

CONDOMINIUM DECLARATION

FOR

UNIVERSITY PARK PLACE

COUNTY OF HARRIS §  
§ KNOW ALL MEN BY THESE PRESENTS:  
STATE OF TEXAS §

THAT, WHEREAS WHITE OAK DEVELOPMENT CORPORATION a Texas Corporation, hereinafter called "Declarant", is the Owner of real property situated in the County of Harris, State of Texas, being described as follows:

TRACT ONE:

All that certain 0.41334 acre tract of land out of the Obedience Smith Survey, Abstract No. 696, Harris County, Texas, and being located at 5353 Dora Street; said 0.41334 acre tract being all of Lots 6, 7 and the North 6.70 feet of Lot 8 of the William Warnicke Addition to the City of Houston, Texas, as recorded in Volume 321, Page 164, of Deed Records of Harris County, Texas; said 0.41334 acre tract being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8-inch iron rod found for the City of Houston Engineering Department reference rod No. 434 in asphalt at the intersection of the centerline of Bissonnet Avenue (based on a width of 60.0 feet) at Shadow Lawn Street;

THENCE West, 481.00 feet along the centerline of Bissonnet Avenue and the City of Houston Engineering Department reference line to a point for reference;

THENCE South 00° 22' 00" East, at 30.00 feet passing the Northwest corner of the said William Warnicke Addition at the intersection of the South line of said Bissonnet Avenue with the East line of Dora Street (based on a width of 50.00 feet) and continuing along the West line of the said William Warnicke Addition and the East line of said Dora Street to a hole drilled in concrete driveway for the TRUE POINT OF BEGINNING and Northwest corner of the 0.41334 acre tract herein described; said point also being the Southwest corner of Lot 5, William Warnicke Addition;

THENCE East, along the common line between said Lots 5 and 6, at 130.11 feet passing the face of a 5.0 foot high brick wall and continuing along said brick wall on the same bearing for a total distance of 168.75 feet to a "P.K." nail set in top of said 5.0 foot high brick wall for the Northeast corner of the 0.41334 acre tract herein described; said point also being the Southeast corner of said Lot 5;

THENCE South 00° 22' 00" East, 106.70 feet along the East line of said Lots 6, 7 and 8 to a 1/2-inch iron rod set for the Southeast corner of the 0.41334 acre tract herein described;

THENCE West, 168.75 feet to a 1/2-inch iron rod set in the East line of said Dora Street for the Southwest corner of the 0.41334 acre tract herein described;

THENCE North 00° 22' 00" West, 106.70 feet along the East line of said Dora Street to the TRUE POINT OF BEGINNING and containing 0.41334 acres or 18,005 square feet.

TRACT TWO:

That certain tract or parcel of land shown and identified as "Edw. Larendon" on the "Map showing Re-plat of Jandor Gardens" of record in Volume 572, Page 289, Deed Records, Harris County, Texas, being a rectangular tract of land out of Lot No. 5, of Great Lot No. 5, of the Obedience Smith Survey, lying South of and immediately adjacent to the South line of Lots No. 7 and 8 of Block 2 of said Jandor Gardens Subdivision, as shown on said re-plat map, with the East line of the herein described tract running along the West right-of-way line of Dora Street for a distance of 171 feet more or less, the North line of the herein described tract running along the South line of said Lots Nos. 7 and 8 for a distance of 248 feet, more or less, between Dora Street and Institute Lane, the west line of the herein described tract running along the East right-of-way line of Institute Lane for a distance of 171 feet, more or less, and the South line of the herein described tract running parallel to the North line thereof for a distance of 248 feet, more or less, between said Institute Lane and Dora Street, all as more fully shown on said re-plat map of Jandor Gardens, and being the same tract of land described in and conveyed to Edwin Larendon from H. G. Fields by Deed on or about November 7, 1922, recorded in Volume 514, Page 527, Deed Records of Harris County, Texas.

All of Lot Eight (8) and the South 1' of Lot Seven (7), in Block Two (2) of the replat of Jandor Gardens, an addition in Harris County, Texas, according to the map or plat thereof recorded in Volume 572, Page 289, of the Deed Records of Harris County, Texas;

which by this reference is made a part hereof; which property is also described on the attached map or plat thereof marked Exhibit "A" which by this reference is made a part hereof;

and

WHEREAS, Declarant, as Developer, desires to establish a condominium regime under the Condominium Act of the State of Texas, (Acts 1963, 58th Leg., P. 507, Ch. 191) herein called the "Act"; and

WHEREAS, Declarant has executed plans for the refurbishment of ten (10) two-story buildings and other improvements appurtenant thereto on the property described in said Exhibit "A", which, when completed, shall consist of sixty (60) separately designated condominium units; and

WHEREAS, Declarant does hereby establish a plan for individual ownership in fee simple of estates consisting of the area or space contained in each of the apartment units as hereinafter defined, in the ten (10) buildings and the coownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property, which includes both limited common elements and general common elements, as hereinafter defined in Paragraph 1.2 hereof, and which are hereinafter collectively referred to as the "Common Elements" or "Common Areas".

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations, and obligations shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees, and assigns.

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ARTICLE I - GENERAL TERMS

1.1 TERMS DEFINED ABOVE. As used in this agreement, the term "Declarant", "Act" and "Common Elements" or "Common Areas" shall have the meanings respectively indicated in the opening paragraphs hereof.

1.2 CERTAIN DEFINITIONS. As used in this agreement, the following terms shall have the following meanings unless the context shall expressly provide otherwise:

(a) "Declaration" shall mean this Condominium Declaration instrument as the same may be amended pursuant to the Article hereof entitled "Amendment".

(b) "Apartment" or "Apartment Unit" shall mean the elements of a condominium unit which are not owned in common with the Owners of other condominiums in the project as shown on the maps, which are exhibits attached hereto and each "Apartment Unit" shall include the apartment space assigned to each "Apartment Unit".

The boundaries of each such apartment unit space shall be and are the interior surfaces of the perimeter walls, windows, and window frames, door and door frames, and trims, and the space includes both the portions of the building so described and the air space so encompassed, excepting the Common Elements. The individual ownership of each apartment space herein defined shall further include the interior construction, partitions, appliances, fixtures and improvements which are intended to exclusively serve such apartment space, such as interior room walls, floor covering or finish, closets, cabinets, shelving, individual bathroom and kitchen fixtures, plumbing and appliances, individual lighting and electrical fixtures, air cooling systems (excluding the central boiler system), and other separate items or chattels belonging exclusively to such apartment unit which may be removed, replaced, disposed of or otherwise treated without affecting any other apartment space or the ownership, use or enjoyment thereof.

None of the land in this project on which any Apartment Unit space or porch space is located shall be separately owned, as all land in this project shall constitute part of the "General Common Elements" of the property as hereinafter defined, and shall be owned in common by the Owners of the Apartment Units in this condominium project.

(c) "Condominium Unit" shall mean an individual Apartment unit together with the interest in the Common Elements (general or limited) appurtenant to such Apartment Unit.

(d) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more Condominium Units.

(e) "General Common Elements" means and includes:

- (1) The land on which the buildings are located;
- (2) The foundations, columns, girders, beams, supports, main walls, bearing walls, roofs, stairways, and entrances and exits or communications ways;

(3) The yards, gardens, general parking areas, (as not being included in the limited common elements, as hereinafter defined), fences, walks, service easements, storage spaces, streets, recreation areas

(4) The installations consisting of the equipment and materials making up central services such as power, light, gas and the like;

(5) All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(f) "Limited Common Elements" means and includes those common elements which are reserved for the exclusive use of an individual owner of a Condominium Unit, which include assigned covered or garage parking areas, attic spaces, directly above the Apartment Unit, and patio and balcony areas indicated on the maps, as appurtenant Limited Common Elements to a specific Apartment Unit.

(g) "Premises" or "Property" means and includes the land, the buildings, all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

(h) "Common Expenses" means and includes:

(1) All sums assessed against the Owners by the Managing Agent or Board of Managers of the Association pursuant to Paragraph 5.1 hereof and other provisions hereof.

(2) Expenses of administration and management, maintenance, repair and replacement of the Common Elements;

(3) Expenses agreed upon as common expenses by the Owners; and

(4) Expenses declared common expenses by provisions of this Declaration and by the By-Laws of the Association.

(i) "Condominium Owners Association" or "Association" means a Texas nonprofit corporation, the ByLaws of which shall govern the administration of this condominium property, the membership of which shall be composed of all of the Owners of the Condominium

Units according to such By-Laws.

(j) "Map", "Survey Map", "Maps", or "Plans", mean or include the engineering survey of the land locating thereon, all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of, or all of, the improvements, same being herewith filed, consisting of 16 sheets labeled Exhibit "A Page 1" through "A Page 16", inclusive, and incorporated herein.

(k) "Construction Period" means that period of time during which Declarant is developing the premises and selling the Condominium Units, which time period shall extend from the date hereof until such time as the Declarant sells ninety percent (90%) of the Condominium Units, or one (1) year from the date on which the Declarant makes the first transfer of a Condominium Unit to an Owner other than Declarant, whichever occurs first.

ARTICLE II

CONDOMINIUM UNIT DESIGNATIONS AND DESCRIPTIONS

2.1 RECORDATION OF MAPS. The Survey Map shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any Condominium Unit. Such Map consists of and sets forth (1) the legal description of the surface of the land; (2) the linear measurements and location, with reference to the exterior boundaries of the land, of the buildings and all other improvements constructed, or to be constructed, on said land by Declarant; (3) floor plans and elevation plans of the buildings built, or to be built, thereon showing the location, the building designation, the Apartment Unit designation and the linear dimensions of each Apartment Unit; and (4) the elevations of the interior surfaces of the floors and ceilings as established from a datum plane.

2.2 DESIGNATION OF APARTMENT UNITS. The Property is hereby divided into separately designated Condominium Units consisting of:

(a) Sixty (60) separately designated Apartment Units, each Apartment identified by number and by building symbol or designation on the plans, the Apartments in each building being described as follows:

BUILDING A - Containing three (3) Apartments, numbered A-2 through A-4 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "A" hereto attached, marked Exhibit "A", Sheet No. 9;

BUILDING B - Containing three (3) Apartments numbered B-2 through B-4 inclusive, the size, dimensions, locations and boundaries of each being detailed on the Survey Plat of Building "B" hereto attached marked Exhibit "A", Sheet No. 9;

BUILDING C - Containing eight (8) Apartments, numbered C-1 through C-8 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "C"

hereto attached marked Exhibit "A", Sheet No. 10;

BUILDING D - Containing four (4) Apartments, numbered D-1 through D-4 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "D" hereto attached marked Exhibit "A", Sheet No. 11;

BUILDING E - Containing four (4) Apartments, numbered E-1 through E-4 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "E" hereto attached marked Exhibit "A", Sheet No. 11;

BUILDING F - Containing eight (8) Apartments, numbered F-1 through F-8, inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "F" hereto attached marked Exhibit "A", Sheet No. 12;

BUILDING G - Containing twelve (12) Apartments, numbered G-1 through G-12 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building G hereto attached marked Exhibit "A", Sheets No. 13 and 14;

BUILDING H - Containing eight (8) Apartments numbered H-1 through H-8 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building "H" hereto attached marked Exhibit "A", Sheet No. 15;

BUILDING I - Containing two (2) Apartments, numbered I-1 through I-2 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building I hereto attached marked Exhibit "A", Sheet No. 14;

BUILDING J - Containing eight (8) Apartments, numbered J-1 through J-8 inclusive, the size, dimensions, location and boundaries of each being detailed on the Survey Plat of Building J hereto attached marked Exhibit "A", Sheet No. 16; and

(b) The remaining portion of the Premises, referred to as the Common Elements, shall be owned in common by the Owners. The Owner of each Apartment Unit shall own a percentage of undivided interest in the Common Elements to the extent set opposite the Apartment Unit designation in Exhibit "B", attached



hereto and made a part hereof for all purposes.

2.3 LIMITED COMMON ELEMENTS. A portion of the Common Elements are set aside and reserved for the exclusive use of the individual Owners, such areas being Limited Common Elements. The Limited Common Elements reserved for the exclusive use of the individual Owners are the automobile parking spaces, storage spaces, balcony areas, and patio spaces, which are shown on the Map, and all balconies that are part of each Apartment. Such spaces are allocated and assigned by the Declarant to the respective Condominium Units as indicated on Exhibit "A", the patio assigned to each Apartment Unit being designated by the Apartment Unit number preceded by the prefix "P", the balcony assigned to each apartment unit being designated by the apartment unit number preceded by the prefix "B", and in like manner the carport spaces assigned to each Apartment Unit being designated by the Apartment Unit number preceded by the prefix "CP". Such Limited Common Elements shall be used in connection with the particular unit, to the exclusion of the use thereof by the other owners except by invitation.

2.4 REGULATION OF COMMON AREAS. Portions of the Common Areas are intended as recreation areas, and are improved with swimming pools, office, and other facilities. Reasonable regulations governing the use of such facilities by Owners and by their guests and invitees shall be promulgated by the Declarant, or by the Board of Managers of the Association after the same has been elected or the Managing Agent of the Association. Such regulation shall be permanently posted at the office and/or elsewhere in said recreational areas, and all Owners shall be furnished with a copy thereof. Each Owner shall be required to strictly comply with said Rules and Regulations, and shall be responsible to the Board of Managers for the compliance therewith by the members of their respective families, relatives, guests or invitees, both minor and adult.

2.5 INSEPARABLE UNITS. Each Apartment Unit and its prorata interest in and to the Common Elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a Condominium Unit.

2.6 DESCRIPTIONS. Every deed, lease, mortgage, trust deed or other instrument may legally describe a Condominium Unit by its identifying Apartment Number or designation as shown on the map, followed by the words "University Park Place" and by a reference to this recorded declaration and map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise effect the Common Elements.

2.7 ENCROACHMENTS. If any portion of the Common Elements encroaches upon an Apartment Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion or portions of an Apartment Unit or Units encroaches upon the Common Elements, or another Apartment Unit, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For the purposes hereof, the term "encroachment" includes any and all encroachments, including specifically and without limitation, any encroachments which may exist at this time or which may result from any shifting of the property, authorized reconstruction or alterations. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or the Apartment Units.

2.8 GOVERNMENTAL ASSESSMENT. Declarant shall give written notice to the Assessor's Office of the creation of condominium ownership of this property, as is provided by law, so that each Apartment Unit and its percentage of undivided interest in the Common Elements shall be deemed a separate parcel and subject to separate assessment and taxation.

2.9 USE RESTRICTIONS. The ownership interest of each Owner in his respective condominium unit and the estate therein, shall be subject to the terms, conditions and provisions hereof.

(a) The Condominium Units shall be used only for single family residential purposes, as private residence, and no professional, business or commercial use shall be made of the same, or any portion thereof; provided, however, that Declarant may use any of the Property as sales offices and/or furnished models and for display advertising signs and construction purposes at the premises during the Construction Period and for such time thereafter as is required for Declarant to sell all sixty (60) of the Condominium Units. No Owner or resident shall use a Condominium Unit in such a manner so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident.

(b) The parking spaces assigned to each Apartment Unit shall be used for the parking of operative vehicles only. Such parking area shall not be used for a storage area for parts, machinery, inoperative cars, or anything judged to be a nuisance by the Association or its appointed representative(s). No drilling, digging, quarrying, or mining operation of any sort shall be permitted on the Premises. No structure of a temporary character, trailer, basement, tent, shack, garden, barn, or other out buildings shall be used on the Premises at any time; provided, however, that Declarant may erect temporary structures for use in connection with the construction, renovation, and sale of the Condominium Units.

(c) No advertising signs (except "For Sale" of not more than five square feet per unit), billboards, unsightly objects, or nuisances shall be erected, displaced, or permitted to remain on the Premises.

(d) The foregoing covenants of subsection (b) and (c) of this paragraph 2.9, shall not apply to the activities of the Association or its appointed representatives. Declarant may maintain, during the Construction Period in or upon such portions of the Apartment Units or the Common Elements, as Declarant determines, such facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units and signs.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Apartment Unit, except dogs, cats or other common household pets (not to exceed a total of one (1) pet per Apartment Unit) may be kept provided that it is not kept, bred, or maintained for any commercial purposes. All permitted household pets shall be kept inside the Apartment Unit at all times, except that pets may be taken to areas designated by the Association (or Declarant during the Construction Period) if such pets are and remain leashed at all times when outside the Apartment Unit.

(f) All rubbish, trash, or garbage from a Condominium Unit shall be kept in the areas designated for such purposes by the Association, and shall be regularly removed from the Premises and shall not be allowed to accumulate thereon.

(g) Outdoor drying of clothes shall not be permitted.

(h) Without prior written authorization of the Association, no television or radio antennas of any sort shall be placed, allowed, or maintained on any portion of the exterior of the improvements located on the property, or any structure situated upon the property.

(i) No vehicle shall be parked in driveways. For a period not to exceed forty-eight (48) hours, guests and invitees of Owners may park their vehicles in the surface parking areas within the Common Areas provided for such purpose. Such surface parking areas are not intended for use for parking or storing boats, trailers, camping units, parts, machinery, inoperative or unlicensed cars, or anything judged to be a nuisance by the Association or its appointed representative(s), and the Association may insure the proper use of said areas in such legal manner as it deems necessary.

(j) Except in the individual patio and/or balcony areas appurtenant to an Apartment Unit, as designated on the plans of such unit, no planting, transplanting or gardening shall be done, and no fences, hedges or walks shall be erected or maintained upon the Premises, except as installed in accordance with the initial renovation of the building or as approved by Declarant during the Construction Period or the Association after said construction period.

(k) All floors and floor coverings installed in the second-story Units shall be approved by the Association for adequate sound control, prior to installation.

2.10 CHANGE OF COMMON ELEMENTS. During the Construction Period, Declarant shall retain and have the power to unilaterally amend the physical lay-out or makeup of any and all unsold buildings, Condominium Units, the Common Elements (both General and Limited) and to annex additional land and buildings, and Condominium Units to this condominium regime; however, in connection therewith, there shall be no change of pro rata interest or obligations of any or all units for purposes of determining ownership in the Common Elements, and for purposes of levying or determining assessment and charges and proceeds of the project; however, the power hereby retained by Declarant shall be subject to Declarant first obtaining the prior written approval of the holders of ninety percent of the first mortgage liens on the individual Condominium Units.

ARTICLE III

RIGHTS AND OBLIGATIONS OF OWNERSHIP

3.1 OWNERSHIP. A Condominium Unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

3.2 PARTITION. The Common Elements (both General and Limited) shall be owned in common by all of the Owners of the Condominium Units and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements other than that as specifically provided for hereinafter at Paragraph 6.2, "Judicial Partition". Nothing contained herein shall be construed as a limitation of the right of partition of a Condominium Unit between the Owners thereof, but such partition

shall not effect any other Condominium Unit

3.3 EXCLUSIVENESS OF OWNERSHIP. Each owner shall be entitled to exclusive ownership and possession of his Apartment Unit.

Each Owner may use the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

3.4 SINGLE FAMILY RESIDENTIAL DWELLING. Each Condominium Unit shall be occupied and used by the owner only as and for a single family residential dwelling for the Owner, his family, his social guests, or his tenants.

3.5 MECHANIC'S AND MATERIALMAN'S LIENS. No labor performed or materials furnished and incorporated in an Apartment Unit, notwithstanding the consent or at the request of the Owner thereof or his agent or his contractor or subcontractor, shall be the basis for filing of a lien against the Common Elements owned by such other Owners. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Apartment Unit of any other Owner or against the Common Elements for construction performed or for labor, materials, services or other products

incorporated in the Owner's Apartment Unit at such Owner's request.

3.6 RIGHT OF ENTRY. The Owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Managers of the Association, to have access to each Apartment Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Apartment Unit or Units.

3.7 OWNER MAINTENANCE. An Owner shall maintain and keep in repair the interior of his own Apartment Unit, including the fixtures thereof. All fixtures and equipment installed within the Apartment Unit, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Apartment Unit, and the air cooling and blowing unit connected therewith, and located on the exterior of the Apartment Unit, shall be maintained and kept in repair by the Owner thereof; and an Owner shall be obliged to promptly repair and replace any broken or cracked glass in windows and doors.

3.8 ALTERATION. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. For the purposes hereof, the placing of a waterbed anywhere on the Premises shall be deemed to be such an act as would impair the structural soundness and integrity of the building. No Owner shall in any way alter, modify, add to, or otherwise perform any work whatever upon any of the Common Elements, (Limited or General), save with the written consent or approval in writing by the Board of Managers or its designated agent, which approval shall not be considered until submission to the Board of Managers or its registered Agent of complete plans and specifications showing the nature, kind, shape, size, materials,

color and location of the same for all proposed work. During the Construction Period, Declarant shall be the designated agent of the Board of Managers, and Declarant shall have the sole right to approve or reject any plans and specifications submitted for consideration by an owner.

3.9 RESTRICTION OF OWNERSHIP. As a restriction of the ownership provisions set forth at 1.2(b), "Apartment Unit", hereinbefore, an Owner shall not be deemed to own the unfinished surfaces of the perimeter walls, floors, ceilings and roofs surrounding his Apartment Unit, nor shall such Owner be deemed to own the utilities running through his Apartment Unit which are utilized for, or serve more than, one Apartment Unit, except as a tenant-in-common with the Owners. An Owner shall be deemed to own and shall maintain the inner, finished surfaces of the perimeter and interior walls, floors, and ceilings, doors, windows, and other such elements consisting of paint, wallpaper, and other such finishing material.

3.10 LIABILITY FOR NEGLIGENT ACTS: In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, or guests, or invitees, and is not covered or paid for by insurance on such Apartment Unit, or the Common Elements, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Apartment Unit is subject, pursuant to Article IV hereof.

3.11 SUBJECT TO DECLARATION AND BY-LAWS. Each Owner shall comply strictly with the provisions of this Declaration, the By-Laws of University Park Place Owners' Association, as herein-after described in section 4.1 hereof, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or for injunctive relief, or both, maintainable by the Managing Agent or Board of Managers on behalf of the Owners or, in proper case, by an aggrieved Owner.

ARTICLE IV

MANAGEMENT AND ADMINISTRATION

4.1 The administration of this condominium property shall be governed by the By-Laws of University Park Place Owner's Association, a non-profit association, hereinafter referred to as the "Association". A copy of the By-Laws is hereto attached, marked Exhibit "C", and incorporated herein, and shall be deemed adopted by Declarant as sole owner of the property, and all owners shall be bound thereby. An Owner of a Condominium Unit, upon becoming an Owner, shall be a member of the Association and shall remain a member for the period of his ownership. Declarant shall, during the Construction Period, cause to be formed a Texas non-profit corporation bearing the same name, in which event such non-profit corporation shall adopt the By-Laws of the Association and shall thereafter act and do all things to be done by "Association", according to the By-Laws of the Association.

Association shall be managed by a Board of Managers, duly appointed or elected, pursuant to the terms and conditions of the By-Laws, and by the Managing Agent of the Association as chosen by the Board of Managers, pursuant to the By-Laws. However, until the end of the Construction Period, the rights, duties and functions of the Board of Managers shall, at Declarant's option, be exercised by Declarant, and said rights, duties and functions shall be assignable for said period of time.

4.2 SPECIFIC POWER TO RESTRICT USE AND ENJOYMENT.

Every owner and the Declarant shall have a beneficial interest of use and enjoyment in the Common Elements subject to the following limitations, restrictions and provisions:

- (a) The right of the Association to publish rules and regulations governing use of the Common Areas and the improvements and facilities located thereon, and to establish and enforce penalties for infractions thereof;
- (b) The right of the Association to charge reasonable admission, rental and other fees to Owners or guests, for the use of any facilities situated upon the Common Area; without limiting the generality of the foregoing;



- (c) The right of the Association to charge reasonable fees for the use of facilities within the Common Area if such facilities are not used by all members equally;
- (d) The right of the Association to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property; provided, however, that the rights of any such Mortgagee in such properties shall be subordinate to the rights of the Owners hereunder and in no event shall any such Mortgagee have the right to terminate the Condominium Regime established by this Declaration; and provided such loan or mortgage has been approved by two-thirds (2/3) vote of the quorum of owners, present at a meeting of the Association, specifically called for the purpose of approving any such loan or mortgage;
- (e) The right and duty of the Association to suspend the voting rights and the right to the use of the recreational facilities by an Owner for any period during which any assessment against the Owner's Condominium Unit remains unpaid; and for a period not to exceed thirty (30) days from any infraction of its published Rules and Regulations;
- (f) The right of Declarant during the Construction Period, or the Association after the Construction Period, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for the purposes and subject to the conditions of such agency, authority, or utility. No such dedication or transfer after the Construction Period shall be effective unless approved by two-thirds vote of the quorum of Owners, present at a meeting of the Association, specifically called for the purpose of approving any such dedication or transfer, and unless an instrument signed by the Board of Managers, reflecting such vote of the Owners, agreeing to such dedication, or transfer, has been duly recorded in the Condominium Records of Harris County, Texas;
- (g) The right of the Association to adopt, implement and maintain a private security system for the premises consistent with applicable laws;
- (h) The right of the Association to establish rules and regulations governing traffic within the Common Area, and to establish sanctions for any violation or violations of such rules and regulations;
- (i) The right of the Association to regulate noise within the Premises, including, without limitation, the right of the Association to require mufflers on engines and to prohibit the use of devices producing excessive noise;
- (j) The right of the Association to control the visual attractiveness of the properties, including, without limitation, the right to require Owners to eliminate objects which are visible from the common area and the visual attractiveness of the Property.

4.3 INSURANCE. The Managing Agent or Board of Managers shall keep the premises insured for fire, extended coverage, malicious mischief and vandalism, in an amount equal to the replacement value of such common elements, and shall obtain and

maintain, at all times, insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other apartment or condominium buildings, fixtures, equipment and personal property, similar in construction, design and use, issued by responsible insurance companies authorized to do business in the State of Texas. The Replacement Value, for the purposes hereof, shall be determined annually, by appraisals, as may be deemed prudent or necessary by the Board, one or more mortgagees, or the insurance underwriter. Further, the Managing Agent or Board of Managers shall obtain and maintain comprehensive liability insurance covering the entire premises, in amounts of not less than \$100,000.00 per person and \$300,000.00 per accident and \$1,000,000.00 property damages. The insurance shall be carried in blanket policy forms naming the ~~Managing Agent or Board of Managers of the Association and all~~ mortgagees as the insureds, which policy or policies shall identify the interest of each Condominium Unit Owner and which shall provide for a standard, noncontributory mortgage clause in favor of each first mortgagee. The proceeds of all insurance policies ~~owned by the Association shall be received by the Association,~~ held in a separate account, and distributed to the Owners, their mortgagees, and the Association (subject to the provisions of the Declaration, the Act, and the By-Laws) as their interests may appear. Each Owner irrevocably designates the Managing Agent and the Board of Managers as Attorney-in-fact for handling of the proceeds of such insurance, with such Attorney-in-fact administering and distributing such proceeds as is elsewhere provided in this Declaration. Such insurance policy shall also provide that it cannot be cancelled by either the insured or the insurance company until after sixty (60) days prior written notice to each first mortgagee. Said Managing Agent or Board of Managers shall, upon request of any first mortgagee, furnish a certified copy of each blanket policy and the separate certificate identifying the interest of the mortgagor.

Exclusive authority to adjust losses under policies hereafter in force in the project shall be invested in the Board of Managers or its authorized representative. In no event shall the insurance coverage obtained and maintained by the Board of Managers hereunder be brought into contribution with insurance purchased by the individual Owners or their mortgagees.

It shall be the individual responsibility of each Owner, at his own expense, to provide, as he sees fit, liability insurance, theft insurance, insurance on any interior fixtures, additions or betterments made by such Owner to his Apartment Unit, and other insurance covering personal property damage and loss, provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Board of Managers, in behalf of all of the Owners, may realize under any insurance policy which the Board of Managers may have in force on the project at any particular time.

4.4 ACCOUNTING AND AUDIT PROCEDURES. The Board of Managers, or the Managing Agent, shall keep, or cause to be kept, a book with a detailed account of the receipts and expenditures affecting the common elements and their administration, and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the Association. Both the book and vouchers accrediting the entries made thereon shall be available for examination by the Owners at reasonable hours on business days. All books and records shall be kept in accordance with standard accounting procedures consistently applied, and shall be audited at least once a year by an auditor outside of the organization.

ARTICLE V

MAINTENANCE ASSESSMENT

5.1 ASSESSMENTS. All Owners shall be obligated to pay the estimated assessments imposed by the Board of Managers or Managing Agent of the Association to meet the Common Expenses. The assessments shall be made pro rata according to each Owner's percentage interest in and to the Common Elements. Assessments for the estimated Common Expenses shall be due monthly in advance on or before the fifth day of each month. Failure to pay by the fifteenth day of each month shall require the imposition and assessment of a late charge of \$5.00. Contribution for monthly assessments shall be pro rated if the ownership of a Condominium Unit commences on a day other than on the first day of a month.

5.2 PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the residents in the Property and in particular for the improvement, maintenance and preservation of the Property, services, and facilities devoted to said purposes and related to the use and enjoyment of the Common Elements, and of the Apartment Units situated upon the Property. Such uses must include, but are not limited to, the cost to the Association of the following: all insurance, repair, replacement and maintenance of the Common Elements; fire, extended coverage, vandalism, malicious mischief, and liability insurance for the Condominium Units; management costs, taxes, legal and accounting fees as may from time to time be authorized by the Association; construction of other facilities; maintenance of easements upon, constituting a part of, appurtenant to or for the benefit of the Property; mowing grass, caring for the grounds, landscaping, caring for the swimming pools, and equipment, roofs and exterior surfaces of all Buildings, and carports; garbage pickup; pest control, streets; outdoor lighting; security service for the Property; water, sewer, electrical and gas service(s) furnished to the Property by or through

the Association; discharge of any liens on the Common Elements; and other charges required by this Condominium Declaration, or other charges that the Association is authorized to incur which the Association shall determine to be necessary or desirable to benefit the Owners, including the establishment and maintenance of a reserve for repair, maintenance, and other charges as specified herein.

5.3 DETERMINATION OF ASSESSMENTS. The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent or Board of Managers of the Association shall from time to time determine is to be paid by all of the Owners, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Elements, which sum may include, among other things, cost of management, taxes, assessments, fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached, issued in the amount of the maximum replacement value of all of the Condominium Units, casualty and public liability and other insurance premiums, landscaping and care of grounds, common lighting, repairs and renovations, garbage collections, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Managers under or by reason of this Declaration, expenses incurred in the operation and maintenance of recreation and administrative facilities, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus funds as well as other costs and expenses relating to the Common Elements. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification, or a release of the Owners from the obligation to pay. However, such assessments shall not exceed the monthly assessment as hereinafter provided in Paragraph 5.4.

#### 5.4 MONTHLY ASSESSMENTS.

(a) Until January 1st of the year immediately following the conveyance of the first Condominium Unit to an Owner other than the Declarant, the monthly assessments shall be as specified on Exhibit "B", attached hereto and incorporated herein by reference for all purposes.

(b) From and after January 1st of the year immediately following the conveyance of the first Condominium Unit to an Owner, other than the Declarant, the Board of Managers may set the Monthly Assessment for the next succeeding twelve (12) month period at an amount which shall not exceed one hundred ten percent (110%) of the Monthly Assessment allowed for December of the preceding year. If the Board determines that a greater increase of the Monthly Assessment is required to adequately perform the duties and responsibilities of the association and pay all expenses thereof, then the Board may call a special meeting of the owners. By the assent of a two-thirds (2/3) vote of the quorum of owners, present at such meeting, the monthly assessment may be set at whatever level such owners approve. The new assessment shall become the basis for future annual increases, using the one hundred ten (110%) percent formula as above outlined.

(c) The Board of Managers shall have authority to lower the monthly assessment, if it deems such feasible.

5.5 SPECIAL ASSESSMENTS FOR IMPROVEMENTS. In addition to the annual assessments authorized above, the association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of improvements upon the Common Area, or for any other purposes of the Association, including the necessary fixtures and personal property related thereto, provided that any such assessment shall be approved by two-thirds (2/3) of the aggregate of the quorum of owners voting in person or by proxy at a meeting duly called for this purpose.

5.6 COMMENCEMENT OF ASSESSMENTS. The monthly assessments provided for herein shall commence as to all Condominium Units on the first day of the month following the conveyance of the first unit to an Owner other than Declarant. The Board of Managers shall fix the amount of the monthly assessment against each unit at least thirty (30) days prior to January 1 of each year, provided, however, that the Board of Managers shall have a right to adjust the monthly assessment, as long as any such adjustment does not exceed the maximum permitted hereunder, with thirty (30) days written notice given to each Owner. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Managers and, unless otherwise provided or unless otherwise agreed by the Board, the Board shall collect the assessments monthly from the owner of each Condominium Unit.

5.7 NO EXEMPTION. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements, or by abandonment of his apartment.

5.8 LIEN FOR ASSESSMENTS. All sums assessed but unpaid for the share of Common Expenses chargeable to any Condominium Unit, including interest thereon at ten percent per annum, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:

(a) All taxes and special assessments levied by governmental and taxing authorities, and

(b) All liens securing sums due or to become due under any mortgage, vendor's lien or deed of trust filed for record prior to the time such pro rata share of costs, charges, expenses and/or assessments become due.

To evidence such lien the Board of Managers or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the

name of the Owner of the Condominium Unit, and a description of the condominium unit. Such a notice shall be signed by one of the Board of Managers or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of Harris County, Texas. Such lien for the Common Expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

The amount of the Common Expenses assessed against each Condominium Unit shall also be a debt of the Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a Condominium Unit may pay any unpaid Common Expense payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

5.9 SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by the owner of any Condominium Unit to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such



unit. Sale or transfer of any Unit shall not affect the assessment lien; provided, however, that the sale or transfer of any Condominium Unit pursuant to a foreclosure under such purchase money or improvement mortgages or deeds of trust, or the acceptance by any such first mortgagee of the deed in lieu of foreclosure thereon, shall extinguish the lien of such assessments as to payments thereof coming due prior to such sale or transfer. No sale or transfer shall relieve such Condominium Unit, or the owners thereof, from liability for any assessments thereafter becoming due or from the lien thereof.

5.10 STATEMENT OF ASSESSMENTS. Upon the written request of any Owner or any encumbrancer or prospective encumbrancer of a Condominium Unit, the Association, by its Managing Agent or Board of Managers, shall issue a written statement setting forth the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessments and the date that such assessment becomes due, credit for advance payments or for prepaid items, including, but not limited to, insurance premiums, which shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid assessments which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

Upon the sale or conveyance of a Condominium Unit, all paid assessments against the Owner for his prorata share of the Common Expenses shall first be paid out of the sale price and by the purchaser in preference over any other assessments or charges of whatever nature except the following:

- (a) Assessments, liens, and charges in favor of the State and any political subdivision thereof for taxes past due and unpaid on the condominium; and
- (b) Amounts due under mortgage instruments duly recorded.

The Purchaser, Donee, or other transferee of a Unit, by deed or other writing, (herein called "Grantee"), shall be jointly and severally liable with the Seller or Donor of such unit, (herein called "Grantor"), for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee. The Grantee, shall be entitled to a statement from the Managing Agent or Board of Managers, setting forth the amount of the unpaid assessment, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association. Unless such request for a statement of indebtedness shall be complied with within ten days of such request, then such Grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the subject Condominium unit accruing prior to such ten (10) day period.

ARTICLE VI

DESTRUCTION OR OBSOLESCENCE OF IMPROVEMENTS

6.1 DESTRUCTION OR OBSOLESCENCE. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any Grantee of a deed from the Declarant or from any Owner shall constitute appointment of the attorney-in-fact herein provided.

All of the Owners irrevocably constitute and appoint The University Park Place Owner's Association, or its successor non-profit corporation, their true and lawful attorney in their name, place, and stead, for the purpose of dealing with the Property upon its destruction or obsolescence as is hereafter provided. As attorney-

in-fact, the Association, by its authorized Officer, shall have full and complete authorization, right and power to make, execute

and deliver any contract, deed or any other instrument with respect to the interest of a Condominium Unit Owner which are necessary and appropriate to exercise the powers herein granted.

Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to

substantially the same conditions in which it existed prior to the damage, with each Apartment Unit and the Common Elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements unless 90% of the Owners and 90% of the first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed.

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than sixty-six and two-thirds percent (66-2/3%) of all of the principal structures erected upon the land, as determined by the Board of Managers, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the Owners and their Condominium Units. Such deficiency assessment shall be a common expense made pro rata according to each Owner's percentage interest in and to the Common Elements and shall be due and payable within thirty days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a Lien on his Condominium Unit and may be enforced and collected as is provided in Article V hereof. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency of the assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in following order:

- (1) For payment of the balance of the lien of any first mortgage;
- (2) For payment of taxes and special assessments liens in favor of any assessing entity;
- (3) For payment of unpaid Common Expenses;
- (4) For payment of junior liens and encumbrances in the order of any to the extent of their priority; and
- (5) The balance remaining; if any, shall be paid

to the Condominium Unit Owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than sixty-six and two-thirds percent (66-2/3%) of the principal structures erected upon the land, as determined by the Board of Managers, and if the Owners representing the aggregate ownership of sixty-six and two-thirds percent (66-2/3%) of the Common Elements or more, do not voluntarily, within one hundred days thereafter, make provision for reconstruction, which plan must have the approval or consent of 90% of the first mortgagees, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire remaining Premises shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Plans and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Apartment Owner's interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into sixty (60) separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the number of the Apartment Unit and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from any account to another, toward the full payment of the lien of any first mortgage against the Condominium Unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each Condominium Unit Owner's percentage interest in the Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this heading, "6.1. DESTRUCTION OR OBSOLESCENCE."

(d) If the Owners representing an aggregate ownership interest of sixty-six and two-thirds percent (66-2/3%) of the Common Elements, or more, adopt a plan for reconstruction, which plan has the approval of 90% of the first mortgagees, then all of the Owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a Common Expense and made pro rata according to each Owner's percentage interest in the Common Elements and shall be due and payable as provided by the terms of such plan but not sooner than thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in paragraph "5.10. LIENS FOR ASSESSMENTS." herein. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this heading, paragraph "6.1. DESTRUCTION OR OBSOLESCENCE".

(e) The Owners representing an aggregate ownership interest of sixty-six and two-thirds percent (66-2/3%) of the Common Elements or more, may agree that the Common Elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be payable by all of the Owners as Common Expenses.

(f) The Owner's representing an aggregate ownership interest of eighty percent (80%) of the Common Elements, or more, may agree that the Property is obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's authorized Officers, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Plans and the By-Laws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's percentage interest in the Common Elements, and such apportioned proceeds shall be paid into sixty (60) separate accounts, each such accounts representing one Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Apartment and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of each of such funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this Article.

6.2 JUDICIAL PARTITION. There shall be no judicial partition of the project or any part thereof, nor shall Declarant or any person acquiring any interest in the project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 6.1 hereof in the case of damage or destruction or unless the property has been removed from the provisions of the Texas Condominium Act; provided, however, that if any Condominium Unit shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants. But such partition shall not affect any other Condominium Unit.

6.3 EMINENT DOMAIN. In the event of any taking of any Condominium Unit, by eminent domain, or private purchase in lieu thereof, the Owner of such Unit and his mortgagee shall be entitled to receive the award for such taking and, after acceptance thereof, if such Owner shall vacate his Unit by virtue of such taking, he and his mortgagee shall be divested of all interest in his Condominium Unit and all rights, titles and interests appurtenant thereto and shall be relieved of any obligations accruing or appertaining to such ownership thereafter.



ARTICLE VII

RIGHT OF FIRST REFUSAL

7.1 SALE OR LEASE RIGHT OF FIRST REFUSAL. In the event any Owner of a Condominium Unit shall wish to resell the same or lease the same, and shall have received a bona fide offer therefor from a prospective purchaser or tenant, the Managing Agent shall be given written notice thereof together with an executed copy of such offer and the terms thereof. The Association, through the Board of Managers, or a person named by them shall have the right to purchase or lease the subject Condominium Unit upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase or lease is given to the selling or leasing Owner, and a matching down payment or deposit is provided to the selling or leasing Owner during the fifteen (15) day period immediately following the delivery of the notice of the bona fide offer and copy thereof to purchase or lease.

In the event any Owner shall attempt to sell or lease his Condominium Unit without affording to the other Owners the right of first refusal herein provided, such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee.

The said subleasing of said interest shall be subject to the same limitations as are applicable to the leasing thereof. The liability of the Owner under these covenants shall continue, notwithstanding that fact that he may have leased said interest as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an Owner to subject his condominium to a trust deed, mortgage or other security instrument, or any renewal or extension thereof.

The failure of or refusal by the Board of Managers to exercise the right to so purchase or lease shall not constitute

or be deemed to be a waiver of such right to purchase or lease when an Owner receives any subsequent bona fide offer from a prospective purchaser or tenant.

7.2 MORTGAGES NOT AFFECTED BY RIGHT OF FIRST REFUSAL. In the event of any default on the part of any Owner under any first mortgage made in good faith and for value, which entitled the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Paragraph 7.1 and the purchaser (or grantee under such deed in lieu of foreclosure) of such Condominium Unit shall be thereupon and thereafter subject to the provisions of this Declaration. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the mortgage, or its nominee, the same holder or nominee may thereafter sell and convey the Condominium Unit free and clear of the provisions of Paragraph 7.1, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

The transfer of a deceased joint tenant's interest to the surviving joint tenant or the transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws shall not be subject to the provisions of Paragraph 7.1.

If an Owner of a Condominium Unit can establish to the satisfaction of the Board of Managers that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of Paragraph 7.1.

7.3 CERTIFICATE OF SATISFACTION OF RIGHT OF FIRST REFUSAL. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any Condominium Unit, the Board of Managers shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

- (a) With respect to a proposed lease or sale under Paragraph 7.1, that proper notice was given by the selling or leasing Owner and that the remaining Owners did not elect to exercise their option to purchase or lease;
- (b) With respect to a deed to a mortgagee or its nominee in lieu of foreclosure, and a deed from such mortgagee or its nominee, pursuant to Paragraph 7.2, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Paragraph 7.1.
- (c) With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer is not or will not be subject to the provisions of Paragraph 7.1; such a certificate shall be conclusive evidence of the facts contained therein.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.1 AMENDMENT. Subject to the provisions of Paragraph 2.10 and 8.2 hereof, neither this Declaration nor the Condominium Regime created hereby, shall be vacated, waived, revoked, abandoned or terminated, nor shall the pro rata percentage of an Owner in the Common Elements nor the dimensions of any Condominium Unit be changed, nor shall the Common Elements be abandoned, partitioned, subdivided, encumbered, sold or transferred, nor shall any other provision of this Declaration be amended unless the Owners representing an aggregate ownership interest of ninety per cent (90%) of the Common Elements, agree to such action, unless such action is allowed by a lesser percentage as specified in this Declaration, or such action requires a greater percentage under the Act. However, no amendment shall affect Declarant's right to exercise the duties and functions of the Board of Managers as allowed by Paragraph 4.1 hereof or alter or amend the rights given to Declarant in Paragraph 2.10 hereof.

8.2 OWNERSHIP OF COMMON PERSONAL PROPERTY. Upon termination of the Construction Period as defined herein Declarant shall execute and deliver a bill of sale to the Association transferring all items of personal property located on the entire premises and furnished by Declarant, which property is intended for the common use and enjoyment of the Condominium Unit Owners and occupants. No Owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the Owner's termination of possession of his Condominium Unit.

8.3 CHANGE IN DOCUMENTS. The holder of any mortgage covering any of the Condominium Units shall be entitled to a written notification from the Association thirty (30) days prior to the effective date of any change in the condominium documents.

8.4 NOTICE. All notices, demands or other notices intended to be served upon an Owner shall be sent by ordinary or certified

mail, postage prepaid, addressed in the name of such Owner in care of the apartment number and building address of such Owner. All notices, demands or other notices intended to be served upon the Managing Agent or the Board of Managers of the Association or the Association, shall be sent by ordinary or certified mail, postage prepaid, to the Association, c/o Mary Callahan, 5353 Institute, Apartment No. 1, Houston, Texas 77005, until such address is changed by a notice of address change duly recorded in the Harris County Condominium Record.

8.5 INVALIDATION OF PARTS. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

8.6 TEXAS CONDOMINIUM ACT. The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Texas and to all other provisions of law.

8.7 GENDER. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, Declarant by its corporate officers, has duly executed this Declaration this 11<sup>th</sup> day of October, 1976.

ATTEST:

WHITE OAK DEVELOPMENT CORPORATION

By:

M. P. Morris  
M. P. MORRIS, Secretary

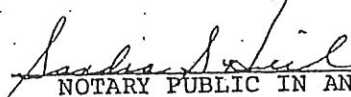
By:

John F. Preston, III  
JOHN F. PRESTON, III, President

STATE OF TEXAS       §  
                              §  
COUNTY OF HARRIS   §

BEFORE ME, the undersigned authority, on this day personally appeared JOHN F. PRESTON, President of WHITE OAK DEVELOPMENT CORPORATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 11<sup>th</sup> day of October, 1976.

  
NOTARY PUBLIC IN AND FOR  
HARRIS COUNTY, TEXAS  
SANDRA S. HEIB  
Notary Public in and for Harris County, Texas  
My Commission Expires 2-19-78

CONSENT OF MORTGAGEE

The undersigned, SOUTHWESTERN SAVINGS ASSOCIATION, being the owner and holder of an existing mortgage and liens upon and against the land and property described as the real property in the foregoing Declaration as such mortgagee and lienholder does hereby consent to said Declaration and Exhibits "A", "B" and "C" attached hereto, and to the recording of same for submission of said property to the provisions and condominium regime of the Texas Condominium Act.

This consent shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the individual condominium units and all appurtenances thereto, and all of the undivided shares and interests in the Common Elements of the property described in the Declaration and of said condominium regime established by said Declaration.

SIGNED AND ATTESTED by the undersigned officers of said SOUTHWESTERN SAVINGS ASSOCIATION, hereunto authorized, this the 15<sup>th</sup> day of September, 1976.

ATTEST:

SOUTHWESTERN SAVINGS ASSOCIATION

L. Halley Sauer  
Assistant Secretary

By:

Charles W. Patterson  
Charles W. Patterson  
Senior Vice President

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared CHARLES W. PATTERSON, Senior Vice President of SOUTHWESTERN SAVINGS ASSOCIATION, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 15<sup>th</sup> day of September, 1976.

Nancy S. Andress  
Notary Public in and for  
Harris County, T E X A S

NANCY S. ANDRESS  
Notary Public in and for Harris County, Texas  
My Commission Expires June 1, 1977