

RIDGEWOOD
DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS

-- FILED 08/08/1984

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RIDGEWOOD

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

A Declaration of Covenants, Conditions, and
Restrictions for the Creation and
Maintenance of a Planned Unit Residential Development

ARTICLE 1
DECLARATION

Section 1.01. Date and Property. This Declaration is made this 7th day of August, 1984, by EL CAPITAN DEVELOPMENT CO., a California Corporation, and GRUPE DEVELOPMENT COMPANY-OKLAHOMA, a California corporation, with respect to that certain real property situated in the City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows:

All of WOODSIDE VILLAGE I, a subdivision in the City of Tulsa, Oklahoma, according to the recorded Plat thereof,

(the "Property").

Section 1.02. Name of Declaration. This Declaration may be referred to and cited as the "Ridgewood Restrictions".

Section 1.03. Declaration. It is hereby declared that the Property is subject to this Declaration, which is for the purpose of creating and maintaining a planned unit residential development on the Property, and for the improvement and protection of the value, desirability, and attractiveness of the Property.

Section 1.04. Runs With Property. This Declaration shall run with the Property, and the provisions of this Declaration shall be enforceable as equitable servitudes, covenants running with the land, and any other manner allowed by law, and shall be binding upon and inure to the benefit of Declarant, the Association, each Owner of the Property, or any part of it, and each successor in interest of Declarant, the Association and any such Owner, and shall be binding on each user of the Property.

Section 1.05. Subject to Master Restrictions. The Property is subject to the Woodside Village Master Restrictions, Recorded in Book 4809 at Page 1618-1618, in the office of the Tulsa County Clerk ("Master Restrictions"). The Property shall be construed as a "Project" and each Lot is a "Project Unit", as defined in the Master Restrictions.

ARTICLE 2
DEFINITIONS

Section 2.01. Application of Definitions. Unless the context otherwise requires, the terms defined in this Article shall have the meanings as defined in this Article for the purposes of this Declaration. These definitions are equally applicable to both the singular and plural forms of the defined terms. Any term or phrase not defined in this Article, but shown in quotes in another provision of this Declaration, shall have the meaning set forth in such provision as if it were defined in this Article. The capitalization of the first letter of any term, other than proper names, used in this Declaration, indicates that such term is defined in this Declaration.

Section 2.02. Articles of Incorporation. "Articles of Incorporation" or "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

Section 2.03. Association. "Association" means the Ridgewood Homeowner's Association, Inc., a nonprofit membership corporation, and any predecessor or successor entity, as more fully described in the Article entitled "Organization, Powers and Duties of the Association."

Section 2.04. Board. "Board" means the board of directors or other governing body of the Association.

Section 2.05. Bylaws. "Bylaws" means the bylaws of the Association, as amended from time to time.

Section 2.06. Common Area. "Common Area" means (i) Lots 83 and 84, and Reserve "A", Block 1, WOODSIDE VILLAGE I, a subdivision in the City of Tulsa, Oklahoma, according to the recorded plat thereof, LESS AND EXCEPT any portion thereof defined or described as common area in the Master Restrictions; and (ii) any lot or parcel designated as Common Area in any Declaration of Annexation or on any recorded subdivision plat of a Subsequent Phase. Common Area includes all improvements on or to any lot so shown or designated. There are two (2) types of Common Area based on use, "General Common Area" and "Restricted Common Area", both of which terms are defined in this Article. Unless otherwise specified, all references to "Common Area" shall be deemed to include both types of Common Area.

Section 2.07. Declarant. "Declarant" means EL CAPITAN DEVELOPMENT CO. and GRUPE DEVELOPMENT COMPANY - OKLAHOMA, and any successors or assigns of either who are assigned in writing all or part of Declarant's powers and responsibilities for all or part of the Subdivision, and who accept such powers and responsibilities in writing, in accordance with the Section entitled "Assignment by Declarant." If more than one person or entity is named as Declarant, the powers of Declarant may be exercised by such persons or entities acting jointly or individually.

Section 2.08. Declaration. "Declaration" means this document, including the limitations, restrictions, covenants and conditions set forth in this document, in any amendments hereto, and in any Declaration of Annexation.

Section 2.09. Declaration of Annexation. "Declaration of Annexation" means a declaration executed in accordance with the provisions of the Section entitled "Annexation" and Recorded for the purpose of making any real property (other than the Property) subject to this Declaration.

Section 2.10. First Mortgage; First Mortgagee. "First Mortgage" means a Security Device which constitutes a lien of first priority against any Lot. For purposes of this Section, the fact that the lien of a Secured Party is inferior to mechanics' or materialmen's liens, or to tax liens, easements, declarations of covenants, conditions, and restrictions, and similar limited interests, does not deprive such lien of "first priority" within the meaning of this Section. "First Mortgagee" means any Secured Party who holds a First Mortgage as defined in this Section, and includes any assignee, in whole or in part, of such a First Mortgage. "Eligible Mortgagee" means a First Mortgagee who has given a request for notice as provided in the Section entitled "Notice to First Mortgagees."

Section 2.11. Fiscal Year. "Fiscal Year" means the calendar year, or any other period of twelve (12) consecutive calendar months adopted by the Association by Bylaw or Board resolution as its Fiscal Year, including any initial fiscal year of less than twelve (12) months. In the event the Association changes its fiscal year, "Fiscal Year" shall be deemed to include any interval between the end of the previous fiscal year and the beginning of the newly adopted fiscal year.

Section 2.12. General Common Area. "General Common Area" means all Common Area other than Restricted Common Area.

Section 2.13. Governing Documents. "Governing Documents" means this Declaration, the Articles, Bylaws, and Subdivision Rules.

Section 2.14. Guarantor. "Guarantor" means a government agency or an insurance company that has insured or guaranteed a First Mortgage. "Eligible Guarantor" means a Guarantor that has requested notice as provided in the Section entitled "Notice to First Mortgagees".

Section 2.15. Improvements. "Improvements" means all improvements and includes, without limitation: (i) buildings, outbuildings, sheds, basements, and storage buildings; (ii) roads, driveways, walkways, and parking areas; (iii) fences, gates, walls, sound walls and retaining walls; (iv) stairs, decks, hedges, windbreaks; (v) poles, antennas, and signs; (vi) man-made canals, pumps, fountains, aerators, bridges, dams, swimming pools, lakes and

watercourses, spas, hot tubs, tennis courts, and recreational structures; (vii) mechanical, utility and communication installations, whether above- or underground; and (viii) any structure and excavation of any kind, whether temporary or permanent.

Section 2.16. Lot. "Lot" means (i) any of the lots numbered 1 through 82, inclusive, on the Plat, together with the garage appurtenant to such lot as described below, and (ii) any lot or parcel designated as a Lot in any Declaration of Annexation. "Lot" includes all Improvements on or to such lots or parcels, but does not include any property defined as Common Area. Each Lot shown on the Plat having the letter "A" following its numerical designation shall be appurtenant to and inseparable from the Lot having the same numerical designation, and shall be used only for the enclosed storage and safekeeping of automobiles and other personal property and only in conjunction with the ownership and use of the Lot to which it appertains.

Section 2.17. Master Association. "Master Association" means that certain nonprofit corporation organized pursuant to the Master Restrictions for the purpose of administering the Woodside Village Subdivision, and any successor entity.

Section 2.18. Membership; Member. "Membership" means membership in the Association by Owners as described in the Article entitled "Membership in the Association; Voting Rights". "Member" means the persons or entities holding any such Membership.

Section 2.19. Notice. "Notice" means a notice delivered in accordance with the Section entitled "Notices; Documents; Delivery".

Section 2.20. Occupant. "Occupant" means any person properly residing in a Unit pursuant to the Governing Documents, whether as an Owner, tenant, or a member of an Owner's or tenant's family.

Section 2.21. Owner. "Owner" means any person or entity, including Declarant, holding all or any fraction of the fee title to a Lot, except as otherwise provided in this Section. For a Lot subject to a deed of trust or executory installment land sale contract, the Owner is the trustor or buyer, respectively, and the trustee or seller, respectively, is not an Owner for the purpose of this Declaration.

Section 2.22. Phase. "Phase" means the Property. If and when a Declaration of Annexation has been Recorded, the Property is a "Phase" (sometimes referred to as the "First Phase"), and all of the real property annexed by any Declaration of Annexation is also a "Phase" (sometimes referred to as "Subsequent Phase"). If a Declaration of Annexation designates the real

property annexed as being more than one (1) Phase, each such designated Phase shall be a Phase. The use of the term "Phase" is primarily for convenience of reference, and does not necessarily mean that Subsequent Phases will be added to the Subdivision.

Section 2.23. Plat. "Plat" means the Plat and Deed of Dedication of Woodside Village I, filed in the office of the Tulsa County Clerk as Plat No. 4425 on December 12, 1983, as instrument No. 221877, or, where the context indicates, any other Recorded subdivision Plat of any portion of the Subdivision, including any real property described in any Declaration of Annexation. For the purposes of this Declaration, "Plat" shall also include the terms and conditions of Planned Unit Development No. 306; as approved by and filed with the Tulsa Metropolitan Area Planning Commission.

Section 2.24. Record; Recorded; Recordation. "Record", "Recorded" and "Recordation" mean, with respect to any document, the filing or recording of the document in the Office of the County Clerk of the County in which the real property to which the document relates is located.

Section 2.25. Restricted Common Area. "Restricted Common Area" means those portions of the Common Area that are identified as Restricted Common Area on the Plat or in the Section of this Declaration entitled "Owner's Interests", or are set aside for the exclusive use of one (1) or more Lots but less than all Lots, either by notes or other writings on the Plat, by this Declaration, or by deed. Any fireplace and chimney, heating unit, air conditioning unit, other mechanical or service facility, door, window, or other light-passing surface located on Common Area and serving only one (1) Lot is Restricted Common Area appurtenant to such Lot.

Section 2.26. Security Device; Secured Party. "Security Device" means a mortgage, deed of trust, executory installment land sale contract, or assignment of lease for security purposes, given for value, which constitutes a lien against any Lot. "Secured Party" means any mortgagee, beneficiary under a deed of trust, seller under an executory installment land sale contract, or assignee of a lease for security purposes, who holds a "Security Device" as defined in this Section.

Section 2.27. Subdivision. "Subdivision" means the real property subject to this Declaration, including after annexation any real property annexed in any Declaration of Annexation, together with all landscaping and Improvements on or to such real property.

Section 2.28. Subdivision Rules. "Subdivision Rules" means the rules from time to time in effect pursuant to the Section entitled "Rules and Regulations".

Section 2.29. Unit. "Unit" means the Improvements located on each Lot, comprising a single family residential dwelling, garage, and appurtenances.

ARTICLE 3
PERSONS SUBJECT TO DECLARATION

Section 3.01. Application to Persons. All Owners, Occupants, and all other persons using the Subdivision including, without limitation, the invitees of Owners and Occupants, are subject to this Declaration.

Section 3.02. Application to Owners.

- A. Owner a Natural Person. When an Owner is a natural person, the following shall apply:
1. Rights and Duties. Such Owner shall have all of the rights, duties, and obligations as set forth in this Declaration for Owners, except as otherwise provided in this Subsection.
 2. Common Area Use. If a Lot is rented or leased by the Owner to another, or is otherwise legally occupied by another to the exclusion of the Owner, then Common Area recreational and service facilities can only be used by the Occupants and their guests, subject to any restrictions governing the use of such facilities by guests.
- B. Owner Not a Natural Person. When an Owner is not a natural person, the following shall apply:
1. Rights and Duties. Such Owner shall have all of the rights, duties, and obligations as set forth in this Declaration for Owners, except as otherwise provided in this Subsection.
 2. Membership. Such Owner may exercise its vote and other rights as a Member through any natural person specifically designated in writing and, in addition, if the Owner is a partnership, through a partner or, if the Owner is a corporation, through an officer of the corporation.
 3. Common Area Use. The Common Area recreational and service facilities may only be used by the Occupants of the Lot and their guests, subject to any restrictions governing the use of such facilities by guests.

Section 3.03. When Declarant Considered an Owner. Declarant shall be considered to "Own" a Lot within the Subdivision for the purpose of any provision of this Declaration requiring Declarant's consent, determining Declarant's voting power or giving Declarant any powers or privileges not granted to other Owners if:

- A. Such Lot is owned by: (i) Declarant; (ii) a partnership or joint venture of which Declarant is a general partner or co-venturer; or (iii) a corporation of which Declarant owns fifty percent (50%) or more of the stock; and
- B. The Lot has never been conveyed to a third party buyer and is currently being held in inventory for sale.

ARTICLE 4
PROPERTY SUBJECT TO THIS DECLARATION

Section 4.01. Description of Subdivision. The First Phase comprises, or will comprise, eighty-two (82) Lots, each improved with a Unit. Each dwelling unit constitutes a portion of a building, and will share a common wall with at least one other dwelling unit. The First Phase will also contain a Common Area parcel which may include, without limitation, open space, roadways, driveways, walkways, swimming pool and a recreational building.

Section 4.02. Owners' Interests. The real property interest of each Lot shall include the components set forth in this Section. No component may be severed from the Lot to which it is appurtenant. The components are as follows:

- A. Fee title to a Lot;
- B. Membership in the Association;
- C. A non-exclusive easement of use, enjoyment, ingress, egress, and support, in, over, and throughout all General Common Area walkways, roads and recreational and service facilities, including, upon annexation of any annexed Phase, General Common Area within other Phases, for the uses permitted by this Declaration.

Section 4.03. Annexation. Any real property (other than the Property) which consists of a parcel or parcels depicted on a final subdivision plat of Record may be annexed to the Subdivision in accordance with this Section, and shall thereupon become subject to this Declaration.

- A. Unilateral Annexation by Declarant. Declarant may, from time to time and in its sole discretion without the assent of the Association or Owners, annex to the Subdivision any of that certain real property not then within the Subdivision, described in Exhibit "A" of this Declaration, if the Declaration of Annexation for such property is Recorded prior to the seventh anniversary of the Recording of this Declaration, and if the aggregate number of Lots in the Subdivision, including the property to be annexed, does not exceed three hundred

(300). At any time prior to the first sale of a Lot within annexed property, Declarant may, without the assent of the Association or Owners, rescind or amend such Declaration of Annexation.

B. Annexation by Association. The Association may annex real property to the Subdivision whether or not such property qualifies for annexation under Subsection A of this Section, provided that such annexation is approved by the vote or consent of a majority of the Owners, including two-thirds (2/3) of the Owners other than Declarant, and approved in accordance with the Section entitled "Mortgagee Approval of Certain Actions".

C. Method of Annexation. Any annexation undertaken in accordance with THIS SECTION shall be effective when a Declaration of Annexation signed by the annexing party and the Owner of the interest to be annexed covering the property to be annexed, and setting forth all modifications of this Declaration as they apply to the annexed property, or to the Subdivision including the annexed property, has been Recorded, including:

1. A description of the property to be annexed; and
2. A description of Restricted Common Areas appurtenant to Lots within the property to be annexed; and
3. A description of any parcel of the property to be annexed which is Common Area;

and upon the Recording of a declaration of annexation, signed by the annexing party for the purpose of making the annexed property subject to the Master Restrictions.

D. Additional Restrictions. The annexing party may provide for additional or different limitations, restrictions, covenants, conditions, and easements with respect to the use of the annexed real property in the Declaration of Annexation or by the incorporation of other documents. Any additional provisions may be made as a result of characteristics unique to the property to be annexed, including, without limitation, zoning, surface features of the land, method of subdivision, and the character of the improvements. The additional provisions may provide that annexed property be a type of subdivision other than a planned unit development, such as a condominium project, in which case any provision of this Declaration referring to "Common Area" may include real property owned in common, as provided in the Declaration of

Annexation. Any additional provisions shall: (i) be approved in the same manner as the annexation; (ii) not discriminate in use of General Common Area recreational and service facilities between the Occupants of Lots located in different Phases; (iii) not change the general residential character of the Subdivision; (iv) be harmonious with the provisions relating to the use in the Article entitled "Use of the Property"; and (v) not change the basis of assessments for the Lots that were part of the Subdivision prior to the annexation, so as to increase their proportionate assessments.

- E. Effect of Declaration of Annexation. Upon any annexation becoming effective, the Declaration of Annexation shall become a part of this Declaration, and shall be deemed amended by any amendment to this Declaration.
- F. Completion by Declarant. It is the responsibility of Declarant, at Declarant's sole cost, to complete all Common Area Improvements on or part of any Property originally subject to this Declaration or later annexed to the Subdivision by Declarant. As part of completion, Declarant shall put all Common Area systems in operating order, including paying all fees, deposits, and charges required to hook up or operate any such system, and shall obtain all governmental approvals required for the operation of the Subdivision and the Common Area systems. The Association has no duty to maintain such Common Area systems until the commencement of assessments under Subsection A2 of the Section entitled "Assessments", and is not responsible for the payment of prior debts arising from the operation of such systems unless the Association expressly assumes such debts. All Improvements in any subsequent Phase shall be consistent in quality with the improvements on the Property and shall be substantially complete or bonded for completion prior to annexation.
- G. Assessments and Voting Rights in Subsequent Phases. Except as modified by a Declaration of Annexation, assessments and voting rights applicable to Lots in Subsequent Phases shall be as set forth in the applicable provisions of this Declaration.
- H. Adjustment for Capital Improvements. Where annexation of a Phase occurs after existing Lots within the Subdivision have been assessed for capital improvements to Common Area, the Board may adjust the assessment on the annexed Lots so that the annexed Lots pay their proportionate share of the improvement minus reasonable depreciation of the improvement if it has been in use for one year or more at the time of annexation. An annexed Lot shall have terms of payment of

any such assessment for capital improvements at least as good in terms of the time given for the payments and in the amounts of any installment payments as given to the Lots in the Subdivision at the time the assessment for such improvements was originally levied.

Section 4.04. Common Area. Prior to conveyance of the first Lot within a Phase, Declarant shall convey to the Association fee simple or other fee or leasehold title to the Common Area within such Phase that is to be owned by the Association, subject only to the title exceptions set forth in Subsection C of the Section entitled "Duties of the Association".

ARTICLE 5
USE OF THE PROPERTY

Section 5.01. Residential Use.

- A. No Lot shall be occupied, used or improved for other than residential and associated purposes by Owners, their tenants and social guests. Except with written approval by the Board for good cause shown, no Occupant shall take in persons for boarding or care, except that one (1) person may be taken in as an integral part of the Owner's family group. No Lot shall be occupied by more than one (1) family, except that a Unit may be occupied by two (2) unrelated adults. No Lot may be rented or leased for transient or hotel purposes. The term "family" as used in this Article shall mean persons related by blood, marriage, or adoption within the third (3d) degree.
- B. No more than two (2) persons may permanently occupy a one (1) bedroom Unit, no more than four (4) persons may permanently occupy a two (2) bedroom Unit, and no more than one (1) family or two (2) unrelated adults may permanently occupy any Unit without the prior written approval of the Board. The Board may establish, by Subdivision Rule, uniform rules regarding definitions of "permanent occupancy", permitted stays by guests, and exceptions for health purposes. No minor may occupy a Unit without the co-occupancy of a responsible adult.

Section 5.02. Rental of Lots. No Lot shall be rented or leased or otherwise occupied by persons without the occupancy of the Owner or the Owner's immediate family, except in its entirety together with the Unit located on it and pursuant to a written lease or rental agreement that expressly makes the occupancy subject to the provisions of the Governing Documents and that expressly makes a breach of the Governing Documents a default under the lease or rental agreement. No Unit shall be rented or leased without the rental or lease of the Lot on which it is located; the term

"Lot" in this Section refers to both the Lot and the Unit located on it. No Lot may be rented or leased for a period of less than thirty (30) consecutive days. The Board may, by Subdivision Rule, prescribe the form of the provisions required by this Section to be included in such leases or rental agreements. The occupancy of a Lot by other than the Owner or such Owner's immediate family shall be reported to the Board within five (5) days of the commencement of such occupancy, and a copy of the written rental agreement or lease shall be concurrently furnished to the Board. Any Occupant of a Lot shall be bound by the requirements and duties set forth in the Governing Documents, except that Occupants other than Owners shall not be personally liable by the provisions of this Declaration for the payment of assessments other than Delinquency Assessments. Any monetary obligation incurred by any non-Owner Occupant to the Association under this Declaration or the Subdivision Rules shall also be the personal obligation of the Owner of the Lot so occupied, and may be levied against such Owner as an assessment. No Lot may be subleased or any lease or rental agreement of a Lot assigned in whole or in part, without compliance with this Section.

Section 5.03. Prohibited Uses. The following activities, uses and improvements are prohibited within the Subdivision and the adjoining streets, whether public or private:

- A. Mining. Mining, quarrying, drilling, boring or exploring for or removing natural subsurface material.
- B. Nuisances. Activities, noises, uses and improvements that are noxious, illegal or offensive; or which may be or become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to Occupants in the quiet enjoyment of their Lots; or which may adversely affect the availability or cost of insurance; or which may impair the structural integrity of any building.
- C. Signs. The erection or maintenance of any signs on General Common Area, on yard areas of Lots, or in or on windows or on any exterior surface of a Unit, whether commercial, political or otherwise, which are visible from other Lots or General Common Area, except for the following, when in accordance with Subdivision Rules regulating location:
 1. Such signs and notices as may be required by legal proceedings;
 2. During the time of construction of any initial structure or other initial improvement in any Phase, job identification signs having a maximum face area of twenty-four (24) square feet per sign and of the type usually employed by lenders,

contractors, subcontractors and tradesmen, provided that they are located on or immediately adjacent to the Improvements under construction or at the entrance to the Phase under construction;

3. Appropriate safety, directional and identification and safety signs installed by Declarant, the Association or required by law, including, without limitation, "entry feature" signs identifying the Subdivision;
4. Not more than one (1) "for sale" or "for rent" sign, having a maximum face area of three (3) square feet, on the exterior of each Unit; and
5. Such residential or commercial identification signs, including addresses or Lot numbers and the name of the Owner or Occupant as are specifically approved by the Board in accordance with the Subdivision Rules, or as Declarant has the right to maintain, or as are part or replacement of original construction.

- D. Nonstandard Vehicles; Mobile Homes. The placement or maintenance of mobile homes, motor homes, trucks, commercial vehicles, campers, boats, trailers, or similar vehicles, except: (i) within enclosed garages used by a single Lot; (ii) where required temporarily for the construction, repair, refinishing or maintenance of any part of the Subdivision; or (iii) for moving furnishings, equipment or supplies into or out of the Subdivision.
- E. Motorcycles; Bicycles. The placement of motorcycles or bicycles, except within an enclosed garage used by a single Lot, or in locations approved by the Board by Subdivision Rule or otherwise.
- F. Tricycles; Play Toys; Other Equipment. The placement of unattended tricycles, play toys, or other equipment, except within an enclosed garage used by a single Lot, or an enclosed storage area assigned to a Lot, or within a fenced backyard, or in some other place designated by the Board by Subdivision Rule.
- G. Clothes Lines. The erection or maintenance of clothes lines, unless within fenced yards so as not to be visible from streets, Common Area or the ground floor of Buildings in the Subdivision. The Board may, however, upon a finding that use of electric or gas clothes dryers may constitute an inappropriate allocation of limited energy resources, adopt Subdivision Rules that modify this prohibition, upon such terms and conditions as the Board deems appropriate.

- H. Animals. The keeping, raising or breeding of animals or birds of any kind, except in accordance with the Subdivision Rules. To the extent pets are permitted by the Subdivision Rules, each Owner shall immediately give written notice to the Board, upon bringing a pet within the Subdivision, giving a description of the pet and the type, breed and name thereof.
- I. Trees. The cutting or removal of trees or bushes in the Common Area without the prior written approval of the Board.
- J. Mechanical Devices. The installation or maintenance of mechanical or other devices not a part of, or replacement for, original construction, on the roof or exterior surface of any Improvement on any Lot, if such device is visible from the street or other Lots. The Board may grant waivers, exceptions or variances of this prohibition if such waivers, exceptions or variances are appropriate in light of technological or similar changes and are otherwise consistent with the purposes of this Declaration. Any such waiver shall be subject to regulation by the Board based on appearance, location, manner of installation and such other criteria as the Board deems appropriate.
- K. Exterior Antennas. The installation or maintenance of any exterior antennas, including satellite discs, except as provided in the Section entitled "Easements". The Board may grant waivers, exceptions or variances of this prohibition if such waivers, exceptions or variances are appropriate in light of technological or similar changes and are otherwise consistent with the purposes of this Declaration. This prohibition may be enforced even if enforcement action is not commenced within the time limitations otherwise provided by this Declaration.
- L. Sports Apparatus. The erection of basketball standards or fixed sports apparatus, other than by the Association within General Common Area.
- M. Vehicle Repair; Indefinite Parking. Major repairs or reconstruction of any vehicle or the indefinite parking of any vehicle for any reason, including, without limitation, purposes of repair or reconstruction of such vehicle except within an enclosed garage used by a single Lot. The Board may, by Subdivision Rule, establish maximum permissible periods for the parking of vehicles for such purposes and determine what constitutes a major repair or reconstruction. Without limiting the generality of the foregoing, the changing of oil in a vehicle is specifically prohibited. Washing or waxing a vehicle shall not be deemed to be the repair or reconstruction of a vehicle.

- N. Lighting. The installation of any exterior lighting other than lighting installed by Declarant, without the prior written approval of the Board, except for ordinary nondirectional bulbs that: (i) do not exceed 150 watts; and (ii) are white or yellow in color.
- O. Window Coverings. Hanging from, affixing to or maintaining in any window, any signs not permitted under Subsection C of this Section, or any aluminum or metal foil or other reflective materials. The color and other characteristics of curtains, drapes, shades, blinds or other coverings shall conform to the Subdivision Rules.
- P. Screen Doors. The installation of any screen door or similar fixture visible from General Common Area without the prior written approval of the Board, which approval shall not be given unless the Board finds that such door or fixture is harmonious in style and color with the exterior of the Unit and with other doors and fixtures previously approved.
- Q. Trades or Businesses. The conducting of any trade or business, except those trades or businesses that are permitted by and comply with zoning and other laws or ordinances which do not: (i) change the overall residential use of the Lot; (ii) involve numerous in-person calls by customers, employees, or deliverymen; (iii) require signs or other promotional advertisements except for the name of the business on mailboxes; (iv) require the storage of large amounts of bulky goods or inventory; and (v) require parking spaces other than those the Owner is granted or assigned to use.
- R. Fences, Screens, and Walls. The erection or maintenance of any fences, awnings, ornamental screens, sunshades, hedges, mass plantings, or walls of any nature, except those installed as part of the original construction of the Subdivision or their replacements, on or around any Common Area or Lot, unless specifically authorized in writing by the Board.
- S. Fences and Plantings. The installation or maintenance on any Lot of any fence, wall, hedge or mass planting of any type exceeding six (6) feet in height above the finished grade surface of the ground upon which it is located.
- T. Insects and Rodents. Doing any act, including leaving food and garbage exposed, which attracts ants, termites, rodents, or other pests onto or into any buildings within the Subdivision.

Section 5.04. Use of Common Area.

- A. General. The use of General Common Area for ingress and egress and the use of recreational and service facilities in any Phase are reserved equally to all Occupants, including the Occupants of Lots in other Phases within the Subdivision, subject to the Governing Documents.
- B. Permitted Uses. The use and improvement of General Common Area shall be limited to (i) mail, laundry, storage and trash disposal facilities, if any; (ii) service and utility areas and apparatus; (iii) stairways, walkways, roadways and parking areas; and (iv) yard, open space and recreational areas; and (v) signs permitted to be erected and maintained pursuant to Subsection C of the Section entitled "Prohibited Uses". Improvements to General Common Area need not include all those listed in this Subsection. Common Area serving or providing access to individual Lots, including without limitation porches, stairways, landings, courtyards, and walkways, shall not be used by Occupants of other Lots for any purpose other than as access to the Lot served and only with the permission of its Owner or Occupant, except as specifically otherwise permitted by this Declaration. Recreational and children's play activities are not allowed within General Common Area, except for those areas designed and specified for such activities. The Board may so designate such areas by Subdivision Rule.
- C. Improvements. General Common Area shall not be improved, painted, decorated, repaired or replaced except by the Association in connection with its duties and powers, or by an Owner pursuant to the Article entitled "Construction and Architectural Control".
- D. Use by Others. Any Occupant may allow such Occupant's guests to use the Common Area and facilities except to the extent such use is limited or prohibited by the Governing Documents.
- E. Use of Exposed Restricted Common Area. Restricted Common Area patios and balconies which are visible from the ground level of the Subdivision or adjoining public streets and walkways shall be kept neat and clean and in good repair and shall not be used for storage. All dead plants and damaged furniture shall be promptly removed and the amount of furniture and other items placed in such areas shall be subject to reasonable regulation by Subdivision Rule.

- F. Parking. No vehicle may be parked other than in an uncovered parking space clearly designated as such or in a garage. There shall be no parking along the sides of roads and drives unless in a marked parking space. No person shall park in a space assigned to a Unit without the express consent of the Occupant of the Unit. Any vehicle parked in violation of this Subsection or Subsection M of the Section entitled "Prohibited Uses" may be towed away at the expense of the owner of the vehicle at the request of: (i) the Occupant entitled to park in the space, if the vehicle is parked in an Occupant's assigned space; or (ii) the Association, in any case.

Section 5.05. Refuse. No refuse receptacle shall be placed or maintained outside of a Unit, except in a completely enclosed portion of the Restricted Common Area appurtenant to such Lot, or in other places specifically provided for such use. The Association may place and maintain refuse receptacles in General Common Area for common use. No refuse shall be burned out of doors, except natural materials burned in connection with land clearance or fire control. No refuse shall be burned indoors, except paper products in connection with the normal use of a fireplace.

Section 5.06. Utility Lines. All utility and service lines shall be underground, except access ports, above-ground transformers and lines used temporarily during a period of construction.

Section 5.07. Easements.

- A. Declarant's Easements. For so long as Declarant owns any real property now or hereafter subject to this Declaration, Declarant shall have a temporary easement over roadways within any Phase, for purposes of allowing Declarant to transport workers, materials, equipment and supplies required for completion of construction, including completion of Subsequent Phases, both before and after annexation.
- B. Association Easements. The Association shall have nonexclusive easements and rights of use on and over all of the Subdivision for the purpose of performing its powers and duties with respect to maintenance of the Subdivision and enforcement of this Declaration and the Subdivision Rules. Such easements shall include a right of entry onto a Lot, Unit, or Restricted Common Area, without civil or criminal liability for such entry, by persons whose services are reasonably required: (i) to correct any condition existing on the Lot, Unit, or Restricted Common Area and threatening any other Lot, Unit, or Common Area; (ii) in the event of an emergency; (iii) in connection with any maintenance, repair, cleanup, landscaping or construction for which the Association is responsible; or (iv) to

correct or abate any violation of this Declaration, including without limitation to remove any structure, object, item, or condition causing such violation. Such entry shall: (i) be made only after prior notice to the Occupant, except in case of emergency; (ii) be made with the least practicable inconvenience to the Occupant; and (iii) if entry is made into a Unit for a purpose set out in clause (iii) or (iv) of the previous sentence, such entry shall be made only with the consent of the Occupant of the Unit or on the authority of an order issued by a court of competent jurisdiction. The Association shall repair any damage caused by entry under this Subsection, except for damage to Improvements in violation of this Declaration.

- C. Owner's Easements. The Owner of any Lot that is served by communication, service or utility facilities, including without limitation, heating and air conditioning ductwork and fireplaces and flues, lying within the Common Area or within another Lot or Unit, may enter upon such Common Area or other Lot including the Unit located on the Lot, or may have utility, communication, or service companies do so, at reasonable times after prior notice to the Owner and Occupant of the Lot or Restricted Common Area, or to the Association if the facilities lie within General Common Area, to modify, repair, replace, or maintain such facilities as necessary, when such work is not the responsibility of the Association or for other reasons is undertaken by such Owner. Entry into another's Unit except in cases of emergency must be done with the permission of the Occupant of the Unit or on the authority of an order issued by a court of competent jurisdiction. Such Owner, and persons performing such work at such Owner's request, shall be jointly and severally liable for the full cost of restoring all property affected by such work to its previous condition. Each Owner shall have an easement over Common Area adjoining his Lot to install and maintain exterior antennas under roof overhangs that are part of original construction or whose construction has been approved in accordance with this Declaration, subject to any requirements of this Declaration for approval of such installation by the Association.
- D. Costs of Enforcement. When an Occupant refuses reasonable access to such Occupant's Unit pursuant to the easements set forth in this Section, such Occupant shall be liable for the costs, including attorneys' fees, incurred by the Association or Owner in enforcing this Section.

ARTICLE 6
MEMBERSHIP IN THE ASSOCIATION; VOTING RIGHTS

Section 6.01. Membership.

- A. Qualifications. Each Owner, by virtue of being an Owner and during such time as he remains an Owner, is a Member of the Association. No person or entity shall be a Member of the Association other than by virtue of being an Owner. When more than one (1) person or entity holds an ownership interest in any Lot, all such persons shall be Members.
- B. Transfer of Membership. Neither Membership nor the right to vote may be severed from any Lot, and any sale, transfer or conveyance of a beneficial interest in the fee of any Lot to a new Owner shall operate automatically to transfer the appurtenant Membership and voting rights. This Section shall not be construed to prohibit the giving of proxies in accordance with the Bylaws and relevant Oklahoma law.

Section 6.02. Classes of Membership. The Association shall have two (2) classes of Membership, Class A and Class B.

- A. Class A. All Owners other than Declarant shall be Class A Members, and shall have one (1) vote for each Lot owned.
- B. Class B. Declarant shall be the only Class B Member, and shall have three (3) votes for each Lot owned. Class B Membership within any Phase shall forever cease and be converted to Class A Memberships upon the earlier of:
1. Four (4) months after seventy-five percent (75%) of the Lots have been sold; or
 2. The fifth anniversary of the first conveyance of a Lot.

The sale of an entire Phase to a single buyer is not a sale of a Lot for the purpose of this Subsection B.

Section 6.03. Voting.

- A. Voting Rights. Each Owner may vote on all matters properly submitted for vote to the Membership. The right to vote with respect to any Lot shall not vest until the commencement of Subdivision Regular Assessments against such Lot under Subsection A2 of the Section entitled "Assessments" and the right to vote shall cease at any time the Lot is no longer liable for the payment of

Subdivision Regular Assessments except that the Owner of a Lot that is no longer liable for the payment of Subdivision Regular Assessments due to damage or destruction can vote on any matter relating to the rebuilding of the Subdivision as provided in the Article entitled "Damage, Destruction, and Eminent Domain". Voting on behalf of any Owner not present at a meeting may be by written proxy or absentee ballot.

- B. Voting Rules. When any provision of the Declaration requires the vote or consent of the Members, the following rules shall apply unless prohibited by law or unless the provision specifically provides otherwise:
1. The vote for any Lot in which more than one person or entity holds an ownership interest shall be exercised as such persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's appurtenant vote shall be suspended should more than one person or entity seek to exercise it;
 2. Any percentage requirement shall be a percentage of the number of votes and not a percentage of the number of Members;
 3. Quorum requirements for meetings of Members shall be as set forth in the Bylaws.
 4. For any Member that is not a natural person, votes shall be cast only by the person set forth in Subsection B2 of the Section entitled "Application to Owners"; and
 5. If a vote is taken at a time when the voting rights of one (1) or more Owners have been suspended in accordance with this Declaration, the votes of such Owners shall be excluded from the computation of any necessary majority vote, as though the Subdivision did not include such Owners' Lots; provided, that for any amendment of this Declaration, the certificate of such amendment shall set forth the fact of such exclusion, and the names of the Owners whose vote has been so excluded, and identify the Lot(s) owned by each such Owner.

ARTICLE 7
ORGANIZATION, POWERS AND DUTIES OF THE ASSOCIATION

Section 7.01. Organization.

- A. Non-Profit Corporation. The Association shall be organized as an Oklahoma non-profit corporation charged with the duties and empowered with the rights prescribed by law or set forth in this Declaration, its Articles, or its Bylaws.

- B. Unincorporated Association. If the Association is not formed as a corporate entity, or if after formation it loses its corporate powers or is dissolved, a nonprofit, unincorporated association shall forthwith and without further action or notice be formed and shall have all the rights and obligations of the Association until a nonprofit corporation is formed. Such unincorporated association shall not be deemed to be a partnership, or to create a general agency between the Owners, for any purpose. The unincorporated association's affairs shall be governed by the laws of the State of Oklahoma and, to the extent not inconsistent therewith, by this Declaration, the Articles and Bylaws, respectively, as if they were created for the purpose of governing the affairs of an unincorporated association.
- C. Certificate of Identity. The president and secretary of the Association or a majority of the Board may execute, acknowledge and Record a certificate of identity stating the names of all of the members of the then current Board, officers of the Association or members of any architectural or planning committee, or any of such groups. The most recently Recorded certificate shall be conclusive evidence, in favor of any person relying on such Certificate in good faith, of the identity of the persons listed in such certificate as members of the Board, corporate officers, or members of any architectural or planning committee.
- D. Title to Property Upon Dissolution. Absent other disposition of the assets of the Association upon dissolution of the Association, the Association has the option to convey the assets of the Association to an appropriate public agency or agencies to be used for purposes similar to those for which the Association was created, or to a nonprofit corporation, association, trust or other organization organized and operated for such similar purposes.

Section 7.02. Powers of the Association.

- A. General. The Association shall have all of the powers set forth in its Articles, together with its general powers as a nonprofit corporation, limited only as expressly set forth in its Articles, its Bylaws and this Declaration, to do any and all lawful things which the Association is authorized, required or permitted to do under this Declaration, and to do any and all acts which may be necessary or proper for the exercise of any of the express powers of the Association, or for the peace, health, comfort, safety and general welfare of Owners. All powers of the Association, except those for which a vote of the Members is required by this Declaration, the Bylaws, or by law, may be exercised by the Board.
- B. Enumerated Powers. In exercising any of its powers or fulfilling any of its duties under this Declaration, including, but not limited to, its powers or duties for the maintenance, repair, operation or

administration of Common Area, and for the development, construction, installation or acquisition of a capital improvement, the Association may, as it deems necessary or appropriate:

1. Common Area Maintenance and Repairs. Provide for the improvement, maintenance, restoration and repair of the Subdivision in accordance with the Articles entitled "Maintenance" and "Damage, Destruction, and Eminent Domain";
2. Insurance. Obtain, maintain, and pay for such insurance policies or bonds, whether or not required by this Declaration, as the Association shall deem to be appropriate for the protection or benefit of the Subdivision, the Association, the directors and officers of the Association, and the Owners. The Association may, on behalf of the Owners and consistent with this Declaration, enter into any appropriate agreement for the holding by a trustee of proceeds paid under any insurance policy held by the Association ("Insurance Trust Agreement"), which agreement may contain such provisions relating to the trustee's powers, duties, and compensation as the Board may approve;
3. Utility and Other Services. Contract and pay for, or otherwise provide for, such utility and other services, including, but not limited to, water, sewer, garbage, electrical, telephone, communication cable, and gas services, as may, from time to time, be desirable or required. If these charges are for services to individual Lots, the Association may prorate these charges to the Lots using the services on any reasonable basis, including size of Unit or number of outlets, and charge the services in such installments and with such due dates as the Board may set;
4. Professional and Personal Services. Contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys, bookkeepers and accountants, and for other professional and nonprofessional services;
5. Material and Labor. Contract and pay for, or otherwise provide for, materials, supplies, furniture, equipment, and labor;
6. Liens. Pay and discharge any and all liens from time to time placed or imposed upon any Common Area, or on account of any work done or performed by the Association in the fulfillment of any of its duties of maintenance, repair, operation, or administration;
7. Use of Property. Lease, license, or contract for the use of land, improvements, and equipment for recreational or other purposes;

8. Signs. Place and maintain upon General Common Area signs and curb markings for the identification of the Subdivision or roads, the regulation of traffic, including parking, the regulation and use of the General Common Area, and the health, welfare and safety of Owners, Occupants and other persons;
9. Taxes. Pay, compromise, or contest any and all taxes and assessments levied against: (i) all or any part of the Common Area, or (ii) any income of or assessed to the Association, or (iii) any personal property belonging to or assessed to the Association;
10. Enforcement. From time to time, in its own name, or on its own behalf, and on behalf of any Owner or Owners who consent thereto, commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Governing Documents, or to recover damages therefor, or to enforce, by mandatory injunction or otherwise, any or all of the provisions of the Governing Documents, and take any other action required or permitted by the Governing Documents for their enforcement;
11. Maintenance of Lots. Maintain, or provide for the maintenance of, any Lot and any Restricted Common Area appurtenant to such Lot which is not maintained by the Owner thereof in accordance with the requirements of this Declaration, at the expense of any such Owner;
12. Management Agreement. Enter into an agreement with a professional managing agent for professional management of the Subdivision, subject to any limitations imposed by Subsection D of this Section or in the Article entitled "Protection of Mortgagees";
13. Management of Other Subdivisions. Agree with the governing body of any other subdivision to manage the affairs of such other subdivision, to jointly manage the affairs of the subdivisions, to jointly hire a manager, to have its affairs managed by any other subdivision, or jointly to engage in other activities not inconsistent with this Declaration, upon such terms and conditions as the Association may deem appropriate;
14. Discipline. Temporarily suspend an Owner's rights as a Member, during the period of any uncorrected violation of this Declaration or of the Subdivision Rules by such Owner or such Owner's guests or by an Occupant, and take other disciplinary action provided for by Subdivision Rule, in accordance with

Subsection A3 of the Section entitled "Rules and Regulations";
and

15. Security Control. Provide security control, including but not limited to security guards, locked doors or gates, fences, or burglar or fire alarm systems as it deems necessary to afford reasonable protection to: (i) persons legally within the Subdivision; and (ii) real and personal property within the Subdivision.
 16. Reimbursement. Reimburse any members of the Board or officer of the Association for expenses incurred in carrying on the business of the Association.
 17. Other Action. Take such action, including without limitation self-help remedies that do not breach the peace or otherwise violate applicable law or this Declaration, whether or not expressly authorized by this Declaration, as may reasonably be necessary or desirable to enforce or carry out the purposes of the Governing Documents.
- C. Common Area. The Association shall operate and control the General Common Area for the sole purpose of carrying out the purposes of this Declaration. Specifically:
1. The Association may, without a vote of the Members:
 - a. Grant and convey easements or rights-of-way in, on, over or under any General Common Area, for the purpose of constructing, operating and maintaining utilities, sewer and water disposal facilities, water systems, communication facilities and related equipment; and
 - b. Enter into reciprocal easement agreements and joint use and maintenance agreements for use of the roadways, parking areas, recreational facilities or other common use areas when the Board determines, in its sole discretion, that it is in the best interests of the Owners to do so; and
 - c. Assign or rent to Occupants parking spaces within General Common Area not previously assigned and not subject to assignment by Declarant or the Association under other provisions of this Declaration, provided that the basis for the assignment of such spaces shall be uniform and that priority shall be given in such assignment to Lots which have not yet been assigned a parking space.

2. To the extent such power is needed, each Owner, upon acceptance of such Owner's deed to a Lot, does hereby irrevocably appoint the Board as such Owner's attorney-in-fact to make the conveyances described in this Subsection, and such power of attorney shall be held to be coupled with an interest in the property conveyed and irrevocable.

D. Majority Vote Required. Any of the following actions by the Board shall require a majority vote of the Owners, as well as any approval required by the Article entitled "Protection of Mortgagees":

1. Entering into a contract for the furnishing of goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:
 - a. A management contract, the terms of which have been approved by the Federal Housing Administration, if such agency is financing or making a guarantee of the financing of the Subdivision or of individual Lots, provided that no management contract shall, under any circumstances, have a term exceeding three (3) years or any shorter duration otherwise prescribed by this Declaration;
 - b. Prepaid policies of casualty or liability insurance of not to exceed three (3) years' duration, provided that the policy permits short rate cancellation by the insured;
 - c. Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years' duration, provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.
2. Incurring aggregate expenditures, other than expenditures covered by applicable reserves, for capital improvements to the Common Area in any Fiscal Year in excess of five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year;
3. Selling, during any Fiscal Year, property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that Fiscal Year; and

4. Paying compensation to directors or officers of the Association for services performed in the conduct of the Association's business, provided that the Board may cause a director or officer of the Association to be reimbursed for expenses incurred in carrying on the business of the Association.
- E. Reorganization. Upon the sale or other disposition of a Phase or portion of a Phase under Subsection B2 of the Section entitled "Decision Not to Rebuild", or under Subsection C of the Section entitled "Eminent Domain", the Board may, without a vote of the Owners, adjust assessments and take any other reasonable actions necessary or convenient to permit the continued operation of the Subdivision without the Phase or portion of a Phase so sold, provided that the relative proportions of assessments payable by Owners of the remaining Lots shall not be changed without approval in accordance with the Article entitled "Protection of Mortgagees".

Section 7.03. Duties of the Association.

- A. Insurance and Maintenance. The Association shall maintain insurance as required by the Article entitled "Insurance" and shall carry out its maintenance obligations under the Article entitled "Maintenance".
- B. Annual Statement. The Association shall prepare and distribute to each Owner and Eligible Mortgagee an annual statement complying with the Bylaws, reflecting the Association's receipts and expenditures for each Fiscal Year, as well as statements required by the Section entitled "Audited Financial Statements".
- C. Acceptance of Title. If Declarant conveys to the Association title to any Common Area that has been annexed to the Subdivision, the Association shall accept title to and delivery of such Common Area. The Association shall execute and Record an acceptance of title, if Declarant so requests, within thirty (30) days of the request. The Association is required to accept title only if such Common Area is conveyed free and clear of all title exceptions, except the following:
 1. General and specific real property taxes, which are not delinquent;
 2. Reservations, easements, covenants, conditions, and restrictions of Record, or which do not materially adversely affect the values of the real property for the purposes contemplated by this Declaration, including without limitation

existing easements for utilities, drainage and sanitary sewer, as well as any existing or future easement for flood control purposes;

3. Nonexclusive easements for ingress and egress for vehicular, pedestrian, and related purposes over private street areas;
4. Other matters affecting title to such real property or interests therein as may be referred to or provided for in this Declaration, including but not limited to, easements, rights of use, and rights-of-way.

D. Association Personal Property. The Association shall accept delivery of and exercise dominion over all personal property transferred and assigned to the Association by Declarant, free and clear of all liens and encumbrances, other than any personal property taxes which are not delinquent.

E. Taxes. The Association shall pay all real property taxes and assessments levied upon the Common Area and all income or other taxes levied upon the Association.

F. Exercise Rights as Member. The Association, or its successor, by and through the Board, shall exercise its rights, and perform all its duties and obligations, as a Member of the Master Association, including, without limitation, voting on all pertinent Master Association matters, and paying all assessments attributable to the Subdivision that are owing to the Master Association or any successor entity under the Master Restrictions.

G. Other Action. The Association shall take such action, whether or not expressly authorized by this Declaration, as may reasonably be necessary to enforce or carry out the purposes of the Governing Documents.

Section 7.04. Rules and Regulations.

A. Adoption. The Board may, from time to time and subject to this Declaration, adopt, amend and repeal rules and regulations, to be known as "Subdivision Rules", providing for:

1. The use of the Common Area and facilities.
2. The use of roads and parking areas including the designation of the parking, limited parking, and no parking areas, and the assignment, if not otherwise specifically provided for by this Declaration, of parking stall spaces and storage areas, if any, within General Common Area.

3. Monetary penalties, temporary suspension by the Board of an Owner's rights as a Member, or other discipline, for failure to comply with the Governing Documents. Such rules shall set forth the terms, conditions and procedures for imposition of such discipline and shall provide for notice and an opportunity to be heard.
 4. The interpretation or implementation of the Article entitled "Construction and Architectural Control", and the designation of plans, specifications or other documents or things required as a prerequisite for consideration of such proposed work.
 5. The modification of prohibitions contained in this Declaration, subject to appropriate terms and conditions, upon a finding by the Board that applicable government regulations, including without limitation any regulations relating to energy conservation or environment protection, require such a modification.
 6. The implementation of security control procedures within the Subdivision, including, but not limited to: (i) the registration, with the Board, of keys, security cards, or other means to control access to common facilities, and limitations on the distribution of such keys, security cards, or other means of access to common facilities; (ii) the registration of motor vehicles and bicycles; (iii) requiring certain doors to be kept closed and locked; and (iv) restricting access through fire doors.
 7. Reasonable regulation of the use of Common Area for moving household goods into and out of the Subdivision, including notice requirements and protection of the Common Area.
 8. The interpretation of the provisions of this Declaration as they would apply to specific factual situation.
- B. Common Area. The Subdivision Rules may limit and otherwise regulate the use of General Common Area, but no such rule shall eliminate or unduly burden access to a Lot. The Subdivision Rules relating to the use of General Common Area shall not discriminate between Owners and other Occupants, and shall not discriminate between invitees of Owners and invitees of other Occupants, but may provide rules for invitees differing from those governing Occupants. The Subdivision Rules may prohibit or limit the invitees that may use the General Common Area recreational and service facilities and may limit the use of certain areas by children.

- C. Delivery. The Board shall give Notice to each Owner and Occupant of the Subdivision Rules as they may, from time to time, be adopted, amended, or repealed. The Board shall also post a copy of the Subdivision Rules, as they may be adopted, amended, or repealed from time to time, at one or more reasonable locations in the Common Area as the Board determines, in its own discretion, will provide exposure to Owners and Occupants. Upon such Notice and posting, the Subdivision Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. Any Subdivision Rule relating to the health or safety of Occupants or other persons coming upon the Subdivision shall take effect upon adoption.

Section 7.05. Liability of Members of the Board. No Member of the Board shall be personally liable to Declarant, any Owner or any other person for any error or omission of the Board, the Association, its representatives and employees, or the manager, provided that such member has, with the actual knowledge possessed by him, acted in good faith.

Section 7.06. Limitation of Liability for the Acts of Others. The Association, members of the Board, and employees and agents of the Association are not responsible or liable for personal injuries and property damage caused by criminal acts, intentional acts, or negligent acts of others whether such acts were foreseeable or not.

ARTICLE 8
FUNDS, ASSESSMENTS AND DELINQUENCY

Section 8.01. Creation of Personal Obligation and Lien for Assessment.

- A. Agreement to Pay. Each Owner, including Declarant, covenants and agrees to pay to the Association, for each Lot owned:
1. Regular assessments;
 2. Special assessments;
 3. Delinquency assessments; and
 4. All other fees or other monies due the Association.
- B. Creation of Lien. Each assessment, plus interest, late charges, costs and attorneys' fees provided by this Declaration shall be a charge and a continuing lien upon the Lot against which the assessment is made from the date the notice of delinquent assessment is Recorded, as provided in Subsection C of this Section.

- C. Recording of Notice. A notice of delinquent assessment, stating: (i) the amount of the assessment and such other charges as are authorized by this Declaration; (ii) a description of the Lot assessed; and (iii) the name of the Record Owner of the Lot assessed, may be Recorded by the Board when the assessment is levied or at any later time. The notice may be signed by any officer of the Association.
- D. Assessment Lien Termination; Extension. Assessment liens as to any Lot, other than Lots for which a notice of satisfaction and release of lien has been earlier Recorded, shall terminate one (1) year from the date of Recordation of the notice of assessment unless the Board: (i) Records an extension of the notice of assessment; and (ii) initiates enforcement of the assessment lien pursuant to this Declaration. The Board may extend the one (1) year lien period for a period not to exceed one (1) additional year.
- E. Release of Assessment Lien. If a notice of assessment has been Recorded, the Board shall, upon payment of assessments, plus interest, late charges, costs, and attorneys' fees, if any, Record a notice of satisfaction and release of lien.
- F. Personal Obligation. Assessments and other fees and monies due the Association are due and payable from and after the time the Association levies the assessment or bills the fees or other monies due the Association, or at such times and in such installments as the Board may designate, and until paid. All assessments, plus interest, late charges, costs, and attorneys' fees shall be the joint and several personal obligation of all Owners of record of the Lot assessed when the assessments are levied. The personal obligation of Owners to pay accrued assessments, other fees and monies due the Association, interest, late charges, costs, and attorneys' fees shall not pass to any successor in title as a personal obligation unless expressly assumed by such successor, but any such successor's title shall be subject to a Recorded lien except as otherwise provided by this Declaration. An Owner who conveys a Lot remains personally liable for obligations which accrued before the instrument of conveyance is Recorded.
- G. No Offset. Except as specifically provided in this Declaration, all assessments and other charges shall be paid without offset or reduction for any reason, including without limitation any claim that the Association is not properly discharging any of its duties under this Declaration.

- H. Certificate of Payment. The Association shall, within thirty (30) days after written demand is delivered to the Board by any Owner, and upon payment to the Association of a reasonable fee fixed by the Association to cover costs, furnish to such Owner a written certificate signed by an officer stating whether the assessments on that Owner's Lot have been paid, and the amount of any unpaid assessments and other charges. Such certificate shall be conclusive evidence, in favor of any Owner or third party relying thereon in good faith, of the amount of outstanding assessments, and of payment of any assessment, interest, late charges, costs, or attorneys' fees therein stated to have been paid.
- I. Costs of Enforcement. The costs and attorneys' fees referred to in this Section include all expenses incurred by the Association in the enforcement of assessments. "Costs" include, but are not limited to, all filing and recording fees, service of process fees, abstracting and title examination fees, and copying and postage expenses. "Attorneys' fees" include, but are not limited to, fees for preparing, Recording, and enforcing the Association's lien or for consultation in preparation for a small claims action by the Association, as well as fees for representing the Association in courts other than small claims courts.

Section 8.02. Funds. The Association shall maintain the following funds, which shall be accounted for separately, for the receipt and expenditure of moneys:

- A. Operating Fund. All funds not deposited in the Maintenance Reserve Fund or the Reconstruction Fund shall be deposited in the Operating Fund as one of the following:
1. Regular assessments;
 2. Special assessments;
 3. Delinquency assessments;
 4. Miscellaneous income; or
 5. Income and profits attributable to the Operating Fund.
- B. Maintenance Reserve Fund. A fund shall be maintained called the "Maintenance Reserve Fund". Amounts remaining in the Operating Fund at the end of the Fiscal Year that were collected as fees or assessments, and not returned to Owners, shall be deposited in the Maintenance Reserve Fund and shall be withdrawn and used only for the purposes of maintenance, repair, and replacement of Common Area

requiring such action on a periodic basis or upon damage to or destruction of Common Area.

- C. Reconstruction Fund. Deposits to and expenditures from the Reconstruction Fund are governed by the Article entitled "Damage, Destruction, and Eminent Domain." The Board may enter into an Insurance Trust Agreement for the holding by a trustee of the Reconstruction Fund.
- D. Working Capital Fund. At the time of the initial conveyance of each Lot by Declarant to an Owner, there shall be paid into the Working Capital Fund an amount equal to two months' Regular Assessments, from which disbursements may be made for any purpose for which the Association may incur obligations under this Declaration. Payments into the Working Capital Fund shall not be a credit against any Owner's liability for assessments under this Declaration. Declarant shall, within sixty (60) days after the first (1st) sale of a Unit by Declarant to an Owner, deposit into the Working Capital Fund an amount equal to each unsold Unit's share of the Working Capital Fund. Declarant shall reimburse itself for all such advance payments from the funds collected at the closing of the sale of each Unit for which it made such an advance payment. Undisbursed moneys remaining in the Working Capital Fund shall be credited to the Operating Fund upon the later of (i) the sale of the last unsold Lot, or (ii) the end of the Fiscal Year following the sale of the first Lot.

Section 8.03. Assessments.

A. Regular Assessments.

- 1. Establishment. Not less than sixty (60) days prior to the start of each Fiscal Year, the Association shall estimate the expenses attributable generally to the Subdivision, including a reasonable provision for contingencies and including reserves for the maintenance, repair and replacement of General Common Area and any recreational and service facilities located on General Common Area, and shall subtract from such estimate an amount equal to the anticipated balance in the Operating Fund budgeted for expenditures for such purposes during the Fiscal Year, and the anticipated balance in the Maintenance Reserve Fund budgeted for expenditure during the Fiscal Year. The excess of such estimated expenses over such anticipated balances shall be assessed to each Lot in equal shares ("Regular Assessment"). The initial Regular Assessment shall not exceed the amount set forth in the Bylaws. The Regular Assessment may be increased by the Board during any Fiscal Year in accordance with a revised budget of the Association's gross expenses.

2. Commencement. Regular Assessments shall commence as to all Lots on the first day of the month following conveyance by Declarant of the first Lot. The first annual Regular Assessment shall be prorated for the period from such commencement to the start of the next Fiscal Year. A "conveyance" for the purpose of this Subsection means a transfer of a Lot in which the transferee becomes an Owner as defined in this Declaration, but does not include a bulk sale of an entire Phase. A rental or lease of a Lot is not a conveyance of a Lot. A conveyance occurs when the deed is Recorded.
 3. Termination. Regular Assessments shall cease as to a Lot when it ceases to be subject to this Declaration for any reason, including without limitation the termination of this Declaration in whole or as to a certain Phase or Lots or the taking of a Lot by eminent domain. Regular Assessments shall be suspended as to a Lot during any time it is damaged or destroyed so as not to be reasonably occupiable, but such suspension shall not abate assessments previously levied.
 4. Payment. Regular Assessments shall be due and payable to the Association when levied, or at such times and in such installments as the Board may designate.
- B. Special Assessments. The Association may, during the Fiscal Year, levy an assessment, called a "Special Assessment": (i) when the maximum Regular Assessment appears likely to prove inadequate due to nonpayments of or delinquencies in the payment of Regular Assessments; (ii) for paying or reimbursing, in whole or in part, the cost of an acquisition, construction, reconstruction, repair, or replacement of capital improvements to the Common Area, whether such improvements are real or personal property; and (iii) for retiring any indebtedness of the Association.
1. Basis of Special Assessments. All Special Assessments shall be assessed to Lots on the same basis as Regular Assessments.
 2. Limitations on Special Assessments. In any Fiscal Year, the Board shall not, without a majority vote of the Owners to be assessed, levy Special Assessments which in the aggregate exceed five percent (5%) of the Association's budgeted gross expenses, as adjusted in accordance with the provisions in Subsection A of this Section, including budgeted expenditures from the Maintenance Reserve Fund.

3. Payment. Special assessments shall be due and payable to the Association when levied, or at such times and in such installments as the Board may designate.
- C. Delinquency Assessment. The Association shall levy an assessment, called a "Delinquency Assessment", against any Lot, the Owner or Occupant of which has, by negligent or tortious acts or omissions, or acts or omissions in violation of this Declaration, or acts or omissions in violation of the Section entitled "Observance of this Declaration", made necessary any expenditure of money by the Association, except to the extent such expenditure is to pay any liability or remedy any damage or injury, that is paid by any type of insurance. Such assessment shall be in an amount necessary to reimburse the Association for all costs, including attorneys' fees, regardless of whether legal action is brought, incurred in bringing the Owner or Occupant and the Owner's or Occupant's Lot or Restricted Common Area into compliance with this Declaration, or in obtaining compensation from or other remedies against such Owner or Occupant. Such assessment shall be due and payable when levied or in installments as required by the Association. Prior to the levy of a delinquency assessment, such Owner shall be granted a hearing pursuant to the Bylaws to determine the validity and amount of the assessment and afford the Owner an opportunity to be heard.

Section 8.04. Delinquency and Enforcement of Lien.

- A. Delinquency. Any assessment provided for in this Declaration, whether levied monthly, quarterly or otherwise that is not paid when due is delinquent. The Association may require any Owner who has not paid an assessment within ten (10) days after its due date to pay a late charge, in an amount which the Board may prescribe by Subdivision Rule or, in the absence of such a rule, an amount equal to five percent (5%) of such delinquent assessment or the maximum amount allowed by law, as reimbursement for the costs of handling the delinquent payment. This provision for late charges is designed to encourage the prompt payment of assessments when due and to compensate the Association for the cost and expenses caused by the late payment of assessments. The existence of this provision, whether or not any such late charge is actually paid in a given case: (i) does not excuse the payment of any assessment or allow an Owner the privilege of extending the due date of any assessment; (ii) does not constitute an agreement to forebear from the collection of any delinquent assessment; (iii) does not prevent such delinquency from being treated as a default of the Owner's obligations under this Declaration; and (iv) does not prevent the collection of the delinquent amount in any lawful manner. Each Owner agrees that the

actual damages caused to the Association by such Owner's failure to pay assessments when due would be impracticable or extremely difficult to determine and that the late charge shall constitute liquidated damages payable to the Association. The collection of the late charge for any Owner's late payment of assessments shall not prevent the Association from pursuing other remedies provided for by this Declaration or applicable law.

- B. Interest on Overdue Assessments. If the assessment is not paid within thirty (30) days after its due date, it shall bear interest from the due date at the then maximum lawful rate permitted by written agreement under the laws of the State of Oklahoma. Such charges shall constitute an additional assessment collectible together with the assessment for which they were charged.
- C. Remedies.
 - 1. General. If an assessment is not paid within thirty (30) days after its due date, the Association may bring an action to recover a money judgment against each Owner personally liable for the assessment, and, in the case of Regular or Special Assessments, upon compliance with this Article, enforce its assessment lien by judicial foreclosure and sale of the Lot or in any other manner permitted by law. When an action is brought, there shall be added to the amount of the delinquent assessment the late charge and the costs of preparing, filing and prosecuting the action. Any judgment in such action shall include interest as described above, costs and reasonable attorneys' fees.
 - 2. Foreclosure of Lien. Every action to enforce an assessment lien shall comply with the following:
 - A. No action shall be brought to foreclose the lien unless both of the following conditions are met: (i) At least ten (10) days prior to filing such action, a notice of claim of lien, signed by an authorized officer of the Association, is deposited in the United States mail; certified or registered, postage prepaid, to the Owner, or, if there are more than one Owners, to any Owner whose name appears as such on the membership register provided for in the Bylaws, and a duplicate original of such notice is Recorded. Such notice must recite a sufficient legal description of the Lot, the name of the Record or reputed Owner thereof, the amount claimed (including any applicable late charges, interest charges, costs and attorneys' fees), and the name

- and address of the Association; and (ii) at least five (5) days prior to filing such action, the Board provides an opportunity for the Owner to be heard, orally or in writing, with respect to the proposed action.
- B. Foreclosure of the lien and sale of the Lot shall be conducted in accordance with the then applicable Oklahoma law relating to the foreclosure of mechanic's and materialmen's liens.
 - C. The Association, through its duly authorized agents, may bid on the Lot at foreclosure sale and may acquire and hold, lease, mortgage and convey the Lot; PROVIDED, all such conveyances by the Association of such Lots shall be without covenants or warranties regarding title to such Lots.
 - D. The Association shall Record an appropriate satisfaction and release of any notice of claim of lien, when the default giving rise to such notice is timely cured and all applicable charges, interest, costs and fees, including a fee not to exceed \$15.00 for the preparation and filing of such satisfaction and release, have been paid.
 - E. If the Association files a claim of lien and, before release of such lien, obtains a money judgment against the Owner, then any writ of execution issued upon such judgment shall relate back to the filing of such lien and shall have the same priority as such lien. The obtaining of such a judgment and writ of execution shall be a foreclosure within the meaning of this Article.
3. Cumulative Remedies. The assessment lien and rights to foreclosure and sale under such lien shall be in addition to, and not in substitution for, all other rights and remedies which the Association may have under this Declaration and by law, including a suit to recover a money judgment for unpaid assessments, as provided in this Section.

- D. Waiver by Board. The Board may waive interest, late charges, or both on any delinquent assessment if the Board determines, in its sole discretion, that the amount of the interest or late charge does not warrant the cost of billing and collecting it.

ARTICLE 9
MAINTENANCE

Section 9.01. Allocation of Maintenance Responsibilities. Responsibility for maintenance of the Subdivision and all components of the Subdivision are as set forth in this Article.

Section 9.02. Insured Damage. To the extent that the expense of maintenance, repair, or reconstruction of any part of the Subdivision, whether Lots or Common Area, is covered or paid by insurance held by the Association, or required by this Declaration to be held by the Association, the responsibility for such work shall be as set forth in the Article entitled "Damage, Destruction, and Eminent Domain".

Section 9.03. Maintenance by Owners. Maintenance responsibilities of Owners are as follows:

- A. Each Owner shall maintain and repair: (i) the Unit interior and Restricted Common Area excepting the exterior surface and the load-bearing structural elements of such Owner's Unit and Restricted Common Area; (ii) doors (except for the exterior finish), fences, windows (including the frame and overall seal as well as the glass), skylights, and other glass and light passing surfaces, and screens, serving only such Owner's Lot or Restricted Common Area; (iii) any air conditioning, heating, plumbing, electrical, water heater, or other mechanical systems serving such Owner's individual Lot; (iv) water and sanitary sewer laterals serving such Owner's individual Lot; (v) all portions of the Lot and exterior of the Unit and Restricted Common Area reserved exclusively to the Lot that the Association is not expressly required to maintain; and (vi) all Improvements installed by such Owner to such Owner's Lot or Restricted Common Area that are not replacements of original construction.

Section 9.04. Maintenance by the Association. Other than items required to be maintained by Owners, the Association shall maintain:

- A. General Common Area and Improvements on General Common Area;
- B. The structural elements of buildings on Lots and Restricted Common Area, and the roofs and exterior surfaces of such buildings, other than those items required to be maintained by Owners;

- C. Fences and underground utility and service lines serving more than one (1) lot;
- D. Any parking spaces that are Restricted Common Area;
- E. All personal property belonging to the Association.

Section 9.05. Joint Maintenance. The cost of reasonable repair, maintenance, and replacement of a Common Structure or Joint Service shall be shared by the Owners who make use of such structure or service, in proportion to such use, subject to the following:

- A. A Lot Owner shall bear the full cost of repair and furnishing any necessary protection against the elements if the negligent or willful act of the Owner or Occupant of the Lot or such Owner's or Occupant's guests, invitees, licensees, or tenants causes a Common Structure to another Unit to be damaged or to be exposed to the elements.
- B. Any Owner who incurs an expense for repair, maintenance, or replacement of a Common Structure or Joint Service beyond that for which such Owner is liable under this Article, is entitled to contribution from the other Owner or Owners so liable under this Article. The liability for, and right to, such contribution are appurtenant to such Owners' Lots, and shall pass to such Owners' successors in title.
- C. The Board shall arbitrate and finally decide any dispute arising under this Article, and may promulgate Subdivision Rules to govern such arbitration.
- D. For the purpose of this Section:
 - 1. A "Common Structure" is any part of a building, including a party wall, which is shared by two (2) Lots. "Common Structure" does not include Joint Services.
 - 2. A "Joint Service" is any common service, utility, or facility that is limited to providing service to two (2) Lots, including, but not limited to, any air conditioning or heating system, water heater, or electrical, gas, water, sewer, telephone or cable television line.

ARTICLE 10
CONSTRUCTION AND ARCHITECTURAL CONTROL

Section 10.01 Construction and Alteration of Improvements.

- A. Application. This Section shall govern any Improvements or other work within the Subdivision.
- B. Limitation on Construction or Alteration. No person other than the Association, or an Owner with the approval of the Board, shall: (i) construct, reconstruct, refinish, alter, remove, install or maintain any Improvement, including but not limited to solar energy systems; (ii) make or create any excavation or fill; (iii) change any natural or existing topography or drainage; (iv) destroy, remove, or cut any tree, shrub, or other vegetation; (v) plant any tree, plant, shrub, or other vegetation; or (vi) install any utility line (wire or conduit). This provision does not apply to the placement or removal of furniture, outdoor cooking units, potted or boxed plants, and decorative items within Restricted Common Area that do not otherwise violate these Restrictions, provided such items are reasonably movable.
- C. Board Approval. The procedure and criteria for Board approval of any work under this Article are as follows:
1. Procedure.
 - a. Submission of Plans. Any Owner proposing to do any work for which approval of the Board is required under this Article shall apply to the Board for approval by submitting, in duplicate, such plans and specifications for the proposed work as the Board may from time to time request, including but not limited to, when deemed appropriate by the Board: (i) floor plans; (ii) colors of exterior materials, with samples of the colors if required by the Board; (iii) specifications; (iv) building plan or plans; (v) certification of an architect and/or engineer as to structural integrity; (vi) wall sections; (vii) exterior elevations; (viii) roof plan; (ix) landscaping plans; (x) graphics and exterior furnishings; and (xi) the Owner's proposed construction schedule.
 - b. Review Fee. The Board may require that the submission of plans and specifications be accompanied by a fee to defray the actual cost of the review of plans and specifications, the amount of which shall be set by the Board from time to time, but shall not exceed one-tenth of one percent (1/10 of 1%) of the estimated cost of the work.

- c. Form of Approval. The approval shall be in writing, and may be conditioned upon the submission by the Owner of such additional plans and specifications as the Board in its absolute discretion deems appropriate.
 - d. Inaction. Applications made in accordance with this Subsection that are not acted upon within sixty (60) days from the date of submission thereof shall be deemed approved.
 - e. Return of Plans. If the application is approved, the Board shall return to the Owner one set of plans as finally approved and bearing the endorsement of the Board. If the Owner originally furnished only one (1) set of plans and specifications to the Board and the Board waived the requirement of submission of such plans and specifications in duplicate, the Board may retain such plans and deliver to the Owner written notice of the approval of such plans.
2. Criteria. The Board shall approve the work only in accordance with the criteria set forth in this Subsection.
- a. General. The Board shall not consent to any Improvements described in this Article unless the Owner has submitted the materials required by the Board.
 - b. Mechanics' Liens. The Board may require an Owner proposing to do any work for which approval of the Board is required under this Section to protect against mechanics' liens arising against the Common Area or other Lots, if construction is to be done in those areas, by such safeguards as the Board considers reasonable, such as the posting of a bond or the disbursement through a voucher system of payments directly to materialmen, contractors, and subcontractors.
 - c. Findings Required for Approval. The Board shall not do or consent to any Improvements described in Subsection B of this Section unless it determines that the work is reasonably desirable or necessary and otherwise conforms to this Declaration.
 - d. Right of Use. If the Board approves an Improvement to General Common Area without conveying an exclusive right of use to the Owner making the Improvement, then the Board's approval of the Improvement shall create a

nonexclusive right of use for the Owner to construct, install, and maintain the Improvement.

Section 10.02 Passages Between Units. Any Owner may install doorways and passages between Units, provided that: (i) such Owner complies with the provisions of this Article; (ii) the Owner of the adjoining Lot consents; (iii) the structural integrity of the common wall is not impaired; and (iv) the doorway or passage meets all building code, fire and safety requirements.

Section 10.03 Completion and Inspection.

- A. **Completion of Improvements; Extension.** Upon receipt of the approval from the Board, the Owner shall, as soon as practicable, satisfy any conditions of such approval and diligently proceed with the commencement and completion of all work within one (1) year of the date of such approval. The Board may extend the one (1) year period if: (i) the Owner makes a written application to the Board setting forth the reason for the requested extension; and (ii) the Board finds that the Owner has pursued the work diligently and in good faith. If the Board approves the extension the Board shall notify the Owner in writing of the length of the extension. If the Owner fails to complete the work within one (1) year and any applicable extension period, the approval shall be deemed revoked and the work may be treated as having been constructed in violation of this Article.
- B. **Inspection of Improvements.** Upon completion of the work, the Owner shall give written notice of completion to the Board. The Board, directly or through its authorized representative, may inspect the work for compliance with the approved plans. The Board shall notify the Owner in writing of any noncompliance and require the remedy of the noncompliance within sixty (60) days from receipt of Owner's Notice of Completion. If the Board fails to timely give a noncompliance notice, the Improvement shall be deemed to have been completed in accordance with this Article. If notice of noncompliance is given within such sixty (60) day period, and the Owner fails to remedy such noncompliance within sixty (60) days after receipt of such notice, the Board may act in accordance with the provisions of the Section entitled "Noncompliance".

Section 10.04. Noncompliance. If Improvements are installed that are not in compliance with this Declaration, the Association may either remove the Improvement or remedy the noncompliance. No Improvement shall be removed from, or a noncompliance remedied on, a Lot or Restricted Common Area without either the consent of the Owner of the Lot or Restricted Common Area or an order obtained from a court of competent jurisdiction.

Section 10.05. Limitation Period for Noncompliance.

- A. Any work completed without compliance with this Article shall be deemed to have been done in compliance with this Article if, within one (1) year after completion of such work: (i) no legal action is commenced to enforce the provisions of this Article against such work; and (ii) the Association does not Record a certificate of noncompliance as provided in Subsection B of this Section. If the Association does Record a certificate of noncompliance, legal action to enforce this Article may be commenced within four (4) years of the completion of the work.
- B. The certificate of noncompliance referred to in Subsection A of this Section shall give a legal description of the Lot affected, state the name of the Record Owner, and describe generally the nature of the noncompliance.

Section 10.06. Owner's Responsibility for Increased Insurance Rates.

The Association shall not approve any Improvements or work described in this Article to be performed or caused to be performed by any Owner for the benefit of such Owner or such Owner's Lot or Restricted Common Area which would materially increase the rates of any insurance carried by the Association, unless the Owner agrees, in writing, with the Association to insure the completed Improvements or work, such agreement is Recorded, and such agreement is expressly binding on successors to the Owner's interest in his Lot.

Section 10.07. Encroachments. If any Improvements within the Common Area encroach on any Lot, or if any Lot encroaches upon the Common Area or another Lot, for any reason, including without limitation: (i) construction, reconstruction, repair, shifting, settlement, or movement of any part of the Subdivision; (ii) any work approved by the Board; or (iii) misdescription or error in draftmanship on the Plat, other than an intentional encroachment by an Owner, a valid easement exists for such encroachment and for its maintenance so long as the encroachment remains, and all Lots and the Common Area are subject to such easements.

Section 10.08. Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Board by any Owner, and upon payment to the Association of a reasonable fee fixed by the Association to cover costs, the Board shall provide such Owner with an estoppel certificate executed by an officer of the Association and acknowledged, certifying with respect to any Unit owned by the Owner, that as of the date of the certificate, either: (i) all Improvements and other work made or done on such Lot by the Owner comply with this Declaration; or (ii) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements and work, and set forth with particularity the nature of such noncompliance. Any purchaser from the Owner, and any Secured Party, shall be entitled to rely

on such certificate with respect to the matters therein set forth, such matters being conclusive as between Declarant, the Association, and all Owners, and such purchaser or Secured Party.

Section 10.09. Board Liability. Neither the Board nor any member of the Board shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of: (i) the approval of any plans, drawings, or specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (iii) the development, or manner of development, of any property within the Subdivision; or (iv) the execution and Recordation of an estoppel certificate, whether or not the facts stated therein are correct, provided, however, that the officer executing such certificate, with the actual knowledge possessed by him, has acted in good faith. In any case, the Board, or any member of the Board, may consult with or hear any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the Board.

Section 10.10 Owner's Liability. Any Owner who alters any portion of the Subdivision, or causes any alteration to the Subdivision, shall be responsible and liable for any damage to Common Area or other Lots resulting from such alteration, and shall be responsible and liable for any violation of any law or governmental regulation resulting from such alteration.

Section 10.11. Notice of Commencement of Work. Before commencing any work within the Subdivision, any Owner shall give the Association, and any Owner whose Lot will be affected by such work, thirty (30) days' written Notice, so that the Association or such Owner may take appropriate action.

Section 10.12. Mechanics' Liens. No Owner shall permit any mechanics' lien to arise, in connection with any work initiated by such Owner, upon the Common Area or any other Lot not owned by such Owner. Should such a lien arise, the Owner who initiated such work shall immediately take all necessary steps to remove such lien, including, if necessary, the obtaining of a bond, and shall indemnify the Association and all Owners against, and hold them harmless from, such lien and any costs incurred in removing such lien, including reasonable attorneys' fees. If any Owner fails to promptly pay all such costs upon the written demand of the Association, the Association may levy a Delinquency Assessment, in accordance with Subsection C of the Section entitled "Assessments", against such Owner for such amounts.

Section 10.13. Property to be Annexed. Any owner of property not within the Subdivision who wishes to have such property annexed to the Subdivision in accordance with this Declaration may seek approval of such owner's plans and specifications for improvements to be made to such property, prior to such annexation. Any such approval given by the Board in accordance with this

Article shall have the same effect as if the property had already been annexed to the Subdivision. This Section shall not apply to annexation by the Declarant under Subsection A of the Section entitled "Annexation".

Section 10.14. Delegation to Committee. The Board may delegate its authority under this Article to an Architectural Control Committee of at least three (3) persons ("Committee"). Committee members shall be appointed by the Board and may be removed by the Board at any time, with or without cause. Committee members need not be Board members and need not be Owners or Occupants. The Board shall provide for appeal of Committee decisions to the Board.

ARTICLE 11 INSURANCE

Section 11.01. Hazard Insurance. The Association shall obtain, and maintain in force, a blanket policy of hazard insurance covering all insurable Improvements in the Subdivision, including fixtures and building service equipment, and on personal property owned by the Association. The fixtures to be covered by such policy shall include fixtures within Units, including without limitation wall and floor coverings, cabinets, built-in appliances, bathtubs, commodes, shower stalls, and sinks. Such insurance shall cover loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to Improvements similar in construction, location, and use, as determined by the Board in its sole discretion, in consultation with one or more licensed insurance agents, including all perils normally covered by the standard "all risk" endorsement. The amount of coverage shall be not less than 100% of current replacement cost. The policy shall include: (i) an "Agreed Amount and Inflation Guard Endorsement;" (ii) a "Construction Code Endorsement," if the insured Improvements are subject to a code provision that would require changes in the reconstruction of undamaged portions of partially damaged Improvements; and (iii) steam boiler coverage of not less than \$100,000 per accident per location, if applicable; and (iv) recognition of any Insurance Trust Agreement.

Section 11.02. Liability Insurance. The Association shall obtain and maintain in force a policy of comprehensive single limit general liability insurance on the Subdivision, in the amount of at least one million dollars (\$1,000,000.00), insuring Declarant, each Owner, the Association, and the Board, against: (i) liability for property damage, personal injury or death, arising out a single occurrence, in connection with the operation, maintenance, or use of the Subdivision or any part thereof; and (ii) liability arising out of law suits relating to any employment contracts of the Association. The policy shall contain a "severability of interest" clause or endorsement under which the insurer is precluded from denying an Owner's claim based on the negligence of the Association or any other Owner. The insurer's liability

under the policy shall be primary and shall not be affected by, and the insurer shall not claim any right of setoff, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Owner.

Section 11.03. Fidelity Bond. At all times when the Subdivision includes more than thirty (30) Lots, the Association shall maintain one or more blanket fidelity bonds, for all officers, directors, trustees, or employees of the Association; and all employees, officers, and agents of any management agent, all volunteers, and all other persons, who handle or are responsible for funds belonging to or administered by the Association. The amount of coverage shall cover the maximum amount of the funds that will be in the custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal the greater of: (i) the sum of three months assessments on all Lots, plus the accumulated reserves; and (ii) one and one-half (1-1/2) times the estimated annual operating expenses of the Association, plus the accumulated reserves. The bond or bonds shall name the Association as obligee, and shall cover all persons so handling Association funds, whether or not for compensation.

Section 11.04. Flood Insurance. If any property required to be covered by hazard insurance under THIS ARTICLE is located in an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), the Association shall obtain a master or blanket policy of flood insurance in the form issued by members of the National Flood Insurance Association, or in a form which meets the criteria set forth in the most recent guidelines published by the Flood Insurance Administration. The policy shall cover any portion of the Subdivision located within the special flood hazard area, and shall be in an amount equal to the lesser of: (i) the maximum coverage available under the NFIP for all buildings and other insurable property; or (ii) 100% of the current replacement cost of all buildings and other insurable property.

Section 11.05. Deductibles. The Board, in its sole discretion, may obtain any policy of insurance with a "deductible" provision, under which losses not exceeding a specified amount are not covered. The amount of the deductible shall: (i) be reasonable, given the amount and type of coverage; and (ii) not exceed any applicable maximum deductible permitted by the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC").

Section 11.06. Cross Liability. Any policy shall contain a "cross liability" endorsement or other endorsement, if required to ensure that the policy covers damage or injuries caused by any named insured.

Section 11.07. General Insurance Requirements.

- A. Carrier Rating. All hazard insurance required to be maintained under this Article shall be issued by an insurance carrier which: (i) is acceptable to FNMA and FHLMC; and (ii) falls into a financial category, as designated in Best's Insurance Reports of Class B/VI or better, or is covered by 100% reinsurance provided by an insurer which is so rated and which expressly agrees not to terminate such reinsurance without ninety (90) days' written notice to the Association. All insurance required to be maintained under this Article shall be issued by an insurance carrier which is specifically authorized by law or licensed to do business in the state in which the Subdivision is located.
- B. Named Insured; Loss Payee. The Association, and any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, shall be named as insured on any insurance policy or fidelity bond required by this Article, for the use and benefit of the Owners. The Association, or Insurance Trustee if applicable, shall be named as loss payee, in trust for all Owners and Secured Parties. Each Owner and Secured Party shall be a beneficiary of the policy, in the same proportion as set forth in the Article entitled "Damage, Destruction, and Eminent Domain" for the distribution of hazard insurance proceeds.
- C. Prohibited Provisions. No insurance policy or fidelity bond required by this Article shall contain or be subject to any provision under which: (i) the Association, or any Owner or Secured Party would be liable for any contribution or assessment; or (ii) any contribution or assessment for which any other person is liable may become a lien on any property prior to the lien of a Secured Party; or (iii) loss payments are contingent upon any action by the insurer's board of directors, policy holders, or members; or (iv) a Secured Party, Owner, or the Association would be prevented from collecting insurance proceeds other than in accordance with standard insurance conditions.
- D. Notice of Cancellation or Modification. No insurance policy or fidelity bond required by this Article shall be subject to cancellation or modification, including for nonpayment of premiums, except upon at least thirty (30) days' prior written notice to the Association or any Insurance Trustee for the Association and to any Secured Party listed in such policy.
- E. Increased Hazards. No insurance policy or fidelity bond required by this Article shall contain a provision relieving the insurer from liability for loss occurring while any covered hazard is increased, whether or not within the knowledge of the Association, the Board,

or any Owner, by any act or omission, or breach of any warranty, condition, covenant, or restriction, by the Board, Association, any Owner, or any other person acting under such persons.

- F. Acts of Individual Owners. Each insurance policy must provide that coverage is not prejudiced by any act or neglect of individual Owners or Occupants not within the control of the Owners collectively.
- G. Waiver of Subrogation. Each insurance policy and fidelity bond required by this Article shall contain a waiver by the insurer of any right of subrogation to the rights of any person or entity against Declarant, the Board, the Association, and any Owner or Occupant.
- H. Compliance with Law. All insurance coverage obtained by the Association shall be in accordance with and consistent with local and state insurance law.
- I. Mortgagee Clause. Any hazard insurance policy obtained by the Association shall contain the standard mortgagee clause, in a form commonly accepted by private institutional mortgage investors in the area in which the Subdivision is located, which shall:
 - 1. Provide that the coverage of the Secured Party is not adversely affected or diminished by any act of the Board, the Association, or any Owner or Occupant;
 - 2. Waive any provision that the Secured Party's failure to notify the insurer of any hazardous use or vacancy invalidates the mortgagee clause; and
 - 3. Name each Secured Party and each Secured Party's "successors and assigns".
- J. Certificates. The Association shall hold certificates or other evidence of all insurance policies or fidelity bonds obtained under this Article, and shall issue copies of such certificates or other evidence to each Owner and First Mortgagee upon request.
- K. Owners' Insurance. Any insurance obtained by the Association shall not prejudice the right of any Owner to insure his Unit and other Improvements for his own benefit. Any policy obtained by the Association shall be primary in the event an Owner carries insurance covering the same loss. Any such insurance of an Owner shall contain a waiver by the insurer of any right of subrogation to the right of any person or entity against Declarant, the Board, the

Association, or any Owner or Occupant. To the extent allowable by law, this Declaration hereby waives such rights of subrogation.

- L. No Insurance on Fixtures or Furnishings. The Association is not required to obtain insurance covering the fixtures, furnishings or household goods and effects within Owners' Units or Restricted Common Area, except "fixtures" required to be insured by the Association under this Article.
- M. Insurance Trustee; Power of Attorney. Each Owner hereby appoints the Association, and any Insurance Trustee with which the Association enters into an Insurance Trust Agreement in accordance with this Declaration, its attorney-in-fact for the purpose of obtaining and maintaining any insurance or fidelity bonds required under this Article, including: collecting and appropriately disposing of proceeds; negotiating losses and executing releases of liability; executing all documents; and performing all other acts necessary to obtain and maintain such insurance or fidelity bonds.
- N. Proceeds. The Association, and any Insurance Trustee if applicable, shall receive, hold, or otherwise properly dispose of any insurance or fidelity bond proceeds in trust for Owners and Secured Parties as their interests may appear.

Section 11.08. Other Insurance.

- A. Required. Notwithstanding any other provision of this Declaration, the Association shall continuously maintain in effect such casualty, flood, and liability insurance, and a fidelity bond, meeting the insurance and fidelity bond requirements for condominium projects established by FNMA, FHLMC, and the Government National Mortgage Association ("GNMA"), except to the extent such coverage is not available or has been waived in writing by FNMA, FHLMC, or GNMA.
- B. Optional. The Board shall consider and may obtain other insurance protection that from time to time is necessary or desirable to protect the Association, its Members, directors, and officers, including insurance to protect the Association from loss of assessments due to damage or destruction of Lots.

ARTICLE 12
DAMAGE, DESTRUCTION AND EMINENT DOMAIN

Section 12.01. Reconstruction Fund. Upon the damage or destruction of any part of the Subdivision, the Board shall create and maintain a Reconstruction Fund. The Reconstruction Fund shall comprise any: (i) insurance proceeds; (ii) accumulated reserves for repair or replacement of the damaged improvements; (iii) Special Assessments levied pursuant to this

Article; and (iv) damages recovered from an action brought by the Association pursuant to the Section entitled "Recovery of Damages for Damage or Destruction" and any amounts recovered as a direct settlement. Amounts in the Reconstruction Fund shall be segregated by acceptable accounting procedures in the following categories: (i) "insurance proceeds"; (ii) "reserves for damaged improvements"; (iii) "Special Assessments"; or (iv) "recovered damages". The amount in the Reconstruction Fund shall be held for the benefit of the Owners and Secured Parties as their interest may appear. The amount in the Reconstruction Fund shall be disbursed in accordance with the provisions in the Section entitled "Disbursement of Reconstruction Fund".

Section 12.02. Damage or Destruction to General Common Area. The provisions in this Subsection apply only to damage or destruction of General Common Area. Other provisions in this Article relating to the damage or destruction of the Subdivision do not apply to the Common Area except to the extent specifically provided in this Section. If the damage is to the Common Area then:

- A. If the cost of repairing or rebuilding does not exceed the amount in the Reconstruction Fund by more than the amount the Board could assess without the Owners' vote under the Section entitled "Assessments", then the Board shall contract to repair or rebuild the damaged areas according to the original plans and specifications, and shall levy an assessment on all Owners, in equal shares, in the amount, if any, by which the cost of repair or rebuilding exceed the amount in the Reconstruction Fund.
- B. Otherwise, the Board shall proceed in accordance with Subsection B of the Section entitled "Damage or Destruction of Lots", except that if the Owners elect not to rebuild, then the Association shall, subject to any requirements of approval by First Mortgagees, clear the property and place and maintain it in a neat and attractive condition. The Association may, subject to any requirements of approval by First Mortgagees, sell the property in a commercially reasonable manner, provided that appropriate measures are undertaken to ensure that any subsequent use of the property is harmonious with the uses of the other property within the Subdivision contemplated by this Declaration. Any insurance proceeds or proceeds received by the Association upon the sale or other disposition of the property shall be deposited in the Operating Fund.

Section 12.03. Damage or Destruction to Lots. The expense of repair, reconstruction, or replacement of any Improvements on Lots and Restricted Common Area damaged by fire or other casualties shall be paid from the Reconstruction Fund as follows: (i) with respect to any damage covered by insurance, such expense is to be paid from the proceeds of such insurance to the full extent of such proceeds; (ii) to the extent that any such damage is not covered by insurance or that the expense of repair, reconstruction, or

replacement of such damage either is less than the "deductible" for such insurance, or exceeds the amount in the Reconstruction Fund, the expense of repair, reconstruction, or replacement is to be paid by: (i) the Owners in a damaged building, if the building contained Lots and no common facilities; (ii) the Association, if the building contained common facilities and no Lots; and (iii) the Association and Owners of the Lots in proportion to the relative value of the Lots and common facilities, if the building contained both. If the Association fails to carry insurance required by this Declaration, any expense for repair, reconstruction, or replacement that would have been paid by the required insurance shall be paid by the Association. The amount in the Reconstruction Fund shall be held for the benefit of the Owners and Secured Parties as their interest may appear, and the Board shall obtain firm bids, if possible, from two (2) or more licensed and responsible contractors, and may obtain bids to demolish the damaged Improvements. Thereafter:

A. No Vote Required. If the cost of repair, reconstruction, or replacement does not exceed the amount in the Reconstruction Fund by more than the amount the Board could assess as a Special Assessment without the Owners' vote under the Section entitled "Assessments", then:

1. Repair by Owners or Secured Parties. If the damage is small in scope or cost of repair, reconstruction, or replacement, the Board may allow the Owners or Secured Parties of Lots comprising the damaged or destroyed building to repair, reconstruct, or replace the damaged Improvements, upon such safeguards as the Board deems reasonable (such as payment directly to materialmen, contractors, and subcontractors, and disbursement on voucher or other control system), and subject to the right of such Owners or Secured Parties to receive the applicable portion of the Reconstruction Fund under the Section of this Article entitled "Disbursement of Reconstruction Fund".
2. Repair by Association, Special Assessment. Otherwise, the Association shall contract to repair, reconstruct; or replace the damaged areas according to the original plans and specifications, and shall levy a deficiency assessment in the amount, if any, by which the cost of repair, reconstruction, or replacement exceeds the amount in the Reconstruction Fund. Such assessment shall be levied against, and allocated among, all Lots which include Units in each damaged or destroyed building in equal shares on a building-by-building basis so that the Owners within each building are paying for the deficiency for their building. If the damaged or destroyed building includes common facilities, the portion of the

deficiency attributable to the common facilities shall be assessed equally to all Lots in the Subdivision.

- B. Vote Required. If the cost of repair, reconstruction, or replacement exceeds the amount in the Reconstruction Fund by more than the amount the Board may assess as a Special Assessment without the Owners' vote under the Section entitled "Assessments", then the Association shall arrange for either: (i) the repair, reconstruction, or replacement of the damaged Improvements in accordance with this Subsection; or (ii) the demolition of the damaged Improvements and purchase of the interest in the Subdivision of the Owners of damaged Improvements, or the sale of the entire Subdivision, Phase, or portion of a Phase, in accordance with the Section entitled "Decision Not to Rebuild".
1. Meeting of Owners. As soon as possible after obtaining bids required by this Section, the Board shall call a special meeting of the Owners to consider the bids. At such meeting, the Owners of Lots in the damaged or destroyed building or all Owners, if the building contained only common facilities, may, by a sixty-seven percent (67%) vote, reject all bids for repair, reconstruction, or replacement, and thus elect not to repair, reconstruct, or replace. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable.
 2. Failure to Call Meeting. If the Board fails to obtain bids or fails to call such special meeting within sixty (60) days after the damage occurs, any Owner or Secured Party may obtain bids and call and conduct the meeting.
 3. Failure to Commence Repairs. The failure to commence to repair the damage, within twelve (12) months after the damage occurs, shall be deemed for all purposes a decision not to repair, reconstruct, or replace.
 4. Assessment for Deficiency. If a bid is to be accepted, the Board shall levy a Special Assessment, which shall be allocated in the manner set forth in Subsection A2 of this Section to make up any deficiency between the contract price of repairs or rebuilding and the total amount in the Reconstruction Fund. The assessment shall be paid into the Reconstruction Fund. The Board shall pay from the Operating Fund the assessment of any Owner who fails to pay such assessment within thirty (30) days after the levy thereof; provided, that the Board shall reimburse the Operating Fund for such payments upon collection

thereof from the non-paying Owners. The Board shall thereupon let the contract to the successful bidder.

Section 12.04. Decision Not to Rebuild.

- A. Subsequent Vote. If a decision not to rebuild was made in accordance with Subsection B of the Section entitled "Damage or Destruction to Lots", and later but prior to any sale of the damaged property a substantial amount is deposited in the Reconstruction Fund as "insurance proceeds", amounts recovered as a direct settlement from a third party, or both, the Owners in the damaged or destroyed building may, by the procedure set forth in Subsection B of the Section entitled "Damage or Destruction to Lots" take another vote to decide whether or not to rebuild; however, if the damaged or destroyed portion of the Subdivision has been sold, or if a contract to sell has been signed by both buyer and seller, or if another commitment to sell has been signed by both buyer and seller, no subsequent vote may be taken by such Owners. Where a subsequent vote is permissible, this Subsection shall not prohibit a subsequent decision not to rebuild by the Owners.
- B. Procedures for Disposition. With respect to any damaged or destroyed improvements that are not to be repaired, replaced, or rebuilt:
1. Sale of Entire Subdivision. If the damage or destruction affects every building in the Subdivision, then the Board shall, as soon as reasonably possible and as agent for the Owners, sell, if possible, the entire Subdivision, in its then current condition, on terms satisfactory to the Board, free from the effect of this Declaration, which shall terminate upon such sale. The net proceeds of such sale, and all moneys held in the Reconstruction Fund, shall thereupon be distributed among all Owners and Secured Parties, as their interests may appear, according to the respective fair market values, determined in accordance with the Section entitled "Fair Market Value", of the Lots immediately prior to the damage or destruction. This disbursement may be by check or draft payable jointly to Owners and Secured Parties of each Lot.
 2. Purchase or Sale of Part of Subdivision. If the damage or destruction does not affect every building in the Subdivision, then, to the extent allowed by law:
 - a. The Association, as agent for, and in the name of all Owners, other than the Owners of Lots in the damaged or destroyed building, has absolute right to purchase the interests of the Owners of Lots containing the damaged

or destroyed building, for an amount equal to the fair market value of their ownership interests immediately prior to the damage or destruction, less insurance proceeds from Association insurance payable to the Owners of such Lots in the damaged or destroyed building.

- b. If the Association does not elect to purchase the interests of the Owners of Lots containing the damaged or destroyed building, then the Owners of the Lots in the damaged or destroyed building shall clear the property at their own expense and place it in a neat and cleared condition. Such Lots shall remain subject to this Declaration, unless the Board, in its sole discretion, determines that such Lots shall be free from this Declaration based upon the location and other characteristics of such Lots, and the effect upon the value, attractiveness and desirability of the remaining portion of the Subdivision. The Board shall adjust any assessments to reflect the actual benefit of common services provided and funds accumulated of any unimproved Lot. Owners shall have a continuing obligation to maintain any unimproved Lot in a neat and cleared condition free from debris, weeds, and other vegetation at their own expense.
- c. Upon any sale or conveyance pursuant to this Section, all sales proceeds, together with all applicable moneys held in the Reconstruction Fund shall be distributed among the Owners of Lots in the damaged or destroyed building and their Secured Parties, as their interests may appear, according to the respective fair market values, determined in accordance with the Section entitled "Fair Market Value", of the damaged or destroyed Lots immediately prior to the damage or destruction. This disbursement may be by check or draft payable jointly to each Owner and Secured Party of a Lot in the damaged or destroyed building.
- d. Upon any sale of less than the entire Subdivision, the property so sold shall remain subject to this Declaration, and the Association may impose any and all reasonable additional covenants, conditions, restrictions, and equitable servitudes, to ensure that the portion sold is thereafter developed and used in a manner which is consistent with the character of the remaining portions of the Subdivision. The portion so sold shall not in any case be developed or improved without the submission to the Board of detailed plans and specifications, and the approval of those plans by the Board.

3. Owner's Right to Reconstruct. Notwithstanding the foregoing provisions, any Owner of a damaged Lot who is able to pay the costs of reconstruction over and above available insurance proceeds applicable to his Lot has the absolute right to reconstruct the damaged Improvements on such Lot unless the Owners, by a two-thirds (2/3) majority (including two-thirds (2/3) of all Owners other than Declarant) vote to sell the entire Subdivision.

Section 12.05. Recording of Statements.

- A. Statement of Damage. Within sixty (60) days after any damage occurs, the Board shall, or, if it does not act, any Owner or Secured Party may, Record a statement under penalty of perjury: (i) stating that such damage has occurred; (ii) describing the damage; (iii) identifying the damaged building; (iv) identifying the entity, if any, holding the Reconstruction Fund; (v) reciting that the statement is Recorded pursuant to this Section of this Declaration; and (vi) reciting that a copy of the statement has been served as a notice on each of the Owners, Eligible Mortgagees, and Eligible Guarantors.
- B. Statement of Decision Not to Rebuild. If the Owners decide, by action or inaction, neither to repair, reconstruct, or replace, nor to demolish damaged Improvements and purchase the interests of affected Owners, then the Board shall, or, if it does not, any Owner or Secured Party may, Record a statement under penalty of perjury setting forth such decision and reciting, if applicable, that, under this Declaration, the prohibition against judicial partition of the Subdivision set forth in the Section entitled "No Partition or Severance of Interests" has terminated and judicial partition may be obtained. Upon final partition decree issued by a competent court, this Declaration shall terminate as to the real property partitioned from the undamaged portion of the Subdivision.

Section 12.06. Recovery of Damages for Damage or Destruction. The Association may commence or maintain action for the recovery of any damages caused to the Subdivision if Improvements on two (2) or more Lots or any part of the Common Area is damaged or destroyed. Such action may be maintained in the name of the Association or in the names of Owners, may be joined with any action brought by Owners, and may be prosecuted or settled by the Association as it sees fit. This provision shall survive the termination of this Declaration, and any recovery minus costs advanced by the Association shall be paid into the Reconstruction Fund, designated, and paid out as provided for under this Article.

Section 12.07. Disbursement of Reconstruction Fund.

- A. Order of Disbursement. When any amounts in the Reconstruction Fund are disbursed, except as provided in the Section entitled "Decision Not to Rebuild", such amounts shall be disbursed in the following order to the extent of funds in the designated categories: (i) first, from "insurance proceeds"; (ii) second, from "reserves for damaged improvements"; (iii) third, from "recovered damages"; and (iv) fourth, from "Special Assessments".
- B. Repair by Owner. Any Owner who, with the consent of the Association, performs or causes to be performed any maintenance or repair, reconstruction, or replacement required by this Article, shall be entitled, as determined in the sole discretion of the Board: (i) to be reimbursed reasonable costs incurred from the Reconstruction Fund applicable to the expense of such maintenance or repair, reconstruction, or replacement; or (ii) to the portion of the Reconstruction Fund applicable to the expense of such maintenance or repair, reconstruction, or replacement subject to the rights of Secured Parties.
- C. Unused Amounts. Any unused amounts shall be distributed as follows:
1. Any unused amounts in the "insurance proceeds" or the "reserves for damaged improvements" categories shall be placed in the Maintenance Reserve Fund.
 2. Any amounts received after disbursement of funds in the Reconstruction Fund or any unused amounts in the "recovered damages" category shall be deposited in the Maintenance Reserve Fund.
 3. Any unused amounts in the "Special Assessments" category shall be returned proportionately to the Owners of the Lots assessed for such Special Assessment.
 4. Unused amounts returned to the Maintenance Reserve Fund shall not exceed ten (10) times of the annual budgeted amount for the Maintenance Reserve Fund in the Fiscal Year in which the distribution is made. Any amounts in excess of this limitation shall be distributed to the Owners in proportion to their Lot's share of Regular Assessments.

Section 12.08. Eminent Domain.

A. Definitions.

1. Total Taking. "Total Taking" means the taking of the entire Subdivision under the power of eminent domain, or a taking of so much of the Subdivision as to prevent or substantially impair the continued operation of the Subdivision.
2. Partial Taking. "Partial Taking" means the taking of a portion of the Subdivision which does not constitute a Total Taking.

B. Total Taking.

1. Entire Subdivision. If there is a Total Taking where the entire Subdivision is taken and the condemnation award is apportioned, each Owner and Secured Party, as their interest may appear, shall be entitled to that portion of the condemnation award applicable to the Lot and Restricted Common Area in which they have an interest and a pro rata share of such award applicable to the taken General Common Area, in proportion to the Lot's share of Regular Assessments. If the condemnation award is not so apportioned, then each Owner and Secured Party, as their interest may appear, shall receive that portion of the condemnation award based on the respective fair market value of the Lot and Restricted Common Area in which they have an interest and a pro rata share of the award applicable to the taken General Common Area, determined in accordance with the Section entitled "Fair Market Value".
2. Substantial Portion of the Subdivision.
 - a. Sale of Remaining Portion of the Subdivision. If there is a total taking, where so much of the Subdivision has been taken as to prevent or substantially impair the continued operation of the Subdivision as a whole, the Owners of the Lots not taken may, by seventy-five percent (75%) vote, sell the remaining portion of the Subdivision. If the remaining portion of the Subdivision is sold, the condemnation award, together with any severance award, and the proceeds of the sale of the remaining portion of the Subdivision shall be distributed among all Owners and Secured Parties, as their interest may appear, based on the respective fair market value of each Owner's Lot, determined in accordance with the Section entitled "Fair Market Value".

b. Continued Operation of Remaining Portion of Subdivision. If the remaining portion of the Subdivision is not sold and the condemnation award is apportioned, the Owners and Secured Parties of the taken Lots, as their interest may appear, shall receive their portion of the condemnation award applicable to the Lot and Restricted Common Area in which they have an interest and a pro rata share of such award applicable to the taken General Common Area, in proportion to the Lot's share of Regular Assessments. If the condemnation award is not so apportioned, then each such Owner and Secured Party, as their interest may appear, shall receive that portion of the condemnation award based on the respective fair market value of the Lot and Restricted Common Area in which they have an interest and a pro rata share of the award applicable to the taken General Common Area, determined in accordance with the Section entitled "Fair Market Value". The Board has the authority to apply any or all of the remaining Owners' condemnation or severance award to the repair or rebuilding of that portion of the Subdivision damaged from the severance, so that the Subdivision remains in a neat and attractive condition.

C. Partial Taking.

1. Change of Land Use. If there is a Partial Taking where the use of the taken portion of the Subdivision is changed, the Owners and Secured Parties of the taken Lots, as their interest may appear shall receive that portion of the condemnation award as provided in Subsection B2b of this Section. The Board has the authority to apply any or all of the remaining Owners' condemnation or severance awards to the repair or rebuilding of the portion of the Subdivision damaged from the severance.
2. No Change of Land Use. If there is a Partial Taking where Lots only are taken and the taken Lots are used and operated subject to this Declaration any condemnation award shall be determined solely between the Owners of such taken Lots and the condemning authority.

D. Taking of Common Area.

1. Action by Association. If there is a Total or Partial Taking of all or a portion of the Common Area only, the Association shall, in its name alone, negotiate or settle with the condemning authority for the acquisition of all or part of the Common Area. Any condemnation award shall be paid to the Association and deposited into the Operating Fund. No Owner or Secured Party shall be entitled to participate, as a party or otherwise in any

proceeding relating to such taking unless the Association fails or refuses to act.

2. Repair of Common Area. If there is a Partial Taking of Common Area, the Board has the authority to apply any or all of the condemnation award to the repair or rebuilding of that portion of the Common Area damaged from the severance so that the Common Area remains in a neat and attractive condition.

Section 12.09. Fair Market Value. For purposes of determining "fair market value" within the meaning of this Article, the Board shall obtain an appraisal report from an independent appraiser who is a member of the American Institute of Appraisers of the National Association of Realtors ("Appraiser"). The Board shall confirm or reject the report of such Appraiser in its entirety. If the report of the Appraiser is not confirmed in its entirety by the Board, the Board shall obtain a report from an additional Appraiser. The Board shall then consider and vote upon each appraisal report received. The report receiving the higher number of favorable votes, whether or not the number of such votes constitutes a majority of the Board, shall be binding in its entirety on all Owners and Secured Parties.

Section 12.10. Power-of-Attorney. In the event the entire Subdivision, or any Phase or portion of the Subdivision, may be sold or otherwise transferred in accordance with the provisions of this Article, each Owner and Secured Party hereby appoints the Association as attorney-in-fact for the benefit of all Owners and Secured parties to: (i) sell or transfer the entire subdivision or any Phase; or (ii) if at any time when partition of the affected portion of the Subdivision may be had under applicable law, sell or transfer such affected portion of the Subdivision. Such power-of-attorney shall be deemed coupled with an interest in the property conveyed and irrevocable. It may be exercised by a majority of the Board, and is exercisable only after Recordation of a certificate executed by a majority of the Board which states that such power is properly exercisable under this Declaration. Such certificate shall be conclusive evidence of the validity of the power in favor of any person relying in good faith on the certificate.

Section 12.11. Owner's Insurance. References in this Article to "insurance proceeds" refer only to proceeds of insurance obtained by the Association and not to proceeds of insurance obtained by Owners. The proceeds of any Owner's insurance shall be payable as provided in the insurance policy and any relevant provision of a Security Device on the Owner's Lot.

ARTICLE 13
PROTECTION OF MORTGAGEES

Section 13.01. In General.

- A. Conflict. The provisions and requirements of this Article, and any other provisions and requirements of this Declaration relating to the rights of First Mortgagees: (i) shall prevail over any conflicting provisions of this Declaration; and (ii) are in addition to any other provisions of this Declaration.
- B. Application of this Declaration. Except as specifically provided in this Article or elsewhere in this Declaration, all Security Devices and Secured Parties are bound by this Declaration.

Section 13.02. Application of Assessments to First Mortgagees. The assessment liens created under this Declaration are subordinate to the rights of First Mortgagees. No First Mortgagee shall be liable for the payment of assessments against the mortgaged Lot except those payable after such First Mortgagee obtains title to the Lot pursuant to its remedies under the First Mortgage. Each First Mortgagee who obtains title pursuant to its remedies under the First Mortgage, and any purchaser at a foreclosure sale, shall take title to the Lot free and clear of any claims or liens for unpaid assessments and charges which were payable prior to such acquisition of title. Any such sale shall extinguish such liens, but the purchaser or First Mortgagee who so acquires title shall be liable for all assessments accruing after the date of such sale, including assessments levied against all Lots proportionately for the unpaid assessments and charges, which assessments shall constitute a lien upon the purchased Lot in accordance with the Article entitled "Funds, Assessments, and Delinquency".

Section 13.03. Limitation of Enforcement Against First Mortgagees. No violation of this Declaration by, or enforcement of this Declaration against, an Owner, shall impair the lien of any First Mortgage against the Owner's Lot, but this Declaration shall be enforceable against any Owner whose title is acquired by foreclosure, trustee's sale, voluntary conveyance, or otherwise.

Section 13.04. Availability of Documents. The Association shall make current copies of the Governing Documents, books, records, and financial statements of the Association available for inspection, during normal business hours, upon request, to Owners, First Mortgagees, and Guarantors.

Section 13.05. Audited Financial Statements.

- A. Fifty Lots or More. At any time when the Subdivision contains fifty (50) Lots or more, any First Mortgagee or Guarantor is entitled, upon written request and free of charge, to an audited financial statement of the Association for the immediately preceding Fiscal Year.

- B. Fewer Than Fifty Lots. At any time when the Subdivision contains fewer than fifty (50) Lots any First Mortgagee or Guarantor is entitled, at its expense, to have an audited financial statement prepared for the Association's immediately preceding Fiscal Year, if one is not otherwise available.
- C. Timeliness. Any financial statement requested under this Section shall be furnished within a reasonable time following the request.

Section 13.06. Management Agreements. Any agreement for professional management of the Subdivision, or any contract providing for services by Declarant to the Subdivision, may not exceed a term of three (3) years, and shall provide for termination by either party without cause and without payment of a termination fee, on ninety (90) days' or less written notice.

Section 13.07. Notice to First Mortgagees. Any First Mortgagee or Guarantor, upon written request to the Association, identifying the First Mortgagee's or Guarantor's name and address and the Lot number or address of the Lot on which such First Mortgagee or Guarantor holds, insures, or guarantees a First Mortgage, is entitled to timely written Notice from the Association of:

- A. Losses. Any condemnation loss or casualty loss which affects a material portion of the Subdivision, the Lot, or the building containing the Unit;
- B. Delinquency. Any delinquency in the payment of assessments or charges or any other default in duties under the Governing Documents by the Owner of the Lot which is not cured within sixty (60) days. The Owner of any Lot as to which the Association furnishes such notice to a First Mortgagee shall reimburse the Association for the costs of furnishing such notice;
- C. Lapse of Insurance. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- D. Actions. Any proposed action which would require the consent of Eligible Mortgagees under this Declaration.

Section 13.08. First Mortgagee Approval of Certain Actions. Certain actions shall not be taken by the Association or Owners without the consent of First Mortgagees and, in some cases, a specified majority of Owners, as follows:

A. FHLMC Requirements. Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the Declarant) have given their prior written approval, the Association shall not:

1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this Subsection;
2. Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;
3. By act or omission change, waive or abandon any provision of this Declaration or enforcement thereof, pertaining to the architectural design or the exterior appearance of residences, the exterior maintenance of residences, the maintenance of the common property walks or common fences and driveways, or the upkeep of lawns and plantings in the Subdivision;
4. Fail to maintain fire and extended coverage on insurable Common Area Improvements on a current replacement cost basis in an amount not less than 100 percent of the insurable value (based on current replacement cost);
5. Use hazard insurance proceeds for losses to any Common Area Improvements for other than the repair, replacement or reconstruction of such Common Area Improvements.

B. FNMA Requirements. The vote or consent of sixty-seven percent (67%) of the Owners and of Eligible Mortgagees representing at least fifty-one percent (51%) of the Mortgagees shall be required to make any material amendment to this Declaration, the Articles or Bylaws. Amendments changing any of the following shall be deemed "material": (i) voting rights; (ii) assessments, assessment liens, or subordination of assessment liens; (iii) reserves for maintenance, repair, and replacement of Common Area; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Area, or rights to its use; (vi) boundaries of any Lot; (vii) convertibility of Lots into Common Area or vice versa; (viii) expansion or contraction of the Subdivision, or the addition,

annexation, or withdrawal of property to or from the Subdivision; (ix) insurance or fidelity bonds; (x) leasing of Lots; (xi) imposition of any restrictions on an Owner's right to sell or transfer his Lot; (xii) a decision by the Association to establish self management when professional management has been required previously by an Eligible Mortgagee; (xiii) restoration or repair of Common Area Improvements (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; (xiv) any action to terminate the legal status of the Subdivision after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit First Mortgagees or Guarantors. Termination of this Declaration or of the legal status of the Subdivision as a planned development for reasons other than substantial destruction or condemnation of the Subdivision shall require the consent of Eligible Mortgagees representing at least sixty-seven percent (67%) of the votes of Lots subject to First Mortgages held by Eligible Mortgagees. An addition or amendment to this Declaration, the Articles, or Bylaws, shall not be considered to be "material" within the meaning of this Subsection if it is for the purpose of correcting technical errors, or for clarification only. An Eligible Mortgagee who receives a written request to approve any addition or amendment and who does not deliver or deposit in the mail a negative response within thirty (30) days of receipt of such request shall be deemed to have approved the addition or amendment.

Section 13.09. Property Owned by Association. First Mortgagees may, jointly or singly, pay taxes or other charges against Common Area which are in default and which may or have become a charge against any Common Area, and may pay overdue premiums on hazard insurance policies for such property, or secure new hazard insurance coverage on the lapse of a policy. First Mortgagees making these payments are entitled to immediate reimbursement for such payments from the Association, and the Association shall, at the request of any First Mortgagee, enter into an agreement to that effect in favor of all First Mortgagees.

Section 13.10. No Restraints on Alienation. No provision of this Declaration creates a right of first refusal in the Association or other restraint with respect to the sale, transfer, or other conveyance, mortgaging, or other alienation of a Lot as a whole by the Owner.

Section 13.11. Insurance and Condemnation Proceeds. Notwithstanding any other provision of this Declaration, whenever insurance or condemnation proceeds are to be distributed to Owners of Lots, the First Mortgagee of each Lot shall have such rights to priority of distribution of the proceeds allocated to that Lot as are provided for in the First Mortgage.

ARTICLE 14
APPLICATION OF DECLARATION TO DECLARANT

Section 14.01. Limited Application. Declarant is undertaking the work of constructing Improvements upon the Subdivision and any adjacent or related subdivision. The completion of that work and the expeditious sale, rental, or other disposition of the Lots is essential to the establishment of the Subdivision. Accordingly, Declarant and its agents, employees, and contractors may do all of the following:

- A. Necessary Work. Do within the Subdivision whatever is reasonably necessary or advisable in connection with the completion of the work and completing the work on any related or adjacent subdivision.
- B. Structures. Erect and maintain, on any part or parts of the Subdivision, such structures as may be reasonably necessary for the completion of the work and establishment and disposal of the Subdivision in parcels by sale, lease or otherwise, including but not limited to: sales offices and model units; general business offices for its staff, employees, and contractors; and storage and parking facilities for materials and equipment.
- C. Completing Work. Conduct within the Subdivision its business of completing the work and establishing and disposing of the Subdivision and any related or adjacent subdivision. For this purpose, Declarant is granted easements for access by Declarant, contractors, subcontractors, laborers, suppliers, and materialmen, for the purpose of completing construction or sales.
- D. Parking. Set aside reasonable unassigned parking for use of employees, contractors, and customers.
- E. Signs. Maintain such signs on the Subdivision as may be necessary or convenient for the sale, lease, or disposition of the Subdivision or of any Lot.
- F. Rental Facilities. If parts of the Subdivision are held by the Declarant for leasing or rental, maintain on the Subdivision rental offices, service facilities, model units, offices, and parking for its staff and necessary and convenient signs.

Section 14.02. Use of Subdivision Name. Declarant may use this Declaration and the name of this Declaration in other subdivisions, projects or businesses, whether or not located adjacent to the Subdivision and may use the name of the Subdivision and the name of the Association in connection with other projects, whether or not adjacent to the Subdivision, provided such names have a distinctive number or other designation so that they are not identical to the names of the Subdivision and Association. Consent is hereby

given to Declarant and Declarant's assignee to use such names, distinguished as provided by this Section, as the name of a corporation. The Board shall, upon the request of the Declarant, cause to be executed and filed any consent necessary to permit such use.

Section 14.03. Architectural Control. Improvements by Declarant on or to the Subdivision do not require approval of the Board.

Section 14.04. Use of Office. If the Common Area includes a sales or rental office, Declarant may use that office for the duration of this Article.

Section 14.05. No Amendment or Repeal. The provisions of this Article may not be amended or repealed without the consent of Declarant.

ARTICLE 15
AMENDMENT OR REPEAL; DURATION

Section 15.01. Amendment or Repeal.

- A. Amendment or Repeal. Any amendment to this Declaration adopted in accordance with this Section shall become effective upon the Recordation of a certificate of the Secretary of the Association or the declaration of the sole Owner, if there is only one Owner, setting forth in full the amendment so approved, including any repealed provisions, and certifying that the amendment has been approved by the required majority or percentage vote of all, or if applicable, a specified Class of the Owners. The certificate shall also state whether approval by Eligible Mortgagees or First Mortgagees is required and, if so, that the required percentage of Eligible Mortgagees, First Mortgagees, or both, has approved the amendment. Subject to the Section entitled "First Mortgagee Approval of Certain Actions", amendments may be adopted by the vote of a majority of the Owners, including not less than seventy-five percent (75%) of any Owners whose maintenance responsibilities or whose assessment share or ratio will be increased by such amendment; provided, however, that the percentage of the voting power necessary to amend a specific provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that provision.
- B. Extinguishment of Rights. Subject to Subsection A of this Section, any amendment adopted in accordance with this Declaration may alter or extinguish any easement, license, or right of use or enjoyment created by this Declaration, provided that such alteration or extinguishment does not discriminate between Owners similarly situated and does not deprive any Owner of access to or from such Owner's Lot or the Subdivision.

Section 15.02. Duration. All the provisions of this Declaration, including any duly adopted amendments, shall continue in full force and effect until December 31, 2024 ("the Expiration Date"), and shall thereafter renew automatically, without further notice, for successive periods of ten (10) years, unless within one year prior to the commencement of each successive ten (10) year period, an instrument is recorded directing the termination of this Declaration and signed by two-thirds (2/3) of the then current Owners, with the approval, if required, of Mortgagees as provided in the Article entitled "Protection of Mortgagees". If such an instrument is filed, this Declaration shall terminate on the expiration date or at the end of such subsequent ten (10) year period, as the case may be.

ARTICLE 16
MISCELLANEOUS PROVISIONS

Section 16.01. Observance of this Declaration. Each Owner shall comply with this Declaration and the Subdivision Rules, and shall be responsible for such compliance by such Owner's family, the Occupants of such Owner's Unit, agents, guests, contractors, employees, tenants or subtenants, any other person coming within the Subdivision at the request of or with the consent of such Owner or the Occupants of such Owner's Unit, and the pets of any such persons. If a lot has more than one Owner, all Owners are jointly and severally liable for all of the obligations of the Owner of the lot.

Section 16.02. Enforcement.

- A. Against Owners. Except to the extent otherwise expressly provided in this Declaration, the Association or any Owner or Owners may enforce any and all of the provisions now or hereafter imposed by this Declaration upon other persons or upon any Property within the Subdivision. However, if the Association undertakes such enforcement, no Owner shall take or continue any such action without the written consent of the Association.
- B. Against Association. Except to the extent otherwise expressly provided in this Declaration, any Owner or Owners may enforce any and all of the provisions now or hereafter imposed by this Declaration upon the Association.
- C. Nuisances. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance, and may be enjoined or abated by the Association or by an Owner or Owners, provided, however, that only the Association or its duly authorized agents may enforce by self-help, including where applicable removal and storage of personal property without civil or criminal liability therefor, any provision set forth in this Declaration.

D. Cumulative Remedies. The remedies provided for in this Declaration are cumulative and not exclusive.

Section 16.03. Non-Waiver. The failure to enforce any provision of this Declaration shall not constitute a waiver of any right to enforce that provision or any other provision of this Declaration.

Section 16.04. No Forfeiture. No breach of any provision of this Declaration shall cause any forfeiture of title or reversion or bestow any rights of re-entry.

Section 16.05. Attorneys' Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any action brought to enforce this Declaration or to collect any money due to the Association.

Section 16.06. Construction. All provisions of this Declaration shall be liberally construed, together, to promote and effectuate the beneficial operation of the Subdivision.

Section 16.07. Compliance with Law. No provision of this Declaration shall be construed to excuse any person from observing any applicable law or regulation of any governmental body.

Section 16.08. Severability. The provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, shall not affect the validity or enforceability of any other provision.

Section 16.09. Singular and Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine shall include the feminine and neuter, as the context requires.

Section 16.10. Titles. The table of contents and all titles used in this Declaration, including those of Articles, Sections and Subsections, are intended solely for convenience of reference and shall not affect the content of such Articles, Sections, and Subsections, nor any of the terms or provisions of this Declaration. Any numbered or lettered subdivision of a Section is referred to as a "Subsection" or "Subsection ____".

Section 16.11. Statutory References. In the event any statute in this Declaration, whether stated by code and number, or named by body of law, is amended, repealed, renumbered, or renamed, all references to such statute or body of law shall refer to the amended, repealed, renumbered, or renamed statutory provisions.

Section 16.12. Lot Splitting; Consolidation.

- A. Partition or Subdivision of Unit. No Lot or real property interest shall be partitioned or subdivided without the prior written approval of the Board and the First Mortgagee of such Lot.
- B. Consolidation of Lots. No two (2) or more Lots shall be consolidated into one Lot without the prior written consent of the Board and the First Mortgagees of each such Lot.
- C. Not Applicable to Declarant. Nothing contained in this Section shall apply to the partition, subdivision, or consolidation of Lots by Declarant.
- D. Change in Voting or Assessments. The Association may require a change in the voting rights and assessment obligations after any Lot partition, subdivision, or consolidation, to keep the assessment and voting rights the same after the partition, subdivision, or consolidation as they were before, provided that after such partition, subdivision or consolidation, each Lot shall have one (1) vote.

Section 16.13. Obligations of Owners: Avoidance; Termination.

- A. No Avoidance of Duty. No Owner, through his non-use of any Common Area or recreational facility, or by abandonment of his Lot, may avoid the duties imposed on him by this Declaration by virtue of his being an Owner.
- B. Termination of Obligations. Upon the conveyance, sale, assignment, or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments accruing with respect to such Lot after the date upon which such transferring Owner gives the Association written notice of the transfer, and no person who has given such notice, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Declaration following the date of such termination.

Section 16.14. No Partition or Severance of Interests. There shall be no partition or severance of any Lot or any part of the Common Area from the Subdivision, and the Declarant, Board, Association and Owners shall not seek to partition or sever any part of the Common Area or a Lot from the Subdivision, nor shall they have any right to maintain an action for judicial partition in connection with the Subdivision, unless such right is expressly given by this Declaration, or in accordance with applicable law, and unless any consent of First Mortgagees required by this Declaration is obtained. This provision

shall not prohibit the partition of the ownership of any Lot or Lots into joint or common ownership so long as no physical partition takes place and there is no severance of the Lot from the Common Area or from any incident of this Declaration. No Owner shall sever his Lot from its interest in the Association and any attempt to do so is void.

Section 16.15. Implied Grant or Reservation of Easement. Whenever any provision of this Declaration provides for an easement over any portion of the Subdivision ("the servient estate") in favor of another portion of the Subdivision ("the dominant estate") and both estates are owned by the same Owner, the separate conveyance of either the dominant or servient estate without the other shall constitute a grant or reservation, respectively, of the easement, notwithstanding anything to the contrary in the instrument of conveyance.

Section 16.16. Notices; Documents; Delivery.

- A. Except as provided in Subsection B, any notice or other document permitted or required by this Declaration to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, first class postage prepaid, addressed as follows: If to an Owner other than Declarant, then to any Lot within the Subdivision owned by the Owner or at such other address given by the Owner to the Association in writing; if to Declarant, a Secured Party, or the Association, to the address given by Declarant, the Secured Party, or the Association in writing. Any such address may be changed from time to time by any Owner, by a Secured Party, or by Declarant, by notice in writing, delivered to the Association, or by the Association, by notice in writing, delivered to all Owners and to all Eligible Mortgagees and Eligible Guarantors.
- B. Notices to Eligible Mortgagees and Eligible Guarantors shall be sent certified or registered mail, return receipt requested. The notice shall be deemed served when actually delivered; provided, however, that if the notice is not delivered due to an incorrect address furnished by the Mortgagee or Guarantor or a failure of the Mortgagee or Guarantor to inform the Association of a change of address, then the notice shall be deemed served seventy-two (72) hours after mailing.

Section 16.17. Ownership of Funds. All funds derived from assessments of Owners, proceeds of bonds payable to the Association or payment received for damages to the Subdivision, and any right or interest in any such funds shall belong to the Owners in proportion to each Owner's share of the Regular Assessments, subject to the provisions of the Article entitled "Damage, Destruction, and Eminent Domain", relating to the distribution of proceeds of:

(i) sale of the Subdivision or Phase or portion thereof; or (ii) applicable insurance; or (iii) condemnation or eminent domain awards or settlements. No assessment or the proceeds of any assessment shall be considered income to the Association, unless required by law. No person may appropriate or make any use of such funds, except as provided by this Declaration, until and unless there has been a partition or distribution of such funds. Any sale, transfer, or conveyance of the beneficial interest in the fee of any Lot shall operate to transfer the Owner's rights in such funds without the requirement of any express reference to those funds, except where the whole Subdivision is being sold due to damage, destruction or a taking under the power of eminent domain, or pursuant to a partition of the Subdivision.

Section 16.18. No Termination on Breach. No violation of this Declaration shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, but this provision does not affect in any manner any other rights or remedies the Association or any Owner may have by reason of any such violation.

Section 16.19. No Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Subdivision to the general public or for the general public or for any public purpose whatsoever, it being the intention of Declarant that this Declaration be strictly limited to and for the purposes expressed in this Declaration.

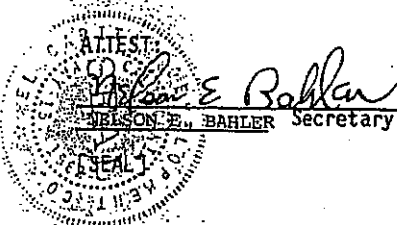
Section 16.20. Assignment by Declarant. Declarant may assign its powers and responsibilities in whole or in part in connection with its sale or transfer of all or part of the Subdivision. Any assignment or acceptance of part or all of Declarant's powers and responsibilities for all or a portion of the Subdivision shall be in writing and Recorded, filed with the Board, and placed with the records of the Association. Each Assignee under any such assignment shall agree, as part of Assignee's acceptance, to accept the duties and obligations of Declarant under this Declaration, and may exercise the rights of Declarant provided by this Declaration for the area assigned, but no general power, such as the power to annex, if any, shall be assigned other than as part of an assignment encompassing the entire Subdivision that remains owned by Declarant. Assignment of Declarant's powers and responsibilities shall be implied by any conveyance of all or substantially all of Declarant's remaining interest in the Subdivision if such interest includes at least five (5) Lots. Foreclosure of a First Mortgage is a conveyance for the purpose of this Section.

Section 16.21. Exhibits. Unless otherwise specified, all Exhibits referred to in this Declaration are attached to this Declaration and incorporated herein by this reference.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

EL CAPITAN DEVELOPMENT CO.,
a California corporation

By: Richard M. Mallett
Assist. Vice President



STATE OF California)
COUNTY OF San Joaquin) ss.

On this 7th day of August, 1984, before me, the undersigned, a Notary Public in and for said state, personally appeared RICHARD M. MALLETT, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Asst. Vice President of the corporation therein named, and acknowledged to me that the corporation executed it pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

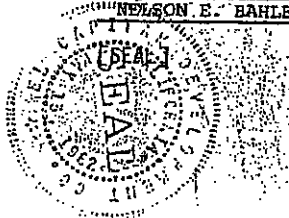


Deborah Ann Abernathy
Notary Public in and for said State

GRUPE DEVELOPMENT COMPANY - OKLAHOMA,
a California corporation

ATTEST:
Nelson E. Bahler
NELSON E. BAHLER Secretary

By: [Signature]
Vice President



**FIRST AMENDMENT TO
RIDGEWOOD *RESTRICTIONS***

-- FILED 02/25/1985

**(EVIDENTLY, THIS WAS INTENDED TO
BE AN AMENDMENT TO RIDGEWOOD
*DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS.*)**

EXHIBIT "A"

DESCRIPTION OF PROPERTY SUBJECT TO ANNEXATION
BY DECLARANT

All of that certain real property situated in the City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows:

A tract of land, containing 15.5895 acres, that is part of the E 1/2 of Section-20, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, said tract of land being described as follows, to-wit:

Starting at the Northeast Corner of said Section-20; thence S 88°-35'-14" W along the Northerly line of Section-20 for 661.06'; thence S 1°-08'-12" E for 205.32'; thence S 22°-29'-59" W for 160.95' to a point of curve; thence Southwesterly along a curve to the right, with a central angle of 17°-14'-52" and a radius of 227.81', for 68.58' to a point of tangency; thence S 39°-44'-51" W along said tangency for 111.31' to a point of curve; thence Southwesterly, Southerly, and Southeasterly, along a curve to the left, with a central angle of 52°-11'-27" and a radius of 366.26', for 333.63' to the "POINT OF BEGINNING" of said tract of land; thence continuing along a curve to the left, with a central angle of 5°-23'-33" and a radius of 366.26' for 34.47' to a point of tangency; thence S 17°-50'-09" E along said tangency for 272.02'; thence S 19°-23'-19" E for 119.28'; thence S 1°-19'-58" E for 111.49'; thence S 88°-40'-02" W for 67.47'; thence S 1°-07'-29" E for 1324.26' to a point of curve; thence Southeasterly, Southerly, Westerly, and Northwesterly, along a curve to the right, with a central angle of 97°-39'-25" and a radius of 64.54', for 110.00' to a point of tangency; thence N 83°-28'-04" W along said tangency for 280.03'; thence N 88°-55'-00" W for 24.35'; thence N 1°-07'-29" W for 500.00' to a point of curve; thence Northwesterly along a curve to the left, with a central angle of 30°-42'-14" and a radius of 358.10', for 191.90'; thence N 47°-52'-15" E for 0.00' to a point of curve; thence Northeasterly along a curve to the left, with a central angle of 1°-54'-52" and a radius of 854.51', for 28.55' to a point of compound curve; thence Northeasterly, Northerly, and Northwesterly, along a curve to the left, with a central angle of 60°-03'-59" and a radius of 513.46', for 538.29' to a point of tangency; thence N 14°-06'-35" W along said tangency for 90.60' to a point of curve; thence Northwesterly along a curve to the

left, with a central angle of $18^{\circ}-00'-00''$ and a radius of $990.93'$, for $311.31'$, to a point of tangency; thence N $32^{\circ}-06'-35''$ W along said tangency for $203.21'$ to a point of curve; thence Northwesterly along a curve to the right, with a central angle of $14^{\circ}-23'-57''$ and a radius of $536.96'$, for $134.94'$; thence N $88^{\circ}-35'-14''$ E for $491.74'$ to the "POINT OF BEGINNING" of said tract of land.

201 W St.
BOOK 4846 PAGE 1294

350217

CERTIFICATION

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, being the duly qualified and acting Secretary of Ridgewood Homeowner's Association, Inc., pursuant to Section 15.01 of the "Ridgewood Restrictions" recorded in the office of the Tulsa County Clerk in Book 4809 at Page 1684, does hereby certify:

- 1) That the "First Amendment to Ridgewood Restrictions" (the "First Amendment") attached hereto has been approved by the required percentage vote of Owners of Lots in the Subdivision.
- 2) The approval of the First Amendment by Eligible Mortgagees was required, and such approval was obtained from the required percentage of such Eligible Mortgagees.
- 3) All terms capitalized herein have the same meaning as are attributed to them in the Ridgewood Restrictions. The terms of the First Amendment are incorporated herein by this reference.

Judith F. Murray
Secretary



STATE OF OKLAHOMA }
COUNTY OF TULSA } SS.

The foregoing Certification was acknowledged before me this 22nd day of February, 1985, by Judith F. Murray, Secretary of Ridgewood Homeowner's Association, Inc., on behalf of the Corporation.

Marne Kitchens
Notary Public



Commission Expires: Feb. 4, 1989



STATE OF OKLAHOMA
FILED
1985 FEB 25 PM 3:20
JOHN NASTRICH
TULSA COUNTY CLERK

FIRST AMENDMENT TO RIDGEWOOD RESTRICTIONS

RECITALS:

A. The undersigned "Owners" are the owners of record of more than seventy-five percent (75%) of the Lots located upon the following described real property located in the City of Tulsa, Tulsa County, Oklahoma, to-wit:

All of WOODSIDE VILLAGE 1, a subdivision in the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof,

which was previously submitted to the terms of an instrument known, according to Section 1.02 thereof, as the "Ridgewood Restrictions", said instrument being dated August 7, 1984, and recorded in the office of the Tulsa County Clerk in Book 4809 commencing at Page 1684.

B. The undersigned "Eligible Mortgagees" are the holders of recorded mortgages covering more than seventy-five percent (75%) of the Lots within the above described real property.

C. Owners and the Eligible Mortgagees desire to amend the Ridgewood Restrictions as provided for therein and as hereinafter set forth.

AMENDMENTS

NOW, THEREFORE, Owners and the Eligible Mortgagees do hereby agree, publish and declare as follows:

1. The legal description of the "Property" set forth in Section 1.01 of the Ridgewood Restrictions is hereby amended to read as follows:

Lots One through Seven (1-7), inclusive, Lots Sixteen through Thirty-five (16-35), inclusive, Lots Eighty-three (83) and Eighty-four (84), and Reserve "A", all in Block One (1), WOODSIDE VILLAGE 1, a subdivision in the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

2. Section 2.16 of the Ridgewood Restrictions is hereby amended in its entirety to read as follows:

Section 2.16 Lot. "Lot" means (1) any of the subdivision lots numbered 1 through 7, inclusive, or 16

or 16 through 35, inclusive, on the Plat, together with the garage appurtenant to such Lot as described below, and (ii) any lot or parcel designated as a Lot in any Declaration of Annexation. "Lot" includes all improvements on or to such lots or parcels, but does not include any property defined as Common Area. Each Lot shown on the Plat having the letter "A" following its numerical designation, including those later annexed to the Subdivision, shall be appurtenant to and inseparable from the Lot having the same numerical designation, and shall be used only for the enclosed storage and safekeeping of automobiles and other personal property and only in conjunction with the ownership and use of the Lot to which it appertains.

3. Section 4.01 of the Ridgewood Restrictions is hereby amended in its entirety to read as follows:

Section 4.01. Description of Subdivision. The First Phase comprises, or will comprise, twenty-seven (27) Lots, each improved with a Unit. Each dwelling unit constitutes a portion of a building, and will share a common wall with at least one other dwelling unit. The First Phase will also contain a Common Area parcel which may include, without limitation, open space, roadways, driveways, walkways, swimming pool and a recreational building.

4. Exhibit "A" to the Ridgewood Restrictions is hereby amended in its entirety to read as follows:

1. Lots Eight through Fifteen (8-15), inclusive, and Lots Thirty-six through Eighty-two (36-82), inclusive, Block One (1), WOODSIDE VILLAGE I, an addition to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof; and
2. All of that certain real property situated in the City of Tulsa, Tulsa County, State of Oklahoma, more particularly described as follows:

A tract of land, containing 15.5895 acres, that is part of the E 1/2 of Section-20, T-18-N, R-13-E, City of Tulsa, Tulsa County, Oklahoma, said tract of land being described as follows, to-wit:

Starting at the Northeast Corner of said Section-20; thence S $88^{\circ}-35'-14''$ W along the Northerly line of Section-20 for 661.06'; thence S $1^{\circ}-08'-12''$ E for 205.32'; thence S $22^{\circ}-29'-59''$ W for 160.95' to a point of curve; thence Southwesterly along a curve to the right, with a central angle of $17^{\circ}-14'-52''$ and a radius of 227.01', for 68.58' to a point of tangency; thence S $39^{\circ}-44'-51''$ W along said tangency for 111.31' to a point of curve; thence Southwesterly, Southerly, and Southeasterly, along a curve to the left, with a central angle of $52^{\circ}-11'-27''$ and a radius of 366.26', for 333.63' to the "POINT OF BEGINNING" of said tract of land; thence continuing along a curve to the left, with a central angle of $5^{\circ}-23'-33''$ and a radius of 366.26' for 34.47' to a point of tangency; thence S $17^{\circ}-50'-09''$ E along said tangency for 272.02'; thence S $19^{\circ}-23'-19''$ E for 119.28'; thence S $1^{\circ}-19'-58''$ E for 111.49'; thence S $88^{\circ}-40'-02''$ W for 67.47'; thence S $1^{\circ}-07'-29''$ E for 1324.26' to a point of curve; thence Southeasterly, Southerly, Westerly, and Northwesterly, along a curve to the right, with a central angle of $97^{\circ}-39'-25''$ and a radius of 64.54', for 110.00' to a point of tangency; thence N $83^{\circ}-28'-04''$ W along said tangency for 280.03'; thence N $88^{\circ}-55'-00''$ W for 24.35'; thence N $1^{\circ}-07'-29''$ W for 500.00' to a point of curve; thence Northwesterly along a curve to the left, with a central angle of $30^{\circ}-42'-14''$ and a radius of 358.10', for 191.90'; thence N $47^{\circ}-52'-15''$ E for 0.00' to a point of curve; thence Northeasterly along a curve to the left, with a central angle of $1^{\circ}-54'-52''$ and a radius of 854.51', for 28.55' to a point of compound curve; thence Northeasterly, Northerly, and Northwesterly, along a curve to the left, with a central angle of $60^{\circ}-03'-59''$ and a radius of 513.46', for 538.29' to a point of tangency; thence N $14^{\circ}-06'-35''$ W along said tangency for 90.60' to a point of curve; thence Northwesterly along a curve to the left, with a central angle of $18^{\circ}-00'-00''$ and a radius of 990.93', for 311.31', to a point of tangency; thence N $32^{\circ}-06'-35''$ W along said tangency for 203.21' to a point of curve; thence Northwesterly along a curve to the right, with a central angle of $14^{\circ}-23'-57''$ and a radius of 536.96', for 134.94'; thence N $88^{\circ}-35'-14''$ E for 491.74' to the "POINT OF BEGINNING" of said tract of land.

IN WITNESS WHEREOF, Owners and the Eligible Mortgagees have executed this instrument effective February 22, 1985.



[Signature]
Secretary

EL CAPITAN DEVELOPMENT CO.,
a California Corporation

By: [Signature]
-President

ATTEST:



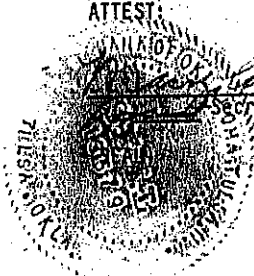
[Signature]
Secretary

RIDGEWOOD HOMEOWNER'S ASSOCIATION, INC.,
an Oklahoma non-profit corporation

By: [Signature]
-President

"OWNERS"

BANK OF OKLAHOMA, N.A.



ATTEST:

[Signature]
Secretary/Cashier

By: [Signature]
Vice-President

AMERICAN SAVINGS AND LOAN ASSOCIATION,
a California Chartered Savings and Loan Association

ATTEST:



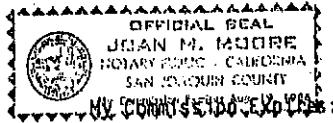
[Signature]
Secretary/Cashier

By: [Signature]
Vice-President

"ELIGIBLE MORTGAGEES"

STATE OF CALIFORNIA)
COUNTY OF SAN JOAQUIN) ss.

The foregoing instrument was acknowledged before me this 20 day of February, 1985, by Christopher H. Brown - President of El Capitan Development Co., on behalf of the corporation.

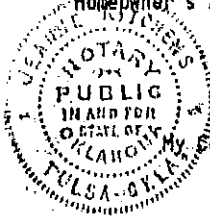


Joan M. Maguire
Notary Public

Aug. 12, 1986

STATE OF OKLAHOMA)
COUNTY OF TULSA) ss.

The foregoing instrument was acknowledged before me this 22nd day of February, 1985, by Robert W. Green, Jr. - President of Ridgewood Homeowner's Association, Inc., on behalf of the corporation.



Jeanne Kilheus
Notary Public

Commission Expires: Feb. 4, 1989

STATE OF OKLAHOMA }
COUNTY OF TULSA } ss.

The foregoing instrument was acknowledged before me this 22 day of February, 1985, by Jeffrey B. Scott, Vice-President of Bank of Oklahoma, N.A., on behalf of said Bank.



Jeanie S. Roenck
Notary Public

My Commission Expires: September 5, 1988

STATE OF CALIFORNIA }
COUNTY OF San Joaquin } ss.

The foregoing instrument was acknowledged before me this 20 day of February, 1985, by Daniel House, Vice-President of American Savings and Loan Association, on behalf of said Savings and Loan Association.

Jana Getty
Notary Public

My Commission Expires: 7-28-86

