

**RESTATED AND AMENDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE WILDERNESS**

STATE OF TEXAS §
 §
COUNTY OF FREESTONE §

THIS RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE WILDERNESS (TOGETHER WITH ANY AND ALL AMENDMENTS AS RECORDED IN THE REAL PROPERTY RECORDS OF FREESTONE COUNTY, TEXAS, THIS "DECLARATION") IS APPROVED, CONSENTED TO AND ADOPTED SO AS TO BE EFFECTIVE AS OF APRIL 22, 2006 (THE "EFFECTIVE DATE") BY GREATER THAN SEVENTY-FIVE PERCENT (75%) OF THE VOTES OF ALL MEMBERS/OWNERS CAST WITH RESPECT TO ALL LOTS WITHIN THE WILDERNESS (HEREINAFTER REFERRED TO AS THE "PROPERTY" AND DESCRIBED AS WILDERNESS AREAS I, II, III, IV, V, VI, VII, VIII, IX, X, AND XI ON EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF), AS REQUIRED BY THE PREVIOUSLY RECORDED RESTRICTIVE COVENANTS PERTAINING TO LOTS LOCATED WITHIN THE PROPERTY, IMPOSED BY DEEDS TO SUCH LOTS (COLLECTIVELY, THE "PRIOR RESTRICTIONS"), AND THIS DECLARATION AMENDS, COMPLETELY RESTATES, SUPERSEDES, REPLACES AND HEREBY RELEASES OF RECORD ALL OF THE PRIOR RESTRICTIONS IN THEIR ENTIRETY, INCLUDING, WITHOUT LIMITATION, THOSE RECORDED IN VOLUME 1261, PAGE 784 ET SEQ AND IN VOLUME 01291, PAGE 00191 ET SEQ OF THE REAL PROPERTY RECORDS OF FREESTONE COUNTY, TEXAS.

For the purpose of enhancing and protecting the value, utility, attractiveness and desirability of the land constituting the project, the undersigned hereby declare that all of the real property described above and each part thereof and all interests of any kind therein, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto, shall be held, sold, and conveyed only subject to the following easements, authority, assessments, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I.
DEFINITIONS**

The following words as used in this Declaration shall have the following meanings:

Section 1. "Association" shall mean and refer to The Wilderness Property Owners Association, Inc., a Texas nonprofit corporation, and mandatory membership homeowners association, its successors and assigns of its entire interest, acting through and by its Board of Directors.

Section 2. "Declarants" or "Developers" shall mean CW Dalcan Investments, Ltd., a Texas limited partnership (successor in interest to The Wilderness Realty Partners, L.P. and The Wilderness Land Partners, L.P.) and its successors and assigns which hereafter acquire all of the remaining undeveloped or unsold portions of the project for the purposes of development and sale consistent with and subject to this Declaration. "Declarants" or "Developers" shall not mean other real estate developers or builders, whether holding tracts for speculation, building spec homes, or otherwise.

Section 3. "tract" or "Lot" shall mean any plot of land or platted lot within the project (as may be divided and/or reconstituted in accordance with the provisions of this Declaration).

Section 4. "maintenance" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting, drainage, irrigation systems, commons and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted.

Section 5. "Member" shall mean every person or entity who holds membership in the Association, each purchaser of property in the project automatically becoming a member of the Association upon such purchase and being a member during such ownership.

Section 6. "Mortgagee" shall mean a holder of bona fide mortgage or a beneficiary under or holder of a Deed of Trust.

Section 7. "Mortgage" shall mean a bona fide mortgage, a deed of trust, or a vendor's lien.

Section 8. "Authority" shall mean that authority as created herein and vested in the Association.

Section 9. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 10. "drives" shall mean any common areas reserved for use by Owners for vehicular traffic.

Section 11. "commons" shall mean any property reserved for or dedicated to the common use of property Owners, including, without limitation, Wilderness Area XI described on Exhibit A hereto and, the "Deer Park" areas shown on recorded plats.

Section 12. "Owners" shall mean the record owners, including Declarants, whether one or more persons or entities, of fee simple title to any tract which is part of the project, and shall include purchasers under contract for deed, but shall not include those holding title merely as security for performance of an obligation; provided, however, that the foregoing shall not be interpreted or construed as restricting or prohibiting undivided ownership interests or ownership by a partnership or other entity.

Section 13. "project" or "The Wilderness" or "Wilderness Areas" shall mean the land herein described in Exhibit A to this Declaration, and such additions thereto as may later be brought within the jurisdiction of the Association as hereinafter provided, including, without limitation, if, when and to the extent so added by Zakanaka in accordance with the provisions of Section 3 of Article XI of this Declaration, applicable portions of the Adjacent Land pursuant to an Adjacent Land Amendment.

Section 14. "Adjacent Land" shall mean the land described on Exhibit B-1 attached hereto and made a part hereof.

Section 15. "Adjacent Land Amendment" shall have the meaning set forth in Section 3 of Article XI of this Declaration.

Section 16. "County" shall mean Freestone County, Texas.

Section 17. "Conversion Date" shall have the meaning set forth in Section 3 of Article VI in this Declaration.

Section 18. "Zakanaka" shall mean Zakanaka, LP, a Texas limited partnership (successor in interest with respect to certain property previously owned by Obe Veldman, individually, and as Trustee, and Roy Veldman), but not its successors or assigns.

Section 19. "Zakanaka Lots" shall mean Lot 33 in Phase I of The Wilderness (which is referred to as Wilderness Area I); Lot 50 in Phase IV of The Wilderness (which is referred as Wilderness Area IV); Lots 121, 122, 123, 125 and 126 in Phase V of The Wilderness (which is referred to herein as Wilderness Area V); and Lots 156 and 157 in Phase VI of The Wilderness (which is referred to herein as Wilderness Area VI).

Section 20. "Zakanaka Property" shall mean the property described on Exhibit B attached hereto and made a part hereof other than the Adjacent Land, and includes, without limitation, the Zakanaka Lots, a portion of Wilderness Area VIII, and all of Wilderness Areas IX and X, all of said Zakanaka Property constituting portions of The Wilderness and being subject to this Declaration.

ARTICLE II. EASEMENTS, DRIVES, ROADS, AND PRIVATE ROADS

Section 1. Private roads, drives, or access easements for installation and maintenance of utilities, irrigation and drainage, are established by separate instrument or instruments of record or to be placed of record by the Owner of the subject tract in the office of the County Clerk and as hereinafter set forth. Within such easements and private roads, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of service or utilities, or which may damage, interfere with, or change the direction or flow of drainage facilities in the easements, or which may interfere with passage along such private road easements. The easement area of such tract and all improvements therein shall be continuously maintained by the Owner of such tract, except for improvements for maintenance of which a public, private, or quasi-public authority or utility company is responsible.

Section 2. No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right of way, and such easements, reservations, and rights of way shall at all times be open and accessible to representatives of the Association, to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Declarants, their successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, or under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights of way are reserved.

Section 3. The Association, through its duly authorized employees and contractors, shall have the right after reasonable notice to the Owner thereof, to enter any tract or common area at any reasonable time on any day to perform such maintenance within such easement, reservation or right-of-way as may be authorized herein.

Section 4. The private drive or roadway easements and other common areas as set forth on recorded plats and/or by separate instruments indicating that such areas are to be the property of the Association are/shall be owned by the Association for the private use and benefit of the Owners of the tracts within the project as therein prescribed, and under the conditions as therein set forth. No private drives, roadway easements or common areas as set forth on recorded plats and/or by separate instrument shall be deemed to be dedicated to the general public.

Section 5. The Association in its authority may take unto itself or execute unto any other fresh water supply or other utility entity right of way easements in the form and under the conditions as may at that time be required by said entity as a prerequisite to service of the project with fresh water or other utility; provided, however, that no portion of any tract on which a residence is or may be built (excluding any area already subject to an easement or within a building line or in any event which is within 35 feet of the right-of-way line of any street) shall be encumbered without the written consent of its Owner.

Section 6. The Association in its authority may take unto itself or execute unto others right of way easements in the form and under the conditions as at that time may be required by said entity to distribute to each and every tract herein water for the purposes of irrigation; provided, however, that no portion of any tract on which a residence is or may be built (excluding any area already subject to an easement or within a building line or in any event which is within 35 feet of the right-of-way line of any street) shall be encumbered without the written consent of its Owner.

Section 7. It is understood and agreed that the easements granted herein and to be granted hereafter are reserved as permanent easements for the purpose set forth and are not subject to the time limit applicable to other restrictions.

Section 8. There is hereby reserved and established a utility easement adjacent and parallel to all roadway easements. Said utility easement is twenty (20) feet wide upon the ground and twenty (20) feet wide above the ground and extends from the outside boundary of the roadway easement into and upon the adjoining property on each side thereof.

Section 9. There is hereby reserved and established an easement for purposes of drainage and/or service of utilities upon and in addition to the purposes of any existing easement of record and being still valid, such easement now made subject to all the stipulations as herein otherwise set forth pertaining to utility and/or drainage easements.

ARTICLE III. ARCHITECTURAL AND LANDSCAPE CONTROL

Section 1. No building or other improvements (including homes, garages, decks, porches, boathouses, outbuildings and driving and/or parking surfaces) shall be erected, constructed, placed or, to the extent visible from the street, the waterfront or other Lots, altered, on or contiguous to any tract until the construction plans and specifications (with a proposed completion date) and a plan showing exterior materials to be used, exterior elevations, the location of the structure, and complete plan of septic system showing relation to tract lines and water lines have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation, all as appropriate. Unless written approval of development of a Lot in its natural state has been obtained from the Architectural Control Committee, Lots must be landscaped within one hundred fifty (150) days of completion of a residence on the Lot; provided, however, that upon written request from an Owner which

sets forth good cause for an extension, which good cause shall include, without limitation, winter months, the Architectural Control Committee may grant reasonable extensions of such time period. Landscaping on Lots on which a residence has been constructed, and to the extent not retained in their natural state as contemplated by this Declaration, shall be maintained in a reasonably attractive manner, with any dead or significantly damaged landscaping being removed and/or replaced, as appropriate. All landscaped areas shall be regularly maintained and watered to the extent necessary to prevent unsightly areas of dead or damaged grass or other landscaping. Minimum standards for initial landscaping of Lots shall be as determined by the Board.

Section 2. The Board is hereby authorized to decide upon, publish and enforce specific building and/or landscaping standards and to amend same from time to time, enforce any building or fire codes, or any rules, restrictions or requirements concerning the construction of buildings or other improvements or landscaping in or related to the project, and/or concerning matters of unsightly appearance or construction or alterations not consistent with an upscale single-family residential community, whether imposed by this Declaration, the Board, the Architectural Control Committee, or by a local, county, state, or other authority having the legal authority to make such requirements. In the event that the Architectural Control Committee unreasonably delays with respect to the enforcement of any of such standards, rules or restrictions described in this Article III, the Board shall have the right to effectuate such enforcement.

Section 3. The Architectural Control Committee shall be composed of three persons appointed annually by the Board, one of which shall be a member of the Board and a majority of which shall be comprised of persons living in The Wilderness and/or members of the Board, each to serve for a term of one (1) year. In the event of death, dismissal, or resignation of any member of the committee, the Board shall designate a successor for the remainder of such member's term. Neither the members of the Architectural Control Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. Members of the Architectural Control Committee shall be held harmless and indemnified by the Association with respect to their actions taken in their capacity as members of the Architectural Control Committee.

Section 4. The approval or disapproval of the Architectural Control Committee as required in these covenants shall be in writing, a copy of which shall be promptly delivered by the Architectural Control Committee to the Board, together with copies of all correspondence, plans and other information and requests relevant to such approval or disapproval. In the event the Architectural Control Committee, or its designated representative fail to approve or disapprove within thirty (30) days after all relevant plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. No construction requiring approval under the terms of this Declaration shall be commenced until the later to occur of (i) such plans and specifications (including a proposed completion date) having been either approved by or deemed approved by the Architectural Control Committee as provided in this Declaration, and (ii) all fees owed under the terms of this Declaration in connection with such construction and any delinquent amounts owed by the subject Owner having been paid in full.

Section 5. All construction must be completed within two hundred forty (240) days unless an extension of such time has been granted in writing by the Architectural Control Committee in response to a written request therefor setting forth the reasons for the delay. Starting date is defined as the date forms for foundation are installed and finishing date is defined as when the house is ready for occupancy, electricity and water service is connected and on site sewer system is inspected and approved by Tarrant Regional Water District. Once commenced, construction will be diligently pursued to completion and

may not be left in a partially finished condition for more than forty-five (45) consecutive days without the written approval of the Architectural Control Committee. Buildings destroyed by fire or natural disaster must be demolished, removed or repaired and new construction begun within ninety (90) days or such longer period as may be approved in writing by the Architectural Control Committee in the exercise of its reasonable discretion. Any Owner who is in violation of this section will be fined two hundred fifty dollars (\$250.00) per day unless a special extension is granted in writing by the Architectural Control Committee. Any fine not paid within thirty (30) days of demand for payment may be enforced by recordation of an affidavit evidencing the lien on the property securing same and otherwise as with respect to any other amounts owed to the Association and secured by the lien in favor of the Association as provided in this Declaration. All homes must be site built by a builder approved in writing by the Architectural Control Committee. A copy of the building plans shall be kept at The Wilderness office during the entire construction period. A Building Permit must be obtained from the Association prior to commencement of construction. The permit will issue upon payment of (i) a Building Permit fee based on \$0.67 (67 cents) per square foot of new construction under roof, including approved outbuildings and garages (but excluding boathouses), and (ii) any other amounts then owed to the Association in accordance with the provisions of this Declaration by the Owner applying for the permit, including, without limitation, any water meter fees, delinquent assessments, late charges or expenditures reimbursable to the Association in accordance with the terms of this Declaration. Notwithstanding the designated amount in (i) above with respect to the calculation of the Building Permit fee, the Board may, from time to time by written notice to all Owners, reasonably adjust the amount per square foot on which the Building Permit fee is based.

Section 6. Each construction site shall have a container for building debris and a construction field toilet which are to remain on the site for the entire construction period. The container for debris must be large enough to contain all building trash on the building site, but in no event less than 15 cubic yards in volume. During the period that a site and/or building is under construction, the following minimum measures will be required to minimize disturbance to adjacent property.

(a) All trucks hauling dirt or trash must be covered.

(b) The construction site shall be cleaned on a daily basis. Construction debris shall not be allowed to accumulate or be stored on any construction site. No dumping of construction materials, waste or trash shall occur in the project.

(c) Subcontractors and others shall not play radios or other devices at unreasonably high decibel levels in the sole judgment of the Developers and/or Association.

Section 7. Prior to commencement of any site work or other construction or regular use by RVs, campers or other large vehicles which could cause ruts to be formed adjacent to or cause damage to street surfaces, a culvert approved by the Architectural Control Committee as to adequate diameter and width (but in no event less than twenty-two (22) feet wide) shall be placed at the road entrance to each Lot, unless waived in writing by the Architectural Control Committee. Waiver of this Section may be granted provided topography and drainage conditions warrant a waiver in the judgment of the Architectural Control Committee. All costs and expenses associated with any damage to any roadway or surrounding property caused by failure to comply with the provisions of this Section shall be the sole responsibility of and shall be paid for by the Owner of the Lot in violation of this Section. The Association shall have the option to (i) require such Owner to repair such damage and cause the subject culvert to conform to the requirements of the Architectural Control Committee, or (ii) perform such repair

and reconstruction work and assess the Owner for such costs and expenses, which assessment shall be secured by the lien in this Declaration.

Section 8. Any boathouse owned by an Owner and all portions thereof (including, without limitation, gangplanks, walkways, railings and lights) and all easement areas in favor of the Tarrant County Water Control District ("**TCWCD**") are subject to the provisions of this Declaration and must comply in all respects with (i) rules, restrictions and standards promulgated by the TCWCD, and (ii) the provisions of this Declaration, including, without limitation, approval of the Architectural Control Committee with respect to suitability for an upscale residential waterfront community. Plans and specifications must be submitted to the Architectural Control Committee for approval at such time as same are submitted to the TCWCD, together with any other information reasonably necessary to convey the proposed appearance of such improvement, and if any changes are made subsequent to such initial submission, again at such time as such plans and specifications have been finalized and approved by the TCWCD. The Architectural Control Committee may promulgate rules and standards for the appearance of boathouses as it may deem appropriate, including, without limitation, roofing materials and items affixed, all subject to the approval of the Board.

Section 9. Any variance from any of the restrictions or requirements of this Declaration granted by the Architectural Control Committee shall only be valid if (i) agreed to in writing by all members of the Architectural Control Committee, (ii) memorialized in writing with the reasons for granting same, with a copy delivered to the Board, and kept on file, and (iii) not objected to by the Board within ten (10) days of receipt by the Board of such memorandum.

ARTICLE IV. USE RESTRICTIONS

Section 1. **TYPE OF BUILDING PERMITTED:** All tracts shall be used for single-family residential purposes only and no Lot shall be occupied by more than a single family at the same time for an extended period of time; provided, however, that the foregoing shall not be interpreted or construed as restricting or prohibiting undivided ownership interests or ownership by a partnership or other entity. For purposes of this restriction, a single family shall be defined as any number of persons related by blood, adoption, or marriage plus any live-in caretakers or other domestic assistants. No building or other improvement shall be erected, altered, placed, or permitted to remain on any tract other than one detached single family dwelling not to exceed two stories in height (not including any basement or subground level areas) and one (1) boathouse and one (1) swim deck for waterfront Lots. All homes must have a private attached garage for not less than two (2) automobiles. The interior walls of all garages must be finished (drywalled and painted). No garage may be habitually left open to the public street for extended periods of time. No garage will be permitted to be enclosed for living or used for purposes other than storage of vehicles and customary related uses. All buildings and other improvements must be constructed with all exterior surfaces other than roofs consisting of glass, brick, brick veneer, top quality, genuine stucco (not synthetic or Exterior Insulation and Finish Systems) hardy plank, stone, stone veneer, masonry, log, or cedar or a combination thereof as set forth on approved plans and specifications. Exposed standard concrete block, prefabricated metal buildings, or simulated brick will not be allowed but concrete may be used in connection with the construction of boathouses so long as same is aesthetically acceptable. The color of exterior materials must be in harmony with other exteriors in The Wilderness. Except as provided below with respect to window frames, any other materials may not be used on the exterior of any building, unless specifically approved in writing. Window frames other than wood and vinyl will be either anodized or electrostatically painted. Metal and vinyl window frames will be in color harmony with the exterior color and texture of the residence. No unpainted aluminum will be permitted for window framing. Wood frames will be painted or stained and sealed. No brick or stone shall be painted.

Driveways must consist of concrete, stone, brick, or asphalt. Asphalt driveways must be kept in good repair. All homes and garages must be site-built and in no event shall any mobile homes (whether temporary or permanent), permanent recreational vehicles, manufactured housing or above-ground swimming pools be allowed in any portion of The Wilderness. All roofing materials must be approved, including color, texture and quality. No additions of windows, decks or platforms after initial construction of the residence which could unreasonably invade the privacy of existing adjacent dwellings shall be permitted. Subject to the requirements of Article III, Section 9, the Architectural Control Committee shall have the authority, acting for specified reasons, to grant exceptions in writing to the above and to develop policies and guidelines with respect to implementing the above restrictions, all subject to approval by the Board.

Section 2. **MINIMUM FLOOR AREA:** Any residence must have a floor area of not less than two thousand five hundred (2,500) square feet, excluding patios, boathouses, driveways, garages and outbuildings; provided, however, that residences constructed in Wilderness Area I must have a floor area of not less than two thousand (2000) sq. ft., excluding patios, driveways and garages except for the Lots designated with a letter "A" on the plat of Wilderness Area I, which "A" Lots may have a floor area of not less than one thousand five hundred (1,500) sq. ft. excluding patios, driveways and garages and residences constructed in Wilderness Area VI must have a floor area of not less than two thousand (2000) sq. ft. excluding patios, boathouses, driveways, garages and outbuildings.

Section 3. **SETBACKS:** No building, porch, deck or other improvement shall be located on any tract nearer than thirty (30) feet to the front tract line. No building, porch, deck or other improvement shall be located nearer than ten (10) feet to the side of tract line, except that the site setback for buildings in Wilderness Area IV shall be seven (7) feet to the side tract line. Interior, non-waterfront Lots shall have a street setback line of fifty (50) feet or more except for corner Lots for which setbacks may be less as may be reasonable given the configuration of the Lot. For the purposes of this covenant, eaves shall not be considered as part of the building, provided however, that this shall not be construed to permit any portion of the building on any tract to encroach upon another tract. If two or more tracts, or fractions thereof, are consolidated into a building site in conformity with the provisions of Article IV, Section 4, these building setback provisions shall be applied to such resultant site as if it were on original, platted tract.

Section 4. **CONSOLIDATION AND RESUBDIVISION:** Consolidation is permitted, but no resubdivision of Lots shall be allowed unless (i) the subdivision is used for simultaneous consolidation of all portions of the subdivided Lot with a contiguous Lot so as to increase the size of such contiguous Lot by the addition of the portion lost from the Lot being subdivided, or (ii) all Lots resulting from such resubdivision contain at least one (1) acre of land. After consolidation, any resulting Lot shall be considered one (1) Lot for all purposes of this Declaration, including, without limitation, voting rights and payment of assessments. Similarly, any resubdivision of a Lot in accordance with the provisions of this Section shall result in each of the Lots existing after such permitted resubdivision being treated individually for all purposes of this Declaration, including, without limitation, voting rights and payment of assessments. In no event may any Lot be subdivided in a manner which results in a remaining Lot of less than one (1) acre in size. Notwithstanding anything in this Section 4 or elsewhere in this Declaration in conflict or to the contrary, (a) Wilderness Areas VII, VIII, IX and X are, as of the Effective Date, unplatted and all or part may be platted into Lots after the Effective Date; provided, however, that any such future platting shall create Lots which are in conformance with the provisions of, and subject to the restrictions contained in, this Declaration, and shall (i) create no Lot of less than one (1) acre in size, (ii) create for each Lot a street side building line and a side tract setback line of no less than those created by the plats of the other platted Wilderness Areas for Lots which are comparable, (iii) dedicate any constructed roadways to the Association (subject to the provisions of Section 4 of Article X), and

(iv) dedicate utility and access easements similar to those created by the plats of the other platted Wilderness Areas, and (b) no platting of or construction on any Wilderness Area which is not platted as of the Effective Date will be allowed to the extent that such platting or construction would create any type of parking areas or boat, trailer, equipment or vehicle storage or repair areas or waste storage areas, or allow such Wilderness Area to be used for anything other than a single-family residence and related roadway or to be developed in a manner inconsistent with the provisions of Article XI, Section 4, which restrictions are hereby made applicable to all unplatted Wilderness Areas.

Section 5. COMMONS: It is herein stipulated that the designated common areas may be used for any purposes required or deemed by the Association advantageous to the Owners in the project, such purpose to include but not being limited to the installation of any or all utilities, and dedication may be made upon a plat thereof or by separate instrument in writing and such dedication may be made at the discretion of the Association at any time, present or future, or the Association may allow the installation of any main or service extensions in said commons by letter or formal agreement to the utility company, or may allow installation of service lines from main to dwelling or outlets by oral approval. Any such installations made will be considered approved if the Association has not ordered such installation halted prior to completion thereof. There is hereby created an affirmative, non-exclusive easement in favor of Developers for ingress and egress over all of the common areas and for all purposes consistent with development and maintenance of the project. Use of the common areas (including roadways) shall be limited to Developers and Members, their families, tenants, employees, contractors and invitees and shall be perpetual and deemed appurtenant to each Lot. Except with respect to signs which may be erected by Developers or the Association and improvements effected with respect to the use of such areas as visually screened areas for trash collection and trailer storage for Association members, no construction, demolition or material alteration, other than landscaping or necessary repair or replacement, in, on or of the common area or any portion thereof shall be commenced or made by any party regardless of the ownership of the common area or any portion thereof, without the prior written approval of the Members having a two-thirds (2/3^{rds}) majority of the outstanding votes of the Association. The common area shall not be encumbered as security for any indebtedness or acquired in any manner by any creditor of the Association or of any Member, acting as a creditor for satisfaction of an obligation. No exploration for or production of oil, gas or minerals shall be permitted on any portion of the common area. No sale or transfer of any portion of the common area, whether by the Association or any future owner of the common area, whether by contract, foreclosure, operation of law or otherwise, shall be effective to convey any equitable or legal title to the common area or any portion thereof unless such sale or transfer has been previously consented to in writing by the Members having a two-thirds (2/3^{rds}) majority of the outstanding votes of the Association and all holders of any first deeds of trust placed upon any Lots. No fees or other amounts may be charged by any party for access to, on, over or across any of the common area, regardless of the ownership of the common area.

Section 6. NOXIOUS OR OFFENSIVE ACTIVITIES PROHIBITED: No noxious, unsightly, or offensive activity shall be carried on upon any tract, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood; provided, that the foregoing shall not be interpreted to apply to normal construction activities. No hunting or discharging of firearms is permitted other than for normal personal or property protection. No strobe lights or lights of excessive wattage will be used on any tracts or any boathouses owned by any Owners. All Owners will clean up after their pets at all times. The feeding of deer and/or other wildlife is permitted, provided that a recognized feed is used for feed and not anything which may be harmful for the deer and/or wildlife. No Owner shall cause or allow his or her tract to be used in any manner which would create excessive noise or offensive odors so as to disturb other Owners and no Lot maintenance, landscaping activities shall be commenced prior to 9:00 a.m.

Section 7. **OUTBUILDINGS:** No structure of any temporary character, or out building shall be used on any tract at any time as a residence, either temporarily or permanently. No outbuilding shall be permitted unless of the same quality as required of homes by the provisions of this Declaration and shall be subject to approval by the Architectural Control Committee. Notwithstanding the above, temporary storage buildings or containers such as "RubberMaid" containers may be used with written approval of the Architectural Control Committee. Specifications and photographs of the type of temporary manufactured container and the exact location must be submitted for approval prior to locating said container on site, which container shall not exceed 36 square feet nor more than 252 cubic feet of space and shall not be located any closer than 75 feet from either the road or the waterfront. Any approved container must be screened from general view by appropriate landscape bushes.

Section 8. **SIGNS:** No signs of any character shall be allowed on any tract except as follows: (a) Owners (including Developers and builders) may display one (1) Approved Sale/Lease Sign (as hereinafter defined) to advertise an improved or unimproved Lot for sale or lease; provided, however, that Owners (including Developers and builders) may advertise waterfront Lots with an additional Approved Sale/Lease Sign readable from the water, (b) Developers and any other person or entity engaged in the construction and sale of residences within the project shall have the right, during construction and sales period, to construct and maintain such facilities as may be necessary for such construction and sale, including, but not limited to, signs as described above in (a), offices, storage areas, and model units, and (c) Developers may construct signs in the common areas to facilitate general directions and the sale of inventory Lots. A list of all unimproved Lots for sale in The Wilderness, whether by Owners or Developers, shall be maintained in The Wilderness office, if any, or, if there is no currently maintained office for The Wilderness, in a place designed by the Board. As used herein, "Approved Sale/Lease Sign" shall mean either (i) a sign measuring not more than 30" X 18" advertising the property for sale or lease which is a realtor's or builder's standard sign, (ii) the standard sale/lease sign provided by The Wilderness for Lots to be sold by an Owner (other than Developers or builders and without a realtor), the first one (1) of which (or, in the case of waterfront Lots, the first two (2) of which) shall be provided by the Association to the Owner for a charge equal to the Association's cost and thereafter replacement signs will be provided at the Association's cost, and (iii) in the case of Lots for sale by Developers, the Developers' standard for sale/lease sign not to exceed 30" X 18". No sign may be illuminated.

Section 9. **MINERAL DEVELOPMENT PROHIBITED:** No oil or gas well drilling, oil development operations, oil or gas refining, quarrying, or mining operations of any kind shall be permitted on any tract, nor shall oil or gas wells, tanks, tunnels, mineral excavations, or shafts be permitted on any tract. No derrick or other structure designed for use in boring for oil, natural gas, or other minerals shall be erected, maintained, or permitted on any portion of the project.

Section 10. **RUBBISH, TRASH AND GARBAGE:** No tract shall be used or maintained as a dumping ground for rubbish or junk and no garbage or other waste shall be kept, except in sanitary containers shielded from view. Owners of waterfront tracts shall keep the shoreline of their tract free of trash and debris. All ashes and debris remaining from burning of trees or vegetation shall be disposed of and shall not be allowed to remain in an unsightly condition. Owners shall not place dredged soil, inoperative appliances or furniture, inoperative or discarded equipment, rock or excessive accumulations of dirt on any Lot. Trash shall be placed in designated locations and containers as may be established from time to time by the Board. No incinerators or unsightly objects shall be allowed to be placed or remain anywhere on a Lot which is visible from the street, the waterfront or another Lot. Areas reserved for dumpsters and trailer and equipment storage shall be shielded from view and shall not be visible from any Lot, roadway in The Wilderness or the waterfront.

Section 11. ANIMALS: No large animals can be kept in the residential areas or within 750 feet of any residence. No animals shall be kept, bred or raised for commercial purposes. Pets shall be controlled and shall not be kept in excessive numbers. Owners shall not allow dogs to engage in excessive barking and will take the necessary steps to prevent and stop continued barking and/or other disturbance of other Owners by their pets. Dogs shall not be allowed to roam free, and shall be kept in a fenced area approved by the Architectural Control Committee or shall be accompanied by an Owner at all times. No chickens, pigeons, pigs or livestock of any kind not generally located in an upscale single-family residential area shall be kept on any tract.

Section 12. FENCES, WALLS, HEDGES: All fences, walls and hedges must be approved by the Architectural Control Committee prior to their erection.

Section 13. SHRUBS AND TREES: No shrub or tree planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be planted or permitted to remain on any corner tract within the triangular area formed by the curb lines of such intersecting streets and a line connection such curb lines at points twenty-five (25) feet from their intersections or, in the case of a rounded corner, from the intersection of the curb line extended. The same sight line limitations shall apply on any tract within ten (10) feet of the intersection unless the foliage line is maintained at a height of more than six (6) feet above the ground level.

Section 14. RVs, BOATS, TRUCKS, BUSES, AND TRAILERS: No boat, truck (excluding pickup trucks), bus, trailer or other vehicle shall be left parked overnight on the street in front of any tract except for construction and repair equipment while a residence or residences are being built or repaired in the immediate vicinity, and no truck, bus, boat or trailer shall be parked on the driveway or any portion of the tract in such manner as to be visible from the street. Except within the confines of an enclosed garage, no vehicle shall be repaired or rebuilt anywhere in the project, including on any Lot or upon the streets of the project. The Association may remove, or cause to be removed, any unauthorized vehicle or other item prohibited hereby at the expense of the owner thereof in any manner consistent with law after having sent or delivered to the Owner written notice of the violation of this Section 14 and such violation has continued thereafter for five (5) days; provided, however, that the Association shall not be required to send any such notice to such Owner for any violation which has occurred more than two (2) times in any twelve (12) month period. No more than two (2) RVs, trailers or tents (or any combination thereof) are permitted on any one Lot at any one time (maximum total number of two (2) units). Sanitation facilities are required for campers of any kind. No RVs, trailers, tents, grills, fencing or camping equipment are permitted to remain on a Lot for more than four (4) consecutive days, and, together with any sanitation unit, must be removed from property on departure; provided, that, upon written approval by the Board after a request in writing by an Owner containing all necessary information regarding the request, including, without limitation, the requested dates (which approval may be granted or denied by the Board in the exercise of its sole and absolute discretion), (i) up to, but not exceeding four (4) times in any calendar year, two (2) RVs, trailers or tents or any combination thereof for a total of two (2) units (as described above) may remain on a Lot for up to seven (7) consecutive days without being removed, and (ii) one (1) RV or trailer may remain on a tract during new home construction. Requests to the Board of Directors for such extended stay periods as described in (i) above must be delivered to the Board at least fifteen (15) days prior to the first day which is the subject of such request and the Board will use reasonable efforts to respond in writing to such request with within fifteen (15) days after receipt. No RV, trailer, camper or similar vehicle shall be parked or placed on any portion of a lot on which the foundation of a home would be prohibited (for example, forward of building or lot setback lines or below the 320 foot elevation line). Without the necessity of amending this Declaration, the Board may from time to time amend the restrictions set forth in this Section by promulgation of rules and guidelines to reflect the

changing conditions of The Wilderness as the number of residences constructed in The Wilderness increases.

Section 15. **OTHER PROHIBITED ACTIVITIES:** No business or commercial activity to which the general public is invited shall be conducted on any tract or from any boathouse. No laundry shall be hung outdoors. No activities inconsistent with home ownership in an upscale residential area shall be conducted and no unsightly items shall be stored or maintained on any tract or any boathouse owned by any Owner which would be visible from the street, any other home or the waterfront, including, without limitation, any inoperative automobiles, trucks, boats or other vehicles, appliances, mattresses, couches or other indoor furniture being used outdoors, any junk, trash, garbage, basketball equipment in disrepair, discarded construction materials (except during construction or renovation), rusted or inoperative grills or other items in disrepair. Owner shall not lease any portion of any Lot or improvement on any Lot for a lease term of less than one (1) year or allow other transient uses.

Section 16. **TANKS:** All propane tanks shall be buried in all portions of The Wilderness. Except for buried propane tanks, no storage tanks for fuel or other substances shall be allowed on any Lot.

Section 17. **ROAD LOAD LIMITS:** Except in connection with Developers' construction of roadways or other infrastructure, trucks with loads exceeding 10,000 lbs. are not allowed on The Wilderness roads after 11:00 a.m. between April and September; provided, however, that the Board of Directors may issue special written permission for a later departure time from The Wilderness where circumstances surrounding the subject construction necessitate such an exception (including, for example, in connection with installation of concrete foundations). Owners of tracts in violation will be subject to a fine of \$500.00 per truck load. The Board may, from time to time, modify the rules regarding road usage as may be appropriate for a change in the circumstances of The Wilderness without the necessity of amending this Declaration. Developers shall be responsible for and promptly repair any damage to any roads previously dedicated to the Association, which damage is caused by Developers' use in connection with the construction of other roads or construction of infrastructure.

Section 18. **UTILITY CONNECTIONS:** All residences constructed upon the tracts herein described shall be connected with proper water, electrical, and propane services, at the expense of the Owner of said tract and all residences shall have suitable, workable septic tank system as specified by the project engineers and to be approved by the Architectural Control Committee, the County Health Agent or Tarrant County Water Control District at the expense of the Owner. All electric and other utility lines shall be buried, except for the overhead electric lines existing as of the date of this Declaration (i) running along Shenandoah and Appomattox, (ii) running between Lots 32AR and 33AR crossing Bull Run and connecting into the lines described in (i) above, (iii) crossing the end of Appomattox, and (iv) running between Lots 34A and 35A, crossing Stonewall and connecting to Shenandoah.

Section 19. **VISUAL SCREENING:** Owners shall keep visually screened from view from neighbors and from the street side and waterfront of his or her tract, any trash receptacles, transformers, air conditioning condensers and compressors and other major equipment, pool equipment, solar panels and antennas other than satellite dishes. No satellite dishes in excess of 18" in diameter shall be allowed and all satellite dishes shall, to the extent possible, be placed at a location or screened with vegetation so as not to be visible from any other tract, the street side of the tract or from the waterfront.

Section 20. **RULES AND REGULATIONS:** The Board shall be empowered to adopt, amend, repeal and enforce such rules and regulations, as it deems reasonable and appropriate, governing its operation and/or the use and/or occupancy of any part of The Wilderness and to establish a system of fines and penalties enforceable as special assessments; provided, however, that the rules and regulations

shall not be inconsistent with this Declaration. A copy of such rules and regulations, as they may from time to time be adopted, amended or repealed shall be mailed or delivered to each Owner promptly after such action is taken and shall be available at the principal office of the Association. The rules and regulations described in this Section shall have the same force and effect as if set forth in and constituting a part of this Declaration, and shall be binding on the Owners, tenants and other occupants and all other persons having any interest in or making any use of the project, whether or not actually received thereby. Such rules and regulations to be made and enforced by the Board will include, but not be limited to, rules concerning guest privileges to commons, recreation facilities, if any, speed limits on streets, type of vehicles on streets and other commons, control of noise, and use of irrigation water and channels or canals, and regulation of unsightly storage, equipment, antennas, satellite dishes, debris from clearing activities, or clutter visible from the street or waterfront and bids to be obtained for services to be performed. Any owner who leases his Lot shall be responsible for insuring compliance by his lessee with all of the rules and regulations of the Association, as well as all of the provisions of this Declaration, all as amended and/or supplemented from time to time, and such Owner shall be jointly and severally responsible for any violations thereof by his lessee.

Section 21. DELEGATION OF USE OF FACILITIES: Any Owner may delegate the right of enjoyment to the common areas and facilities to the members of his family, his or her tenants (subject to the provisions of this Article IV) or contract purchasers who reside on the tract.

Section 22. BUSINESS USE. No business, trade, garage sale, moving sale, rummage sale, or similar activity may be conducted in or from any Lot other than a business activity which (a) is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) conforms to all other requirements for The Wilderness; (c) does not involve regular visitation of the Lot by clients, customers, suppliers, delivery personnel or other business invitees or door-to-door solicitation of residents of the project; (d) is consistent with the single family residential character of The Wilderness, and (e) does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of The Wilderness, all as may be determined in the sole discretion of the Board.

The terms "business" and "trade" as used in this Section shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

Notwithstanding the above, (a) the leasing of a Lot shall not be considered a business or trade within the meaning of this Section, and (b) this Section shall not apply to (i) any activity conducted by the Developers or a builder approved by the Developers with respect to its development and sale of the project (excluding the operation of a timeshare or similar program, which is expressly prohibited), or (ii) any garage, moving or yard sale which does not continue for more than two (2) consecutive days and is not conducted more than one (1) time in any calendar year.

Section 23. VEHICLE PARKING. No vehicles will be parked overnight on any street or, with respect to improved Lots, overnight on any grass or yard areas not improved as driveways or parking areas.

**ARTICLE V.
OWNERS OBLIGATION TO REPAIR**

Section 1. **EXTERIOR MAINTENANCE OF BUILDINGS:** Each Owner shall, at his sole cost and expense, repair and maintain his residence, driveway and parking areas, boathouse, and other buildings on and/or, in the case of boathouses and swim decks, adjoining his Lot, keeping the same (i) in a condition comparable to the condition of such building at the time of its initial construction, excepting only normal wear and tear, and (ii) otherwise in compliance with the provisions of this Declaration. In the event the Owner of any such building should allow such building to fall into disrepair and become in need of paint, repair, or restoration of any nature and become unattractive and not in keeping with the neighborhood, the Association will give such Owner written notice of such conditions. Fifteen (15) days after notice of such condition, the Association may enter upon said premises to do or cause to be done any work necessary to correct said situation. The Owner of such building shall be billed for cost plus ten percent (10%). All monies so owed the Association will constitute an assessment against such property, secured by the lien created by this Declaration.

Section 2. **MAINTENANCE OF TRACTS:** Subject to the last sentence of this Section, each Owner of a tract or tracts in the project will be required to keep said property free of underbrush, weeds, tall grass, or any other unsightly or offensive growth or accumulation of trash, garbage, or unsightly deposits of any nature or kind from the date of purchase of said tract. This requirement is effective as to improved and unimproved tracts. Thirty (30) days after notice to Owner of a violation existing, the Association or its employees will have the right and authority to enter upon said premises and correct such violation. The Association will charge said Owner a reasonable fee for such work accomplished and bill said Owner for said fee plus a reasonable service charge per month, for each instance, until Owner pays the Association in full as billed. All monies so owed the Association will become an assessment against the property, secured by the lien of this Declaration. The provisions of this Section pertaining to vegetation shall not apply to (i) any unsold Lots owned by Developers, (ii) any Lot which has never been cleared or otherwise altered from its natural state, or (iii) any portion of an improved Lot with respect to which the Owner has received written approval to maintain in its natural state (parameters for which may be set by the Board).

**ARTICLE VI.
MEMBERSHIP IN ASSOCIATION; VOTING RIGHTS; AMENITIES**

Section 1. **MEMBERSHIP:** Every Owner of a tract shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a tract. No Owner, whether one (1) or more persons, shall have more than one (1) membership per tract. In the event that a tract is owned by more than one (1) person, all co-owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in Section 3. The membership rights and privileges of an Owner who is a natural person may be exercised by the Owner or the Owner's spouse, as they may agree. The membership rights and privileges of an Owner which is a corporation, partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

Section 2. **AMENITIES:** The Developers may make future areas containing a clubhouse, tennis courts, swimming pool, horse stables or boat storage available to Owners and may make a future golf course area available to a golf course developer or an association of Owners in The Wilderness to construct and operate said golf course. There shall not be levied any fees or assessments to Owners in The Wilderness to construct or operate said amenities, but Developer may charge fees for the use of any such amenities constructed by Developer to those Owners who voluntarily elect to use same. The

proposed amenities are separate entities and any association/membership with same shall be on a voluntary basis only. The fees/assessments for using the above mentioned amenities will be assessed separately from the other assessments as set out in Article VII herein. Owners/Association Members and/or their families and friends that do not use the above named amenities will not be assessed additional fees over and above the assessments as set out in Article VII herein.

Section 3. VOTING RIGHTS: Prior to the Conversion Date (hereinafter defined), each Owner other than Developers shall be a "Class A Member" and Developers shall be a "Class B Member", with each Class A Member having one vote for each Lot owned and the Class B Member having a number of votes which is equal to all of the votes of the Class A Members combined plus one (1) additional vote. On and after the Conversion Date, the distinction between the Class A Members and the Class B Member shall be immediately and automatically eliminated without further action by any party and all Owners (including Developers) shall have one (1) vote for each Lot owned. As used herein the "**Conversion Date**" shall mean the earliest date on which all vacant land which is a part of The Wilderness and remains owned by Developers, and prior to any sale thereof, has a total value of less than One Million Dollars (\$1,000,000.00) as established by an appraisal prepared by a state certified appraiser with at least five (5) years experience in appraising residential real property similar to The Wilderness and located in the general vicinity of The Wilderness. The cost of any such appraisal shall be borne by the Association and such appraisal shall be instituted upon the written request of at least twenty-five percent (25%) of the Owners. If the Owners requesting said appraisal and the Developers cannot agree upon the appraiser, each shall appoint an appraiser having the qualifications described above. In the event that said two (2) appraisers cannot agree on a value of such vacant land then owned by Developers, said two (2) appraisers shall appoint a third appraiser and the appraised value shall be deemed to be the average of the two (2) appraisals which are closest in value. In any situation where a member is entitled to personally exercise the vote for his or her Lot and there is more than one (1) Owner of such Lot, the vote for such Lot shall be exercised as such co-owners determine among themselves and advise the Secretary of the Association in writing prior to exercising any such vote. In the absence of such written advice, the vote for the Lot shall be suspended if more than one (1) person seeks to exercise such vote. In no event shall more than one (1) vote be cast with respect to any tract owned by such members.

Section 4. ELECTION OF DIRECTORS: The members of the Association shall meet once per year for the purpose of electing members of the Board of Directors as set forth in the Bylaws of the Association. Such Board of Directors shall have the full powers and duties as may be reasonably necessary to carry out the purposes and duties of the Association as provided herein.

ARTICLE VII. ASSESSMENTS

Section 1. Subject to the provisions of Section 9, the undersigned hereby covenant for each tract within the project, and each Owner of a tract is hereby deemed to covenant by acceptance of his contract or deed for such tract, whether or not it shall be so expressed in his contract or deed, to pay to the Association (1) annual assessments, initially fixed as of the Effective Date of this Declaration to be Three Hundred and No/100 Dollars (\$300.00) per year, as may be adjusted by the Board effective each January 1 for the following year; provided, however, that the Board may not increase the annual assessment by more than ten percent (10%) in any twelve-month period without the written approval of fifty-one percent (51%) of all Owners, and (2) special assessments as provided in Section 3 below. Such special assessments will be established and collected by the Board as hereinafter provided. The annual and special assessments, together with interest, costs, late charges and reasonable attorney's fees shall also be the personal obligation of the person or persons who owned the tract at the time the assessment fell due, and such personal obligation shall pass to the successors in title of such person or person, whether or not

expressly assumed by them, without releasing the prior owner, so that both parties shall be jointly and severally liable for such amounts and such amounts shall continue to be secured by the lien of this Declaration.

Section 2. The annual assessments levied by the Board of the Association shall be used exclusively to promote the health, safety, welfare, and recreation of the residents of the project, and for the construction, improvement and maintenance of the drainage, irrigation systems, or community facilities and private or county roadway easements within the project. No assessments of any kind shall be assessed with respect to any property which is not within the project or with respect to any drives or roadways prior to same having been dedicated by the Developers to the Association as provided in this Declaration.

Section 3. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only as necessary to defray in whole or in part, the cost of any construction, reconstruction, repair, or replacement or capital improvement to the project or any previously dedicated private roadway, or county roadway within the project, which cost could not otherwise be paid from Association funds set aside for such purposes or related purposes. Any special assessment shall be in an equal amount applicable to all tracts in the project and shall be assessed by written notice to each Owner, payable thirty (30) days after the giving of such notice; provided, however, that special assessments in excess of \$300.00 per Lot must be first approved by fifty-one percent (51%) of all Owners.

Section 4. No later than February 28 of each year, the Association's Board of Directors shall fix the annual assessment in an equal amount against each tract for the next calendar year and shall send to each Owner notice of such assessment amount, together with the budget for the calendar year and a comprehensive financial report for the prior calendar year, detailing all receipts and expenditures of the Association. Assessments shall be made payable annually in advance. Notice of the annual assessments shall be sent to every Owner subject thereto. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment against a specific tract has been paid, and may, at any time, cause to be recorded in the office of the County Clerk of the County, an affidavit evidencing the amount of any delinquent assessments with respect to any tract to evidence the amount of the self-executing lien on said tract created by this Declaration and securing said unpaid amounts.

Section 5. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the highest legal rate per annum. The Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same for such assessment and all related costs, and/or may foreclose the lien against the property to which such delinquent assessments apply. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas, community facilities, roadway easements, or abandonment of the subject tract. If a Lot is owned by more than one (1) Owner, all Owners shall be jointly and severally liable for any assessments.

Section 6. The lien created by this Declaration shall be self-executing, without the necessity of the execution, delivery or recordation of any further notice or documentation and shall be subordinate to the lien of any first or second priority Mortgage. A sale or transfer of any tract shall not affect the assessment lien. However, the sale or transfer of any tract pursuant to a mortgage foreclosure or any proceeding approved by the Board in lieu thereof, shall extinguish the assessment lien as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve the Owner thereof from

personal liability for the subject delinquent amounts or relieve such tract from liability for any assessments thereafter becoming due or from the lien thereof.

Section 7. Any expenses of suit brought by the Association herein and any expenses of defense of any suit brought against the Association, its officers, or directors, in regard to the functions thereof in the administration of enforcement of these covenants shall be borne by the Association and the Association shall have and hold any rights of recovery of such fees.

Section 8. Each Owner in the project agrees that should suit be brought by Declarants and/or the Association to enforce performance of the covenants, the suing party will be and is entitled to judgment for damages and all costs of suit, including but not limited to expert witnesses, attorneys, appraisers, surveyors, and court costs, should the action prevail. The amount of any such judgment obtained for damages or cost shall automatically become self-executing without the necessity of the execution, delivery or recordation of any further notice or documentation and shall be a lien against defendant's property in the project.

Section 9. It is specifically stipulated that Developers and Zakanaka are exempt from assessments and fees of any nature, form, or amount on all land or inventory held in The Wilderness for sale and/or future development.

Section 10. Should Developers or Zakanaka foreclose on or repossess any property sold under deed for contract or on which there was retained a Mortgage or a vendor's lien, such property will revert to status of inventory free of the obligation of any accrued and unpaid assessments or costs and/or liens thereon. Any such liens of record will be released by the appropriate officer or officers upon presentation of release thereto by Developers or Zakanaka, as applicable. Upon failure of such action by the Association, or in lieu thereof, Developers or Zakanaka, as applicable, may file a release executed on and by its own behalf which will be conclusive evidence to all persons that such lien is thereby released unless the Association acting within its authority files a proper court action to invalidate said release within thirty (30) days after recordation.

ARTICLE VIII.

ADDITIONAL PROVISIONS REGARDING ASSESSMENTS AND LIEN SECURING SAME

Section 1. **FACILITIES:** Each interested party or purchaser of a tract or parcel of ground in the project is hereby made aware of the fact that some or all streets in the project are dedicated or will be dedicated to the use of the Owners and are not dedicated to the County, any municipal body or public authority, nor to the public. Such purchaser or other interested party is hereby given notice that, subject to the provisions of Article X, Section 5, the maintenance of such streets and county roads after dedication to the Association by the Developers and other designated areas and facilities, called common areas, and the payment for security guards and patrols, if any, garbage pick-up and other conveniences deemed necessary and requisite to the pleasure, comfort, security and enjoyment of the Owners, will be provided for through the annual assessment or special assessments, as the case may be, to be levied against each and every tract equally by the Board.

Section 2. **AUTHORITY:** The undersigned and each purchaser of a tract in the project hereby agree that the Association, acting through the Board, has the authority to levy and collect all assessments as provided for herein and to administer all funds and attend to the management and maintenance of all common areas.

Section 3. **[INTENTIONALLY OMITTED]**

Section 4. **TRANSFER ASSESSMENT:** There shall be due and payable to the Association upon the transfer of any tract by any party other than the Declarants or Zakanaka an assessment in the amount of Two Hundred and No/100 Dollars (\$200.00) for each tract so transferred (the "Transfer Assessment"). The Transfer Assessment shall be indicated on any resale certificate delivered in connection with such transfer and will be payable to the Association at the closing of such transfer. Payment of the Transfer Assessment is secured by the lien of this Declaration and shall survive any transfer. The Board may adjust the amount of the Transfer Assessment from time to time in the exercise of its reasonable discretion.

Section 5. **HANDLING OF ASSESSED FUNDS:** It is specified herein that all assessments and other funds received or collected by the Association will be kept in a special bank account or savings account to be used only for the purposes as herein stated, and an itemized account of all receipts and disbursements will be mailed to all Owners, together with an annual budget and annual financial report, as provided in Article VII, Section 4.

If at any time the Owners of fifty-one percent (51%) or more of the tracts desire that the fund so established and the books and records pertaining thereto be audited, then said Owners may, by affixing their signatures to a petition cause such audit to be made. Such petition will cite the account by its proper identification and shall stipulate the name of a Certified Public Accountant who shall make such audit and the date that such records shall be made available to said Accountant. The Association will then be compelled to make such records available to the named Certified Public Accountant, in the offices of the Association or other place at the discretion of Association and will be authorized to pay to such Accountant, reasonable accounting fees for said audit from the funds of the account so audited.

Section 6. **[INTENTIONALLY OMITTED]**

Section 7. **[INTENTIONALLY OMITTED]**

Section 8. **COLLECTION OF ASSESSMENTS:** The Association will have the sole responsibility and authority to collect all assessments. Such assessments will be levied on an annual basis. The Association will have the power to add to such assessments appropriate and reasonable penalties against said Owners for delinquency in payment of assessments as well as the other remedies set forth herein.

Section 9. **DELINQUENT ASSESSMENTS:** Any Owner being thirty (30) days delinquent in the payment of any assessment shall owe a late charge in the amount of \$25.00 for each delinquent assessment for each month that such assessment remains delinquent and may have filed against his property an affidavit evidencing the amount of the delinquencies and the lien securing such assessment, plus any penalties and costs. Such lien shall remain in effect until all past due assessments, penalties and costs have been paid or satisfied as otherwise set forth herein.

Section 10. **RESERVATION AND ENFORCEMENT OF LIENS:** The Association does hereby reserve unto itself, establish and impose, a lien, securing each assessment imposed or to be imposed under the terms of this Declaration, or in any way provided for herein, together with any costs, interest, fines, penalties, collection costs, reimbursements and any other amounts owed by the Owner of a tract pursuant to the terms of this Declaration, said lien being imposed hereby without the need for any further documentation, notice or action, against all the property at any time covered in this instrument, subject only to any limitations and/or provisions in this Declaration. The lien created by this Declaration as described above shall be deemed to constitute a portion of the purchase price of and consideration for the acquisition of each tract and is hereby granted with a power of sale in favor of the Trustee (hereinafter

defined) for the benefit of the Association. With respect to any amounts secured by the lien described herein which become delinquent and remain delinquent for thirty (30) days after notification by the Association to the Owner of such delinquency, the Association may, but shall not be obligated to, (i) record in the Real Property Records of Freestone County, Texas an Affidavit of Lien to put all persons on notice of such delinquent amounts, and/or (ii) give written notification to the holders of any Mortgages on any such affected tracts. Upon written request by any Owner and the furnishing by the Owner to the Association of the correct name and address of the holder of the Mortgage on his or her tract, the Association shall give notice to such Mortgagee of any delinquencies in payment. The undersigned hereby convey to and appoint Michael K. Sanderson as the trustee (the "Trustee") with respect to the lien created by this Declaration, which lien may be foreclosed by Trustee acting at the direction of the Board on behalf of the Association, either by judicial foreclosure or nonjudicially by public sale in the same manner as if a Deed of Trust had been granted by the Owner of the subject tract to Trustee to secure the amounts secured by the lien of this Declaration, all subject to applicable laws of the State of Texas. Trustee shall act at the direction of the Board with respect to enforcing the lien as to any delinquent amounts secured thereby. If Trustee is unable or refuses to continue to serve as Trustee or if the Board, for any reason, wishes to replace Trustee, the Board may, by executing and recording a document in the appropriate real property records of Freestone County, Texas, remove Trustee and appoint a substitute Trustee without further action, and upon such substitution, the substitute Trustee shall have all of the rights, titles, interests and powers of the Trustee being replaced, without the need for any conveyance. At the direction of the Board, Trustee shall sell the subject tract under the private power of sale granted by this Declaration, at public auction in accordance with the notice and sale requirements of the State of Texas in effect at such time, and at any such sale, the Association, acting through the Board, may credit bid all or any portion of the delinquent amounts secured by the lien and may become the successful bidder and purchaser at the foreclosure sale. Such sale shall be for cash (except for any such credit bid by the Association) and the highest bidder shall receive a conveyance with general warranty binding the Owner of such tract and his or her heirs, legal and personal representatives, successors and assigns, as if such party had executed and delivered said conveyance. Out of the proceeds arising from such sale, Trustee shall pay first all expenses in connection with the sale (including a reasonable Trustee's fee) and then pay to the Association the full amount of all principal, interest, attorney's fees and expenses, fines, reimbursement amounts and other charges due and unpaid by the party owning the tract immediately prior to foreclosure, and all other indebtedness secured by such lien, rendering the balance of the sale price, if any, to such Owner. The recitals in the conveyance to the purchaser at foreclosure shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to such sale and the advertisement thereof shall be presumed to have been performed and conveyance shall be conclusive against such party, its heirs, legal and personal representatives, successors and assigns.

Section 11. CONCERNING THE TRUSTEE.

(a) Trustee shall not be required to take any action toward the execution and enforcement of the trust hereby created or to institute, appear in, or defend any action, suit, or other proceeding in connection therewith where, in Trustee's opinion, such action would be likely to involve Trustee in expense or liability, unless requested so to do by a written instrument signed by the Board and, if Trustee so requests, unless Trustee is tendered security and indemnity satisfactory to Trustee against any and all cost, expense, and liability arising therefrom. Trustee shall not be responsible for the sufficiency of the lien and security interest purported to be created hereby, and Trustee makes no representation in respect thereof or in respect of the rights, remedies, and recourses of Association.

(b) Trustee shall have the right to take any and all of the following actions: (i) to select, employ, and advise with counsel (who may be, but need not be, counsel for the Association) upon any matters arising hereunder, including the interpretation of this Declaration, and shall be fully protected in relying as to legal matters on the advice of counsel, (ii) to execute any of the trusts and powers hereof and to perform any duty hereunder either directly or through his agents or attorneys, (iii) to select and employ, in and about the execution of his duties hereunder, suitable accountants, engineers and other experts, agents and attorneys-in-fact, either corporate or individual, not regularly in the employ of Trustee, and Trustee shall not be answerable for any act, default, negligence, or misconduct of any such accountant, engineer or other expert, agent or attorney-in-fact, if selected with reasonable care, or for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever, except for Trustee's gross negligence or bad faith, and (iv) any and all other lawful action as the Board may instruct Trustee to take to protect or enforce the Association's rights hereunder. Trustee shall not be personally liable in case of entry by Trustee, or anyone entering by virtue of the powers herein granted to Trustee, upon any subject property for debts contracted for or liability or damages incurred in the management or operation thereof. Trustee shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. Trustee shall be entitled to reimbursement for expenses incurred by Trustee in the performance of Trustee's duties hereunder and to reasonable compensation for such of Trustee's services hereunder as shall be rendered. The Association indemnifies Trustee with respect to his actions hereunder except for any gross negligence or willful misconduct and will, from time to time, reimburse Trustee for, and save Trustee harmless from and against, any and all liability and expenses which may be incurred by Trustee in the performance of Trustee's duties.

(c) All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by applicable law) and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

(d) Should any deed, conveyance, or instrument of any nature be required from a defaulting Owner by Trustee or substitute Trustee to more fully and certainly vest in and confirm to any Trustee or substitute Trustee such estates, rights, powers, and duties, then, upon request by Trustee or such substitute Trustee, any and all such deeds, conveyances and instruments shall be made, executed, acknowledged, and delivered and shall be caused to be recorded and/or filed by said defaulting Owner.

Section 12. SUBORDINATION TO MORTGAGE: Each and every assessment and lien, together with any cost, penalties or interest, established, reserved or imposed under this instrument and the Association shall be subordinate to any valid bona fide Mortgage (and the lien and/or title thereof) which has been or may hereafter be given in good faith and for value on any interest of any Owner covered by this instrument. Any subsequent Owner of any property so covered, purchased at foreclosure, shall be bound by restrictions, conditions, covenants, reservations, assessments, liens and other provisions set out in his instrument, not including, however, any assessment or lien arising prior to the foreclosure sale.

**ARTICLE IX.
UTILITY CHARGES**

Section 1. As a condition to construction of any residence on any tract in The Wilderness, the Owner thereof shall pay to the Association a charge for the initial installation of a water meter. As of the Effective Date, such charge shall be \$1,400.00 and may be adjusted by the Board from time to time in the exercise of its reasonable discretion. The funds received, prior to or after the Effective Date, in connection with any water meter charges with respect to any Lot shall be reserved for use as may be necessary for improvements or additions to the water utility infrastructure in or for The Wilderness, except to the extent that any portion of such funds must be paid to the water utility provider.

**ARTICLE X.
LAW ENFORCEMENT AND STREETS**

Section 1. **TRAFFIC LAW:** Notwithstanding the fact that all or some roads and streets in the project are or may be dedicated not unto the public, but only to the Owners as easements, it is hereby stipulated that, upon approval by the Board, the Commissioners Court will have the full authority to establish speed limits or other traffic laws and rules, and penalties for violation thereof upon the streets of the project and, upon approval by the Board, the law enforcement officers of the County or of the State of Texas or any other official body having such authority, may enter upon the project to enforce the speed limits as set by the County Commissioners Court or other entity or authority, just as though said roadways were public. Golf carts shall be permitted on the roadways of The Wilderness.

Section 2. **PUBLIC LAW:** Notwithstanding the fact that commons in the project are private and dedicated only unto the Owners within the project, it is hereby stipulated that, upon request by the Board and subject to the provisions of Section 1 of this Article X, any law enforcement officer, County, State or Federal is hereby authorized to enter upon the premises of the project for all purposes just as though the project commons were dedicated unto the public, and every law enforcement officer will have the same rights, privileges and duties within the boundaries of the project as he would in any subdivision whereby the streets and other commons and facilities were dedicated to the public.

Section 3. **[INTENTIONALLY OMITTED]**

Section 4. **ROAD STANDARDS:** Each roadway constructed in or dedicated as a part of The Wilderness after the date of this Declaration shall be constructed so as to meet the Required Roadway Standard. As used herein, "Required Roadway Standard" shall mean the construction standards for public roadways then in effect as required by Freestone County, Texas, but, in any event, (i) incorporating adequate culverts and other drainage facilities so as to prevent any future flooding or water damage, and (ii) meeting at least the following specific construction standards should such County requirements at such time be less than the following with respect to the following specified matters: Each roadway shall have a twenty-four (24) foot wide road base with a minimum twenty (20) foot wide surface. The topping of the roadway for the initial construction shall be a minimum of two (2) inches of hot asphalt – D grade and subsequent overlays shall be comprised of chip and seal or substance of better quality. The base below the topping shall be at least nine (9) inches of compacted, crushed lime rock or other suitable lime base.

Section 5. **DEDICATION BY DEVELOPERS TO ASSOCIATION.** By the recordation of the plat containing such roadway or street, the Developers shall transfer, convey and dedicate to the Association, all rights, title, interest and ownership, as well as all future maintenance and repair obligations, with respect to any drive, roadway or street constructed in The Wilderness; provided,

however, that no plat shall be recorded containing any roadways or streets which have not been completed so as to meet the Required Roadway Standard as described in Section 4 of this Article X and provided further that, notwithstanding such transfer, conveyance and dedication to the Association, Developers shall retain the maintenance and repair obligations and bear the costs thereof with respect to any such drive, roadway or street until such time as thirty percent (30%) of the Lots abutting same as of the date of the platting of the first Lots abutting such drive, roadway or street are owned by Owners other than Developers or Zakanaka.

ARTICLE XI. GENERAL PROVISIONS

Section 1. ENFORCEMENT; NO WAIVER: Developers, the Board, the Architectural Control Committee, or any Owner shall have the right to enforce, by any proceeding at law or in equity or, to the extent enforced by the Association acting through the Board and not prohibited by law, self-help, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration or the rules of the Association and the Association, acting through the Board, may correct such violation at the expense of the Owner of such Lot. With respect to enforcement by the Association, all restrictions, covenants, rules, regulations and other provisions of this Declaration shall be enforced by the Board of Directors, acting on behalf of the Association, and the Board shall be the final arbiter of all disputes regarding such enforcement. The Architectural Control Committee shall assist the Board of Directors by granting or denying approvals, notifying Owners of architectural/landscaping violations and otherwise performing as contemplated by Article III and as elsewhere expressly described and referenced in this Declaration; provided, however, that any fines or other enforcement action against an Owner for non-compliance must be taken pursuant to a majority vote of the Board of Directors. All such expenses and fines relating thereto as may be imposed pursuant to this Declaration or the rules of the Association shall constitute a special assessment, secured by the lien of this Declaration upon such Lot and enforceable in accordance with the provisions of this Declaration. All remedies described in this Declaration and all other rights and remedies available at law or equity shall be available in the event of any breach of any of the provisions of this Declaration. Failure to enforce any covenant, or restriction herein contained shall in no event be deemed a waiver of the rights to do so thereafter, and any waiver with respect to any of the matters which are the subject of this Declaration must be expressed and delivered in writing to be effective, shall only apply to the specific matter described in said writing and shall not apply to the same or similar matters in the future. As this Declaration is an amendment and restatement of the Prior Restrictions pertaining to The Wilderness, various items of construction and/or landscaping exist which are not or may not be in conformance with the provisions of this Declaration as of the date hereof (collectively, the "Non-Conforming Items"), which Nonconforming Items may include, without limitation, improvements constructed without the consent of the Architectural Control Committee, improvements constructed in violation of the Prior Restrictions or improvements not governed by the Prior Restrictions. Owners and Developers agree that such Non-Conforming Items shall not cause the Owner thereof to be in violation of this Declaration and such matters shall be "grandfathered" to the extent existing prior to the date of this Declaration; provided, however, that (i) such agreement is made solely for the purpose of practicality and as an accommodation to such affected Owners and shall not constitute, indicate or be construed or asserted as any type of waiver of any of the provisions of this Declaration after the date hereof with respect to any future construction or landscaping (including, without limitation, any replacement of any such Non-Conforming Items, whether due to casualty or otherwise), (ii) such agreement shall not cause the Association, the Board, the Architectural Control Committee, Developers or any Owners to be estopped from asserting any other violations of any provisions of this Declaration, whether or not similar to or the same as the Non-Conforming Item, which violation occurs for the first time after the date of this Declaration, and (iii) such agreement shall not in any way limit or adversely affect the right or power of the Architectural Control

Committee and/or the Board to hereafter promulgate and/or enforce any of the types of rules, regulations or restrictions contemplated by this Declaration. Notwithstanding any of said Non-Conforming Items, any construction, replacement, repair or improvement of any tract, building, driveway or boathouse after the date of this Declaration, including, without limitation, with respect to any Non-Conforming Item, shall be performed strictly in accordance with the provisions of this Declaration. This Section shall have no effect with respect to any past-due assessments or other amounts due as of the date of this Declaration.

Section 2. SEVERABILITY: If any clause or provision of this Declaration is held to be illegal, invalid or unenforceable under any law applicable to the terms hereof, then the remainder of this Declaration shall not be affected thereby, and in lieu of each such clause or provision of this Declaration that is held to be illegal, invalid or unenforceable, such clause or provision shall be judicially construed and interpreted to be as similar in substance and content to such illegal, invalid or unenforceable clause or provision as the context thereof would reasonably suggest, so as to thereafter to be legal, valid and enforceable.

Section 3. AMENDMENTS; ADDITIONS OF PROPERTY: Except as otherwise expressly provided for in other sections of this Declaration, the covenants, restrictions and other provisions of this Declaration may be amended only by duly recording in the real property records of Freestone County, Texas, an instrument executed and acknowledged as approved by the Board and by not less than seventy-five percent (75%) of the votes of all Owners except with respect to an Adjacent Land Amendment (hereinafter defined) which may be effected as described below. Zakanaka may, without any vote being taken or obtaining the consent of any other party, add to The Wilderness any portion of the Adjacent Land then contiguous to The Wilderness and owned by Zakanaka, by effecting an Adjacent Land Amendment (hereinafter defined), whereupon such portion of the Adjacent Land shall immediately become a portion of The Wilderness. As used herein, an "Adjacent Land Amendment" shall be a document executed and notarized by Zakanaka and recorded in Freestone County, Texas, with a copy sent to each Owner, which only (i) amends Exhibit A of this Declaration by adding to the land described therein such portions of the Adjacent Land by reference to its recorded plat or metes and bounds description so that the "project" and "The Wilderness" is thereafter defined to include such land, (ii) may provide for different minimum square footage requirements for residences and different street and side setback lines than are currently provided for by the terms of this Declaration with respect to the currently platted Wilderness Areas described on Exhibit A, as follows: (a) any parts of such added portion of the Adjacent Land to be developed with appurtenant additional amenities not provided to Owners in the currently platted Wilderness Areas described on Exhibit A on the Effective Date, such as any Lots developed contiguous to a golf course area (the consideration for which is included in the price of the Lot) may be developed with smaller setbacks and may require residences of no less than 1500 square feet; (b) any parts of such added portion of the Adjacent Land developed as interior, non-waterfront Lots shall have street setback lines of 50 feet or more, except for corner Lots for which setbacks may be less as may be reasonable given the configuration of the Lot, and shall require residences of no less than 2000 square feet; and (c) any parts of such added portion of the Adjacent Land developed specifically with equestrian privileges in mind may have greater setback lines and provide for board fencing, and the restriction of Section 11 of Article IV shall not apply with respect to horses on such Lots; and (iii) pertains to a portion of the Adjacent Land which is then contiguous to The Wilderness, is owned by Zakanaka and, at the time of the recordation of the Adjacent Land Amendment, is not in violation of any of the provisions of this Declaration, as amended by the Adjacent Land Amendment. Owners of any land added to this Declaration, whether pursuant to an Adjacent Land Amendment or otherwise, shall become members of the Association and such added land shall become tracts encumbered by this Declaration on the same terms and conditions and subject to the same restrictions as apply to all other tracts and to all other Owners, except as expressly provided above. Upon any property becoming a portion of The Wilderness pursuant to an Adjacent Land Amendment, the Board may, with the consent of the Owner of such property, elect to waive the use

restrictions of this Declaration with respect to all or a portion of such property for the purpose of designating same as an area for parking, boat and/or trailer storage, dry dock area or dumpster retention as the Board may determine to be reasonably necessary to serve The Wilderness; provided, however, that any area so designated shall be completely visually screened from other portions of The Wilderness by trees and/or by other vegetation and shall not be visible from any waterfront, homesite or roadway, except the roadway leading into such area. Notwithstanding anything in this Agreement to the contrary, no Adjacent Land Amendment shall be effective if such Adjacent Land Amendment would have the effect of providing access to any portion of The Wilderness other than through a gated entry, it being the intention of all parties that The Wilderness remain a gated community unless expressly provided otherwise by an amendment to this Declaration.

Section 4. OTHER DEVELOPMENT: The undersigned agree with respect to the Adjacent Land described on Exhibit B-1 that, (1) prior to or after becoming a portion of The Wilderness as described in Section 3 above, (a) no portion of the easternmost fifty yards of the First Tract running along the western boundary of Shenandoah Drive and the northernmost fifty yards running along the southern boundary of Appomattox Drive, and (b) no portion of the westernmost fifty yards of the Second Tract running along the eastern boundary of Shenandoah Drive or the northernmost fifty yards running along the southern boundary of Bull Run Drive shall be developed (i) as a gas station or commercial or retail development of any kind (including, without limitation, a marina, boat repair, boat storage or dry-dock area or facility), (ii) as multi-family housing or condominiums, (iii) in a manner which would create or allow access to any portion of The Wilderness by persons other than residents of The Wilderness, or (iv) in a manner so as to be inconsistent with the development of The Wilderness as contemplated by this Declaration, and (2) prior to becoming a portion of The Wilderness as described in Section 3 above, development on the Adjacent Land shall be visually screened from The Wilderness by trees and/or other vegetation. Nothing in this Section 4 shall prohibit or restrict development as contemplated by an Adjacent Land Amendment.

Section 5. NO EFFECT ON MORTGAGES: No breach of any of the conditions herein contained or any foreclosure or re-entry by reason of such breach shall defeat or render invalid the lien of any Mortgage made in good faith and for value as to the project or any tract therein; provided, however, that such conditions shall be binding on any Owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

Section 6. BINDING; TERM: The covenants and restrictions of this Declaration shall run with, be appurtenant to and bind the land and the successors, assigns and legal representatives of the undersigned, and shall inure to the benefit of and be enforceable by the Association or any member thereof for a period of thirty (30) years from date hereof, and thereafter shall continue automatically in effect for additional periods of ten (10) years, unless otherwise agreed to in writing by the then Owners of at least seventy-five percent (75%) of the tracts based upon one vote for each tract owned.

Section 7. DELEGATION OF USE OF FACILITIES: Any Owner may delegate his right of enjoyment to the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the tract.

Section 8. COUNTERPARTS: This Declaration may be executed in as many multiple original counterparts as may be convenient, all of which shall constitute one and the same instrument, and it shall not be necessary in making proof of this Declaration to produce or account for more than a single counterpart containing the requisite signatures and acknowledgements of each of the parties.

Section 9. HEADINGS: The section headings provided in this Declaration are for convenience and reference only and shall not affect the construction or meaning of the terms of this Declaration.

Section 10. NOTICES: In all instances herein where notice is required, notice will have been given upon placing in the United States mail, said notice to the last known address of such person or party to whom notice is to be given.

Section 11. MARKETING: It is specifically agreed by each Owner and future purchaser and stipulated herein that the Developers will have the right of use of all commons for the purposes of promotion and sale of tracts by said Developers, including the right to issue passes and permits to guests or prospective purchasers of tracts and to Developers' employees to use and enjoy for limited periods, such commons, facilities, and services. The right is reserved unto the Developers so long as the Developers own land in the project and are marketing the same. Such rights shall be exercised in a manner not detrimental to the residents of The Wilderness.

Section 12. EFFECTIVE DATE: The covenants, restrictions and other provisions of this Declaration shall be effective as of the Effective Date and any improvements constructed prior to the Effective Date which were constructed in accordance and in conformance with the Prior Restrictions applicable thereto at the time of construction but which, if constructed after the Effective Date, would be in violation of the provisions of this Declaration, shall be considered non-conforming construction and shall not constitute a violation of this Declaration; provided, however, that such allowance for such non-conforming structures shall not constitute a waiver or in any way affect the enforceability of any of the provisions of this Declaration with respect to any construction, conditions or activities occurring after the Effective Date, and shall not permit any construction or activities (whether or not related to any previously existing, non-conforming structure or use) occurring after the Effective Date in violation of any of the provisions of this Declaration. Any replacement or substantial reconstruction of any non-conforming improvement will subject such improvement to all of the terms, conditions, restrictions and other provisions of this Declaration in all respects.

Section 13. SECURITY. The Association and Developers shall maintain The Wilderness as a gated community and may, but shall not be obligated to, maintain or support other activities within the project designed to make the project safer than it otherwise might be. NEITHER THE ASSOCIATION NOR THE DEVELOPERS SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROJECT. NEITHER THE ASSOCIATION NOR THE DEVELOPERS SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE FOR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, INCLUDING, WITHOUT LIMITATION, ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE THAT THE ASSOCIATION, THE BOARD, AND/OR DEVELOPERS DO NOT REPRESENT OR WARRANT THAT ANY CONTROLLED GATE-ACCESS SYSTEM, OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DEVELOPERS MAY NOT BE COMPROMISED OR CIRCUMVENTED; NOR THAT ANY CONTROLLED GATE-ACCESS SYSTEM OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY BURGLARY, THEFT, HOLD-UP OR OTHERWISE; NOR THAT ANY CONTROLLED GATE-ACCESS SYSTEM OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED, ALL OWNERS AND OCCUPANTS OF ANY LOT, INCLUDING, WITHOUT LIMITATION, ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION, THE BOARD AND THE DEVELOPERS ARE NOT INSURERS. ALL

OWNERS AND OCCUPANTS OF ANY LOT, INCLUDING, WITHOUT LIMITATION, ALL TENANTS, GUESTS AND INVITEES OF ANY OWNER ASSUME ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT THE ASSOCIATION, THE BOARD AND DEVELOPERS HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, OR ANY TENANT, GUEST, OR INVITEE OF ANY OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, RELATIVE TO ANY CONTROLLED GATE-ACCESS SYSTEM OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROJECT.

Section 14. MANAGING AGENT: Any powers, duties and rights of the Association created pursuant hereto, or of the President or Board as provided by law and herein, may be delegated to a managing agent under a written management agreement; provided, however, that no such delegation shall relieve any such party of its obligation to perform any such delegated duty. Any agreement for professional management or other contract providing for services shall not exceed a term of three (3) years, which term may be renewed by agreement of the parties for successive one (1) year periods and shall further provide for termination by either party, with or without cause and without payment of a termination fee, upon ninety (90) days prior written notice.

Section 15. FUTURE PLATTING AND DEVELOPMENT. Notwithstanding anything in conflict or to the contrary contained in this Agreement, no funds of the Association shall be used to pay any of the development or platting costs of Wilderness Areas V, VI, VII, VIII, IX or X, or of any portions of the Adjacent Land upon becoming part of The Wilderness, including, without limitation, any surveying costs, costs related to platting, filing and/or recording of documents, obtaining approvals or permits, initial construction of roadways and installation of utility lines, including, without limitation, water, electrical and telephone lines. This Section 15 shall not apply to any construction in any portion of any common areas in connection with making such areas better serve the Association, such as with respect to creation of a visually screened dumpster and/or storage area.

Section 16. CONTRACTS AND LEASES. The Association, acting by and through the Board of Directors, shall have the power and authority to enter into contracts for maintenance, construction, repair and other services which, in the Board's judgment, are necessary or advisable for the proper operation of the Association and/or The Wilderness, including, without limitation, landscaping contracts, road repair and maintenance contracts, and leases of areas outside of the boundaries of The Wilderness to serve Owners by providing trailer and/or equipment storage and dumpster areas.

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