

DEDICATION AND RESTRICTIVE COVENANTS
FOR THE PRESTON POINTE ADDITION TO THE CITY
OF PLANO, COLLIN COUNTY, TEXAS

THIS DEDICATION AND RESTRICTIVE COVENANTS is executed as of the date hereinafter set forth by MIDWAY DEVELOPMENT COMPANY, a Texas general partnership (hereinafter referred to as "Developer"). This instrument constitutes the initial statement of the Dedication and Restrictive Covenants for the Preston Pointe Addition to the City of Plano, Collin County, Texas, and any declaration, amendment or restatement of such which does not expressly reference this instrument shall be invalid and void;

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property in Plano, Collin County, Texas, known as Preston Pointe, and being more particularly described on Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"); and

WHEREAS, Developer intends to develop the Property for the construction of patiohomes. The development will consist of 98 patiohomes, sites, and ^{three (3)} ~~four (4)~~ common areas.

NOW, THEREFORE, Developer does hereby dedicate, establish and declare that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, reservations and liens, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1 "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein

before doing, making or suffering that for which such approval or consent is required.

Section 1.2 "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, filed for record with the Secretary of State of the State of Texas.

Section 1.3 "Assessment" shall mean and refer to an assessment levied, charged or assessed against an Owner and/or his Lot in accordance with the provisions of this Dedication, including any Special Assessment.

Section 1.4 "Association" shall mean and refer to PRESTON POINTE HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation, its successors and assigns.

Section 1.5 "Board" shall mean and refer to the Board of Directors of the Association as the same may from time to time be constituted.

Section 1.6 "Building" shall mean and refer to any building or structure which is part of the Improvements on the Property.

Section 1.7 "Bylaws" shall mean and refer to the Bylaws of the Association, duly adopted by the Association.

Section 1.8 "Common Area" shall mean and refer to all areas of the Property intended to be devoted to the common use and enjoyment of the Owners, namely, those portions of the Property which are designated on the plat as Block B, Lot 25; Block C, Lot 20; Block D, Lot 36; ~~and Block E, Lot 1;~~ and any areas similarly indicated on any amended or future plat of the Property or portion thereof, as well as any real property conveyed to the Association pursuant to Section 3.3.

Section 1.9 "Common Funds" shall mean and refer to all funds collected or received by the Association, including, but not limited to, the proceeds from insurance carried or obtained by the Association which are payable to or received by the Association as trustee for the benefit of the Owners or otherwise.

Section 1.10 "Dedication" shall mean and refer to this instrument as the same may be amended, changed or modified from time to time.

Section 1.11 "Developer" shall mean and refer to Midway Development Company, a Texas general partnership, its successors and assigns, including, but not limited to, a person or entity who acquires all or substantially all of the Property owned by Developer, together with Developer's rights under the Dedication, by conveyance or assignment from Developer or by judicial or nonjudicial foreclosure sale, for the purpose of then holding the Lots on the Property for sale to the public. Developer may assign its rights and obligations hereunder with respect to portions of the Property without assigning such rights and obligations with respect to other portions of the Property. Upon the assumption of the obligations herein contained (or any part thereof) by any assignee as evidenced by a written document to be recorded in the Deed Records of Collin County, Texas, the obligations of Midway Development Company hereunder so assigned shall cease and terminate.

Section 1.12 "Development" shall mean and refer to the Property and all improvements together with all of the appurtenances and facilities thereof.

Section 1.13 "Guarantor" shall mean and refer to any guarantor of a first lien Mortgage on any Lot in the Development.

Section 1.14 "Improvements" shall mean and refer to all improvements now or hereafter constructed on the Property.

Section 1.15 "Insurer" shall mean and refer to any insurer of a first lien Mortgage on any Lot in the Development.

Section 1.16 "Lot" shall mean and refer to the Lots, as indicated on the plat of Preston Pointe, which have been subjected to this Dedication, and any Lots similarly indicated

on any amended or future Plat of the Property or any portion thereof.

Section 1.17 "Manager" shall mean and refer to any Person appointed or employed by the Association or its Board of Directors to operate, maintain and manage the Development.

Section 1.18 "Member" shall mean any person and/or entity who owns a fee interest in a Lot, located or to be located on any part of the Property.

Section 1.19 "Membership" is defined in Article IV.

Section 1.20 "Mortgage" shall mean and refer to any security device (including a deed of trust) encumbering all or any portion of a Lot in the Development which secures a loan or any other obligation, monetary or otherwise.

Section 1.21 "Mortgagee" shall mean and refer to the record owner of a beneficial interest in a Lot under a first lien Mortgage.

Section 1.22 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers but excluding those having such interest merely as security for the performance of an obligation, provided that the purchaser at a foreclosure sale or trustee's sale shall be deemed an Owner.

Section 1.23 "Person" shall mean an individual, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 1.24 "Private Street" shall mean any street, lane, drive, boulevard, cul-de-sac or parking area, or which is shown on any amended or future plat of the Property or any portion thereof.

Section 1.25 "Property" shall mean and refer to that certain real property described in Exhibit "A" attached hereto.

ARTICLE II

USE RESTRICTIONS

Use by Developer and Association. Notwithstanding anything herein to the contrary, the Developer, its agents, and employees, expressly reserves unto itself the right to make, or grant to others, such temporary use of the Property and the Common Area as is reasonably necessary to (i) facilitate and complete the improvement and sale of lots and/or Patiohomes, (ii) facilitate and complete the construction, excavation, grading and/or completion of any additional landscaping, and storage facilities and/or recreational facilities for the Development together with alterations and interior decoration in and to unsold or model Patiohomes, (iii) construct model Patiohomes and use such models for sales purposes, (iv) the reasonable use of the Common Area in connection with any sales program, and (v) the reasonable display of signs in aid of the sale of any unsold Lots. In addition, the Association, its Board, officers, Manager and his staff, shall have the right to make permanent use of the Property and the Common Area, including parking areas, storage areas and office areas and space reasonably necessary for use in connection with the operation and maintenance of the Development.

ARTICLE III

PROPERTY RIGHTS

Section 3.1 Owners' Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights:

(a) The right of the Association to suspend the right to use of the Common Area by an Owner (or his family or guests) for any period during which any assessment against his Lot remains unpaid, and for a period to be determined by the Board of Directors of the Association for an infraction

of its published rules and regulations by an Owner or his family or guests;

(b) The right of the Association to grant permits, licenses and easements over the Common Area to any public agency, authority, or utility for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Development;

(c) The right of the Association to make such rules and regulations regarding the use of the Common Area located thereon by the Members and other persons entitled to such use, including but not limited to restrictions of the number of guests who may use the Common Areas and the parts of the Common Area such guests may use;

(d) The right of the Association to borrow money for the purpose of improving the Common Area, constructing new facilities thereon or performing the maintenance obligations and providing the services set forth in Article VI hereof, and in connection therewith to mortgage the Common Area or portions thereof, provided, however, that after the Transfer of Control described in Section 4.1 hereof, prior to placing any mortgage or deed of trust on the Common Area or portions thereof, the Association shall first obtain the consent of at least sixty-seven percent (67%) of all Mortgagees and at least sixty-seven percent (67%) of all Lot Owners; however, consent shall not be required to be obtained from the identical Lot Owners or Mortgagees.

Section 3.2 Delegation of Use. In accordance with such reasonable rules and regulations as the Association may promulgate from time to time, any Owner may permit the members of his immediate family (that is, spouse, children, grandchildren and parents), and the number of guests permitted by such rules to use the Common Area, and may delegate in accordance with such rules and regulations his right to use the Common Area to his tenants or contract purchasers who reside on his

Lot. Such delegation shall be evidenced by a written instrument, a copy of which shall be furnished to the Association. Following any such delegation to tenants or contract purchasers residing on his Lot, the Owner shall no longer be entitled to the use of the Common Area, and only those people residing on his Lot shall be entitled to the use of the Common Area.

Section 3.3 Contributed Lots. Following the filing of this Dedication in the Deed Records of Collin County, Texas, but prior to the sale of any Lot on the Property, Developer shall convey to the Association Lot 25, Block B; Lot 20, Block C; Lot 36, Block D; ~~and Lot 1, Block E~~ (hereinafter referred to as the "Contributed Lots"), as such Lots are designated on the plat of Preston Pointe. Conveyance of the Contributed Lots shall be by Special Warranty Deed and shall be subject to all matters of record. Following such conveyance of the Contributed Lots to the Association, the Contributed Lots shall be part of the Common Area.

Section 3.4 Development of Common Area. Developer shall have the right, at its expense, to construct Improvements on the Common Area at any time prior to the Transfer of Control. Until the Transfer of Control, Developer shall have the exclusive use and control of the Common Area, except that the Owners shall have the reasonable right of access over and along the portions of the Common Area serving as streets, driveways, sidewalks or parking areas, and shall further have the right to use all completed facilities on the Common Area subject to such reasonable rules, regulations and fees as may be established therefor by Developer. During the period of time prior to the Transfer of Control, Developer shall, at its expense, maintain the Common Area and any Improvements thereon in good condition and repair, and all Annual Assessments collected by the Association shall be paid to Developer as reimbursement for its cost of maintaining the Common Area and any Improvements thereon. At the time of the Transfer of

Control, the Common Area shall be in good condition and repair, and free of outstanding mortgages, deeds of trust or security agreements except for those mortgages, deeds of trust and security agreements which secure construction financing or permanent financing on the Development; and Developer shall render a complete and accurate accounting of its handling of Assessments prior to the Transfer of Control, and shall deliver all books of account and written documents with respect to the operation of the Common Area prior to the Transfer of Control.

Section 3.5 Ownership of Association Property. Ownership of each Lot shall include an undivided ownership interest in those portions of the Development which are owned by the Association; and the undivided ownership interest in such portions which is appurtenant to each Lot shall be equal to the undivided ownership interest in such portions which is appurtenant to each other Lot.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.1 Membership. Each Person (including the Developer) who is record owner of any Lot shall have one "Membership" in the Association for each Lot he owns, regardless of the number of Persons who hold an interest in said Lot (in other words, if two or more Persons are the record owners of one Lot, then such Persons shall, in any case, own only one Membership in the Association). Each Owner shall provide the Secretary of the Association with the name of such Owner, his address and telephone number. The foregoing sentence is not intended to include Persons who hold a vendor's lien, deed of trust lien or other security interest in a Lot, until such persons become the record Owner of such Lot. The Membership shall be appurtenant to and may not be separated from record ownership of any Lot, and the transfer of any Membership not made as part of a sale of a Lot shall be null and void.

Ownership of a Lot shall be the sole qualification for being a Member of the Association.

Two Classes of Membership. The Association shall have two (2) classes of Membership:

Class A: Class A Member(s) shall be all Owners (with the exception of the Developer until conversion of the Class B Membership into Class A Membership as hereafter provided), and shall be entitled to one vote for each Lot owned. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B Member(s) shall be the Developer and shall be entitled to ten (10) votes for each Lot owned.

The Class B Membership shall cease and be converted to Class A Membership (such conversion being referred to herein as the "Transfer of Control") on the happening of either of the following events, whichever occurs earlier:

(i) one hundred and twenty (120) days after the total votes outstanding in the Class A Membership equal or exceed the total votes outstanding in the Class B Membership, or

(ii) ten (10) years following the earliest date upon which ownership of any Lot becomes vested in Person(s) other than Developer.

Section 4.2 Owner's Right to Vote. Each Owner shall have the right to vote, in person or by proxy, his Memberships in the Association. When more than one Person owns an interest in any Lot, all such Persons shall be Members, but only one Membership shall be voted for each Lot. The method of voting a Membership owned by more than one Person shall be as such Persons shall decide among themselves.

Section 4.3 Additional Remedies. In addition to the remedies provided in Section 5.7, the Board of Directors may suspend the voting rights of any Member for any period during which any assessment against his Lot remains unpaid.

ARTICLE V

COVENANT FOR MAINTENANCE AND ASSESSMENTS

Section 5.1 Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) "Annual Assessments" described in Section 5.2,
and
- (2) "Special Assessments" described in Section 5.4,
such assessments to be established and collected as
hereinafter provided.

Past due Annual Assessments and Special Assessments shall bear interest from the date they are due at the lesser of (i) the rate set by the Board of Directors, or (ii) the maximum rate permitted by Law. The Annual Assessments and Special Assessments, together with interest, costs and reasonable attorney's fees incurred in collecting any such Assessments shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. The obligation to pay such Assessments being part of the purchase price of each Lot, such lien shall be superior and paramount to any homestead or other exemption provided by law, and each Owner of a Lot by accepting the deed therefor, whether or not it shall be so expressed in such deed, hereby specifically waives his homestead exemption, but only with respect to such lien. Each such Assessment, together with interest, costs and reasonable attorney's fees incurred in collecting any such Assessment shall also be the personal obligation of the person who was the Owner of such property at the time when

the Assessment fell due, and no transfer of the property by such Owner shall relieve such Owner of said personal obligation. The personal obligation for delinquent Assessments shall not pass to any Owner's successor in title unless expressly assumed by him, but, nevertheless the lien as to such Assessments shall continue to be a lien upon the Lot as above provided. Each Owner agrees upon request of the Board of Directors to execute and deliver to the Association in recordable form, a deed of trust covering the Lot owned by him to secure such Assessment lien. Notwithstanding anything to the contrary, such Assessment lien shall constitute a lien on such Lot superior and prior to any and all liens and encumbrances, whether recorded or not, except only for:

(1) Tax and special assessment liens in favor of the State of Texas, any political subdivisions thereof, any special improvement districts and any other taxing or assessing authority, and

(2) All sums unpaid on a first Mortgage which was recorded before the Assessment became delinquent, including all unpaid obligatory sums as may be provided by such encumbrance, and including additional advances made thereon prior to the arising of such a lien.

In the event of nonpayment of any such Assessment, such lien for nonpayment of Assessments, together with interest, costs and reasonable attorney's fees incurred in collecting any such Assessment may be enforced by the Board of Directors, such foreclosure sale to be conducted in accordance with the provisions of law applicable to the exercising of powers of sale or foreclosure in deeds of trust or in any manner permitted by law. In any such foreclosure or sale, the Owner shall be required to pay the costs and expenses of such sale and other proceedings, including reasonable attorney's fees.

Section 5.2 Purpose of Assessments. Annual Assessments levied by the Board of Directors shall be used exclusively to

promote the recreation, health, safety and welfare of the residents in the Property and for the improvement, replacement and maintenance of the Common Area, and, to the extent herein specified, the Patiohomes situated upon the Lots, including without limitation, the following:

(a) maintaining adequate reserves for effecting repairs, replacements and additions to the Common Area and performing all maintenance duties and providing all services specified in Article VI of this Dedication;

(b) paying ad valorem and other property taxes and assessments levied on the Common Area;

(c) contracting for such employees and independent management necessary or appropriate to the operation and maintenance of the Common Area and supervision thereof and the performance of all duties and the providing of all services specified in Article VI of this Dedication; specifically, the Association may contract with any person or entity, including Developer, for the performance of all or any portion of the duties of the Association provided herein;

(d) obtaining utility services for the Common Area; and

(e) obtaining general public liability insurance, property damage insurance and fire and extended coverage insurance in accordance with Article IX of this Dedication.

Section 5.3 Maximum Annual Assessment. The Maximum Permitted Annual Assessment for the first calendar year in which Annual Assessments commence shall be ONE HUNDRED TWENTY AND 00/100 DOLLARS (\$120.00) per year per Lot, being TEN AND 00/100 DOLLARS (\$10.00) per month per Lot.

(a) The Maximum Permitted Annual Assessment (but not necessarily the actual Annual Assessment) shall be increased each calendar year, effective January 1 of such year, by an amount equal to fifteen percent (15%) of the previous year's Maximum Permitted Annual Assessment.

(b) Within fifteen (15) days prior to the beginning of each calendar year and after consideration of current maintenance and replacement costs and a reasonable reserve for contingencies of the Association, the Board of Directors shall estimate and fix the actual Annual Assessment at an amount not in excess of the Maximum Permitted Annual Assessment as determined hereinabove. The Association shall then notify each Owner of the amount of the actual Annual Assessment which shall be due and payable in equal monthly installments on or before the first day of each calendar month beginning January 1 of such calendar year. In the event the amount of the actual Annual Assessment proves to be inadequate at any time during the course of a calendar year, the Board of Directors of the Association may increase the amount of the actual Annual Assessment up to the Maximum Permitted Annual Assessment for such year. Correspondingly, if the amount of the actual Annual Assessment is creating a surplus in excess of that necessary as a reserve for contingencies, the Board of Directors of the Association may decrease the actual Annual Assessment. In either such event, the Association shall notify each Owner of the amount of the new actual Annual Assessment and each Owner shall be obligated to pay monthly installments for the remainder of the calendar year in which such increase or decrease in the actual Annual Assessment was made, in an amount adjusted to reflect the new rate of the actual Annual Assessment so established by the Board of Directors.

(c) If at any time the Board of Directors of the Association feels that the Maximum Permitted Annual Assessment is inadequate to fulfill the functions of the Association, it shall duly call a meeting of the Association for the purpose of increasing the Maximum Permitted Annual Assessment. At such meeting, the Maximum Permitted Annual Assessment may be increased by vote of Members holding at least sixty-seven

percent (67%) of the total votes of those Members in attendance. Such increase shall continue until Members holding at least sixty-seven percent (67%) of the total votes of those Members in attendance at a meeting duly called for that purpose shall decide otherwise, or until the Maximum Permitted Annual Assessment figure set by the computation described above shall be higher, in which case the latter shall be the Maximum Permitted Annual Assessment figure.

(d) The failure of the Association to fix the actual Annual Assessment as provided herein for any year shall not be deemed a waiver or a release of any Owner from the obligation to pay the actual Annual Assessment. The actual Annual Assessment fixed for the preceding calendar year shall continue until a new actual Annual Assessment is fixed, and when a new Actual Annual Assessment is fixed, each Owner shall be obligated to pay monthly installments for the remainder of the calendar year for which the new actual Annual Assessment was fixed in an amount adjusted to reflect the rate of the new Actual Annual Assessment so established by the Association.

Section 5.4 Special Assessments. In addition to the Annual Assessments, the Board of Directors of the Association may levy, in any year, Special Assessments for the following purposes:

(a) Defraying the amount of any deficit created by an excess of expenditures of the Association over receipts for the previous year; provided the maximum amount of any Special Assessment for this purpose may not exceed twenty-five percent (25%) of the Annual Assessment for the current year, and provided further that any such assessment shall require the consent of Members holding at least sixty-seven percent (67%) of the total votes of those Members present at a meeting, duly called for this purpose.

(b) Paying for repairs and restoration and replacement and remedying violations pursuant to Section 6.3.

(c) Defraying, in whole or part, the cost of any construction or reconstruction or unexpected repair or replacement of a capital improvement upon the Common Area; provided that any such assessment shall require the consent of Members holding at least sixty-seven percent (67%) of the total votes of those Members present at a meeting, duly called for this purpose.

(d) Paying any fines, penalties or monetary obligations assessed or imposed upon the Association by the United States of America, the State of Texas or any political subdivision thereof.

(e) Special Assessments shall be due and payable as determined by the Association.

Section 5.5 Notice and Quorum for Certain Actions Authorized Under Sections 5.3 and 5.4. Written notice of any meeting called for the purpose of taking any action authorized under Subsection (c) of Section 5.3 above or under Subsections (a) or (c) of Section 5.4 above shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. Such notice shall set forth the purpose of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to at least fifty-one percent (51%) of the total votes of all Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments provided for herein shall

commence as to all Lots on the Property on the first day of the first month following the date upon which ownership of any Lot becomes vested in Person(s) other than Developer. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Association shall, upon request of an Owner at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether or not the Assessment on the Lot owned by such Owner has been paid. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 5.7 Enforcement of Lien. The amount of any delinquent Assessment, together with any interest and costs (including attorney's fees) attributable thereto or incurred in the collection thereof, shall be and the same is hereby declared and agreed to be a lien only upon the Lot of the Owner so assessed. The Board of Directors shall cause to be recorded in the Office of the County Clerk of Collin County, State of Texas, a Notice of Assessment executed by an authorized representative of the Association, setting forth the amount of the past due Assessment and a legally sufficient description of the Lot against which the lien is to be imposed, provided that no such Notice of Assessment shall be so recorded until the Board of Directors or a person designated by the Board of Directors shall have first mailed to the Owner and the Mortgagee of the Lot against which such Assessment was assessed at their last known addresses as reflected in the records of the Association, a Notice of Default, together with demand upon such Owner to pay any such delinquent Assessment and any interest charges attributable thereto. If the Association has not received full payment of all such delinquent Assessments and any interest charges attributable

thereto within fifteen (15) days from the mailing of such Notice of Default, the Board of Directors may promptly cause said Notice of Assessment to be recorded as provided above. Within thirty (30) days after the recordation of said Notice of Assessment, the Board of Directors may cause the Lot of the defaulting Owner to be sold. Any such sale shall be held by foreclosing the lien herein provided in the manner provided by the law of the State of Texas for the foreclosure of deeds of trust or in any other manner permitted by law. The Association shall have the power to bid in the Lot of the defaulting Owner at such foreclosure sale and thereafter to hold, lease, mortgage and convey the same. Upon payment (prior to such a foreclosure) of any delinquent Assessment, together with interest and costs (including attorney's fees), with respect to which a Notice of Assessment has been recorded, the Association shall promptly cause to be recorded, at the expense of the defaulting Owner, a further notice stating the satisfaction and the release of the lien thereof. The lien created as provided herein shall be prior to all other liens recorded whether prior to the recordation of said Notice of Assessment or not, with the exception of those liens allowed pursuant to Section 5.1 and shall continue in force and effect until satisfied and released.

Section 5.8 All Assessments Pro Rata. The Assessment made against any Lot in the Property shall in no case be higher or lower than the Assessment against any other Lot in the Property, except as otherwise permitted herein, and except for any Special Assessments allowed pursuant to Section 6.3 of this Dedication which are properly attributable, in the judgment of the Board of Directors of the Association, to less than all of the Lots.

Section 5.9 Diminution of Assessment. No diminution or abatement of Assessments shall be allowed or claimed for inconvenience or discomfort arising from the making of repairs

or improvements to the Common Area or Lots or from any action taken to comply with any law, ordinance or order of a governmental authority.

Section 5.10 Subordination of the Lien to Mortgages.

The lien securing the amount of delinquent Assessments, together with any interest, costs and reasonable legal fees provided for herein shall be subordinate to the lien of any first Mortgage which was recorded before the Assessments became delinquent. The sale or transfer of any Lot shall not affect the Assessment lien; however, the sale or transfer of any Lot pursuant to foreclosure of a first Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer but shall not relieve the previous Owner from personal liability for payment thereof. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 5.11 Payment of Assessments by Developer.

Developer shall be responsible for payment of the monthly installments of the Assessments with respect to those Lots owned by Developer. Unsold Lots may be temporarily accorded a reasonably reduced Assessment if not occupied, but in any event full Assessments must be paid on all Lots no later than sixty (60) days after the conveyance of the first Lot in the Development.

Section 5.12 Initial Reserves and Working Capital. The Association shall establish an initial working capital fund for the initial months of Development operation equal to at least two monthly installments of the Annual Assessment for each Lot in the Development.

(a) Each Lot's share of the initial working capital fund must be collected and transferred to the Association at the time of the closing of the sale of each Lot and maintained

in a segregated account for the use and benefit of the Association.

(b) The contribution to the initial working capital fund for each unsold Lot shall be paid to the Association by Developer within sixty (60) days following the first sale of a Lot in the Development; except that the contribution to the initial working capital fund for each unsold Lot in the Expansion Property shall be paid to the Association by Developer within sixty (60) days following the first sale of a Lot in the Expansion Property.

(c) Amounts paid into the initial working capital fund shall not constitute advance payment of monthly installments for Annual Assessments.

(d) The provisions of this Section 5.12 shall not apply to the Contributed Lots (as defined in Section 3.3 hereof).

ARTICLE VI

MAINTENANCE BY AND SERVICES OF THE ASSOCIATION

Section 6.1 Common Area. Subject to the provisions of Section 3.4 hereof, the Association shall maintain, as provided in this Dedication, the Common Area, and in particular, but without limiting the generality of the foregoing, shall keep and maintain parking areas and other paved areas not dedicated to the City of Plano, Texas.

Section 6.2 Maintenance of Lot 36, Block D. The Developer shall pay the annual cost of the normal and reasonable maintenance of Lot 36, Block D until such time as thirty-three percent (33%) of the Lots are sold to individual lot owners. The Developer shall have the right and the obligation to convey the maintenance cost of Lot 36, Block D, to the Association.

Section 6.3 Willful or Negligent Acts. In the event that the need for maintenance or repair is caused through the willful or negligent act of any Owner, his family, guests or

invitees, the Association shall add the cost of such maintenance or repairs, as a Special Assessment, to the normal assessment of such Owner. In addition, any emergency repairs made in accordance with the terms hereof shall be added as a Special Assessment to the normal assessment of such Owner.

Section 6.4 Management of the Development. The management and control of the Development shall be the responsibility of the Association, acting alone or through its Board of Directors, its officers or other duly authorized representatives or agents, in accordance with the provisions of this Dedication, the Articles of Incorporation, the Bylaws and such rules and regulations as may be adopted by the Board, and such amendments, changes, or modifications thereto as may come into effect from time to time.

Section 6.5 Powers and Duties Generally. In addition to the powers of assessment, collection and enforcement set forth in Articles V, VII and VIII hereof, the Association may exercise any and all rights and powers hereinafter enumerated together with any and all rights and powers which are necessary or proper to maintain and keep the Development in first-class condition and in a good state of repair, to enforce any of the provisions of this Dedication, the Articles of Incorporation, the Bylaws or the rules and regulations duly adopted by the Board of Directors of the Association, or carry out and perform its powers and responsibilities.

Section 6.6 Powers and Duties. The Association shall pay, provide, perform, cause to be performed, maintain, acquire, contract and/or pay for all or any of the following:

(a) Annual Audit; Examination of Books. Detailed books of account showing all expenditures and receipts of the administration of the Development shall be maintained. Such books shall reflect the income and expenditures of the Association, its Board, its officers, the manager and its staff for the maintenance and operation of the Common Area and any

other expenses incurred by or on behalf of the Association and Owners for the Association's fiscal year, and shall be prepared by the chief financial officer of the Association, or any other person retained by the Association to prepare the same, or by an independent certified public accountant, as the Board of Directors shall determine. The books of account shall be open for inspection by Owners and their Mortgagees during reasonable working hours on weekdays and shall be audited annually by qualified auditors. Any Mortgagee or Insurer or Grantor shall be entitled, upon written request, to an audited financial statement for the immediately preceding fiscal year, free of charge to the party so requesting.

(b) Legal and Accounting Services and Fees. Legal and accounting services and fees for the Association, the Board, officers, the Manager and his staff, provided that said services and fees are incurred solely in connection with (i) the management, operation and maintenance of the Development, (ii) the performance or enforcement (including the collection of assessments) of the provisions of this Dedication, the Articles of Incorporation, or the Bylaws, (iii) protest or litigation to contest local real estate taxes, or (iv) litigation arising out of the condemnation of all or any portion of the Common Area.

(c) Taxes and Assessments. Taxes and/or assessments of whatever type duly assessed against all or any portion of the Common Area or the Association, whether or not such taxes are a lien upon said property or any portion thereof, which taxes and/or assessments are not separately assessed to individual Owners.

(d) Insurance. The cost of maintaining the public liability and property damage policies.

(e) Fidelity Bonds. Such fidelity bond or bonds naming the Board of Directors of the Association, its officers, Members, the Manager, his staff and/or such other person or

persons as may be designated by the Association as principals with the Association (as trustee) as the obligee.

(f) Management Services. The services of a Manager, together with the services of such other Persons as the Board shall from time to time determine to be necessary or proper to the daily management, operation and maintenance of the Development, provided that no contract for such services shall be made and entered into which binds the Association for a period in excess of one (1) year except with the approval of a majority of the Owners. Further, all such contracts shall be terminable for cause upon thirty (30) days' written notice. When professional management has been previously required by any Mortgagee, Insurer or Guarantor, regardless of when such entity became a Mortgagee, Insurer or Guarantor, any decision to establish self-management by the Association shall require the prior consent of the Owners of at least sixty-seven percent (67%) of the Lots and the approval of at least fifty-one percent (51%) of the Mortgagees of Lots. Notwithstanding the foregoing, the provisions of this Subsection 6.6(f) are expressly subject to the restrictions of Section 6.7 hereof.

(g) Materials. All supplies and materials necessary or proper to the daily management, operation and maintenance of the Development; provided, however, that no contract for such supplies and materials shall be made and entered into which binds the Association for a period in excess of one (1) year, except with the Approval of a majority of the Owners.

(h) Repairs, Maintenance, Reconstruction. Subject to the further provisions hereof, arrangements for cleaning, painting, maintenance, repairs, reconstruction and replacement of and to all or any portion of the Development which are required to be cleaned, painted, maintained, repaired, reconstructed or replaced by the Association.

(i) Gardening, Landscaping, and Pool Maintenance.

The services of a gardener or other maintenance personnel to maintain, renew, and replace all or any portion of the landscaping, gardens, green areas, pools, and lakes within the Development together with all tools, supplies, plants and equipment reasonably necessary for such purpose.

(j) Trash, Rubbish Collection. The services of a trash, rubbish and garbage collection company or agency, whether public or private, for the purpose of promptly, regularly and efficiently collecting from designated areas within the Development and removing from the Development all trash, rubbish, garbage and refuse.

(k) Development Documents. The Association shall keep current copies of the Dedication, the Articles of Incorporation, the Bylaws and any rules and regulations affecting the Development. Such documents shall be available for inspection by any Owner, Mortgagee, Insurer or Guarantor of a Lot in the Development during reasonable working hours on weekdays.

(l) Miscellaneous Services. Such other services for the use, enjoyment and protection of the Development and the residents thereof as the Association may determine from time to time are reasonable, proper or desirable.

Section 6.7 Right to Terminate. Notwithstanding any other provision of this Dedication or the Bylaws, prior to the Transfer of Control described in Section 4.1, no contracts or leases shall be entered into on behalf of the Association unless the Association is provided with the right to terminate such contract or lease without cause, exercisable at any time after the Transfer of Control upon not more than ninety (90) days notice to the other party thereto.

Section 6.8 Additional Authority. The Association, acting through its Board, officers or other duly authorized representatives or agents shall have authority to establish

and publish uniform rules and regulations as may be deemed by them to be reasonable in connection with the use, occupancy and maintenance of the Development, and to alter, amend or modify such rules and regulations from time to time. All Mortgagees requesting same shall be given a copy of such rules and regulations. A copy of such rules and regulations shall be distributed to each Owner. Such rules and regulations shall be binding upon each and every Owner and the members of his family and his tenants, social guests, employees, servants, and invitees.

Section 6.9 Delegation of Powers. The Association or the Board may delegate any of its duties, powers or functions to any qualified Person to act as Manager. Said Manager may further be authorized to file any notice and take any legal action on behalf of the Owners which filing or the taking of such action is within the authority of the Association or the Board. Neither the Association, nor the members of its Board, nor its officers or committee members shall be liable for any omission or improper exercise by the Manager or his staff of any such duty, power or function so delegated.

Section 6.10 Limitation of Liability. Neither the Developer (nor its agents or employees) nor the Association, nor its Board of Directors (nor any member thereof), nor its officers (nor any of them), nor any committee of the Board of Directors (nor any member thereof), nor the Manager nor his staff shall be liable for any failure to provide any service or perform any duty, function or responsibility designated or provided in this Dedication or in any other document to be performed by the same, or for injury or damage to persons or property caused by fire, explosion, the elements or by another Owner or person in the Development or resulting from electricity, water, rain, dust or sand which may leak or flow from any pipes, drains, conduits, appliances or equipment, or from

any other place or cause, unless caused by the gross negligence or willful misconduct of Developer, the Association, the Board, the committee, officers, the Manager or his staff.

Section 6.11 Indemnification. The Association shall and does hereby indemnify the Board of Directors (and each member thereof), the officers of the Association (and each of them), the members of all committees of the Board of Directors (and each of them), the Manager and each member of his staff and each of the employees of the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by such person or persons in connection with any proceeding to which he may be a party, by reason of his being or having been a director, officer, committee member, Manager or employee of the Association, except in such cases where he is adjudged in such action to have acted with gross negligence or willful misconduct in the performance of his duties or to have breached a fiduciary duty.

Section 6.12 Non-Profit Character of Association. Notwithstanding anything contained in this Dedication to the contrary, neither the Association nor its Board of Directors, the Manager or his staff may do, conduct or engage in any activity, or cause the same to be done, which may jeopardize the non-profit character of the Association.

ARTICLE VII

PERMITTED USES AND RESTRICTIONS

General Restrictions. The Property shall be used solely for private single-family residential purposes.

Section 7.1 Noxious Uses. The land and Improvements located on the Property shall not be used so as to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance or to violate any public law, ordinance or regulation from time to time applicable thereto, nor shall such land and Improvements be used for any purpose which will

create or emit any objectionable, offensive or noxious odors, dust, gas, fumes or other such material.

Section 7.2 Use of Common Area. The Common Area shall be used for park, recreational, social, access, parking, utility easement and other purposes directly related to the private single-family residential uses authorized hereunder.

Section 7.3 Pets. No animal or bird, other than household pets, shall be maintained in any Patiohome or on any Lot and then only, if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No savage or dangerous animals shall be kept. No structure for the care, housing, or confinement of any animal or bird shall be maintained so as to be visible from neighboring Lots or Common Area. No more than one (1) household pet may be kept per Lot without the prior written consent of the Association. Upon the written request of any Owner, the Board of Directors of the Association shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a household pet, or savage or dangerous or obnoxious or offensive on account of noise, odor or unsanitary conditions. No pets may be permitted to run loose upon the Common Area, and any Owner who causes any animal to be brought or kept upon any Patiohome or Lot shall indemnify and hold harmless the Association for any loss, damage, or liability which the Association may sustain as a result of the presence of such animal, whether or not the Association has given its permission therefor. No animal or bird shall be maintained on any portion of the Common Area except with the express written consent of the Board of Directors of the Association.

Section 7.4 Temporary Occupancy. No trailer, tent, shack, or garage, and no temporary building or structure of

any kind shall be used at any time for a residence. Temporary buildings or structures used during the construction, repair or remodeling of a Patiohome or Common Area shall be screened from view in a manner satisfactory to the architectural control committee (hereinafter referred to as the "Architectural Control Committee") and shall be moved immediately after the completion of construction or upon order of the Architectural Control Committee.

Section 7.5 Trailers, Boats and Motor Vehicles. No mobile home, trailer of any kind, truck camper, permanent tent or similar structure, boat or inoperable motor vehicle of any type, camper, motor home or similar recreational vehicle shall be kept, placed, maintained, constructed, reconstructed or repaired upon any Lot or street or private driveway in such a manner as will be visible from neighboring Lots, Patiohomes, Common Area or any street; provided, however, that the provisions of this Section 7.5 shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Architectural Control Committee. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed, or repaired upon any Lot or street or private driveway in such a manner as will be visible from neighboring Lots, Patiohomes, Common Area or any street. All motorized vehicles shall be maintained and operated in proper condition so as not to constitute a nuisance by virtue of noise, exhaust emission or otherwise.

Section 7.6 Nuisances. No rubbish or debris of any kind shall be placed or be permitted to accumulate upon any part of the Property, and no odors shall be permitted to arise therefrom, so as to render the Property or portion thereof unsanitary, unsightly, offensive or detrimental to

any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot.

Section 7.7 Repair of Building. No Patiohouse shall be permitted to fall into disrepair, and each such Patiohouse shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

Section 7.8 Trash Containers and Collection. No garbage or trash shall be placed or kept on the Property except in covered containers of a type, size and style which are approved by the Architectural Control Committee, which may include the requirement that all containers will be disposable and may prescribe the location and number of such containers. In no event shall such containers be maintained so as to be visible from neighboring Lots, Patiohomes or Common Area except to make the same available for collection and, then, only the shortest time reasonably necessary to effect such collection.

Section 7.9 Clothes Drying Facilities. Outside clothesline or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on the Property unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise concealed and not visible from neighboring Lots, Patiohomes or Common Area, or unless they are approved in writing by the Architectural Control Committee.

Section 7.10 Sidewalk Encroachments. No tree, shrub, or planting of any kind on the Property shall be allowed to

overhang or otherwise encroach upon any sidewalk or other pedestrian way from ground level to a height of seven (7) feet without the prior approval of the Architectural Control Committee.

Section 7.11 Right-of-Way. During reasonable hours, Developer, any member of the Architectural Control Committee, or any member of the Board of Directors or the Manager or any other representative of any of them, shall have the right, during daylight hours, to enter upon and inspect any Lot or Common Area for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

Section 7.12 Mineral Exploration. The Property shall not be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

Section 7.13 Machinery and Equipment. Without the approval of the Board of Directors of the Association or Developer, no machinery or equipment of any kind shall be placed, operated or maintained upon the Property except such machinery or equipment as is usual and customary in Collin County, Texas, in connection with the use, maintenance, or construction of a private residence or appurtenant structures or recreational facilities maintained by the Association; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental or quasi-governmental agency or a public utility.

Section 7.14 Diseases and Insects. No Owner shall permit anything or condition to exist upon the Property which shall induce, breed, or harbor plant diseases or noxious insects.

Section 7.15 Restriction on Further Subdivision. No Lot shall be further subdivided.

Section 7.16 Signs. No signs whatsoever (movable or affixed), including, but not limited to, commercial, political, "for sale" and similar signs, which are visible from neighboring Lots or Common Area shall be erected or maintained on the Property without the prior written consent of the Association. The provisions of this Section 7.16 shall not prevent Developer from commencing, erecting, or maintaining structures or signs of any content or size on the Common Areas or on other property owned by Developer when Developer, in its sole discretion, deems it necessary or convenient to the development, sale, operation or other disposition of the Lots.

Section 7.17 Waste. No waste shall be committed on the Property.

Section 7.18 Lighting. No lighting or illumination shall be placed upon the Property in such a manner as to cause unreasonable glare or illumination.

Section 7.19 Parking. No parking area may be used by other than the Owner of a Lot on which the parking area is situated or his family or bona fide guests.

Section 7.20 Trailers. No horse trailer, boat trailer or other similar means of transport shall be parked or stored other than in an area designated for same by the Architectural Control Committee. If stored on any Property, storage shall be in a screened area approved in writing by the Architectural Control Committee.

Section 7.21 Antennas and Signals. No antenna or other above-the-ground device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a Patiohome, building or structure or otherwise, without approval in writing of the Architectural Control Committee, except that Developer or the Association may erect a common television antenna. No radio

signals, television signals or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of television or radio signals on any other Lot.

Section 7.22 Construction Period. The work of reconstructing any structure on a Lot shall be completed within twelve (12) months from the commencement thereof; provided that the Architectural Control Committee may grant extensions of time in which to complete reconstruction when completion has been delayed by reason of strike, casualty loss, national emergency, Acts of God, or other matters beyond the control of the Owner.

Section 7.23 Fences. Fences may be constructed on any Lot only in accordance with plans and specifications approved in writing by the Architectural Control Committee.

Section 7.24 Modification of Buildings. No Owner, except Developer, shall make structural or externally visible alterations to the Patiohouse or other Improvements on his Lot, including but not limited to, the erection of antennas, aerials, awnings, the installation of any reflective or other material in the windows of the Patiohouse (other than interior draperies or mini blinds with an exterior color of white or biege), the painting in a different color, or redecorating of any exterior walls, the placement of any objects on the roof, or other exterior attachments, without the prior written approval of the Architectural Control Committee. The Architectural Control Committee shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Development.

Section 7.25 Mechanic's Liens. No services, labor or materials furnished in connection with construction on any Lot, by or on behalf of any Owner, other than Developer, shall create any right to a mechanic's or materialmen's lien against any other Lot. Each Owner (the "Contracting Owner")

agrees to indemnify the other Owners and the Association against all loss and expense, including attorneys' fees, incurred by the other Owners and the Association on account of any lien claims asserted by persons claiming by, through or under the Contracting Owner or his agents, contractors or subcontractors.

Section 7.26 Regulations. Rules and regulations concerning the use of the Development shall be promulgated from time to time by the Association and shall be observed by all Owners, their lessees, licensees, customers, invitees, and employees.

Section 7.27 Right of Access. Notwithstanding any other provisions of this Dedication, neither Developer nor the Association shall take any action which restricts the right of ingress and egress by any Owner to such Owner's Lot.

Section 7.28 Landscaping. No Owner shall injure, remove or destroy any grass, tree, shrub, foliage or landscaping material on any Lot without the written approval of the Architectural Control Committee.

ARTICLE VIII

GENERAL OBLIGATIONS OF OWNER

General Maintenance. Except as otherwise herein provided for maintenance of Lots, Patiohomes and other Improvements thereon by the Association, each Owner shall maintain and care for the Patiohome and other improvements on his Lot.

ARTICLE IX

EMINENT DOMAIN

Upon any taking of any Lot in the Development by eminent domain, the Owner of such Lot shall receive the award for such taking; and after acceptance thereof, he and his Mortgagee shall be divested of all interest in the Development if such Owner shall vacate his Patiohome by virtue of such taking.

Upon any taking by eminent domain of any portion of the Development owned by the Association, the award for such taking shall be made payable to the Association or any trustee for the Association for the use and benefit of the Owners and their Mortgagees as their interests may appear. Each Owner hereby irrevocably appoints the Association as his true and lawful attorney-in-fact to represent the Owner in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition by eminent domain of any portion of the Development owned by the Association. Without limiting the generality of the foregoing, the Association shall have full authority, right and power, as attorney-in-fact, with respect to those portions of the Development owned by the Association, to enter into settlement agreements with the condemning authority, to collect condemnation awards and to distribute the same to the Association, the Owners and their respective Mortgagees (subject to the provisions of the Bylaws and this Dedication) as their interests may appear, and to execute all documents and to do all things on behalf of such Owners, the Association and the Development as shall be necessary to the accomplishment of the foregoing; and any condemning authority may deal exclusively with the Association in regard to such matters.

If any repair or rebuilding of the remaining portions of the Development is required as a result of such taking, the remaining Owners shall determine by majority vote or written consent whether to rebuild or repair the Development or to take such other action as a majority of such remaining Owners deem appropriate. If no repair or rebuilding shall be required, or shall be undertaken, then the remaining portion of the Development shall be resurveyed and the Dedication and the Exhibits thereto shall be amended to reflect such taking.

ARTICLE X

ENVIRONMENTAL CONTROL

Section 10.1 Construction of Improvements. Since the maintenance of environmental and architectural harmony and unity is essential for the preservation and enhancement of the value of the Lots and the harmonious functioning of the community affected hereby, no Improvements may be erected on any Lot by anyone other than the Developer without the prior approval of the Architectural Control Committee (as such term is hereinafter defined) appointed by the Board of Directors of the Association. The term "Improvements" shall include but shall not be limited to, the erection of any structure (including but not limited to, additions to or alterations of any Patiohouse) such as detached buildings, storage buildings, tool sheds, kennels, or other buildings for the care of animals, and greenhouses; the erection of any fence; the moving of any structure from another locality to a Lot; the grading, scraping, excavation or other rearranging of the surface of any Lot; the construction of any driveway, alleyway, walkway, entryway, patio or similar items; the alteration or replacing of any exterior surface, including the repainting in a different color of any painted surfaces and the painting of formerly unpainted surfaces; and the planting, replanting or rearrangement of any plant life visible from another Lot, the Common Area, or the public streets.

Section 10.2 Architectural Control Committee. The Board of Directors of the Association shall appoint an Architectural Control Committee composed of at least three (3) persons, at least one of whom shall be an Owner other than Developer, to approve Improvements proposed to be made by any Owner other than Developer. The Architectural Control Committee shall meet within fifteen (15) days after an Owner has made written application to it for approval, submitting at

that time two (2) sets of plans and specifications. Applications and plans and specifications shall be submitted to the Architectural Control Committee at the office of the Association or at such other address as the Architectural Control Committee may specify. The Architectural Control Committee shall render its decision within thirty (30) days after this meeting, either approving the plans or disapproving them, in the latter case making specific reference to those features which caused the disapproval. Approval may be conditioned upon completion within a specified period of time. All decisions shall be made by a majority vote of the Architectural Control Committee. A failure of the Committee to act within forty-five (45) days following receipt of an application, together with two (2) sets of plans and specifications, shall constitute rejection of the project being proposed.

ARTICLE XI

EASEMENT AND RIGHTS

Section 11.1 General Easement. The Developer, so long as he shall retain record title to any part of the Property, and the Association reserve the right and easement to the use of the Common Area and any Lot or any portion of the Property thereof, as may reasonably be needed for repair, maintenance or construction of the Development.

Section 11.2 Crossover Easement. If the Owner (including the Developer) of any Lot must, in order to make reasonable repairs or improvements to an Improvement on his Lot, enter or cross the Common Area or a Lot of another Owner, such Owner shall have an easement to do so; provided that the said Owner shall use the most direct, feasible route in entering and crossing over such an area and shall restore the surface so entered or crossed to its original condition at the expense of said Owner and further provided such easement

shall not exist on the land of any other Lot Owner if the purpose for the entrance or crossing is one requiring, by virtue of Article X of this Dedication, approval of the Architectural Control Committee of the Association, unless such approval has been given.

Section 11.3 Drainage Easement. Each Owner covenants to provide such easements for drainage and waterflow as the contours of the land and the arrangement of Patiohomes and other buildings thereon requires.

Section 11.4 Utility Easement. An easement of ingress and egress is hereby granted on all Lots and the Common Area in favor of any utility company for the purpose of the repair, construction and maintenance of all utility lines; provided, however, no new utility line may be constructed or no existing utility line may be relocated without the approval of either Developer or the Architectural Control Committee.

Section 11.5 Blanket Easement. An easement is hereby retained in favor of Developer and the Association over the Lots and the Common Area in the event Developer or the Association elects to construct a common cable television system, a common sprinkler, or any other item for the common benefit of Owners. An easement is further granted for the purpose of the repair and maintenance of any item so constructed. An entry upon any Lot or the Common Area to effectuate the foregoing purposes shall not be deemed a trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association and/or Developer harmless for the cost of repairing or replacing any portion damaged or destroyed by such Owner, his family, his guest and invitees.

Section 11.6 Encroachments. If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Improvements results in the Common Area encroaching on any Lot, or in a Lot encroaching on the Common

Area or another Lot, a valid easement shall be deemed to exist for both the encroachment and its maintenance for as long as the encroachment shall exist.

ARTICLE XII

DEVIATIONS

The Association may grant approval for deviations from the restrictions provided in Article VII. Such approval shall require either (1) that the Board of Directors of the Association refer the request for deviation to the Architectural Control Committee, and that the Architectural Control Committee unanimously approve the deviation, or (2) the affirmative vote of Members holding at least sixty-seven percent (67%) of the total votes of all Members present at a meeting duly called for this purpose, written notice of which shall be delivered to all Members not less than ten (10) days nor more than fifty (50) days before the date of the meeting, setting forth the purposes of the meeting. All Owners shall be given notice of requests for deviations prior to the grant thereof.

ARTICLE XIII

LIABILITY OF BOARD OF DIRECTORS AND OFFICERS

Indemnification. The members of the Board of Directors and Officers of the Association, members of committees of the Association, the Manager and members of his staff and employees of the Association, shall not be liable to any Owner or any person claiming by or through any Owner for any act or omission of such Directors, Officers, members of committees, the Manager, staff members and employees of the Association in the performance of their duties except if such act or omission shall be judicially declared to involve gross negligence, willful misconduct, or the breach of a fiduciary duty, and the Association shall indemnify all such Directors, Officers, committee members, the Manager, staff members and employees of the Association from all claims, demands, actions and

proceedings and any expenses in connection therewith, except if such Director, Officer, committee member, the Manager, staff members and employees of the Association, be adjudged in such action to have acted in a grossly negligent manner, or with willful misconduct, or to have breached a fiduciary duty to the Association.

ARTICLE XIV

DEFAULT

Section 14.1 Definition. Failure by any Owner or by the Association to comply with any of the terms of the Dedication, the Articles of Incorporation and Bylaws of the Association, or the duly adopted rules and regulations of the Association shall constitute an event of default and shall be grounds for relief, which may include without intending to limit the same, an action to recover damages and/or injunctive relief, and/or the imposition of a fine or other sanction by the Board of Directors.

Section 14.2 Costs. In any proceeding arising because of an alleged default by any Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

Section 14.3 Procedures. The Board of Directors shall not impose a fine, suspend voting, or infringe upon any other rights of an Owner for violations of the terms of the Dedication, the Articles of Incorporation and Bylaws of the Association, or the rules and regulations of the Association unless and until the following procedure is followed;

(a) Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying: (i) the alleged violation; (ii) the action required to abate the violation; and (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of

the same rule may result in the imposition of sanction after notice and hearing if the violation is not continuing.

(b) Within twelve (12) months after such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation is subsequently committed by the same Owner, the Board of Directors shall serve the violator with written notice of a hearing to be held by the Board of Directors in session. The notice shall contain: (i) the nature of the alleged violation; (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; (iii) an invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and (iv) the proposed sanction to be imposed.

(c) The hearing shall be held in executive session pursuant to this notice affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) The rights of the Board of Directors under this Section 14.3 are subject to the condition that no sanction imposed by the Board of Directors for any violation may include alteration or demolition of any item of construction unless judicial proceedings have been instituted pursuant to such violation.

Section 14.4 No Waiver. The failure of the Association or of any Owner to enforce any right, provision, covenant, or

condition which may be granted by this Dedication, the Articles of Incorporation, Bylaws or duly adopted Rules and Regulations of the Association shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, covenant, or condition in the future.

Section 14.5 Rights Cumulative. All rights, remedies, and privileges granted to the Association or any Owner or Owners pursuant to any terms, provisions, covenants, or conditions of this Dedication, the Articles of Incorporation, Bylaws or duly adopted Rules and Regulations of the Association, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies, or privileges as may be available to such party at law or in equity.

ARTICLE XV

GENERAL PROVISIONS

Section 15.1 Enforcement. The restrictions herein set forth shall run with the land and bind the present Owners except as otherwise provided, their successors and assigns, and all parties claiming by, through or under them, shall be taken to hold, agree and covenant with the Owners of said land, its or their heirs, personal representatives, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots and the construction of improvements thereon. No restriction herein set forth shall be personally binding on any person except in respect to breaches committed during his ownership of title to his Lot. Failure of any Owner or Owners or the Association to enforce any of the restrictions herein set forth shall in no event be deemed a waiver of the right to do so or to enforce other restrictions.

Section 15.2 Invalidation. The invalidation of any of the covenants or restrictions set forth herein by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 15.3 Right to Assign. The Developer may, by appropriate instrument, assign or convey to any person, or corporation or other entity, any or all of the rights, reservations, easements, and privileges herein reserved by the Developer, and upon such assignment or conveyance being made, its assigns or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times in the same way and manner as those directly reserved by them or it in the instrument.

Section 15.4 Duration. All of the restrictions set forth herein shall continue and be binding for a period of thirty (30) years from the date of this instrument and shall automatically be extended thereafter for successive periods of ten (10) years; provided, however, that this Dedication may be vacated at the end of such thirty (30) year term and during or at the end of any successive ten (10) year period thereafter, by a written instrument signed by the Owners of at least seventy-five percent (75%) of the Lots and by at least sixty-seven percent (67%) of the Mortgagees of Lots. During the initial thirty (30) year period, a vacation hereof shall be effective only if a written instrument is signed by all Owners of Lots and by at least sixty-seven percent (67%) of the Mortgagees of Lots. Any such vacation shall be promptly recorded in the Deed Records of Collin County, Texas, following the execution thereof.

Section 15.5 Amendment.

(a) Amendment or modification hereof shall be effective only if approved by the Owners of at least sixty-seven percent (67%) of the Lots; provided, however,

that no such addition or amendment shall affect the rights or privileges of Developer hereunder unless such addition or amendment is duly approved in writing by Developer; further provided, however, that prior to the first annual meeting of the Association (as prescribed in the Bylaws) Developer may, by written instrument executed solely by Developer, make minor corrections, modifications and additions to this Dedication, the Bylaws, the final Plat, provided such minor corrections, modifications or additions do not adversely affect the rights of any Owner to the enjoyment of the Common Area, do not increase the obligations of any Owner hereunder and do not adversely affect the value of any Lots. Developer shall notify the Board of Directors of the Association of its intention to make any such minor corrections, modifications or additions. Any such modification shall be filed or recorded in the Collin County Deed Records promptly when executed.

(b) The procedure for proposing amendments hereto shall be as follows: an instrument in recordable form setting forth such amendment and containing a certificate by the President and the Secretary of the Association, certifying as to the accuracy of the contents of such amendment and as to its due adoption in accordance herewith, shall be prepared and filed of record in Collin County, Texas, and such instrument shall be effective to amend this Dedication without the signatures of any other parties.

Section 15.6 Notification of Mortgagees, Insurers and Guarantors. Any Mortgagee, Insurer or Guarantor who makes a written request to the Association, specifying its name and address and the applicable Lot number(s), shall be entitled to timely written notice from the Association of:

(i) Any condemnation loss or any casualty loss which affects a material portion of the Development or any Lot on which there is a first lien Mortgage held,

insured, or guaranteed by such Mortgagee, Insurer or Guarantor, as applicable;

(ii) Any delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to a first lien Mortgage held, insured or guaranteed by such Mortgagee, Insurer or Guarantor, which remains uncured for a period of sixty (60) days;

(iii) Any proposed action which would require the consent of a specified percentage of first lien Mortgagees.

Section 15.7 Notices. All notices given or required to be given by the Association to its Members or to Mortgagees shall be deemed to have actually been given if actually received and, whether or not actually received, when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested and addressed to the Member or Mortgagee at his address as it appears on the books of the Association, and shall be deemed given when mailed.

Section 15.8 Construction. Words of any gender used herein or in the Articles of Incorporation or Bylaws shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, unless the context requires otherwise.

IN WITNESS WHEREOF, the undersigned, have executed this instrument to be effective as of the 8th day of August, 1985.

MIDWAY DEVELOPMENT COMPANY,
a Texas general partnership

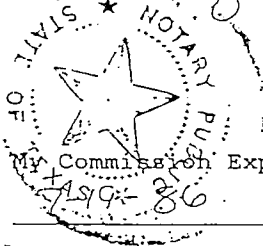
By: James A. Moran
James A. Moran,
a general partner

By: Henry R. Hoffman, Jr.
Henry R. Hoffman, Jr.,
a general partner

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public in and for said County and State, on this day personally appeared James A. Moran and Henry R. Hoffman, Jr. known to me to be the persons and officers whose names are subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said MIDWAY DEVELOPMENT COMPANY, a Texas general partnership, and that they executed the same as general partners of such general partnership for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 8th day of August, 1985.



Debbie J. Good
Notary Public in and for
said County and State

EXHIBIT "A"

Situated in Collin County, Texas, and being LOTS 1 - 20, BLOCK A; LOTS 1 - 25, BLOCK B; LOTS 1 - 20, BLOCK C; and LOTS 1 - 36, BLOCK D, in PRESTON POINTE, an Addition to the City of Plano, Texas, according to the Plat thereof recorded in Cabinet F, Page 70, Plat Records, Collin County, Texas.