may be amended or replatted. "Plat" shall also mean any plat(s) or replat(s) of the Pendleton Tract, if allowed hereunder, which would be recorded in the real property records of Harris County, Texas, as same may be amended or replatted.

"Property" or "Properties" shall mean the real property described on Exhibit "A" attached hereto and made a part hereof, and the real property described on Exhibit "B" attached hereto and made a part hereof, together with any improvements thereon or appurtenances thereto and will include such additional property as is hereafter annexed and/or subjected to this Declaration by a Supplemental Declaration, which Subdivision will be commonly known as Miramar Lake and, which is planned to be developed in three (3) sections.

"Reimbursement Assessment" shall mean a charge against a particular Owner and/or his Lot for the purpose of reimbursing the Association for expenditures and other costs of the Association incurred in curing any violation, directly attributable to the Owner, of this Declaration or the Rules and Regulations, pursuant to Article X, Section 6, hereof.

"Rules and Regulations" shall mean those rules and regulations which may be established from time to time by the Board of Directors pursuant to this Declaration.

"Special Assessment" shall mean a charge against a particular Owner and/or his Lot representing a portion of the cost to the Association for the purpose of funding major capital repairs, maintenance, and replacement of Improvements, as more particularly described in and imposed by Article X, Section 4, hereof.

"Street Trees" shall mean and refer to trees located in the public right-of-way between the Lot property line and the curb for any particular Lot.

"Supplemental Declaration" shall mean any amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

Section 2. Other Defined Terms. Other terms which are defined herein shall have the meanings given in this Declaration.

ARTICLE II.

Easement of Enjoyment

Section 1. Use of Common Area. Each Owner shall have a nonexclusive right and easement of enjoyment to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(i) This Declaration, as it may be amended from time to time;

(ii) Any restrictions or limitations contained in any deed conveying such Common Area to the Association;

(iii) The right of the Board to limit the number of guests who may use the Common Area, and to adopt other Rules and Regulations regulating the use and enjoyment of the Common Area;

(iv) The right of the Board to suspend the right of an Owner to use any recreational facilities within the Common Area (i) for any period during which any Assessment or portion thereof owed by such Owner remains delinquent, and (ii) for a period not to exceed sixty (60) days for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, By-Laws, or Rules and Regulations of the Association;

(v) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to the approval of sixty-seven percent (67%) of the votes of all Members eligible to vote;

(vi) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees (which fees shall be separate from Assessments) for the use of any recreational facility situated upon the Common Area;

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

(viii) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval of sixty-seven percent (67%) of the votes of all Members eligible to vote;

(ix) The right of the Association to grant easements pursuant to Article IV, Section 11 hereof; and

(x) The right of the Association to enter into and execute contracts with any party (including without limitation, Declarant or its affiliates) for the purpose of providing maintenance or other materials or services consistent with the purposes of the Association and this Declaration.

Section 2. Delegation. Any Owner may delegate his or her right of use and enjoyment of Common Area 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 Lot must provide written notice to the Association conveying such privileges of use to Common Areas.

Section 3. Conveyances to the Association. Declarant may retain the legal title to easements or fee simple parcels designated as Common Area. Declarant may, at any time after the date hereof, convey legal title to all or a portion of such Common Area to the Association, and such conveyance shall be on an as-is, where-is basis. The Association shall be obligated to accept title to, operate and maintain the Common Area conveyed to the Association as elsewhere provided in this Declaration.

ARTICLE III

Establishment of General Plan

Section 1. General Plan and Declaration. This Declaration is hereby established pursuant to and in furtherance of a common and general plan for the improvement and sale of Lots within the Properties, and for the purpose of enhancing and protecting the desirability and attractiveness of the Properties. The undersigned Owners, for themselves, their heirs, executors, administrators, legal representatives, successors, and assigns hereby declare that the Properties and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in this Declaration, for the duration thereof. The Lots and Common Areas and the Pendleton Tract which is the real property described on Exhibit "B" hereto in the Properties shall be subject to the jurisdiction of the Association.

Section 2. Equitable Servitudes. The covenants, conditions, restrictions, limitations, reservations, easements, and exceptions of this Declaration hereby are imposed as equitable servitudes upon each Lot, and the Common Areas within the Properties, and Pendleton Tract Lot which is the real property described on Exhibit "B" hereto as a servient estate, for the benefit of each and every other Lot and parcel of Common Area and Pendleton Tract Lot which is the real property described on Exhibit "B" hereto within the Properties, as the dominant estate.

Section 3. Covenants Appurtenant. The covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in this Declaration shall be binding upon and inure to the benefit of: (a) the Properties; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all Persons (including Owners) having, or hereafter acquiring, any right, title, or interest in all or any portion of the Properties and their heirs, executors, successors, and assigns.

ARTICLE IV.

Management and Operation of Properties

Section 1. Management by Association.

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(i) Generally. The affairs of the Properties shall be administered and managed by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Properties as herein provided for and as provided for in the Articles of Incorporation, Bylaws, and the Rules and Regulations. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the event of a conflict between the Articles of Incorporation or the Bylaws and the provisions of the Declaration, the provisions of the Declaration shall control. The principal purposes of the Association are the collection, expenditure, and management of the Maintenance Fund, enforcement of the restrictions contained herein and in Supplemental Declarations, providing for the maintenance and presentation of the Area of Common Responsibility and the facilities of the Association, ensuring architectural control of the Lots and the Pendleton Tract Lot, and establishing a method for the administration, maintenance, preservation, use and enjoyment of the Properties.

(ii) Additional Powers of the Association. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Properties as the Board deems reasonably necessary or appropriate to maintain and operate the Properties in accordance with the Declaration, including without limitation, the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest. The Association, acting through its Board of Directors, shall also have the power to make and to enforce Rules and Regulations governing the use of the Properties, including but not limited to Rules concerning traffic and parking matters, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. The Rules and Regulations shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or special meeting of the Association by two-thirds of the total eligible Class "A" and Class "B" votes of the Association.

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

(iv) Personal Properties and Real Property for Common Use. The Association, through action 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 Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by Declarant pursuant to the terms of this Declaration.

(v) Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the By-Laws or by statute, 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.

Section 2. Board of Directors. The business and affairs of the Association shall be managed by and the decisions and actions of the Association shall be made or taken by the Board of Directors, unless otherwise reserved to the Members of the Association by law, the terms of the Declaration, Articles of Incorporation, or the Bylaws.

Section 3. Membership in Association. Each Owner, whether one person or more, of a Lot and of the Pendleton Tract Lot shall upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until ownership of the Lot or Pendleton Tract Lot ceases for any reason, at which time the membership in the Association shall also automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and/or Pendleton Tract Lot and may not be separated from such ownership. Prior to changing the name of the Owner of any Lot on the membership rolls of the Association, the Association or its managing agent (if authorized by the Board of Directors) may charge a transfer fee or processing fee when ownership to any Lot and/or Pendleton Tract Lot changes, however there shall be no charge when Declarant conveys a Lot to a Builder. Further, there will be no charge when Declarant or Builder conveys a Lot and Dwelling Unit to the first homebuyer. Membership in the Association shall not include Mortgagees or other persons having an interest merely as a security for the performance of an obligation. Each Owner is required to provide and maintain at all times with the Association, or its designated management agent, current information regarding such Owner's address and phone number and the name, address and phone number of the occupant or property manager, if any, of each Lot owned and of the Pendleton Tract Lot.

Section 4. Voting and Membership Limitations. The Association shall have two (2) classes of Members:

(i) Class "A". Class "A" Members shall be all Owners, with the exception of Declarant. Each Class "A" Member shall be entitled to one (1) vote for each Lot owned by such Member in the Properties; provided, however, when more than one person holds an interest in any Lot, all such persons shall be Members, and the single vote for such Lot shall be exercised by them as they among themselves determine but in no event shall more than one (1) vote be cast with regard to any Lot owned by a Class "A" Member. The Pendleton Tract Lot is a Class "A" member and as such entitled to one (1) vote. Should the Pendleton Tract Lot ever be subdivided with the consent of the Board, it shall be at the discretion of the Board whether to allow each of such subdivided tracts to become voting Lots hereunder, instead of just having the one (1) vote now existing.

(ii) Class "B". The Class "B" Member shall be Declarant. The Class "B" Member shall be allowed three (3) votes for each Lot in the Properties owned by Declarant. All Class "B" votes shall cease to exist and automatically be converted to Class "A" votes on the happening of any of the following events, whichever occurs earlier:

(a) When 75% of the Lots on the Property (including Property added hereto by annexation) planned for development have been sold to and occupied by Class A Members;

(b) Twenty (20) years from the date the Declaration is filed in the Office of the County Clerk of Harris County, Texas; or

(c) At such earlier time as the holder of the Class "B" votes may, in its sole discretion, elect, as evidenced by a document recorded in the real property records of Harris County, Texas.

(iii) Reinstatement of Class "B" Votes. Notwithstanding the prior provisions of Section 4(b) above, if additional property is made subject to the jurisdiction of the Association pursuant to a Supplemental Declaration, such that Declarant owns more than twenty-five percent (25%) of the total of all Lots, then the provisions in the first sentence of said paragraph (b) of Section 4, shall be automatically reinstated ipso facto.

Section 5. Voting. Unless otherwise stated herein, in the Articles, in the By-Laws, or required by law, any action which requires the approval of the Members of the Association shall require the approval of a majority of the total eligible votes of all Members represented in person or by proxy at any duly called meeting. Any action of the Board shall require the approval of a majority of the total members thereon. Any Owner who is delinquent in the payment of any Assessment shall not be entitled to vote during any period in which any such Assessment is delinquent.

Section 6. Compensation of Board. No person serving on the Board shall be entitled to compensation for services performed; however, (a) any member of the Board may be reimbursed for his actual expenses incurred in the performance of his duties, and (b) the Board may employ one or more architects, engineers, land planners, management companies, accountants, bookkeepers, collection agencies, attorneys or other consultants to assist the Board in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the Board, such payment to be made out of the Assessments.

Section 7. Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and any Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and each Member's family, guests, or tenants. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of the Rules and Regulations of the Association by any one or more of the following means: (a) by entry upon any Lot and/or Pendleton Tract Lot within the Properties after notice (unless a bona fide emergency exists in which event this right of entry may be exercised without notice [written or oral] to the Owner, but in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use, or enjoyment of the Improvements situated thereon by the Owner or any other Person), without liability by the Association to the Owner, tenant, or guest thereof, for the purpose of enforcement of this Declaration or Rules and Regulations; (b) by commencing and maintaining actions and suits to restrain

and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by exclusion, after notice, of any Member or Member's family, guests, or tenants from use of any recreational facilities in the Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants, unless the breach is a continuing breach in which case, such exclusion shall continue for so long as such breach continues; (e) by suspension, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or Member's family, guests, or tenants, of this Declaration or such Rules and Regulations unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after notice, a Reimbursement Assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants; and (g) by levying and collecting, after notice, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, which fines and penalties shall be deemed Reimbursement Assessments to be collected as such, from any Member or Member's family, guests, or tenants, for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants.

Section 8. Limitation on Liability. The officers of the Association and Board members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or Board members may also be Members of the Association). Further, a member of the Board shall not be liable to the Association, any Member, or any other person for any action taken or not taken as a member of the Board if he acts in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner he reasonably believes to be in the best interests of the Association. The officers of the Association and the members of the Board shall also be entitled to the benefit of any provision limiting their liability provided by the By-Laws and the Texas Non-Profit Corporation Act.

Section 9. Reimbursement of Declarant. Recognizing that the initial cost of administration and maintenance of the Area of Common Responsibility and that the Association may have to be subsidized by Declarant, the Board (whether the Board is the same as Declarant, his agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) may execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant or loaned to the Association by Declarant for and on behalf of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Area conveyed by Declarant to the Association.

Section 10. Indemnification.

(i) Generally. Except as provided in Subsection (f) of this Section 10, the Association shall defend and indemnify every officer, member of the Board and committee member and their respective agents, managers or administrators (each, an "Indemnified Party") against any and all

liabilities and expenses, including legal fees, incurred by or imposed upon such Indemnified Party in connection with any action, claim, demand, suit, or other proceeding (each a "Proceeding") to which he or she may be a party by reason of being or having been an officer, Board member, agent or committee member. This indemnification shall also apply to any liability and expense incurred with the settlement of any Proceeding, if such settlement is approved in advance by the then Board of Directors. The Association shall also indemnify and forever hold each Indemnified Party free and harmless against any and all personal liability to others on account of any contract or commitment made by them, in good faith, on behalf of the Association, except to the extent such indemnified Party may also be a Member of the Association.

(ii) Continuation. Indemnification under this Section 10 shall continue as to each Indemnified Party who has ceased to serve in the capacity which initially entitled such Indemnified Party to the indemnity hereunder. The rights granted pursuant to this Section 10 shall be deemed contract rights, and no amendment, modification or repeal of this Section 10 shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment, modification or repeal.

(iii) Advance Payment. The right to indemnification conferred in this Section 10 shall include the right to be paid or reimbursed by the Association the reasonable expenses incurred by an Indemnified Party who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Indemnified Party's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any Indemnified Party in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Association of a written affirmation by such Indemnified Party of his or her good faith belief that he has met the standard of conduct necessary for indemnification under this Section 10 and a written undertaking, by or on behalf of the Indemnified Party, to repay all amounts so advanced if it shall ultimately be determined that the Indemnified Party is not entitled to be indemnified under this Section 10 or otherwise.

(iv) Appearance as a Witness. Notwithstanding any other provision of this Section 10, the Association may pay or reimburse expenses incurred by an Indemnified Party in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

(v) Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Section 10 shall not be exclusive of any other right which an Indemnified Party may have or hereafter acquire under any law.

(vi) Limitation on Indemnification. No indemnification shall be provided under this Section 10 to any Indemnified Party with respect to any Proceeding in which an Indemnified Party shall be determined not to have acted in good faith with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner which he does not believe to be in the best interests of the Association. However, it is the intent of this Section 10 not to subject an Indemnified Party to standards of any professional background they may have and therefore not subject such

Indemnified Party to any professional liability. An Indemnified Party is intended to serve as a volunteer regardless of their professional background.

Section 11. Power to Grant Easements. Declarant, while Declarant owns the Common Area and thereafter the Association, shall have the power to grant access, utility, drainage, water, facility, telephone, cable television, internet, security systems, and other easements, in, on, over, or under the Common Area.

Section 12. Inspection of Records. The Members shall have the right to inspect the books and records of the Association at reasonable times during normal business hours by appointment.

Section 13. Right of Entry: Enforcement by Self Help. The Association shall have the right, but not the obligation, in addition to and not in limitation of all the rights it may have under this Declaration, to enter upon any unoccupied, vacant or abandoned Lot or portion of the Property, including any Improvements located thereon, if deemed reasonably necessary by the Board of Directors of the Association for emergency, health, safety and/or security purposes to make repairs to Improvements, secure the Properties or abate or remove things or conditions which are potentially hazardous or which violate any provisions of this Declaration. Such right may be exercised by the Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, the Association shall first attempt to provide reasonable notice to the last known Owner of the Lot or portion of the Property. All costs of such efforts, including reasonable attorneys' fees actually incurred, shall be assessed against the Owner of the Lot or portion of the Property and shall be collected as provided for herein for the collection of the Assessments.

ARTICLE V.

Maintenance

Section 1. Association's Responsibility.

(i) Generally. The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements, situated upon the Common Areas (including but not limited to the Lake) or on any easement area which easement runs to the Declarant and/or Association, landscaped medians within public rights-of-way throughout the Properties, landscaping and other flora on any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto), community identity perimeter fencing owned by the Association in the easement reserved therefor in Article XI, Section 5 hereof, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association. The Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless Members holding seventy-five percent (75 %) of all votes agree in writing to discontinue

such operation. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(ii) Maintenance Easements. There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill the Association's maintenance responsibility described in Section 1 of this Article V or elsewhere in this Declaration.

(iii) Maintenance Expenses. 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 Lots as part of the Assessment, notwithstanding that the Association may be entitled to reimbursement from the owner(s) of certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

(iv) Additional Maintenance Responsibility. The Association shall also be responsible for maintenance, repair and replacement of any property within the Properties to the extent designated in any Supplemental Declaration affecting the Association. The Association may also assume maintenance responsibilities with respect to any Common Area that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Properties.

Section 2. Owner's Responsibilities.

(i) Generally. Each Owner shall maintain his or her Lot and/or portion of the Property and all structures, parking areas, fences, landscaping, and other improvements on the Lot and/or portion of the Property, all public right-of-way adjacent to or contiguous to the Lot and/or portion of the Property (from the Lot property line to the curb), and landscaping located thereon, including the Street Trees, in a neat, orderly condition, other than the community identity perimeter fencing owned by the Association and referred to in Section 1(a) of this Article. Owners of Lots and/or portion of the Property which are adjacent to any portion of the Common Area on which walls, or fences, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the boundary. Owners of Lots and/or portion of the Property adjacent to any roadway within the Properties shall maintain driveways serving their respective Lots and/or portion of the Property, whether or not lying within the Lot and/or portion of the Property boundaries, and shall maintain landscaping on that portion of the Common Area, if any, or right-of-way between the Lot and/or portion of the Property boundary and the back-of-curb of the adjacent street. Any Street Trees needing to be replaced shall be replaced by the Owner with a tree no smaller than 12" caliper.

(ii) Standard of Maintenance by Owner. All maintenance required by this Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or pursuant to any Supplemental Declaration affecting such Lot or portion of the Property.

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(iii) Enforcement of Owner's Responsibilities. In addition to any other enforcement rights available to the Association, in the event of violation of any covenant or restriction herein by any Owner or occupant of any Lot or portion of the Property and the continuance of such violation after twenty (20) days' written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not obligation), through its agents or employees, to repair, maintain and restore the Lot or portion of the Property and/or the exterior of the Dwelling Unit, not limited to include gutters, siding, broken windows, fencing, mowing, etc., and any other existing Improvements located thereon, to the extent necessary to prevent rat infestation, diminish fire hazards, protect property values and accomplish necessary repairs, maintenance and/or restoration. The Association may render a statement of charge to the Owner or occupant of such Lot or portion of the Property for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot or portion of the Property to pay such statement immediately upon receipt. Any and all related costs, including but not limited to legal fees, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of a Reimbursement Assessment payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration. The Association, its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

Section 3. Party Fences.

(i) General Rules of Law to Apply. Each fence built which shall serve and separate any two (2) adjoining Dwelling Units shall constitute a party fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto. This section shall not apply to the community identity fencing owned and maintained by the Association and referred to in Article XI, Section 5 hereof.

(ii) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party fence shall be shared by the Owners who the fence serves in equal proportions.

(iii) Damage and Destruction. If a party fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and therefore not repaired out of the proceeds of insurance, any Owner who the fence serves may restore it, and other Owner or Owners are served by the fence shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, subject 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.

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

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(v) Arbitration. In the event of any dispute arising concerning a party 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 judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof located in Harris County, Texas.

ARTICLE VI.

No Partition

Except as is permitted in the Declaration or any Supplemental Declaration, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board 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 Declaration.

ARTICLE VII.

Architectural Approval

Section 1. Architectural Control Committee. As used in this Declaration, the term "Architectural Control Committee" or "ACC" shall mean a committee of three (3) members. The Board shall have the right to appoint all members of the Architectural Control Committee. Members of the Architectural Control Committee may, but need not be, Members of the Association. Members of the Architectural Control Committee may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. Notwithstanding the foregoing, any removal or appointment by the Board of a member of the Architectural Control Committee must be approved in writing by the Declarant as long as Declarant owns one (1) or more Lots.

Section 2. Approval of Improvements Required. The approval of a majority of the members of the Architectural Control Committee shall be required for any Improvement to Property on any of the Properties before commencement of construction of such Improvement to Property, other than an Improvement to Property made by Declarant. The requirement for approval throughout this Article VII also applies to the Pendleton Tract Lot. Further, any subdivision or platting or development of the Pendleton Tract Lot which would or might possibly result in the Pendleton Tract Lot being the residence of more than one family (i.e., into multiple single family Lots), must have the prior written approval of the ACC, which may be withheld in the ACC's sole discretion. All existing Improvements on the Pendleton Tract Lot, in the condition existing on the date of the recording of this Declaration are hereby

approved. Any modifications to such existing Improvements and/or any new Improvements to such Pendleton Tract Lot shall be subject to this Article VII.

Section 3. Address of Committee. The address of the Architectural Control Committee shall be at the principal office of the Association.

Section 4. Submission of Plans. Before commencement of work to accomplish any proposed Improvement to the Property, or any modification to any existing Improvement, the Owner proposing to make such Improvement (or modification to an existing Improvement) to the Property (the "Applicant") shall submit to the Architectural Control Committee at its offices, copies of such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications, and samples of materials and colors as the Architectural Control Committee reasonably shall request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property, as may be more particularly described from time-to-time in any minimum construction standards and/or architectural guidelines adopted by the Architectural Control Committee (the "Architectural Guidelines"). The Architectural Control Committee may require submission of additional plans, specifications, or other information before approving or disapproving the proposed Improvement to Property. Until receipt by the Architectural Control Committee of all required materials in connection with the proposed Improvement to Property, the Architectural Control Committee may postpone review of any materials submitted for approval.

Section 5. Criteria for Approval. The Architectural Control Committee shall approve any proposed Improvement to Property only if it determines in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Properties as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Properties, including, without limitation, quality and color of materials and location with respect to topography and finished grade elevation; that the Improvement to Property will comply with the provisions of this Declaration and any applicable plat, ordinance, governmental rule, or regulation; that the Improvements to Property will not detract from the beauty, wholesomeness, and attractiveness of the Property or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association. The Architectural Control Committee is specifically granted the authority to disapprove proposed Improvements because of the unique characteristics or configuration of the Lot on which the proposed Improvement would otherwise be constructed, even though the same or a similar type of Improvement might or would be approved for construction on another Lot. The Architectural Control Committee may condition its approval of any proposed Improvement to Property upon the making of such changes thereto as the Architectural Control Committee may deem appropriate.

Section 6. Architectural Guidelines. The Architectural Control Committee from time to time may supplement or amend the Architectural Guidelines. The Architectural Guidelines serve as a guideline only and the Architectural Control Committee may impose other requirements in connection with its review of any proposed Improvements. If the Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall control.

Section 7. Decision of Committee. The decision of the Architectural Control Committee shall be made within forty-five (45) days after receipt by the Architectural Control Committee of all materials required by the Architectural Control Committee. The decision shall be in writing and, if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Architectural Control Committee promptly shall be transmitted to the Applicant at the address furnished by the Applicant to the Architectural Control Committee. The Owner, however, is responsible under all circumstances to conform to the provisions of these restrictions in their entirety.

Section 8. Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved by the Architectural Control Committee, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Architectural Control Committee within forty-five (45) days after the date of receipt by the Architectural Control Committee of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines. The Architectural Control Committee shall at all times retain the right to object to any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines.

Section 9. Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement to Property in the materials submitted to the Architectural Control Committee. Failure to complete the proposed Improvement to Property within nine (9) months after the date of approval or such other period of time as shall have been designated in writing by the Architectural Control Committee (unless an extension has been granted by the Architectural Control Committee in writing) or to complete the Improvement to Property in strict conformity with the description and materials furnished to the Architectural Control Committee, shall operate automatically to revoke the approval by the Architectural Control Committee of the proposed Improvement to Property. No Improvement to Property shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Dwelling Unit, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

Section 10. Inspection of Work. The Architectural Control Committee or its duly authorized representative shall have the right, but not the obligation, to inspect any Improvement to Property before or after completion.

Section 11. Notice of Noncompliance. If, as a result of inspections or otherwise, the Architectural Control Committee finds that any Improvement to Property has been constructed or undertaken without obtaining the approval of the Architectural Control Committee, or has been completed other than in strict conformity with the description and materials furnished by the Owner to the Architectural Control Committee, or has not been completed within the required time period after the date of approval by the Architectural Control Committee, the Architectural Control Committee shall

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notify the Owner in writing of the noncompliance ("Notice of Noncompliance"). The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy or remove the noncompliance within the period of time set forth therein.

Section 12. Correction of Noncompliance. If the Architectural Control Committee finds that a noncompliance continues to exist after such time within which the Owner was to remedy the noncompliance as set forth in the Notice of Noncompliance, the Association may, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the Lot or portion of the Property on which the noncompliance exists in the Office of the County Clerk of Harris County, Texas; (b) remove the noncomplying Improvement to Property; and/or (c) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question), and, if the Board elects to take any action with respect to such violation, the Owner shall reimburse the Association upon demand for all expenses incurred therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board may levy a Reimbursement Assessment for such costs and expenses against the Owner of the Lot or portion of the Property in question. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Association to take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise.

Section 13. No Implied Waiver or Estoppel. No action or failure to act by the Architectural Control Committee shall constitute a waiver or estoppel with respect to future action by the Architectural Control Committee or the Board of Directors, with respect to any Improvement to Property. Specifically, the approval by the Architectural Control Committee of any Improvement to Property shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement to Property by such Person or otherwise.

Section 14. Power to Grant Variances. The Architectural Control Committee may authorize variances from compliance with any of the provisions of Article VIII of this Declaration (except for the provisions of Article VIII, Section 2 relating to single family residential construction and use, for which no variances may be granted by the ACC), including restrictions upon placement of structures, the time for completion of construction of any Improvement to Property, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Control Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Architectural Control Committee other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot

concerned. Any request for a variance which is not responded to within thirty (30) days of its receipt shall be deemed denied.

Section 15. Compensation of Architectural Control Committee. The members of the Architectural Control Committee shall be entitled to reimbursement by the Association for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

Section 16. Delegation of Authority. It is understood that the Architectural Control Committee may delegate all or part of its authority hereunder to review the documents submitted to it and that the Architectural Control Committee may retain the services of architects, engineers and others (and Owners shall pay all fees) from time to time for the purpose of reviewing such documents and making recommendations as to approval, disapproval or modification thereof.

Section 17. Authority to Charge Fees. The Architectural Control Committee may charge and collect a reasonable fee for processing an application submitted to the Architectural Control Committee for approval. Such charges shall be payable at the time and place and in the manner prescribed by the Architectural Control Committee. The Architectural Control Committee also may charge and collect such other fees or deposits as are reasonable and necessary. All fees and deposits are subject to change by the Architectural Control Committee without prior notice.

Section 18. Non-liability for Architectural Control Committee Action. None of the members of the Architectural Control Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Control Committee. In reviewing any matter, the Architectural Control Committee shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes, or other governmental laws or regulations. Furthermore, none of the members of the Architectural Control Committee, any member of the Board of Directors, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Control Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Control Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements, or portion thereof, or for failure to repair or maintain the same.

Section 19. Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Architectural Control Committee may temporarily suspend certain provisions of this Declaration as to the Lot or portion of the Property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this

Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Properties.

ARTICLE VIII.

Architectural Restrictions

Section 1. Dwelling Unit Size. Each Dwelling Unit constructed on a Lot or portion of the Property shall contain a minimum of 1200 square feet of living area (exclusive of porches and garages), and a maximum square feet of living area (exclusive of porches and garages) of 4,000.

Section 2. Height and Character of Dwelling Unit. No Dwelling Unit shall be erected, altered, or permitted to remain on any Lot or portion of the Property other than one Dwelling Unit used for single family residential purposes only, not to exceed two (2) stories in height, and a fully enclosed garage as provided in Section 7.

Section 3. Location of Dwelling Unit. Except as may be authorized in writing by the Architectural Control Committee, no Dwelling Unit or Improvement shall be located nearer to the front Lot or Property line nor nearer to any rear or Property Lot line than as permitted by the recorded Plat of the Properties. To provide for uniformity and property utilization of the building area within the Lots, Dwelling Units, or appurtenant structures on a Lot shall not be less than ten (10) feet from the Dwelling Unit or appurtenant structure on any contiguous Lot(s).

Section 4. Exterior Walls. No Dwelling Unit shall have exterior wall construction which is other than what is required in the Architectural Guidelines. Any construction materials used other than brick or masonry concrete or other approved material must have Architectural Control Committee approval.

Section 5. Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, or other outbuilding shall be maintained or used on any Lot at any time as a Dwelling Unit, or for any other purpose, either temporarily or permanently (except that existing structures on the Pendleton Tract Lot may remain and continue in use for their present purpose) provided, however, that Declarant reserves the exclusive right to erect, place, and maintain such facilities in or upon any portion of the Property as in its sole discretion may seem necessary or convenient while selling Lots, selling or constructing Dwelling Units, or constructing other Improvements within the Property. The right to use temporary structures in connection with the construction of Improvements may be assigned from time-to-time, in whole or in part, by Declarant to Builders. All permitted temporary structures shall be reasonably maintained at all times.

Section 6. Drainage. No Owner of a Lot shall be permitted to construct Improvements on such Lot or portion of the Property or grade such Lot or portion of the Property or permit such Lot or portion of the Property to remain in or be placed in such condition that surface water on such Lot or portion of the Property drains to any other Lot or the Common Area.

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Section 7. Carports/Garages. No carports shall be constructed on any Lot, however a port-cachere is allowed as long as a garage complying with this section also is constructed. All garages shall be: (a) fully operable; (b) capable of housing at least two (2), but not more than three (3) automobiles; and, (c) enclosed by fully functional and operational garage doors which must be kept in the closed position when the garage is not being used by the Owner or occupant. The garage portion of any model home may be used by Builders for sales purposes, storage purposes, and other related purposes. Upon (or before) the sale of any such model home to the first purchaser thereof, the garage portion of the model home shall be converted by the Declarant to a fully enclosed garage capable of housing not less than two (2) or more than three (3), automobiles, with fully functional and operational garage doors. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the NCC, nor may any portion of a garage be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. In particular, but not in limitation of the foregoing, no portion of any garage may be used as a residence, game room or for any similar use as living quarters.

Section 8. Roofs. Unless otherwise approved or existing as of the date of recording of this Declaration on the Pendleton Tract Lot, the roof of all buildings on any Lot or other portion of the Property shall be covered with composition shingles with a life of twenty (20) years or better, or comparable to minimum specifications as defined by the Federal Housing Authority. The color of any composition shingles shall be subject to written approval by the Architectural Control Committee prior to installation. Any other type roofing material may be used only if approved in writing prior to installation.

Section 9. Grass, Shrubbery and Landscaping. The Owner of each Lot or portion of the Property with a Dwelling Unit thereon shall solid sod with grass the area between the Dwelling Unit and the curb line(s) of the abutting street(s). All grass, plants, and shrubs shall be maintained by the Owner of the Lot or portion of the Property. The grass, plants, shrubs and trees shall be of a type and within standards approved by the Architectural Control Committee. The landscaping requirements of the Architectural Control Committee may be revised from time-to-time.

Section 10. Satellite Dishes and Antennas.

(a) Antenna or Satellite Dish in Excess of One Meter (39 inches). No antenna or satellite dish which exceeds one meter (39 inches) in diameter is permitted on any Lot or other portion of the Property.

(b) Antenna or Satellite Dish of One Meter (39 inches) or Less, and Other Antennas and Related Masts. An antenna or satellite dish of one meter (39 inches) or less, and other antennas and related masts are permitted to be placed on a Lot or other portion of the Property provided any such item must comply with all of the below set forth minimum conditions. Further, the Association must receive written notification at its then current address from the Owner of the applicable Lot or other portion of the Property, on or before the installation of any antenna, satellite dish and related mast provided for in this Section 10(b). Such notification must include the type and color of antenna, satellite dish, and any

related mast to be installed, and the method, manner, and site of installation. The site must be shown in a plot plan.

If the Owner of a Lot or other portion of the Property proposes to install an antenna, satellite dish and any related mast provided for in this Section 10(b) in any manner whatsoever which does not strictly comply with the below set forth minimum conditions, such Owner must submit an application to the Architectural Control Committee and obtain the written approval of the Architectural Control Committee prior to commencing such installation. In connection with the Architectural Control Committee's decision, the Architectural Control Committee shall consider such factors as it deems appropriate, in its reasonable discretion. The application to the Architectural Control Committee must be made on a form approved by the Architectural Control Committee and contain such information as may be required by the Architectural Control Committee, including a statement which specifically describes the manner in which it is proposed that such antenna, satellite dish and related mast will vary from such minimum conditions. The Architectural Control Committee shall endeavor to make its decision regarding the proposed antenna, satellite dish and any related mast on an expedited basis within seven (7) days after receipt by the Architectural Control Committee of the completed application and all information required therein. The granting of a variance from such minimum conditions shall in no way affect the Owner's obligation to comply with all governmental laws and regulations and other regulations affecting the Lot concerned.

(c) Minimum Conditions. In addition to the foregoing requirements, no antenna, satellite dish, or any related mast shall be erected, constructed, placed, or permitted to remain on any Lot or other portion of the Property unless such installation strictly complies with the following minimum conditions (however, each minimum condition shall not apply if it unreasonably delays installation of the applicable antennae, satellite dish, and any related mast, or unreasonably increases the cost of such items or their installation, or precludes reception of an acceptable quality signal):

(i) The antenna, satellite dish and any mast must be located to the rear one-half (2) of the Lot and must serve only improvements on the particular Lot in which it is located.

(ii) To the extent feasible, the antenna, satellite dish and any mast, including its base and anchoring structure, shall not extend above the roofline of the house located on the Lot or other portion of the Property and shall not be visible from the frontage street or any adjoining street.

(iii) To the extent feasible, no antenna, satellite dish or mast shall be constructed or placed or permitted to remain on any utility easement or other easement or right-of-way located on any Lot.

(iv) The antenna, satellite dish and any mast must be securely mounted to a base, so as to be able to withstand the effects of high winds or other extraordinary weather conditions; however, no guy wires or similar mounting apparatus will be allowed.

(v) No advertising slogans, logos, banners, signs or any other printing or illustration whatsoever (other than the name of the manufacturer) shall be permitted upon or be attached to the antenna, satellite dish or mast.

(vi) No satellite dish or antenna shall ever be used for the transmission of any signal whatsoever and said antenna or satellite dish shall be for the purpose of receiving only normal signals through airwaves for television viewing purposes only.

(vii) No antenna or satellite dish shall be permitted to cause any distortion or interference whatsoever with respect to any other electronic device in the Subdivision.

(viii) The antenna, satellite dish and any mast shall be one solid color only, either white or black or shades of either brown, gray or tan.

(ix) Each Lot or other portion of the Property or shall be permitted to have no more than one antenna or satellite dish and any related mast, as applicable, for each category of the following categories of video programming providers, to-wit: direct broadcast satellites, multi-channel multi-point distribution (wireless cable) providers, and television broadcast stations.

(x) Any antenna, satellite dish, or related mast installed hereunder shall be installed in a manner that complies with all applicable laws and regulations and manufacturer's instructions.

(xi) If any provision of the guidelines in this Section 10 is ruled invalid, the remainder of such guidelines shall remain in full force and effect.

Section 11. Flagpoles. No free standing flagpole shall be permanently erected on any Lot or other portion of the Property. A temporary flagpole approved by the Architectural Control Committee may be erected on a Lot with a model home until such time that the Lot on which the model home is situated is sold.

Section 12. Exterior Lighting. All exterior lighting must first be approved by the Architectural Control Committee. No exterior lighting may shed light onto other Properties or into residential dwellings in such a manner that creates a nuisance.

Section 13. Sound Devices. No external horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect the Dwelling Unit, shall be placed or used on any Lot or other portion of the Property or Improvements. This paragraph shall not preclude the use of outdoor speakers for hi-fis, stereos, or radios if the sound level is maintained at a reasonably low level with respect to adjoining property.

Section 14. Window Treatment. No window in any Dwelling Unit or other Improvement that is visible from any other Lot or other portion of the Property or a street may be covered with any aluminum foil or other reflective material. Window coverings must be compatible with the design of the Dwelling Unit and the overall appearance of the Properties and from the exterior must be neutral or

white if visible from the street. The Architectural Control Committee shall have the sole authority to determine whether particular window coverings are compatible with the design and color of the Dwelling Unit and the overall appearance of the Properties. Permanent window coverings must be installed within ninety (90) days of a conveyance of a Dwelling Unit from a Builder or Declarant to a homeowner.

Section 15. Air Conditioners. No window, roof or wall-type air conditioner that is visible from any street or any other Lot or other portion of the Property, shall be used, placed or maintained on or in any Dwelling Unit, garage or other Improvement.

Section 16. Tents, Mobile Homes and Temporary Structures. Except as may be permitted by the Architectural Control Committee during initial construction within the Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Lot or any part of the Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior approval of the Architectural Control Committee, as appropriate, in accordance with Article VII hereof. All permitted structures shall be properly maintained at all times and positioned on the Lot so as to not be visible from the fronting street and/or side street in the event of a corner lot. Additionally, all permitted structures shall be limited to a maximum height of eight (8') feet at the highest point of said roof, and shall be no more than one hundred twenty square feet (120') of floor space. Materials, color and design of all permitted structures must be the same as the primary dwelling. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

Section 17. Drainage and Septic Systems. Catch basins and drainage areas are for the purposes of natural flow of water only. No obstructions or debris shall be placed in these areas. Provided, however, the Association hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. 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, storm sewer, sanitary sewer, stream, or pond within the Properties.

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.

Section 19. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation, permanent flagpoles or temporary flagpoles shall be permitted on the exterior of any portion of a Lot, other than as installed by Declarant. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article VII of this Declaration other than as installed by Declarant. No such decorative embellishment or similar items shall be permitted on the front portion of any Lot or yard, other than as installed by Declarant. However, notwithstanding the foregoing, flags mounted on the front of the primary dwelling with a bracket shall be allowed for one (1) week before a nationally recognized holiday and one (1) week after such holiday only.

Section 20. Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Lot without prior written approval of the Architectural Control Committee in accordance with Article VII hereof. These items shall be positioned on the Lot so as not to be visible from any street, unless allowed by the Architectural Control Committee. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof. These items must be placed on the rear of the Lot no closer to the side within rear lot lines than ten feet (10').

Section 21. Walls, Fences and Hedges. No hedge in excess of three feet (3') in height, shall be erected or maintained nearer to the front Lot line than the building set-back line adjacent to the walls of the dwelling existing on such Lot. No side or rear fence or wall shall be more than eight feet (8') nor less than four (4') in height. All fences and walls shall be constructed as described in the Architectural Guidelines or as described by the Architectural Control Committee. Unless approved by the Architectural Control Committee, no chain link, chicken wire, or other wire fence will be permitted on any Lot or other portion of the Property. No fence or wall shall be erected on any Lot nearer to the Street than the building setback lines as shown on the Plat and no fence shall be built inside or outside or along the side of the community identity perimeter fencing owned and maintained by the Association and referred to in Article XI, Section 5 hereof. The Architectural Control Committee has the right to deviate its approval for the style and materials to be used based on the location within the Properties. It is the intent to maintain visual continuity especially along entryways and/or main thoroughfares and/or adjacent to common area properties. Title to any wall, fence, or hedge shall pass ownership with title to the Lot and it shall be the Owner's responsibility to maintain said wall, fence or hedge thereafter in the manner prescribed by the Association.

Notwithstanding anything to the contrary in this Section, this Section shall not apply to any community identity fencing owned by the Association and located in the 5' non-exclusive easement strip as reserved to the Declarant and/or the Association in Article XI, Section 5 hereof.

Section 22. Exterior Paint. The exterior surfaces of buildings (including doors), fences or walls located in the Properties shall not be painted or stained unless the Architectural Control Committee gives its prior written approval of the color of paint or stain to be used; even when repainting with the existing color. The purpose of this covenant is to maintain harmony of the exterior paint colors of the buildings throughout the Properties. Iridescent colors or tones considered to be brilliant are not permitted. Any perimeter fence or wall shall be maintained in its natural state, unless such perimeter wall is a community identity fence, which is the obligation of the Association, in which instance the Association shall determine the exterior color of such wall or fence.

ARTICLE IX.

Use Restrictions

Section 1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by Declarant

or the Association). Any Supplemental Declaration imposed on the Properties may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

Section 2. Single Family Residential Use. Each Owner shall use his Lot or other portion of the Property and the Dwelling Unit on his Lot or other portion of the Property, if any, for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot or other portion of the Property for a duplex apartment, a garage apartment or any other apartment or for any multifamily use or for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his Dwelling Unit as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the Dwelling Unit or any structure or Improvement upon such Lot or other portion of the Property and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise, odor, or traffic (vehicular or pedestrian) is generated and (e) such use in all respects complies with the laws of the State of Texas, any applicable ordinances, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their grandparents and domestic servants; and (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their grandparents and their domestic servants.

Section 3. Occupants Bound. All provisions of the Declaration, By-Laws and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners shall also apply to all occupants, guests and invitees of any Lot or other portion of the Property. Every Owner shall cause all occupants of his or her Lot or other portion of the Property to comply with the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, 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 Lot or other portion of the Property are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto.

Section 4. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any structure, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might 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 Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No

speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Lot or other portion of the Property. The use and discharge of firecrackers and other fireworks is prohibited within the Properties.

Section 5. Business Use. No garage sales, moving sales, rummage sales or similar activity (provided, however, an Owner of a Lot or other portion of the Property may have one total of the following types of sales: (i) garage, (ii) moving, (iii) rummage, of no more than one (1) full weekend during each one (1) year period of ownership) and no trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot or other portion of the Property may conduct business activities within the Lot or other portion of the Property so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot or other portion of the Property; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Section 6. Definition of "Business" and "Trade". The terms "business" and "trade", as used herein, 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, the leasing of a Lot pursuant to Section 8 of this Article IX shall not be considered a trade or business within the meaning of this Section. The definition of "business" and "trade" shall not apply to any activity conducted by Declarant with respect to its development and sale of any and all Lots and Dwelling Units located thereon.

Section 7. Unightly 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 Lot or other portion of the Property. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Section 8. Leasing of Lots.

(i) Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner received any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

(ii) Leasing Provisions. Lots or other portion of the Property may only be leased for single family residential purposes as defined in this Declaration. No Owner shall be permitted to lease his Lot or other portion of the Property for hotel or transient purposes, which for purposes of this Section is defined as a period of less than thirty (30) days. No Owner shall be permitted to lease less than the entire Lot. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner under this Declaration. The Owner making such lease shall not be relieved from any of such obligations. Upon the execution of a lease agreement, the Owner shall notify the Association in writing of the Owner's designated address and the name of Owner's lessee. No lessee shall be entitled to use the recreational facilities or Common Area of the Association until the information specified in this Section is provided to the Association in writing and the Owner further notifies the Association in writing that the Lessee has been granted the authority to use the recreational facilities and Common Area of the Association by such Owner. The use of the Common Areas and/or recreational facilities is limited to the benefit of one (1) family per Dwelling Unit and the granting of such rights to a tenant excludes the right of the Owner during such period.

Section 9. Compliance with Declaration, By-Laws and Rules and Regulations. Every Owner shall cause all occupants of his or her Lot or other portion of the Property to comply with the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, 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 Lot or other portion of the Property are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto.

Section 10. Laws and Ordinances. Every Owner and occupant of any Lot or other portion of the Property, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 11. Subdivision of Lots. Declarant hereby expressly reserves the right to replat any Lot or Lots owned by Declarant in accordance with all applicable subdivision and zoning regulations.

Section 12. Parking and Prohibited Vehicles. No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot or other portion of the Property, easement, or right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the Architectural Control Committee. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) which do not exceed six feet six inches (6'6") in height, or eight feet (8') in width, or twenty-four feet (24') in length, and (e) do not have more than six (6) tires, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block a sidewalk, if any, and no vehicle shall be parked upon any portion of the grassed areas or yard. Further, no vehicle may be stored in the street or parked on a regular basis in the street overnight. No vehicle may be repaired on a

Lot or other portion of the Property unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure. This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity; provided, however, Owners or occupants of Lots or other portion of the Property may seek a temporary variance from these restrictions for their guests; however, any such request for a variance must receive the prior approval of the Board of Directors of the Association. The Board of Directors of the Association may adopt additional Rules and Regulations regulating parking on the streets in the Properties.

Section 13. No Hazardous Activities. No activity shall be conducted on and no Improvements shall be constructed on any property within the Properties that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior or exterior fireplace.

Section 14. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Lot or other portion of the Property for emergency purposes and operation of lawn mowers and similar tools of equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 15. Removal of Trash and Debris During Construction. During the construction, repair, and restoration or remodeling of Improvements, each Owner shall remove and haul (or cause to be removed and hauled) from the Lot or other portion of the Property all tree stumps, tree limbs, branches, underbrush, and all other trash or rubbish cleared from the Lot or other portion of the Property to permit construction of the Improvements, including landscaping. No burning of trash or other debris is permitted on any Lot or other portion of the Property, and no materials or trash hauled away from any Lot or other portion of the Property may be placed elsewhere within the Properties, unless approved in writing by the Architectural Control Committee. Additionally, each Owner, during construction or remodeling of the Improvements, shall continuously keep (or cause to be kept) the Lot or other portion of the Property in a reasonably clean and organized condition, papers, rubbish, trash, scrap, and unusable building materials are to be kept, picked up, and hauled from the Lot or other portion of the Property on a regular basis. Other useable building materials are to be kept stacked and organized in a reasonable manner. No trash, materials, or dirt shall be placed in the street. Any such trash, materials, or dirt inadvertently spilling or getting into the street or street gutter shall be removed, without delay. Notwithstanding the above, during the initial construction of Dwelling Units, Declarant and Builder shall only be required to use reasonable efforts to comply with this section. For purposes of this section, "reasonable efforts" shall mean the typical practice during construction of homebuilding companies in the general area for similarly priced houses.

Section 16. Lighting. Except for traditional holiday decorative lights, which may be displayed for one (1) month prior to and one (1) month after any commonly recognized holiday for which such

lights are traditionally displayed, all exterior lights must be approved in accordance with Article VII of this Declaration.

Section 17. Excavation and Tree Removal. The digging of dirt or the removal of any dirt from any Lot or other portion of the Property is expressly prohibited except as may be necessary in conjunction with the landscaping of or construction on such Lot or other portion of the Property. No trees shall be cut or removed except to provide room for construction of Improvements or to remove dead or unsightly trees; provided, however, that removal of any tree in excess of a four inch (4") caliper requires the approval of the Architectural Control Committee and the replacement, one for one, of such tree with a tree of equal or greater caliper. Any void, depression or hole created by the removal of dirt or a tree must be filled in accordance with the requirements of the Architectural Control Committee.

Section 18. Damage or Destruction of Improvements. Owners are bound and obligated through the purchase of a Lot or other portion of the Property to maintain such and all Improvements thereon in a neat and habitable manner. In the event of damage to any Improvement, the Owner shall have the shorter of the period permitted by applicable laws or sixty (60) days to begin repairing or demolishing the destroyed or damaged portion, and, once timely commenced, such repairs or demolition must be pursued diligently to completion. If, however, damage to the Improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the Improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board within sixty (60) days from the date of such destruction or damage. The Board shall rule on the Owner's application for a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a hardship extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed Improvement to be demolished and the Lot or other portion of the Property to be suitably landscaped, subject to the approval of the Architectural Control Committee, so as to present a pleasing and attractive appearance. Such Lot or other portion of the Property will be properly mowed, cleaned and maintained after the removal of such Improvement.

Section 19. Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any portion of the Property except within an enclosed container of a type, size and style approved by the Board and appropriately screened from view, except that any such container may be placed in a designated area for garbage or trash pickup no earlier than six o'clock p.m. on the day preceding trash pickup of such garbage and trash and shall be returned to an enclosed structure or an area appropriately screened from view no later than midnight of the day of pickup of such garbage or trash.

Section 20. Clothes Drying. No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any portion of the Property if visible from any other portion of the Property, nor shall clothing or household fabric or any other article be hung, dried or aired on any portion of the Property in such a way as to be visible from other Lots/streets or the Common Area.

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Section 21. Animals. No animals of any kind shall be raised, bred, or kept on any Lot or other portion of the Property except as hereinafter provided. A total of two (2) dogs, cats, or other typical household pets may be kept on a Lot (except for fish of a type customarily kept within normal home aquariums, with respect to which there shall be no limitation on amount) or other portion of the Property provided that: (a) they are not kept, bred, or maintained for commercial purposes; (b) they do not make objectionable noises, create any objectionable odor, or otherwise constitute an unreasonable nuisance to other Owners; (c) they are kept within the Dwelling Unit, an enclosed yard on the Lot or other portion of the Property occupied by the Owner of such pets, or on a leash being held by a Person capable of controlling the animal; and (d) they are not in violation of any other provision of this Declaration and such limitations as may be set forth in the Rules and Regulations. A "reasonable number" as used in this Section ordinarily shall mean no more than two (2) pets per Dwelling Unit; provided, however, that the Board (or such other Person as the Board from time to time may designate) from time to time may determine that a reasonable number in any instance may be more or less than two (2). The Association, acting through the Board, shall have the right to prohibit maintenance of any animal that, in the sole opinion of the Board, is not being maintained in accordance with the foregoing restrictions. Each Owner, tenant, or guest of an Owner shall have the absolute duty and responsibility to clean up after such animals to the extent they have used any portion of the Lot of another Owner or Common Area.

Section 22. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or other portion of the Property except one (1) sign of not more than five (5) square feet which is used to: (a) advertise the property for sale or lease; (b) identify the builder or contractor while construction is in progress on such Lot; or (c) promote a political candidate, party or issue for a two (2) week period starting no earlier than two (2) weeks prior to the date of the election or referendum and which must be removed no later than the day after the date of the election or referendum. Additionally, the right is reserved by Declarant (and any Builder, with Declarant's prior consent) to construct and maintain signs, billboards, and advertising devices as is customary in connection with the sale of newly constructed Dwelling Units. Declarant and the Association shall also have the right to erect identifying signs at each entrance to the Properties. In no event shall any sign, billboard, poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section be erected, permitted or maintained on any Lot or other portion of the Property without the express prior written consent of the Architectural Control Committee. The Association shall have the right to enter any Lot or other portion of the Property and remove any sign, Billboard, poster or advertising device which is not permitted by this Section and in so doing will not be subject to any liability for trespassing or other tort in connection therewith or arising from such removal.

Section 23. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or other portion of the Property, nor shall any walls, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or other portion of the Property. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 24. Treatment Facilities. No Lot or other portion of the Property shall be used for the operation of a boarding or rooming house, a Dwelling Unit for transients, a "group home", "family home", "community home", "half-way house", day-care center, rehabilitation center, treatment facility, or Dwelling Unit of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicap, or illness, or other similar matters, unless otherwise allowed by the terms of any law specifically negating the provisions of restrictive covenants prohibiting same.

ARTICLE X.

Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments. The undersigned Owners hereby covenant, and each Owner of any Lot (including the Pendleton Tract Lot) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (i) Annual Assessments;
- (ii) Special Assessments; and
- (iii) Reimbursement Assessments.

The Annual, Special, and Reimbursement Assessments (collectively the "Assessments"), together with interest, costs and reasonable attorney's fees, shall also be a charge on the Lot and shall be a continuing lien upon the Properties and Lots against which the Assessments are made. Each such assessment and other charges, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of the Lot at the time when the assessments fell due and shall not be affected by any change in the ownership thereof.

Should the Pendleton Tract ever be allowed to be subdivided and/or developed and/or platted into multiple Lots such that more than one family is residing thereon (i.e. into multiple single family Lots), then at the point in time of such subdivision or platting or the beginning of development (whichever is the first to occur), the Pendleton Tract Lots and the Owner(s) thereof, shall begin to be assessed Annual and all Special Assessments in the same manner as the Lots and Owners of the Lots with each Lot assessed separately. However until such time, if ever, at all times until then the Pendleton Tract Lot shall be assessed as a single Lot hereunder in the same manner as all of the other Lots hereunder.

Section 2. Annual Assessments.

(i) Generally. Each Lot in the Properties is hereby subjected to an annual assessment (the "Annual Assessment"). Unless otherwise decided by the Board, the Annual Assessment will be paid

by the Owner or Owners of each Lot within the Properties to the Association on a monthly basis, on the dates determined by the Board of Directors. The rate at which each Lot will be assessed will be determined annually and may be adjusted from year to year by the Association, as hereinafter provided, or as the needs for the Properties may, in the judgment of the Association, require. The Annual Assessment shall be assessed on a per Lot basis, except as hereinafter provided for Declarant. Any Lot owned by a Builder, for the period of time owned by such Builder shall be assessed at one-half (2) the Annual Assessment rate.

(ii) Uses. The Association may accumulate any portion of the Annual Assessments for the Maintenance Fund and may use the Maintenance Fund for any purpose provided by this Declaration, including by way of clarification and not limitation, at its sole option, any or all of the following: constructing and maintaining any paths, parks, landscape reserves, parkways, easements, esplanades, fences, cul-de-sac and street medians, play courts, and other common areas, payment of all legal and other expenses incurred in connection with the enforcement of all charges, Assessments, covenants, restrictions and conditions affecting the Properties, payment of all reasonable and necessary expenses in connection with the collection and administration of the Assessments, employing patrol services, instructors, and operators, caring for vacant Lots, garbage collection, and doing other things necessary or desirable, in the opinion of the Board of Directors to keep the Properties neat and in good order or which is considered of general benefit to the Owners or occupants of the Properties. It is understood that the judgment of the Board of Directors in the expenditure of the Maintenance Fund shall be final and conclusive so long as said judgment is exercised in good faith. Nothing herein shall constitute a representation or obligation that any of the above will, in fact, be provided by the Association.

(iii) Rendition and Notice. Annual Assessments shall be payable monthly, unless the Board of Directors decides otherwise. The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum, and shall fix the amount of the Annual Assessment against each Lot by December 1 preceding the Annual Assessment period. The Annual Assessment period shall begin on January 1 of each year. Written notice of the Annual Assessment and the monthly due dates shall be sent to every Owner subject thereto at the address of each Lot or at such other address provided to the Association in writing. Annual Assessments shall be considered delinquent if not received within twenty (20) days of the date for which the monthly payment of the Annual Assessment pertains.

(iv) Treatment of Lots Owned by Declarant. For those Lots which are owned by Declarant, Declarant shall have the option to determine whether or not to pay assessments on each Lot owned at the rate of one-half (2) of the full assessment, or to fund the operating deficit based upon the projected operating budget approved by the Board for the subsequent year. Declarant must notify the Association in writing on or before December 15th of each calendar year of its intent; otherwise, each Lot owned by the Declarant will be assessed at one-half (2) the full rate established by the Board. The rate of assessment for each Lot shall change as the character of ownership and the status of occupancy changes. The applicable Annual Assessment for each Lot shall be prorated for each calendar year according to the rate applicable for each type of ownership of the Lot during that calendar year. The Declarant shall not be assessed for any portion of the Property that it owns that is not platted into Lots.

Section 3. Maximum Annual Assessments.

(i) Without Vote of Members. The maximum Annual Assessment for calendar year 2001 shall be in the amount set by the Declarant. Beginning with Annual Assessment for calendar year 2002, the maximum Annual Assessment may be increased once a year by the Board of Directors of the Association, by an amount not to exceed fifteen percent (15%) over the prior year's Annual Assessment, without a vote of the Members of the Association. In the event the Association becomes indebted to the Declarant in any manner, the Board of Directors will be required to assess the Owners the maximum assessment provided for in this Section 3(i) of Article X each year to provide for the repayment to the Declarant until the Declarant has been paid in full.

(ii) With Vote of Members. The Annual Assessment may be increased above that allowed by Section 3(i) of this Article X, if, and only if, the increase is approved by the affirmative vote of two-thirds (2/3) of the total eligible votes of the Association at a meeting duly called for that purpose. In lieu of notice to and a meeting of Members as provided in the By-Laws of the Association, a door-to-door canvas of Members eligible to vote may be made to secure the required two-thirds (2/3) approval. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U.S. mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvas.

(iii) Recordation of Increase of Annual Assessment. Upon the increase of the maximum Annual Assessment pursuant to the provisions of Section 3(b) of Article X, the Association shall cause to be recorded in the Office of the County Clerk of Harris County, Texas, a sworn affidavit of the President (or any Vice President) and of the Secretary of the Association which shall certify, among other items that may be appropriate, the total number of eligible votes as of the date of the voting, the quorum required, the number of votes represented, the number of votes voting "for" and "against" the levy, the amount of the increased Annual Assessment so authorized. The increase in the maximum Annual Assessment so approved shall become effective on the date specified in the document evidencing such approval, and shall be filed for record in the Office of the County Clerk of Harris County, Texas.

Section 4A. Special Assessments for Capital Improvements. In addition to the Annual Assessments, the Board of Directors may, upon the affirmative vote of two-thirds (2/3) of the total eligible votes of the Association at a meeting duly called for this purpose, levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U. S. First Class Mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvas. Upon the levying of any Special Assessment pursuant to the provisions of this Section, the Association shall cause to be recorded in the Office of the County Clerk of Harris County, Texas, a sworn affidavit of the President or any Vice President and of the Secretary of the Association which

shall certify, among other items that may be appropriate, the total number of eligible votes of the Association as of the date of the voting, the quorum required, the number of votes voting "For" and "Against" the Special Assessment, the amount of the Special Assessment authorized, and the date by which the Special Assessment must be paid in order to avoid being delinquent.

Notwithstanding the foregoing, if an emergency exists such that the Board of Directors determines that the repair of a capital improvement upon the Common Area is necessary to eliminate or reduce the risk of injury to third parties and there is not enough money held by the Association, in reserve or otherwise, to repair the capital improvement to reduce or eliminate this risk, the Board of Directors may levy a Special Assessment to sufficiently repair the capital improvement to reduce or eliminate such risk without the affirmative vote of two-thirds (2/3rds) of the total eligible vote of the Association.

Section 4B. Contributions at Purchase. Each Owner of a Dwelling Unit other than Declarant (whether one or more Persons and regardless of whether such Owner holds the fee interest singly or jointly), at the time it purchases a Dwelling Unit from the previous owner (i.e. at every sale beginning with the first Owner to purchase the Dwelling Unit from Declarant), shall be obligated to make a \$100.00 contribution to the Association, which funds shall be used to defray operating costs and other expenses of the Association as the Board shall determine in its sole discretion. Each Owner of the Pendleton Tract Lot is specifically included in this obligation.

Section 5. Notice and Quorum of any Action Authorized. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and proper form of notice of any meeting for the purposes set forth in Section 3(b) or Section 4, as applicable, of this Article X, and to ascertain the presence of a quorum at such meeting.

Section 6. Reimbursement Assessments. The Board of Directors, subject to the provisions hereof, may levy a Reimbursement Assessment against any Member if the failure of the Member or the Member's family, guests, or tenants to comply with this Declaration, the Articles of Incorporation, the Bylaws, Minimum Construction Standards, or the Rules and Regulations shall have resulted in the expenditure of funds or the determination that funds will be expended by the Association to cause such compliance. Further, any fines and/or penalties levied pursuant to this Declaration or pursuant to the Rules and Regulations shall be deemed Reimbursement Assessments to be collected in the same manner as other Reimbursement Assessments. The amount of the Reimbursement Assessment shall be due and payable to the Association twenty (20) days after notice to the Member of the decision of the Board of Directors that the Reimbursement Assessment is owing.

Section 7. Estoppel/Resale Certificates. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association or its agent setting forth whether the Assessments on a specified Lot or other portion of the Property have been paid, however the Declarant shall not be charged for any such certificate only when selling to a Builder. A properly executed certificate of the Association as to the status of assessments on a Lot or other portion of the Property is binding upon the Association as of the date of its issuance.

Section 8. Attribution of Payments. If any Owner's Assessment payment is less than the amount assessed and the payment does not specify whether it should be applied against a Annual Assessment, Special Assessment, or Reimbursement Assessment, the payment received by the Association from the Owner shall be credited in the following order of priority: (a) Reimbursement Assessment until the Reimbursement Assessment has been satisfied; (b) Special Assessment until the Special Assessment has been satisfied; and (c) Annual Assessment until the Annual Assessment has been satisfied. In each of the foregoing cases, payments received shall be credited first to interest, attorney's fees, and other costs of collection, and then to Assessment reduction, satisfying the oldest obligations first, followed by more current obligations, in accordance with the foregoing order of priority, or in such other manner and/or order of priority as the association shall determine, in its sole discretion.

Section 9. Effect of Nonpayment of Assessments. Any of the Assessments which are not paid within thirty (30) days after the due date shall be delinquent and shall be subject to the following:

(i) interest at the rate of eighteen percent (18%) per annum from the due date or the maximum rate of interest allowed by law, if less than eighteen percent (18%), and all costs of collection, including reasonable attorney's fees;

(ii) all rights of the Owner as a Member of the Association (but not such Owner's responsibilities as a Member of the Association), including usage of the Common Area, shall be automatically suspended until all Assessments and related costs are paid in full, and during such suspension, such Owner shall not be entitled to vote upon any matters on which Members are entitled to vote; and

(iii) an action at law against the Owner personally obligated to pay the same, and/or foreclose on the lien herein retained against the Lot or other portion of the Property. Interest, costs of court, and reasonable attorneys' fees (when placed with an attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such Assessment or charge.

Section 10. Contractual Lien.

(i) Generally. Assessments (together with interest, and reasonable attorney's fees if it becomes necessary for the Association to enforce collection of any amount in respect of any Lot or other portion of the Property) shall be a charge on each Lot and shall be secured by a continuing lien upon each Lot or other portion of the Property against which such assessment is made until paid.

(ii) Notice of Lien. Additional notice of the lien created by this Section may be effected by recording in the Office of the County Clerk of Harris County, Texas, an affidavit, duly executed, sworn to and acknowledged by an officer of the Association, setting forth the amount owed, the name of the Owner or Owners of the affected Lot or other portion of the Property, according to the books and records of the Association, and the legal description of such Lot or other portion of the Property .

(iii) Creation of Lien. Each Owner, by his acceptance of a deed to a Lot or other portion of the Property, hereby expressly grants to the Association a lien for the purpose of securing payment of Assessments upon such Lot or other portion of the Property. The Association, acting by and through the Board of Directors may, but shall not be obligated to, prepare and record in the Real Property Records of Harris County, Texas, a notice of such lien which will constitute further evidence of the lien for Assessments against a Lot or other portion of the Property. In addition to and in connection therewith, by acceptance of the deed to his Lot or other portion of the Property, each Owner expressly GRANTS, BARGAINS, SELLS and CONVEYS to the President and/or Vice President or agent of the Association from time to time serving, as Trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot or other portion of the Property, and all rights appurtenant thereto, in trust, for the purpose of securing the Assessments levied hereunder, and other sums due hereunder remaining unpaid hereunder from time to time. The Trustee herein designated may be changed for any reason and at any time and from time to time by execution of an instrument in writing signed by the President or a Vice-President of the Association and attested to by the Secretary or an Assistant Secretary of the Association and filed in the Office of the County Clerk of Harris County, Texas.

(iv) Enforcement of Lien. The Association shall have the right to enforce the aforesaid lien by all methods available for the enforcement of such liens, both judicially and by nonjudicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as may be amended or revised from time to time hereafter). In the event of the election by the Board of Directors of the Association to foreclose the lien herein provided for non-payment of sums secured by such lien, then it shall be the duty of the Trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such request Lot or other portion of the Property, and all rights appurtenant thereto in accordance with Section 51.002 of the Texas Property Code (as said statute shall read at the time of enforcement) and to make due conveyance to purchaser or purchasers by deed binding upon the Owner or Owners of such Lot or other portion of the Property and his heirs, executors, administrators and successors. The Trustee shall give notice of such proposed sale as required by Section 51.002 of the Texas Property Code (as said statute shall read at the time notice is given).

(v) Additional Matters Pertaining to Foreclosure. At any foreclosure, judicial or nonjudicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot or other portion of the Property shall be required to pay a reasonable rent for the use of such Lot or other portion of the Property and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer without further notice.

Section 11. Non-Use, Etc. No Owner may waive or otherwise escape said lien and liability for the assessments provided for herein by non-use of the Common Area, or abandonment, non-use or

divestiture of ownership of a Lot or other portion of the Property for any Assessment which became due and payable during the time when such Owner owned the Lot or other portion of the Property.

Section 12. Exempt Portions of the Properties. All portions of the Properties dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Common Area shall be exempt from the Assessments and other charges created herein. Notwithstanding the foregoing, no Lot or other portion of the Property which is used, or is intended for use, as a Dwelling Unit shall be exempt from Assessments and charges and the lien herein securing-payment thereof.

Section 13. No Offsets. The Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, (a) any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration, (b) any claim by the Owner of non-use of the Common Areas or abandonment of his Lot or other portion of the Property, (c) any claim by the Owner of inconvenience or discomfort arising from the making of repairs or Improvements to Common Area, or (d) any claim by the Owner of inconvenience or discomfort arising from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

Section 14. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to any first lien mortgages relating to the Lots or other portion of the Property or liens relating to construction upon the Lots or other portion of the Property. Sale or transfer of any Lot or other portion of the Property shall not affect the lien of the Assessment; however, the sale or transfer of any Lot or other portion of the Property pursuant to the foreclosure of a first lien mortgage or any proceeding in lieu thereof, shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or other portion of the Property from liability for the Assessments thereafter becoming due or from the lien thereof. A selling Owner of a Lot or other portion of the Property shall not be relieved of personal liability for any Assessments accruing on such Lot or other portion of the Property prior to the date of sale or transfer.

ARTICLE XI.

Easements and Utilities

Section 1. Title to Utility Lines. The title conveyed to any Lot within the Properties shall be subject to any easement affecting same for utility or other purposes and shall not be held or construed to include the title to the water, gas, electricity, telephone, cable television, internet, security, storm sewer, or sanitary lines, poles, pipes, conduits, or other appurtenances or facilities constructed upon, under, along, across, or through such utility easements. No Owner shall own the pipes, wires, conduits, or other service lines running through his Lot or other portion of the Property that are used for or serve other Lots, but each Owner shall have an easement to use such facilities to the extent necessary for the use, maintenance, and enjoyment of his Lot or other portion of the Property.

Section 2. Association Easements. The Association, its agents, servants, and employees shall have and be entitled to all easements specifically referenced throughout this Declaration.

Section 3. Easements for Utilities, Etc.

(i) Generally. Declarant hereby reserves unto Declarant (so long as Declarant owns any portion of the Properties), the Association, and the designees of each, a blanket easement upon, across, over, and under all of the Properties of ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, alarm monitoring systems, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Lot or other portion of the Property and, except in an emergency, entry onto any Lot or other portion of the Property shall be made only after reasonable notice to the Owner thereof.

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

(iii) Dedications to Public. 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.

Section 4. Easement Regarding Electric Service Cables. Declarant hereby reserves for itself an easement for access to easement area occupied and centered on electric company service wires immediately adjacent to the Owner's Lot or other portion of the Property for the purpose of installing, repairing, and maintaining and/or allowing the installation, repair and/or maintenance of the underground service cables.

Section 5. Easement Regarding Association Community Identity Perimeter Fences. Declarant hereby reserves for itself and for the Association a non-exclusive right-of-way and easement for the purpose of possibly constructing, maintaining, operating, repairing, removing and re-constructing an entry way and identifying subdivision community identity fence under, across and through a 5' strip of certain Lots that are along a perimeter of the Property and possibly also around the perimeter of the Lake, as well as a 5' strip in other locations as determined by the Association, on which 5' strips the Association constructs the community identity fencing. The 5' strip may be located on the portions of the Property, as determined by the Association. Prior to construction of the entry way and such fence, if any, the Declarant and/or the Association shall have the right to go over and across the portions of the Property that are adjacent to such 5' easement strip for the purpose of performing surveys and other such necessary pre-construction work. After the construction of the entry way and such fence, if any, Declarant and/or the Association, from time to time, and at any time, shall have a right of ingress and egress over, along, across and adjacent to said 5' easement strip for purposes of maintaining, operating, repairing, removing, re-constructing, and/or inspecting such fence. The Owners of the Lots or other portions of the Property on which said 5' easement strips are located shall have all other rights in and to

such 5' easement strip located on each Owner's respective Property; provided however, such Owner shall not damage, remove or alter such fence or any part thereof without first obtaining written approval from the Declarant and/or the Association with respect to any such action, such approval to be at the Declarant's and/or the Association sole discretion.

However, this Section shall not apply to, and the Association shall not be responsible to, install or maintain any fencing located along Lot lines which separate individual Lots from one another, nor any fencing located along interior boundary lines of the Property, which is not community identity fencing.

Section 6. Telecommunication Services. The Association and/or the Declarant may provide, either directly or by contracting with other parties, various telecommunication services to the Properties, however the inclusion of this section in no way obligates Declarant or the Association to provide such services, nor warrants that such services will be provided. The Declarant and/or the Board of Directors of the Association shall have the sole discretion to determine whether or not such telecommunication services will be provided, the amounts to be charged, and the method of paying for such services. If the Declarant determines to provide or cause such services to be provided then the Association will not attempt to provide the same and/or compete with the Declarant.

(i) Types of Telecommunication Services. The types of telecommunication services that may be provided by or through the Declarant and/or the Association shall include, but not be limited to, the following: (a) local and long-distance telephone service; (b) voice mail service; (c) cable television service; (d) private television channels for education and community purposes; (e) video monitoring of streets, Common Area, and other public areas; (f) central home systems for fire and burglary detection; (g) electronic utility meter reading systems; (h) internet and/or electronic mail systems; and (i) such other similar telecommunication services as the Declarant and/or the Board of Directors determines to be necessary or beneficial for the safety, welfare or enjoyment of the Members.

(ii) Common Area Facilities. The telecommunication equipment, wiring and other facilities that are necessary to provide the telecommunication services may be owned by the Declarant and/or the Association or the Declarant and/or the Association may contract with other parties to provide such facilities on behalf of the Declarant and/or the Association. The cost and expense of constructing, installing, operating, maintaining, repairing and replacing such facilities shall be paid by the Association, and may be included as part of the Annual Assessments and Special Assessments to the Members.

(iii) Dwelling Unit Facilities. If the Declarant and/or the Association determines to provide telecommunication services, it may require that each Dwelling Unit constructed in the Properties include wiring and a "black box" or other necessary facilities to provide access to the Dwelling Unit for the telecommunication services described above. The "black box" will provide a connecting terminal for the wiring that extends to each outlet or point of access in the Dwelling Unit for the telecommunication services. The Declarant and/or the Association shall have the right to designate the type of "black box" to be installed and the manner in which such "black box" shall be operated, maintained and repaired, and may, from time to time, designate appropriate replacements or

improvements to the "black box". The Declarant and/or the Association may contract with other parties to provide the foregoing services relating to the "black box". The Declarant and/or the Association may require each Owner to pay all costs and expenses required to purchase, install, maintain, repair, replace or improve the "black box" for the Owner's Dwelling Unit, which shall be paid by each Owner in the same manner as a Special Assessment. The "black box" shall remain as a permanent fixture to the Dwelling Unit and may not be removed from the Dwelling Unit without the written permission of the Declarant and/or the Association, and shall remain as part of the Dwelling Unit when it is sold to another party. The Declarant and/or the Association and the parties with whom it contracts to provide services relating to the "black box" shall have an easement and right of entry over and across each Lot and into each Dwelling Unit for the purpose of installing, maintaining, repairing, replacing and making improvements to the "black box".

(iv) Optional Services The installation of a "black box" in a Dwelling Unit does not obligate the Owner to accept or pay for any of the telecommunication services that may be provided by, or available through, the Declarant and/or the Association (except to the extent the Board of Directors determines to provide a service to all Members paid with Annual Assessments). Each Owner shall have the right to (a) accept and pay for any such services provided by or through the Declarant and/or the Association, (b) contract with another party to provide such services, or (c) decline such services, in whole or in part.

Section 7. Security and Other Services. The Association may also provide security and other services and facilities for the Properties and shall be authorized to enter into contracts with other entities to provide such services and facilities. In addition to Assessments, the Board shall be authorized to charge additional use and consumption fees for selected services and facilities. By way of example, some services and facilities which may be provided include, in addition to the telecommunication services listed in the preceding section, landscape maintenance and pest control services. The Board shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein is a representation as to what services and facilities will or will not be provided.

ARTICLE XII.

Intentionally Deleted

ARTICLE XIII.

Annexation

Section 1. Annexation. Additional residential property (other than the Declarant Annexation Property) and Common Area may be annexed into the jurisdiction of the Association upon the favorable vote of two-thirds (2/3) of the membership votes entitled to be cast by each membership class at a meeting of the Members or otherwise. Provided, however, for so long as there is a Class "B" membership, additional residential property or Common Area may be unilaterally annexed by Declarant

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without approval by Members of the Association, however, if such property is not owned by Declarant, only with the consent of the owner thereof. Further, additional real property may be annexed hereto from time to time by the Board, without the consent of the Owners. In addition to the foregoing, any annexation of additional real property into the jurisdiction of the Association shall require the submission to and approval by the Federal Housing Administration or the Veterans Administration, for as long as the Class "B" membership shall exist. Annexation of additional property shall encumber said property with all of the covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration and shall become effective on the date a Supplemental Declaration is signed and acknowledged by the owner of said annexed property and the appropriate annexing authority (either Declarant or the Association), is filed for record in Harris County, Texas, evidencing the annexation. Each such instrument evidencing the annexation of additional property shall describe the portion of the property comprising the Lots and Common Area. The funds resulting from any assessment, whether annual or special, levied against any property hereinafter annexed to the Properties may be combined with the funds collected from the Owners of Lots within the Properties and may be used for the benefit of all property and all Owners in the manner hereinabove provided.

For as long as Declarant has the unilateral right to annex additional property as set forth above, Declarant hereby reserves the right to unilaterally de-annex or remove unimproved portions of the Property from this Declaration and its terms and conditions, which de-annexation or removal shall not require the consent of any Person except the Owner of such real property, if other than Declarant. For purposes of this Article XIII, "unimproved" shall mean no above ground, vertical improvements located on such real property.

ARTICLE XIV.

General Provisions

Section 1. Duration and Amendment. The covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration shall run with the land and shall be binding upon and inure to the benefit of the Association, all Owners, their respective legal representatives, heirs, successors, and assigns for a term of forty (40) years from the date this Declaration is filed with the County Clerk of Harris County, Texas, after which time said covenants, conditions, restrictions, reservations, liens, and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to said renewal date(s) an instrument signed by the then Owners of not less than two-thirds (2/3) of the total number of Lots within the Properties is filed for record with the County Clerk of Harris County, Texas, altering, rescinding, or modifying said covenants and restrictions, in whole or in part, as of said renewal date. The Owner of the Pendleton Tract shall not have the right to amend this Declaration if at any time the Pendleton Tract is the only real property covered by this Declaration. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of two-thirds (2/3) of the total number of Lots within the Properties shall always have the power and authority to amend this Declaration and such amendment shall become effective on the date any instrument signed by the then Owners of not less than two-thirds (2/3) of the total number of Lots within the Properties is filed for record in Harris County, Texas, so amending this Declaration, except as provided for the Owner of the Pendleton Tract. In addition,

Declarant shall have the right at any time and from time-to-time, without the joinder or consent of any other party, to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record in Harris County, Texas, for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency appearing herein, or for the purpose of complying with any statute, regulation, ordinance, resolution, or order of the Federal Housing Administration, the Veterans Administration, or any federal, state, county, or municipal governing body, or any agency or department thereof; provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and any Supplemental Declaration taken collectively, and shall not impair or effect the vested rights of any Owner or Mortgagee.

Section 2. HUD and VA Approval. Annexation of additional property other than Declarant Annexation Property, dedication of Common Area, and amendment of this Declaration, requires the prior approval of the United States Department of Housing and Urban Development or the Veterans Administration for so long as there is a Class "B" membership.

Section 3. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 4. Cumulative Effect; Conflict. The covenants, conditions, restrictions, and provisions of this Declaration shall be cumulative with any others pertaining to the Properties (the "Additional Covenants") and the Association may, but shall not be required to, enforce the Additional Covenants; provided, however, in the event of conflict between or among (a) the covenants, conditions, and restrictions of this Declaration; and (b) the terms of the Additional Covenants, and provisions of any articles of incorporation, By-Laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, the Additional Covenant shall be subject and subordinate to those of this Declaration. The foregoing priorities shall apply, but not be limited to, the lien for Assessments created in favor of the Association.

Section 5. Compliance. It shall be the responsibility of each Owner or occupant of a Dwelling Unit to obtain copies of and become familiar with the terms of the Declaration, Articles of Incorporation, Bylaws, Rules and Regulations, and Minimum Construction Standards. Every Owner of any lot shall comply with all lawful provisions of this Declaration, the By-Laws, and Rules and Regulations of the 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 Association or, in a proper case, by any aggrieved Lot Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws.

Section 6. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND AGENTS, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE

ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, ITS AGENTS, 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 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 BURGLARS 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 LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING UNIT AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, 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, EXPRESSED 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 PROPERTIES.

Section 7. Assignment of Declarant's Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided the transfer shall neither 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 Office of the County Clerk of Harris County, Texas. This Section may not be amended without the express written consent of Declarant.

Section 8. Additional Restrictions Created by Those Other Than Declarant. No Person shall record any covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants,

conditions, and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

Section 9. Severability. In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

Section 10. Number and Gender. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 11. Delay in Enforcement. No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

Section 12. Enforceability. This Declaration shall run with the Properties and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner of a Lot or other portion of the Properties, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce this Declaration is initiated against an Owner or occupant of a Lot or other portion of the Property by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorneys' fees from the Owner or occupant of a Lot or other portion of the Property who violated this Declaration.

Section 13. Remedies. In the event any person shall violate or attempt to violate any of the provisions of the Declaration, the Association, each Owner of a Lot within the Properties, or any portion thereof, may institute and prosecute any proceedings at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

Section 14. Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any Lot or other portion of the Property hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 15. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association or its agents or employees in connection with any portion of the Properties, or any Improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

Section 16. Captions for Convenience. The titles, headings, captions, articles and section numbers used in this Declaration are intended solely for convenience of reference and shall not be

considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to Articles and Sections are to articles and sections of this Declaration.

Section 17. No Condominium. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann. §81.001-81.210 (Vernon 1983).

Section 18. Governing Law. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 19. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage pre-paid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 20. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Subdivision for the benefit of Declarant, its successors, and assigns over, under, in, and/or on the Subdivision, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment, and/or otherwise dealing with the Subdivision and any other property now owned or which may in the future be owned by Declarant (whether annexed hereunder or not). The reserved easement and privilege shall constitute a burden on the title to the Subdivision and specifically includes, but is not limited to:

(i) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in the Subdivision; and the right to tie into any portion of the Subdivision with driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over the Subdivision; and

(ii) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, and sales offices and construction offices in the Subdivision.

(iii) No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Subdivision, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit-claim deed from Declarant releasing such right, privilege, or easement by express reference thereto.

(iv) Declarant is exempt during the construction and sale period from compliance with the architectural restrictions in Article VIII hereof and the use restrictions in Article IX hereof.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration to be effective as of the 28th day of MARCH, 2002.

LEGACY/MONTEREY HOMES, L.P.,
an Arizona limited partnership

20

By: MTH-TEXAS G.P., INC.
its general partner

By: *[Signature]*
Michael J. Pizzitola, Jr., Vice-President

T70C-02-000

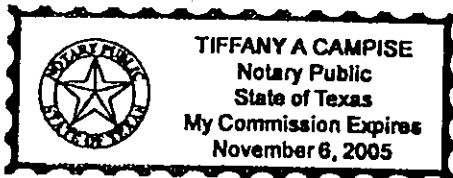
THE STATE OF TEXAS

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COUNTY OF HARRIS

This instrument was acknowledged before me on the 28 day of March, 2002 by Michael J. Pizzitola, Jr., Vice-President of MTH-Texas G.P., Inc., general partner of Legacy/Monterey Homes, an Arizona limited partnership, on behalf of such entities.

Tiffany A. Campise
Notary Public



~~WHEN RECORDED, RETURN TO:~~

Sarah Ann Powers
Hoover Slovacek LLP
5847 San Felipe, Suite 2200
Houston, TX 77057
File No. 351069-11

RETURN TO:
STEWART TITLE CO.
8500 CYPRESSWOOD DR.
SUITE 104
SPRING, TX 77379

EXHIBIT "A"

Legal Description of Property

5705-00-000

Phone 512/396-1478

Fax 512/396-1196

March 9, 2001

81.6766 ACRES OF LAND

A tract of land containing 84.6766 acres in the Elizabeth Smith Survey, Abstract 70 and the James M. McGee Survey, Abstract 588 in Harris County, Texas being that same tract of land described by deed from R. S. Marsh, Jr. to Harvey Cecil Evans, et ux and being recorded in Volume 1301, Page 205 of the Real Property Records of Harris County, Texas and being more particularly described by metes and bounds as follows;

BEGINNING at a 1" iron pipe found in the east line of this tract marking the south line of the said Smith Survey and the north line of the said McGee survey;

THENCE S 45°25'03" E, 32.50 ft. along an existing fence to a 5/8" iron rod set for a corner in the north line of Beudreaux Road based on 60 ft. ROW;

THENCE S 45°56'34" W, 38.33 ft. along the north line of Beudreaux Road and an existing fence to a 5/8" iron rod set for a PC of curve;

THENCE around a curve to the left having a radius of 1175.92 feet, a central angle of 13°24'21" on a chord of S 51°57'48" W, 274.51 ft. along the north line of Beudreaux Road and an existing fence to a 5/8" iron rod set for PT of curve;

THENCE S 45°15'38" W, 764.94 ft. along the north line of Beudreaux Road and an existing fence to a 5/8" iron rod set for PC of curve;

THENCE around a curve to the right having a radius of 1115.92 ft. a central angle of 18°13'05" on a chord of S 54°22'10" W, 353.33 ft. along the north line of Beudreaux Road and an existing fence to a 5/8" iron rod set for the PT of curve;

THENCE S 53°28'43" W, 127.68 ft. along the north line of Beudreaux Road and an existing fence to a 5/8" iron rod set for a corner;

THENCE S 88°43'22" W, 75.86 ft. along an existing fence to a 5/8" iron rod set for a corner;

THENCE N 48°18'37" E, 397.46 ft. along an existing fence to a fence post found for a corner;

THENCE N 45°17'54" W, 2951.45 ft. along an existing fence and the east line of Pinemont Place Subdivision to a 5/8" iron rod set for a corner in the south line of Dowdell Road based on 60' ROW;

THENCE N 58°37'58" E, 1233.00 ft. along an existing fence and the south line of Dowdell Road to a 5/8" iron rod found for a corner;

THENCE S 45°25'03" E, 2793.23 ft. along an existing fence to the POINT OF BEGINNING containing 81.6766 acres of land.

This is to certify that this description of land represents an actual survey made by me on the ground under my supervision as shown on the accompanying plat and qualifies as a Category 1A, Condition 2 survey of the latest standards and specifications of the Texas Surveyors Association.

Ronald N. Hayes
Ronald N. Hayes, Registered Professional Land Surveyor, No. 2596

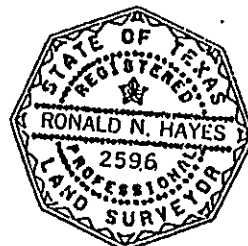


EXHIBIT "B"

Legal Description of Pendleton Tract

5705-00-0000

EXHIBIT "B"

Being a tract of land containing 2.668 acres, located in the Elizabeth Smith Survey, Abstract 70, Harris County, Texas; Said 2.668 acres being a portion of a called 81.6969 acre tract recorded in the name of Duane E. Mann and wife, Joanna Mann in Harris County Clerk's File (H.C.C.F.) Number S549449, said 2.668 acre tract being more particularly described by metes and bounds as follows (all bearings referenced to aforesaid 81.6969 acre tract):

Commencing at a 5/8-inch iron rod found for the most westerly corner of said 81.6969 acre tract and the most northerly corner of Pinewood Place Subdivision (an unrecorded subdivision), same being on the southeasterly Right-of-Way (R.O.W.) line of Dowdell Road;

Thence, with the southwesterly line of said 81.6969 acre tract, South 45 degrees 17 minutes 54 seconds East, a distance of 1108.16 feet to the Point of Beginning of the herein described tract of land;

Thence, through and across said 81.6969 acre tract, the following twenty-two (22) courses:

1. North 44 degrees 42 minutes 06 seconds East, a distance of 120.00 feet to a 5/8-inch iron rod set;
2. North 45 degrees 17 minutes 54 seconds West, a distance of 116.35 feet to a 5/8-inch iron rod set;
3. South 78 degrees 33 minutes 40 seconds East, a distance of 67.46 feet to a 5/8-inch iron rod set;
4. North 77 degrees 24 minutes 38 seconds East, a distance of 61.59 feet to a 5/8-inch iron rod set;
5. North 54 degrees 29 minutes 36 seconds East, a distance of 61.59 feet to a 5/8-inch iron rod set;
6. North 31 degrees 34 minutes 30 seconds East, a distance of 61.59 feet to a 5/8-inch iron rod set;
7. North 08 degrees 39 minutes 20 seconds East, a distance of 61.59 feet to 5/8-inch iron rod set;
8. North 39 degrees 34 minutes 12 seconds East, a distance of 133.06 feet to a 5/8-inch iron rod set;
9. 40.11 feet along the arc of a curve to the left, having a central angle of 45 degrees 57 minutes 42 seconds, a radius of 50.00 and a chord that bears South 73 degrees 24 minutes 39 seconds East, a distance of 39.04 feet to a 5/8-inch iron rod set;
10. South 06 degrees 23 minutes 30 seconds East, a distance of 24.51 feet to a 5/8-inch iron rod set;

EXHIBIT "B"

11. South 31 degrees 22 minutes 02 seconds East, a distance of 122.06 feet to a 5/8-inch iron rod set;
12. South 25 degrees 24 minutes 57 seconds West, a distance of 111.77 feet to a 5/8-inch iron rod set;
13. South 31 degrees 39 minutes 51 seconds East, a distance of 172.99 feet to a 5/8-inch iron rod set;
14. South 77 degrees 33 minutes 41 seconds West, a distance of 74.90 feet to a 5/8-inch iron rod set;
15. North 51 degrees 26 minutes 33 seconds West, a distance of 56.92 feet to a 5/8-inch iron rod set;
16. South 54 degrees 37 minutes 57 seconds West, a distance of 59.57 feet to a 5/8-inch iron rod set;
17. South 45 degrees 17 minutes 54 seconds East, a distance of 59.50 feet to a 5/8-inch iron rod set;
18. South 44 degrees 42 minutes 06 seconds West, a distance of 57.82 feet to a 5/8-inch iron rod set;
19. South 45 degrees 17 minutes 50 seconds East, a distance of 36.12 feet to a 5/8-inch iron rod set;
20. South 44 degrees 42 minutes 06 seconds West, a distance of 34.51 feet to a 5/8-inch iron rod set;
21. North 45 degrees 17 minutes 54 seconds West, a distance of 126.33 feet to a 5/8-inch iron rod set;
22. South 44 degrees 42 minutes 06 seconds West, a distance of 119.13 feet to a 5/8-inch iron rod set in the southwesterly line of aforesaid 81.6969 acre tract;

Thence, with aforesaid southwesterly line, North 45 degrees 17 minutes 54 seconds West, a distance of 160.48 feet to the Point of Beginning and containing 2.668 acres of land;

RETURN TO:
STEWART TITLE CO.
8500 CYPRESSWOOD DR.
SUITE 104
SPRING, TX 77379

RECORDER'S MEMORANDUM
AT THE TIME OF RECORDATION, THIS
INSTRUMENT WAS FOUND TO BE INADEQUATE
FOR THE BEST PHOTOGRAPHIC REPRODUCTION
BECAUSE OF ILLEGIBILITY, CARBON OR
PHOTO COPY, DISCOLORED PAPER, ETC.

page two of two

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

APR - 3 2002



Douglas L. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR MIRAMAR LAKE**

This Amendment is executed this 21 day of April, 2003, by Legacy/Monterey Homes, L.P., an Arizona limited partnership, under the terms and conditions hereunder set forth and thus,

WHEREAS, Legacy/Monterey Homes, L.P., an Arizona limited partnership ("Legacy") executed that one certain Declaration of Covenants, Conditions and Restrictions for Miramar Lake as Declarant ("Declarant") on March 28, 2002, which was recorded on April 3, 2002 under Harris County Clerk's File No. V702964, Film Code 550-50-2969; ("Declaration"); and

WHEREAS, Article XIV, Section 1, provides that the Declarant may unilaterally amend the Declaration to correct an error therein as long as the Amendment does not materially adversely affect the vested rights of any Lot Owner thereunder; and

WHEREAS, the Declarant desires to amend the Declaration to correct an error therein.

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, Declarant does hereby amend the Declaration as follows:

1. The recitals set forth above are deemed to be an integral part of this Amendment without the necessity of repeating them again in this section of the Amendment.

2. As this Amendment does not materially adversely affect the vested rights of any Lot Owner, no consent or joinder by any Lot Owner or other party is needed and Declarant may unilaterally effect this Amendment to the Declaration.

3. Article VIII, Section 1, is hereby deleted in its entirety and replaced with the following language:

Section 1. Dwelling Unit Size. Each Dwelling Unit constructed on a Lot or portion of the Property shall contain a minimum of 1200 square feet of living area (exclusive of porches and garages) and a maximum square feet of living area (exclusive of porches and garages) of 4,600.

4. Article XIV, Section 2, is hereby deleted in its entirety.

5. Except as expressly modified herein, the Declaration is hereby confirmed in all respects as originally written.

6. This Amendment shall be effective upon the recording hereof in the Real Property Records of Harris County, Texas and construed in accordance with the laws of the State of Texas.

EXECUTED this 21 day of April, 2003.

LEGACY/MONTEREY HOMES, L.P.

By: MTH-TEXAS GP, INC., its general partner

By:

Name:

Title:

Michael Spizzida, Jr.
Vice President

STATE OF TEXAS

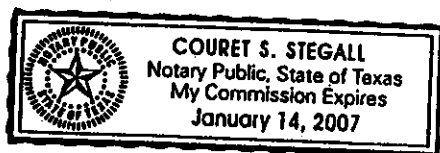
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COUNTY OF HARRIS

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This instrument was acknowledged before me on April 21, 2003, by
Michael Spizzida, Jr. Vice President of MTH-TEXAS GP, INC., general partner of
LEGACY/MONTEREY HOMES, L.P., on behalf of said entities.



Couret S. Stegall
Notary Public

AFTER RECORDING, RETURN TO:

LEGACY/MONTEREY HOMES L.P.
2901 W. SAM HOUSTON PKWY N
SUITE C-250
HOUSTON, TX 77043