

**DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS**

**FOR
MARINA DEL SOL PATIO HOMES**

A RESIDENTIAL SUBDIVISION IN GALVESTON COUNTY, TEXAS

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

WHEREAS, MARINA DEL SOL PATIO HOMES, INC., a Texas limited partnership, d/b/a Marina del Sol Patio Homes, and Peak Capital LLC, a Wyoming limited liability company (collectively, hereinafter referred to as the "Declarant"), are the owners of all that certain real property located in Galveston County, Texas, as more particularly described in **Section 1.1** hereof, and Declarant desires to create and carry out a general and uniform plan for the improvement, development, maintenance, use and continuation of a residential community on the property as set forth in Article I hereof for the mutual benefit of the successors in title to Declarant which property will be conveyed subject to the covenant, conditions, restrictions, liens, charges and easements as herein set forth.

NOW, THEREFORE, in order to carry out a uniform plan for the improvement, development, maintenance, sale and use of the properties within the Subdivision as herein defined, it is hereby declared that all of the properties within the Subdivision shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens (sometimes herein collectively referred to as "covenants and restrictions"), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said properties. These covenants and restrictions shall run with said real property and be binding upon all parties having or acquiring any right, title, or interest in said real property or any part thereof, their heirs, predecessors, successors and assigns, and shall inure to the benefit of each Owner thereof.

Article I

Property Subject to This Declaration

SECTION 1.1 Property Subject to Declaration The real property which, by the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is that certain real property located in Galveston County, Texas, more particularly described as follows, to wit:

All that certain tract or parcel of land platted as Marina on the Lake, a subdivision of 2.7911 acres of land located in the M. Muldoon Two League Grant, A-18, and being a partial replat of Unrestricted Reserve "I," Phase One, as recorded in film code No. 597119, of the Galveston County Map Records, Texas.

SECTION 1.2 Other Property, Annexation Only the real property described in **Section 1.1** is hereby made subject to this Declaration, provided, however, upon approval by a majority of the Owners

of all Lots then contained within the Subdivision obtained in the same manner as required for amendment of this Declaration, the Association may subject any other property to the scheme of this Declaration.

Article II

Definitions

Unless the context otherwise prohibits and in addition to other defined terms set forth herein, the following words and substantive provisions regarding same when used in this Declaration shall apply, mean and refer to the following:

SECTION 2.1 "Architectural Control Committee" or "ACC" shall mean the committee established pursuant to Article IV of this Declaration.

SECTION 2.2 "Architectural Guidelines" shall mean the procedural, aesthetic, environmental and architectural policies and procedures from time to time adopted by the Architectural Control Committee in accordance with Article IV hereof.

SECTION 2.3 "Association" shall mean MARINA DEL SOL PATIO HOMEOWNERS ASSOCIATION, INC , a Texas non-profit corporation, to be incorporated for the purposes contemplated by this Declaration, and its predecessors, successors by merger, consolidation or otherwise and assigns.

SECTION 2.4 "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

SECTION 2.5 "Building Site" shall mean a Lot conveyed, or to be conveyed, by metes and bounds description or by reference to the Plat, to an Owner and upon which one (1) single family residence is or may be constructed Building Sites are subject to change as provided in **Sections 8.7, 8.8 and 13.8.**

SECTION 2.6 "Bylaws" shall mean the Bylaws of the Association, as from time to time amended in accordance with applicable provisions of the Bylaws.

SECTION 2.7 "Community Properties" shall mean:

2.7.1 all private streets, reserves and other common areas so designated by the Plat

2.7.2 all Subdivision Facilities, and

2.7.3 all other properties, real or personal, conveyed to or dedicated to the use of, or otherwise acquired by the Association for the common use and enjoyment of the Members of the Association, together with all improvements thereon and appurtenances thereto.

SECTION 2.8 "Declarant" shall mean Marina del Sol Patio Homes. Inc., or Peak Capital LLC, and their respective successors and assigns if such successors or assigns:

2.8.1 acquire all the undeveloped or developed but previously unoccupied or unsold Building Sites within the Subdivision from Declarant for purposes of development and resale or

2.8.2 are expressly designated in writings by Declarant as a successor or assign of Declarant hereunder, in whole or in part.

SECTION 2.9 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Manna Village, and any lawful amendments thereto.

SECTION 2.10 "Development Period" shall mean the period of time beginning on July 7, 2017 and ending on the earlier occurrence of either of the following events:

2.10.1 the sale of the 15th Building Site, or

2.10.2 upon recordation of Declarant's statement in the Real Property Records of Galveston County, Texas, that the Development Period has ended or has been terminated by Declarant.

SECTION 2.11 "Governing Documents" shall mean all documents and applicable provisions thereof as set forth in this Declaration, the Bylaws and Articles of Incorporation of the Association, Rules and Regulations, Architectural Guidelines, all written decisions and resolutions of the ACC and Board, and any lawful amendments to any of the foregoing:

SECTION 2.12 "Lot" shall mean any of the numbered lots shown on the Plat, but does not include the Community Properties or commercial reserves, if any.

SECTION 2.13 "Member" shall mean every Person who holds a membership in the Association. Every Member which is not a natural person shall designate a representative of such entity who is a natural person as provided in **Section 3.3.2**.

SECTION 2.14 "Owner" shall mean the owner, whether one or more Persons, of the fee simple title to a Building Site, including any mortgagee or lien holder who acquires such ownership through judicial or non-judicial foreclosure or proceedings in lieu thereof, and each Person who is otherwise deemed a Member of the Association as provided in **Section 3.3.1** hereof, but excluding any Person holding a lien or other encumbrance, easement, mineral interest or royalty interest burdening title or otherwise having an interest merely as security for the performance of an obligation.

SECTION 2.15 "Person" shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other entity.

SECTION 2.16 "Plat" shall mean the map or plat of the Subdivision described in **Section 1.1**.

SECTION 2.17 "Regulated Modification" shall mean the placement, construction, reconstruction or erection of or modification, alteration, or addition to, any building, structure, improvement, thing or device, and any usage thereof, whether temporary or permanent, which may affect, modify or alter the aesthetics, environment, architectural scheme, appearance or standards, patterns of usage, or grades or topography generally prevailing in the Subdivision as of the date of

establishment of the Regulated Modification, excluding any such matters or activities conducted by the Association as to Community properties, but including by way of illustration and not of limitation:

2.17.1 any building, garage, porch, shed, greenhouse, bathhouse, coup or cage, covered or uncovered patio, swimming pool, clothes lines, radio or television antenna, fence, wall or other screening device, curbing, paving, wall, trees, shrubbery and any other landscaping, fountains, statuary, lighting fixtures, signs or signboard, or any temporary or permanent living quarters (including any mobile home) or any other temporary or permanent modification or alteration,

2.17.2 an excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the flow of surface or subsurface waters to, from, upon or across any Building Site or any other portion of the Subdivision, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel to, from, upon, under or across any Building Site or other portion of the Subdivision,

2.17.3 any change in the grade of any Building Site or other portion of the Subdivision, and any similar disturbance to the surface of the land within the Subdivision, and

2.17.4 any erosion control system or devices permitted or required as to any Lot or other portion of the Subdivision

SECTION 2.18 "Rules and Regulations" shall mean the policies and procedures from time to time adopted by the Board of Directors regulating the maintenance, operation, use or occupancy of the Subdivision, including the Lots, Building Sites and Community Properties, in accordance with Article VII hereof.

SECTION 2.19 "Subdivision" means Marina del Sol Patio Homes, a residential subdivision in Galveston County, Texas as more particularly described in **Section 1.1** hereof, and any other real property subjected to this Declaration as herein provided from time to time.

SECTION 2.20 "Subdivision Facilities" shall mean all facilities or services built, installed, maintained, operated or provided by the Association for the general benefit of the Subdivision, including without limitation:

2.20.1 any sanitary sewer facilities, any drainage or storm water facilities, any water pipelines, water meters and related water facilities and any other common or shared facilities, utilities or services constructed, owned, maintained or provided by the Association and specifically designated by the Association to constitute a common facility, utility or service

2.20.2 all Subdivision perimeter fencing and any entry identification monuments

2.20.3 any patrol or security type services, structures or devices, including without limitation any controlled access gates, and any other access limiting structure or device,

2.20.4 any garbage or recycling collection, cable television, utilities or other services provided by or through the Association, and any structures or devices related thereto, and

2.20.5 any swimming pool, lighthouse tower, piers, boat docks, and deck and park areas, and

2.20.6 other facilities or services as from time to time so designated by majority vote of the Owners

Article III

Marina del Sol Patio Homeowners Association, Inc.

SECTION 3.1 Organization Marina del Sol Patio Homeowners Association, Inc. (the "Association") shall be organized and formed pursuant to this Declaration as a non-profit corporation under the laws of the State of Texas. The Association shall have full power, authority and standing to enforce all provisions of the Governing Documents. The principal purposes of the Association are the collection, expenditure and management of the funds and financial affairs of the Association, enforcement of all provisions of the Governing Documents, providing for maintenance, preservation and architectural control within the Subdivision, the providing of such Subdivision Facilities as herein permitted or required, the general overall supervision of all of the affairs and well-being of the Subdivision, the promotion of the health, safety and welfare of the residents and Owners of Building Sites within the Subdivision and all other acts and undertakings reasonably incident to any of the foregoing or in furtherance thereof as determined in the good faith opinions of the Board of Directors or Members.

SECTION 3.2 Board of Directors

3.2.1 Purpose The Association shall act through a Board of Directors which shall manage the affairs of the Association as specified in this Declaration and other applicable Governing Documents unless otherwise expressly required by law or other applicable provision of the Governing Documents, the Board of Directors shall exercise and have all rights, powers, authority and responsibilities of the Association.

3.2.2 Composition, Qualifications Except as otherwise expressly provided herein, the Board shall be composed and its individual Directors elected as provided in the Bylaws, provided, notwithstanding any provisions of the Bylaws to the contrary, the following shall apply:

- (a)** All Directors shall be required to be Members of the Association. A designated representative appointed as provided in **Section 3.3.2** may hold a directorship.
- (b)** No Member shall be eligible for election to the Board if such Member is in violation of any provisions of the Governing Documents, or if such violation arises after election, then such Director may be removed as a Director (and as an officer of the Association, if applicable) by majority vote of the remaining Directors, and shall be automatically so removed if such Director fails to fully cure all violations upon not less than ten (10) days written notice by the Board or its designated representative. The

good faith opinion of the Board as to the existence or continuance of a violation of the Governing Documents shall be final.

- (c) No Member shall be appointed or elected as a Director if as a result a majority of the Directors would be affiliated with a single Owner, regardless of the number of Building Sites the single Owner may own. As used herein, "affiliated" means a Member that directly, or indirectly through one (1) or more intermediaries, controls or is controlled by, or is under common control with the single Owner.
- (d) The representative of a Member designated as provided in **Section 3.3.2** may be appointed or elected to a directorship provided that notice of the designation shall have been received by the Association at least ten (10) days prior to the annual or other meeting at which such representative shall stand for election or appointment. A designated representative serving as a Director may be replaced by the appointing entity upon written and dated notice stating (i) the name and contact address and telephone number of the replacement representative, and (ii) the effective date of the replacement, which effective date shall be midnight of the date stated in the notice or midnight of the date of receipt of the notice by the Association, whichever is later. The representative being replaced shall retain full authority on behalf of the designating entity until the effective date for his/her replacement.

3.2.3 Open Meetings and Records Meetings of the Board of Directors, and minutes, documentation and communications related thereto shall be open to Members, provided, by resolution the Board of Directors may agree to meet in executive closed session to discuss privileged communications and such other matters as the Board shall deem in its sole good faith opinion the best interests of the Association require be kept confidential, including without limitation protection of the privacy rights of individual Members, consideration of competitive bids until a final bid is accepted, and matters where any conflict of interest exists between a Member and the Association and disclosure would detrimentally effect the interests of the Association.

3.2.4 Settlement of Claims. The Board is specifically authorized to compromise and settle any and all claims, demands, liabilities and causes of action whatsoever held by or asserted against the Association upon such terms and conditions as the Board may determine, and the good faith decisions of the Board as to any of the foregoing shall be final and conclusive.

SECTION 3.3 Membership

3.3.1 Owners as Members. Every Person who is the owner of a fee simple title or undivided fee simple title interest in any Building Site that is subject to this Declaration shall be deemed to have a membership in the Association. The Association shall be entitled to rely on the Real Property Records of Galveston County, Texas in determining the owner(s) of each Building Site (the "Record Owner") if the actual owner(s) of any Building Site is different than the Record Owner, then the actual owner(s) and the Record Owner shall be jointly and severally liable for full compliance with, and

performance of all obligations established by, this Declaration through the date of recordation of proof of any change of ownership from that reflected by the Real Property Records of Galveston County, Texas. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate any Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Building Site. Memberships shall be appurtenant to and may not be separated from ownership of any Building Site, and shall automatically pass with the title to the Building Site.

3.3.2 When Member Required to Designate Representative, Effect. Each Member which is not a natural person shall be required to designate one (1) natural person to act on such Member's behalf as herein provided the designation shall be by written and dated notice stating (i) the name and contact address and telephone number of the designated representative, and (ii) the effective date of such designation which effective date shall be midnight of the date stated in the notice or midnight of the date of receipt of the notice by the Association, whichever is later. The Association shall not be required to recognize any person as being authorized to represent or act on behalf of any Member which is not a natural person until such designation has been received by the Association. A designation as aforesaid shall fully authorize the designated representative to bind the designating entity as to all matters, decisions and actions of the designated representative whether or not such authority is expressly stated in the written designation; provided, the Board may require any designated representative to show authority to act in such manner as the Board may reasonably require. Any designated representative may be changed from time to time in the same manner as required for original designation. In the event of conflict between designations, the most currently dated designation shall control. Any such representative may serve as a Director as provided in **Section 3.2.2(d)**.

SECTION 3.4 Voting Rights of Members

3.4.1 Development Period. During the Development Period there shall be two (2) classes of membership entitled to voting rights in the Association which shall be as follows:

- (a) **Class A.** All Members of the Association, other than the Declarant, shall be considered Class A non-voting Members.
- (b) **Class B.** Class B Members shall be those Persons who are herein defined as "Declarant", and for each Building Site owned they shall be entitled to one (1) vote on each matter coming before the Members.

3.4.2 Post-Development Period. Upon termination of the Development Period, any renaming Class B membership shall automatically convert to Class A membership, and thereafter there shall be only one (1) class of voting membership. Upon termination of the Development Period all Members of the Association shall be Class A Members, and for each Building Site owned shall be entitled to one (1) vote on each matter coming before the Members unless their voting rights have been suspended as herein provided.

3.4.3 Multiple Owners. When more than one Person holds an ownership interest in a Building Site, all such Persons shall be Members, but in no event shall they be entitled to more than one (1) vote with respect to each particular Building Site owned. The single vote of such joint

Owners shall be cast in accordance with the decision of a majority, or if such joint Owners cannot reach a majority decision, then none of the joint Owners shall be permitted to vote as to any such matter up on which a majority decision cannot be reached. Any individual Owner from among such joint Owners shall be conclusively presumed to be acting in accordance with the decision of the majority in voting either in Person or by proxy unless another joint Owner is voting to the contrary in person or by proxy.

3.4.4 Cumulative Voting Prohibited. Cumulative voting shall not be permitted as to any matter placed before the membership for a vote, including election of Directors,

3.4.5 Suspension of Voting Rights. Voting rights of any Member may or shall be suspended for breach of the Governing Documents as herein provided, including without limitation, suspension as provided in **Section 5.8.1**.

SECTION 3.5 Books and Records

3.5.1 Inspection by Members. Subject to the provisions of **Sections 3.5.2 and 3.5.3**, every Member of the Association, on written demand stating the purpose of the demand, shall have the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the Association relevant to that purpose, at the expense of the Member.

3.5.2 Privileged Communications. Notwithstanding **Section 3.5.1** or any other provision hereof, no Member or Owner shall be entitled to examine any documents regarding the following and the Association shall have a privilege to refuse to disclose any confidential communications regarding the following:

- (a) any confidential communications by and between past or current legal counsel to the Association and the Board of Directors of the Association, or any agent, employee, representative or committee of either,
- (b) any confidential communications as determined by the Board of Directors in accordance with **Section 3.2.3**, and,
- (c) any communications privileged under the Texas Rules of Civil or Criminal Procedure, the Texas Rules of Civil or Criminal Evidence, and any other applicable statute or law of the State of Texas or United States of America

3.5.3 Rules for Inspection. The Board of Directors may from time to time establish reasonable rules for inspection of any books and records of the Association (either by resolution or by adoption of Rules and Regulations) with respect to notice to be given to the custodian of the records, hours and days of the week when such an inspection may be made, and payment of reasonable duplication and administrative costs of inspection. Payment of all duplication and administrative costs of inspection shall be a condition precedent to the right of any Member to obtain copies of any books and records, and shall be a condition precedent to all inspection if the requesting

Member (or any other Member residing at the same Building Site) has previously examined the books and records and any duplication and/or administrative expenses as to same remain unpaid.

SECTION 3.6 Limitation of Liability, Indemnification

3.6.1 General. Except for intentional misconduct, knowing violation of the law, or as otherwise required by the Texas Non-Profit Corporation Act (including Article 1396-2 22A thereof, as amended), no Director shall be liable to the Association or its Members, and the Association shall not be liable to any Member, for monetary damages or otherwise for any act or omission in the Director's capacity as a Director or any act or omission of the Association within the scope of its purposes. The Association shall indemnify and keep indemnified, and hold harmless, any Director or former Director to the fullest extent necessary to accomplishment of the foregoing and to the fullest extent otherwise allowed by law, and hold any such Director or former Director harmless from and against all claims, demands, suits, judgments, court costs, attorney's fees attachments and all other legal action as contemplated thereby. All provisions of this **Section 3.6** shall also apply to any officer or former officer of the Association, and to all Association Committees and members thereof (current or former), including the Architectural Control Committee.

3.6.2 Security Services. The Association may from time to time provide Subdivision Facilities, including devices or services, intended to or which may have the effect of limiting or controlling Subdivision access, or providing patrol services or otherwise monitor activities within the Subdivision (including Community Properties), and may from time to time provide information through newsletters or otherwise regarding same (all such Subdivision Facilities herein referred to as, "Security Services"). Without limitation of **Section 3.6.1**, each Owner or Member and their tenants, family, guests and invitees, covenant and agree with respect to any and all Security Services provided directly or indirectly by the Association as follows:

- (a) Security is the sole responsibility of local law enforcement agencies and individual Owners and Members, their tenants, and their respective guests and invitees. Security Services shall be provided at the sole discretion of the Board of Directors. The providing of any Security Services at any time shall in no way prevent the Board from thereafter discontinuing or temporarily or permanently removing same.
- (b) Any third party providers of Security Services shall be independent contractors, the acts or omissions of which shall not be imputed to the Association or its officers, Directors, committee members, agents or employees.
- (c) Providing of any Security Services shall never be construed as an undertaking by the Association to provide personal security or as a guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause.

- (d) The Association and its officers, Directors, Committee members, agents and employees shall not be liable for, and each Owner or Member, their tenants, and their respective guests and invitees, shall indemnify, keep indemnified and hold the Association and its officers, Directors, Committee members, agents and employees harmless at all times from, any injury, loss or damages whatsoever, including without limitation any injury or damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any Person or property arising, directly or indirectly, from the providing or failure to provide any Security Services, or the discontinuation, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services.

3.6.3 Liability Arising from Conduct of Owners. Each Owner, and each Owner's tenants, shall indemnify and keep indemnified, and hold harmless, the Association, and its officers, Directors, servants, agents and employees from and against all claims, damages, suits, judgments, court costs, attorney's fees, attachments and all other legal actions caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or the family, guests, invitees, servants, agents or employees of either.

3.6.4 Subsequent Statutory Authority. If the Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended subsequently to the filing of this Declaration to further eliminate or limit liability or authorizing further indemnification than as permitted or required by this **Section 3.6**, then liability shall be eliminated or limited and right to indemnification shall be expanded to the fullest extent permitted by such construction or amendment.

3.6.5 No Impairment. Any repeal or modification of this **Section 3.6** by the Members of the Association shall not adversely affect any rights or protection existing at the time of such repeal or modification.

Article IV

Architectural Control Committee

SECTION 4.1 Organization

4.1.1 General. There is hereby established an Architectural Control Committee (herein sometimes referred to as the "ACC). The ACC shall be composed of either (i) all members of the Board of Directors, or (ii) an executive committee of the Board of Directors formed and designated as the ACC by resolution adopted by the Board of Directors. The ACC may designate any one (1) of its members to act in its stead.

4.1.2 ACC Executive Committee. If an executive committee is appointed by the Board of Directors to act as the ACC, then the provisions of this Section shall apply. Such executive committee shall be composed of three (3) or five (5) persons. A majority of such persons shall at all times also be Directors, but the non-Director persons need not be Members of the Association. All such persons shall serve at the discretion of the Board, and all of its decisions shall be subject to review and

modification by the Board except as herein otherwise expressly provided. In the event of the death or resignation of any person serving on the Committee, the Board of Directors shall designate a successor or successors who shall have all of the authority and power of his or their predecessor(s). Until such successor person or persons have been appointed, the remaining member or members all have full authority to exercise powers of the ACC.

4.1.3 Compensation. No person serving on the ACC shall be entitled to compensation for services performed, provided the ACC may employ one or more architects, engineers, attorneys or other consultants, as approved by the Board of Directors of the Association, to assist the ACC in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the ACC. Members of the ACC may also be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board of Directors.

SECTION 4.2 Function and Powers

4.2.1 Submission of Plans Required. No Regulated Modification shall be commenced, constructed, erected, placed, maintained or made upon any Lot or any part of the Subdivision unless and until complete plans and specifications have been submitted to and approved in writing by the ACC as to compliance with applicable Architectural Review Criteria as set forth in **Section 4.3**. Two (2) complete sets of plans and specifications shall be submitted with each request for approval. Any plans and specifications to be submitted shall specify, in such detail and form as the ACC may reasonably require:

- (a) the location upon the Building Site or within the Subdivision where the Regulated Modification will occur or be placed,
- (b) the dimensions, nature, kind, shape, height, and color scheme of and all materials to be used in connection with the Regulated Modification,
- (c) appropriate information concerning structural, mechanical, electrical, plumbing, grading, paving, decking and landscaping details,
- (d) intended uses, and
- (e) such other information, plans or specifications as may be requested or required by the ACC which in the sole opinion of the ACC is reasonably necessary to fairly and fully evaluate all aspects of the proposed Regulated Modification.

4.2.2 Architectural Guidelines. The ACC may, from time to time, promulgate, modify and delete such reasonable Architectural Guidelines applicable to the Subdivision, including Lots and Community Properties, as it shall deem appropriate to maintain the architectural, environmental or aesthetic standards of the Subdivision generally prevailing at the time of adoption. Such authority shall include, but shall not be limited to, the right to specify:

- (a) specific procedural guidelines for submission of requests for, and plans, specifications and other information necessary to obtain, ACC approval to commence, erect, construct or maintain any Regulated Modification, and procedural requirements for the conducting of all activities necessary to accomplish same,
- (b) the amount and manner of payment of any fees or charges reasonably anticipated to cover administrative costs, fees for architectural, engineering, construction, legal or other expert advice or consultation and all other costs and expenses in connection with review and evaluation of an application and monetary work thereunder (such costs and expenses herein referred to as the "Architectural Review Fee"),
- (c) specific types of Regulated Modifications which may be commenced, constructed, erected or maintained upon any Building Site or anywhere within the Subdivision, as well as specific types of Regulated Modifications which will not be permitted upon any Building Site or within the Subdivision,
- (d) a limited number of acceptable exterior materials and finishes that may be utilized in construction or repair of Regulated Modifications,
- (e) minimum setbacks (except that minimum setbacks as shown on the Plat shall control if in conflict with Architectural Guidelines),
- (f) the location, height, and extent of fences, walls or other screening devices, walk, decks, patios or courtyards
- (g) the orientation of structures and landscaping with respect to streets, walks, driveways and structures on adjacent properties; and
- (h) in general, all requirements reasonably deemed necessary to maximize compliance with Architectural Review Criteria as set forth in **Section 4.3**.

4.2.3 Manner and Effect of Adoption of Architectural Guidelines.

Architectural Guidelines shall be of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, provided:

- (a) such Architectural Guidelines shall not be deemed a waiver, modification, or repeal of any of the provisions of this Declaration,
- (b) such Architectural Guidelines shall not be enacted retroactively except that all repairs, modifications or maintenance performed subsequent to adoption shall be performed in such manner as to

bring the Regulated Modification, so far as practicable, in compliance with all then applicable Architectural Guidelines,

- (c) not less than thirty (30) days written notice of the adoption or modification of Architectural Guidelines shall be given to all Owners

4.2.4 Variances. The Board, by vote of two-thirds (2/3rds) of all members of the Board, may grant specific variances to Architectural Guidelines and to the architectural and use restrictions set forth in Articles VII and VIII of this Declaration upon specific findings of compliance with the grounds for granting of a variance as set forth hereafter. A variance shall be granted only with respect to specific instances upon written request; therefore, shall not be binding with respect to any other request for a variance whether or not similar in nature, and shall not constitute a waiver, modification or repeal of any of the provisions of this Declaration or other Governing Documents except for the limited purpose and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings that:

- (a) the variance is necessary due to unusual circumstances not occasioned by the conduct of the applicant for the variance, and which are reasonably beyond the control of the applicant and the Association to mitigate or rectify, and
- (b) the applicant for a variance has acted in good faith in seeking a variance or in his failure to otherwise comply with the provisions of this Declaration or other Governing Documents, and
- (c) the granting of a specific variance will not materially and adversely affect the architectural, aesthetic or environmental integrity of the Subdivision or the scheme of development therein.

SECTION 4.3 Architectural Review Criteria. The ACC shall evaluate all submitted applications for ACC approval on the individual merits of the particular application. Judgments and decisions of the ACC shall be based on the following criteria applied in accordance with the aesthetics, environment or architectural appearance or standards generally prevailing in the Subdivision as of the date of submission of an application.

4.3.1 Compliance with Governing Documents and Governmental Laws. The proposed Regulated Modification shall substantially comply with applicable provisions of the Governing Documents and governmental laws, ordinances and regulations.

4.3.2 Harmony and Compatibility. The Regulated Modification shall relate favorably to its surroundings and the Subdivision in terms of harmony, compatibility and conformity with surrounding buildings, structures, grades, topography, location, color, workmanship, materials, usage and design.

4.3.3 Precedence for Approval or Disapproval. The ACC shall use all reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated

Modifications. To this end, consideration will be given to similar applications for architectural approval, and the decisions and actions of the ACC with regard thereto.

SECTION 4.4 Basis for Disapproval by ACC. The ACC may disapprove any request for approval submitted pursuant to this Article IV for any of the following reasons: (i) failure to comply with any applicable Architectural Review Criteria as set forth in **Section 4.3**; or (ii) lack of sufficient information, plans or specifications as reasonably determined by the ACC to enable the ACC to fairly and fully evaluate the aesthetic, environmental or architectural impact of a proposed Regulated Modification or the uses thereof, or failure to include any information, plans or specifications required by applicable Governing Documents, or as may be reasonably requested by the ACC. In the event of disapproval, the ACC shall so notify the applicant in writing, and if disapproval is based on lack of sufficient information, plans or specifications, then the ACC shall also notify applicant of the additional information, plans or specifications required.

SECTION 4.5 Approval and Conditional Approval by ACC

4.5.1 Manner. The ACC may fully approve any request for approval made pursuant to this Article IV, or the ACC may approve any such request subject to compliance with conditions stated in a conditional approval. A conditional approval shall be effective only upon full compliance with the stated condition(s). The ACC shall notify the applicant in writing of such approval (together with any qualifications or conditions of approval).

4.5.2 Effect. Except for fraud, misrepresentation, accident or mistake, approval or conditional approval shall be final as to each Regulated Modification covered thereby, and such approval or conditional approval may not be revoked or rescinded thereafter. Except as to compliance with this Article IV, approval or conditional approval shall not constitute a waiver, modification or repeal of any covenant, condition or restriction contained in this Declaration or other Governing Documents, or preclude by estoppel or otherwise full enforcement of all provisions hereof. Subject to the provisions of **Section 4.3.3**, approval or conditional approval of any plans and specifications shall not be deemed a waiver of the right of the ACC to subsequently disapprove similar requests for approval, or any of the features or elements included therein.

SECTION 4.6 Submission and Response, Failure of ACC to Act

4.6.1 Submission and Response. Applications for ACC approval and requests for variances shall be delivered to the ACC in accordance with **Section 11.1** hereof, and shall be deemed submitted to the ACC only upon actual receipt thereof. All responses by the ACC shall be in writing, and shall be deemed given when deposited in the United States mail, postage prepaid and addressed to the applicant for approval or variance at the address specified in the application or request for variance or the last known address of the applicant according to the records of the Association. The ACC shall have no duty to respond to, and the provisions of this Section shall not apply regarding, any application or request for variance if the Person(s) identified in the application do not appear as Members or Owners according to the books and records of the Association. Lessees shall file applications or requests for variance in the name of their Lessors, and shall also join therein. Where more than one (1) Member or Owner applies for approval or a variance, the mailing of a response to any such Member or Owner as aforesaid shall constitute notice to all such Members or Owners.

4.6.2 Failure to Respond. If any applicant has not received notice from the ACC approving, conditionally approving or disapproving a request for approval or a request for a variance within thirty (30) days after the application was originally received by the ACC, said applicant may notify the ACC in writing of that fact. If notice of failure to respond as aforesaid is not received from the applicant by the ACC within forty-five (45) days after submission of an application or request for variance, approval thereof shall be deemed denied. If notice of failure to respond is given by the applicant to the ACC as aforesaid, then the request for approval or for a variance to which such notice relates shall be deemed approved by the ACC unless the ACC shall respond to the contrary not later than fifteen (15) days after the date such notice is received by the ACC.

SECTION 4.7 Implied Conditions of Approval

4.7.1 Applicability. Unless expressly waived or modified by the ACC in writing and except as otherwise provided as to initial construction of a single family residence upon a Building Site as set forth in **Section 8.4** hereof, each and every approval or conditional approval by the ACC of a Regulated Modification shall be subject to all provisions of this **Section 4.7** whether or not stated in the approval or conditional approval.

4.7.2 Commencement and Completion of Work. Work on each Regulated Modification shall commence within thirty (30) days after (i) ACC approval or conditional approval thereof, or (ii) receipt of all required permits, whichever is later. Upon commencement, the work shall be prosecuted diligently to obtain completion of all work as reasonably soon thereafter as possible, and in any event the work shall be substantially completed within sixty (60) days after the date of the ACC approval or conditional approval or the date any required permit is received as provided in **Section 4.7.5**, whichever is later. The foregoing sixty (60) day period shall be extended in the event of and only for the duration of delays due to strikes, war, acts of God or other good cause beyond the reasonable control of the Owner as determined in the sole good faith opinion of the ACC. **Section 8.4.2** and not this **Section 4.7.2** shall apply to initial construction of a single family residence upon a Building Site.

4.7.3 Equipment and Materials. No equipment, materials or other things or devices necessary to completion of a Regulated Modification shall be placed or stored upon a Building Site or within the Subdivision any longer than necessary prior to, and in no event more than ten (10) business days prior to, commencement of the work on the Regulated Modification. Except as otherwise approved in writing by the ACC, all such equipment and materials shall be placed within the property lines of the affected Building Site. So far as practical, all such equipment and materials shall be stored in locations not visible from any street, Lot or the Community Properties. Upon completion of the work on the Regulated Modification, any such equipment, materials, things or devices not incorporated in the Regulated Modification shall be promptly removed from the Building Site and Subdivision and in any event within five (5) business days. **Section 8.4.5** and not this **Section 4.7.3** shall apply to initial construction of a residence upon a Building Site.

4.7.4 New Construction Materials Required Only new construction materials may be used in construction of any Regular Modification.

4.7.5 Compliance With Plans All work on a Regulated Modification shall proceed in strict compliance with the plans and specifications approved by the ACC, all conditions stated by the ACC and all applicable Governing Documents and governmental rules, regulations and ordinances.

4.7.6 Permit Requirements. Applicants shall be solely responsible for full compliance with all permitting requirements of all governmental agencies having jurisdiction, and shall apply for and diligently pursue obtaining of all required permits promptly after ACC approval or conditional approval is received.

4.7.7 Compliance with Laws and Governing Documents. Each applicant shall be solely responsible for insuring that, and nothing in the Governing Documents or any written decision of the ACC shall be construed as a representation that, any proposed Regulated Modification will be in compliance with applicable governmental laws, ordinances or regulations (including building codes or permit or licensing requirements), nor constitute a waiver or modification thereof or applicable requirements of the Governing Documents except as provided in **Section 4.5.2**.

SECTION 4.8 Inspection Rights. Upon reasonable notice (oral or written), any member of the ACC or the Board of Directors or their designated representatives may enter upon a Building Site without liability for trespass or otherwise for purposes of confirming compliance with any applicable provisions of the Governing Documents regarding a proposed Regulated Modification, the work in progress, and the completed Regulated Modification. Except for gross negligence, willful misconduct or knowing violation of the law, the Owner of any Building Site so inspected by the ACC shall not be liable for any personal injuries, death or property damage of or to any person or entity performing such inspection.

SECTION 4.9 Records of Architectural Control Committee. The ACC shall not be required to maintain records of any of its meetings. The ACC shall keep and maintain records evidencing the final decision(s) of the ACC regarding all requests for approval and requests for variance for not less than four (4) years after the dates of such records, and all current Architectural Guidelines.

SECTION 4.10 Liability of Architectural Control Committee. Except as provided in **Section 3.6**, neither the Association nor the ACC, nor any member, subcommittee, employee or agent of either, shall be liable to any Owner, Member or any other Person for any actions or failure to act or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of plans or specifications and no publication of Architectural Guidelines shall ever be construed as representing or implying that, or as a warranty or guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements, or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. The provisions hereof are cumulative of the provisions of **Section 3.6**.

Article V Maintenance Fund

SECTION 5.1 Obligation for Payments to Maintenance Fund

5.1.1 Establishment of Maintenance Fund. There is hereby established a Maintenance Fund in to which shall be paid all assessments as provided for herein. The Board shall be responsible for the collection, management, control and expenditure of the Maintenance Fund which shall be deposited in accounts specifically designated for the Association as from time to time designated by the Board.

5.1.2 Types and Obligation for Payment of Assessments. Each Owner of a Building Site, by acquisition of any rights, title or interest therein or acceptance of a contract for deed, deed or other instrument of conveyance therefore whether or not so expressed therein, covenants and agrees to pay to the Association regular or annual assessments, special assessments and specific assessments, all as herein set forth.

5.1.3 Purpose of Maintenance Fund. The Maintenance Fund shall be used exclusively for the purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Subdivision, including the maintenance of all Community Properties, the discharge of all obligations of the Association pursuant to this Declaration and other Governing Documents, and the doing of any other thing necessary or desirable in the opinion of the Board for accomplishment of any of the foregoing, including the establishment and maintenance of reserves for repairs, maintenance, taxes, insurance, and other charges, and the expenditure of funds for the benefit of other properties within the vicinity of the Subdivision if in the judgment of the Board the Subdivision will benefit thereby. The judgment of the Board in establishing any assessments and in the collection, management and expenditure of the Maintenance Fund shall be final and conclusive so long as exercised in good faith.

5.1.4 Personal Obligation, Transferees. In addition to the assessment lien herein established, all assessments shall be and remain the personal obligation of (i) the Owner or Owners who owned the Building Site at the time liability for the assessment accrued notwithstanding any subsequent transfer of such Building Site, and (ii) the actual Owner(s) and Record Owner as provided in **Section 3.3.1** hereof Except as provided in **Sections 5.1.5 and 5.7.3**, each Owner's transferee, whether by purchase, gift, devise or otherwise, and whether voluntary or by operation of law, shall also be jointly and severally liable for payment of all unpaid assessments owed to the Association at the time of transfer without prejudice to the rights of the transferee to recover from the transferor the amounts paid by said transferee.

5.1.5 Statement of Assessments. Any transferee (or prospective transferee upon presentment of an earnest money contract or other writing satisfactory to the Board) shall be entitled to a statement from the Association setting forth all assessments due as of the date of the written request. Any such request shall be in writing, shall be addressed to the Association and shall be delivered by and only by registered or certified mail, return receipt requested. The Board may set a reasonable charge for providing a statement of indebtedness, the payment of which shall be a condition precedent to the Association's obligation to provide same. Except for fraud or misrepresentation, if the Association fails to respond to a proper written request for a statement of indebtedness within the time specified by the requesting party, which specified time shall not be less than ten (10) business days after receipt of same by the Association, and upon submission of a properly executed registered or certified mail return receipt to the Association, upon transfer such transferee (or prospective transferee) shall not be liable for, nor shall the Building Site transferred be subject to a lien for, any unpaid assessments against the subject Building Site accruing prior to the date of the written request

SECTION 5.2 Administration of Maintenance Fund

5.2.1 Assessment and Payment. Regular assessments shall be assessed on a monthly Basis. Except as otherwise determined by the Board, regular assessments shall be due and payable annually, in advance, on or before the first (1st) day of January of each calendar year. The Board

may elect to collect regular assessments on a semi-annual, quarterly or monthly basis in which case such assessments shall be due and payable, in advance, on or before the first (1st) day of the applicable period.

5.2.2 Effect of Foreclosure or Bankruptcy. In the event of foreclosure of a first mortgage or first deed of trust or in the event of a discharge in bankruptcy, the purchaser at foreclosure or the owner discharged in bankruptcy shall be liable for unpaid regular assessments which are assessed or assessable from and after the first (1st) day of the month following the date of foreclosure or filing of bankruptcy, and any installments for assessments (regular, special or specific) over a period of time which become due and payable after said date. The foregoing shall apply regardless of whether assessments are payable annually or semi-annually.

5.2.3 Uniform Rate. Except as provided in **Section 12.9.2**, regular and special assessments on all Building Sites shall be fixed at a uniform rate, and shall be determined on a per Building Site basis.

5.2.4 Application of Payments. All payments made by or on behalf of an Owner for assessments (regular, special or specific) shall be deemed made upon the date of receipt of the payment by the Association or its designated representative. All payments received, including payments received in consequence of judicial or non-judicial foreclosure, shall be applied (i) first to payment of all specific assessments owed to the Association with application to be made in inverse order of the specific assessments listed in **Section 5.6.1**, (ii) then to payment of all special assessments, and (iii) finally to payment of all regular assessments. Application within each category shall be on a first in, first out basis.

SECTION 5.3 Base Rate and Subsequent Computation of Regular Assessments

5.3.1 Initial Base Rate. The initial base rate of the regular assessment for the year 2017 and 2018 per Building Site (and for each calendar year thereafter unless modified as herein provided) shall be \$2,004 per Building Site per year for maintenance, assessed at the rate of \$167 per Building Site per month.

5.3.2 Establishment of Budget and Rate of Regular Assessments. At any time when the annual rate of regular assessment will be increased or decreased (which change shall not become effective sooner than as permitted by **Section 5.4.3**), the Board shall:

- (a) prepare a budget upon which the change in the regular assessment is based,
- (b) fix an annual rate of regular assessment per Building Site based upon and applicable to such budget, and
- (c) specify whether the annual rate of regular assessment shall be payable annually, semi-annually, quarterly or monthly.

5.3.3 Budget Modifications. Any budget established or adopted by the Board may be modified, corrected or amended by the Board from time to time as the Board may determine.

SECTION 5.4 Notice, Effective Date, Disapproval of Change in Annual Rate of Regular Assessment

5.4.1 Notice-Unchanged Rate. At least ten (10) days written notice shall be given to all Owners of the amount of and due date for payment of regular assessments, whether payment is annual or semiannual.

5.4.2 Notice-Changed Rate. If an existing annual rate of regular assessment will increase, all Owners shall be given written notice of the proposed new annual rate of regular assessment at least sixty (60) days prior to the effective date thereof.

5.4.3 Effective Date for Changed Rate. The annual rate of regular assessment may be changed at any time as determined by the Board, but no change in the annual rate of regular assessment shall be applied retroactively, and in the case of an increase in the annual rate of regular assessment the increase shall not be effective sooner than upon expiration of the sixty (60) day notice period required by **Section 5.4.2**.

5.4.4 Disapproval of Change in Rate. The annual rate of regular assessment set forth in any notice of change thereof shall become effective (subject to **Section 5.4.3**) unless disapproved by vote of the Owners of a majority of the Building Sites then contained within the Subdivision at a special meeting of the Owners called within thirty (30) days after the date of mailing or delivery of the notice of change in the annual rate of regular assessment. Such special meeting shall be called and conducted only upon the written request of not less than the Owners of ten percent (10%) of the Building Sites then contained within the Subdivision; and if so called the Board shall notice and conduct the special meeting in accordance with the Bylaws within sixty (60) after the date of mailing or delivery of the notice of change in the annual rate of regular assessment. If a notice of change in the annual rate of regular assessment is disapproved as aforesaid, the annual rate of regular assessment which was in effect immediately preceding the notice of change shall remain in effect, and written notice of such fact shall be given to all Owners.

5.4.5 No Waiver or Release. Notwithstanding anything to the contrary herein, the omission or failure for any reason of the Board to determine an annual rate of regular assessment or to mail or deliver a notice of an annual rate of regular assessment or due date for payment thereof shall not be deemed a waiver, modification or release of an Owner's obligation to pay assessments as otherwise herein provided. Once established, an annual rate of regular assessment and the due date or dates for payment thereof shall continue in effect from year to year, and the Owner(s) of each Building Site shall be obligated to pay such regular assessments accordingly unless and until a new annual rate of regular assessment is established as herein provided.

SECTION 5.5 Special Assessments. In addition to the other assessments authorized herein, the Board may levy special assessments at any time during each fiscal year for purposes of defraying, in whole or in part, any expenses not anticipated by the budget then in effect, or to replace part or all of any contingency, capital or other reserve fund. So long as the total amount of special assessments allocable to each Building Site does not exceed Five Hundred Dollars (\$500) in any one fiscal year, the Board may impose the special assessment without vote or approval of any Owner, provided, at least sixty (60) days written notice shall be given to all Owners of any such special assessment, and the Owners shall be entitled to disapprove same in the manner provided for in **Section 5.4.4**. Special assessments allocable to each Lot exceeding the foregoing limitation shall be effective only if approved

by the Owners of a majority of the Building Sites then contained within the Subdivision. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

SECTION 5.6 Specific Assessments

5.6.1 Types. Specific assessments shall be assessed against individual Building Sites and the Owner thereafter at the time liability for same accrues as follows:

- (a)** Interest from the due date at the rate of the lesser of eighteen percent (18%) per annum or the maximum legal rate shall be charged on all delinquent assessments, regular, special or specific, which are not paid in full within thirty (30) days after the due date.
- (b)** A late charge in the amount of TWENTY FIVE DOLLARS (\$25), or such other reasonable amount as from time to time determined by the Board, is hereby imposed as to any regular, special or specific assessment which is not paid in full within thirty (30) days after payment of same is due.
- (c)** All expenses incurred by reason of a breach or violation of or to obtain compliance with any provisions of this Declaration or other Governing Documents shall be assessed against the Owner of the Building Site who occasioned the incurrence of such expenses, including reasonable attorney's fees whether incurred prior to, during the pendency of or after successful completion of any actions in a court of competent Jurisdiction.
- (d)** In the event of foreclosure of the Association's assessment lien as herein provided, the Owner shall be required to pay to the Association a reasonable rental as determined by the Board for the use of the Building Site and improvements thereon during the period of foreclosure, and the Board shall be entitled to a receiver to collect same. The "period of foreclosure" shall commence on the date of posting of the Building Site for foreclosure in the event of non-judicial foreclosure, or on the date of entry of judgment granting foreclosure in the event of judicial foreclosure. The "period of foreclosure" shall continue through the date of acquisition of actual possession of the Building Site by the purchaser at the foreclosure sale.
- (e)** All other monetary obligations established by or pursuant to this Declaration or other Governing Documents which are intended to apply to one (1) or several but not all Building Sites shall be assessed against the Owner(s) of the Building Site(s) to which same applies. Such charges may include without limitation reasonable charges as the Board may by resolution from time to time determine for, (i) providing a statement of assessments or indebtedness, (ii) transfer

fees to reflect changes of ownership, tenancy or occupancy on the records of the Association, (iii) fines for any violation of any provisions of the Governing Documents as may from time to time be set forth in applicable Rules and Regulations, (iv) charges for processing of applications for architectural approval, (v) admission or usage fees applicable to Community Properties or Subdivision Facilities, and (vi) maintenance, repair or replacement costs or expenses incurred by the Association as set forth in **Section 6.2**.

5.6.2 Payment Waiver. Specific assessments shall become due and payable immediately upon the occurrence of the event giving rise to liability for payment of same. Failure of the Association to impose or collect any specific assessment shall not be grounds for any action against the Association, or any Director, officer, agent or employee thereof, and shall not constitute a waiver of the Association's right to exercise its authority to collect any specific assessments in the future. For good cause shown as determined in the sole good faith discretion of the Board, the Board may waive, wholly or partially, imposition of any specific assessment, provided, any such waiver shall be conditioned upon payment in full of all remaining monetary obligations then owed to the Association or receipt of written commitment that same will be paid within a specified period of time.

SECTION 5.7 Lien for Assessments

5.7.1 Establishment of Lien. All sums assessed against any Building Site pursuant to this Declaration, whether by regular, special or specific assessment as provided herein, shall be secured by a continuing lien on such Building Site in favor of the Association.

5.7.2 Perfection of Lien. The recordation of this Declaration constitutes record notice and perfection of the Association's continuing lien, effective from the date of recordation of this Declaration. No further recordation of a claim of lien or other notice of any type or kind whatsoever shall be required to establish or perfect such lien. To further evidence such lien, the Association may, but shall not be required to, prepare and file in the Real Property Records of Galveston County, Texas, written notice of default in payment of assessments in such form as the Association may direct.

5.7.3 Priority of Lien. The Association's continuing lien shall be superior to all other liens or encumbrances on each Building Site except:

- (a) a first mortgage or deed of trust covering a Building Site and any other lien covering a Building Site for work and materials used in constructing improvements thereon, but only as to assessments (regular, special or specific) the obligation for payment of which accrues from or after the date any such first lien or improvement lien is duly recorded in the Real Property Records of Galveston County, Texas and only to the extent of unpaid sums secured by such first lien or improvement lien, and
- (b) liens for real estate taxes and other governmental assessments or charges, and

- (c) such other mortgages, deeds of trust, liens or other encumbrances to which the Board may from time to time by written agreement specifically agree.

5.7.4 Effect of Foreclosure or Bankruptcy. Sale or transfer of a Building Site shall not affect the Association's lien, provided, however, in the event of sale or transfer of any Building Site pursuant to judicial or non-judicial foreclosure of a superior lien as aforesaid or discharge of an Owner in bankruptcy, the Association's lien shall be extinguished only to the extent same secures payment of assessments due up to the date of foreclosure or as of the date of filing of bankruptcy. Foreclosure of a superior lien shall not relieve the former Owner of the Building Site from the personal obligation for payment of assessments due up to the date of foreclosure. Foreclosure of a superior lien or discharge in bankruptcy shall not relieve the affected Building Site or any Owner thereof subsequent to the date of foreclosure or filing of bankruptcy from liability for assessments thereafter assessed or from the Association's lien therefor.

5.7.5 Other Liens. Except as provided in **Section 5.7.3**, all other Persons acquiring liens or encumbrances on any Building Site shall be deemed to consent that such liens or encumbrances shall be inferior to the Association's lien for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

SECTION 5.8 Effect of Nonpayment of Assessments

5.8.1 General. Any assessments which are not paid when due shall be delinquent. Except to the extent otherwise expressly agreed in writing by the Board, if any assessments are not paid within thirty (30) days after the due date, then:

- (a) late charges, interest from the due date, and all costs of collection (including reasonable attorney's fees), all set forth in **Section 5.6**, shall be added to and included in the amount of such assessment,
- (b) all voting rights of the Owner shall be automatically suspended until all assessments are paid in full, and
- (c) upon ten (10) days written notice, the Association may (i) accelerate through the end of the twelve (12) month period from the first (1st) day of the month following the date of giving of notice of acceleration all regular assessments and any installments for special or specific assessments due or to become due during said period, and (ii) suspend until all assessments (including accelerated assessments, if any) are paid in full all rights of the delinquent Owner, and the Owner's tenants, and the guests and invitees of either, to the usage of Community Properties (including all recreational facilities) and/or right to usage or benefits of any Subdivision Facilities.

5.8.2 Action for Debt, Foreclosure. Each Owner, by acquisition of any Building Site within the Subdivision or any right, title or interest therein, expressly grants to and vests in the Association or its agents or representatives (i) the right and power to bring all actions against each Owner, personally for the collection of all delinquent assessments as a debt, (ii) the right and power to

foreclose the Association's continuing lien for assessments by all methods available for the enforcement of a mortgage, deed of trust or any other contractual lien, including foreclosure by an action brought in the name of the Association either judicially or non-judicially by power of sale, and (iii) a continuing power of sale in connection with the non-judicial foreclosure of the Association's continuing lien for assessments as herein provided. The Association shall have the power to bid on any Building Site at any foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same. The filing of suit to collect any sums due hereunder or to foreclose the Association's continuing lien for assessments shall never be considered an election so as to preclude foreclosure under powers of sale after a final judgment or the dismissal of the suit for foreclosure.

SECTION 5.9 Non-Judicial Foreclosure

5.9.1 Trustee. Each Owner, by acquisition of any Building Site within the Subdivision or any right, title or interest therein, expressly grants to the Association a power of sale in connection with foreclosure of the Association's continuing lien for assessments. By written resolution, the Board may appoint, from time to time, an officer, agent, trustee, or attorney of the Association (the "Trustee") to exercise the power of sale on behalf of the Association. In the case of absence, death, mobility, refusal or failure to act, or at the sole election of the Board with or without cause, the Board may remove any then acting Trustee and/or constitute and appoint a successor or substitute Trustee without further formality than an appointment and designation in writing. Any such appointment and designation shall be full evidence of the right and authority to make the same and of all the facts therein recited, and shall vest in the successor or substitute all powers and duties herein conferred upon a Trustee, and any act by and any conveyance by the successor or substitute to any purchaser shall be equally valid and effective. The right to appoint a successor or substitute Trustee shall exist as often as the Board may elect and whenever a Trustee, original, successor or substitute, cannot or will not act or has been removed.

5.9.2 Trustee's Sale. Upon default in payment of assessments and at the request and at the direction of the Board, it shall be the Trustee's duty to exercise the power of sale herein granted and to sell the defaulting Owner's Building Site in accordance with this Declaration and applicable laws of the State of Texas, including without limitation Section 51.002 of the Texas Property Code or any amendment or recodification of the same or any successor or superseding law or statute, whether state or federal. Unless otherwise required by law, the Trustee shall proceed with sale as follows:

- (a) The Trustee shall either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code. No other notice need be given and any other notice is expressly waived.
- (b) The Trustee shall conduct the sale at the place designated by the Galveston County Commissioners Court for holding Trustee's sales, each such sale to be made on the first (1st) Tuesday of a designated month between the hours of 10 o'clock a.m. and 4 o'clock p.m. and the sale to be held within three (3) hours following the earliest time stated on the notice of sale.
- (c) The Trustee shall sell the Building Site to the highest bidder or bidders

for cash at public auction, and thereupon shall make due conveyance to the purchaser or purchasers with general warranty on behalf of and binding the Owner or Owners thereof and their heirs, executors and administrators, successors and assigns, and any Persons whatsoever claiming or to claim thereunder, subject to such prior liens encumbrances and other exceptions to conveyance and warranty as provided by law or in such conveyance. The Association may purchase at any such sale in which event a credit upon all or any part of the assessments owned shall be deemed cash paid for the purpose of this paragraph.

- (d) From the proceeds arising from such sale or sales, the Trustee shall pay in the following order (i) all expenses of foreclosure and conveyance, including to the acting Trustee if so authorized by the Board a commission of five percent (5%) of the gross proceeds of such sale or sales, (ii) all assessments, regular, special and specific, due to the Association, (iii) any other amounts required by law to be paid before payment to the Owner(s) of the Building Site sold, and (iv) the remaining balance, if any, shall be paid to the Owner(s) of the Building Site sold.

5.9.3 Continuing Right of Sale. The right and power of sale hereunder shall not be exhausted by one or any sale, but shall continue as long as any indebtedness remains unpaid as to which the Trustee may make other and successive sales.

5.9.4 Trustee's Sale Conclusive, Possession. Each Owner, by acquisition of any Building Site within the Subdivision or right, title or interest therein, specifically covenants and stipulates as to each and every Trustee's foreclosure sale that:

- (a) The recitals in any appointment or designation of Trustee, any conveyance by the Trustee and any affidavit of the Trustee or the Association related thereto shall be full proof and evidence of the matters therein stated, all prerequisites of the foreclosure sale shall be presumed to have been performed, and the foreclosure sale made under the powers herein granted shall be a perpetual bar against the Owner(s) of the Building Site(s) sold and their heirs, executors and administrators, successors and assigns, and any Persons whatsoever claiming or to claim thereunder, and
- (b) After foreclosure sale, the Owner(s) prior to sale, the Owner or Owner's tenants and all other occupant(s) of the Building Site sold shall be mere tenants at sufferance of the purchaser or purchasers at said sale, such purchaser or purchasers shall be entitled to immediate possession thereof, and if the Owner(s), tenants and all other occupant(s) of the Building Site sold fail to vacate the premises immediately, such purchaser or purchasers may and shall have the right (into all other rights and remedies said purchaser or

purchasers may have) to institute and maintain forcible detainer or eviction actions and any other action for possession which shall lie against any said parties, their heirs, executors and administrators, successors or assigns, and any Persons whatsoever claiming or to claim thereunder.

SECTION 5.10 Assessments as Independent Covenant. No Owner may waive or otherwise escape liability for the payment of assessments as provided for herein for any reason, including, by way of illustration but not limitation, by nonuse of any Community Properties Subdivision Facilities, or abandonment of the Building Site, and no diminution or abatement of assessments shall be claimed or allowed by reason of any alleged actions or failure to act by the Association, or its officers, Directors, agents or employees, whether or not required under this Declaration or other Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or its officers, Directors, agents or employees, or by reason of any action taken by the Association, or its officers, Directors, agents or employees to comply with any law, ordinance, or any order or directive of any governmental authority, the obligation to pay assessments being, and is hereby expressly declared to be, a separate and independent covenant and contractual obligation on the part of each Owner.

Article VI

Maintenance

SECTION 6.1 Responsibility of Association. Subject to any insurance then in effect and to the provisions of **Section 9.9**, the Association shall maintain the Community Properties and Subdivision Facilities, and keep same in good repair. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and improvements situated on the Community Properties.

SECTION 6.2 Owner's Responsibility

6.2.1 General. All maintenance of the Building Sites and all improvements thereon shall be the sole responsibility of the Owner thereof. Each Owner shall maintain their Building Site and improvements thereon in a manner consistent with the standards of use, conduct, appearance and maintenance generally prevailing in the Subdivision as may be more specifically determined by this Declaration and other Governing Documents, including as determined from time to time by duly adopted Architectural Guidelines and Rules and Regulations.

6.2.2 Disturbance of Community Properties. In the event that the performance of any Owner's maintenance responsibilities shall require that any portion of the Community Properties be modified, removed or disturbed, then such Owner shall first obtain the written consent of the Board as to same, and then such Owner's obligations shall be performed, at the option of the Association, either under the supervision of the Association in accordance with plans and specifications approved by the Association, or by the Association at the reasonable expense of the Owner. If the Association shall perform such obligations at the expenses of the Owner, the Board may require security deposits, or rent or all of the estimated expenses, and the Owner shall pay all such expense upon demand. Such indebtedness shall be added to and become a part of the specific

assessment to which such Owner and the Owner's Building Site shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Building Site.

6.2.3 Owner's Default. In the event the Board determines that (i) any Owner has failed or refused to discharge properly the Owner's maintenance obligations as herein provided, or (ii) the need for maintenance, repair, or replacement which is the responsibility of the Association hereunder has been caused through the willful or negligent act or omission of an Owner, the Owner's tenants, or the family, guests, invitees, servants, agents or employees of either, then the Association may perform the repair, replacement or maintenance at such Owner's sole cost and expense in accordance with the following:

- (a) Except in the event of an emergency, or to the extent necessary to diminish any threat of infestation by rats or other vermin or any health, fire or other safety hazards, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement. The notice shall be delivered or mailed to the street address of the Building Site affected, and the Owner's last known address provided by the Owner for purposes of notice, if any, and shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days within which to complete all maintenance, repair, or replacement as set forth in this notice, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work within ten (10) days and to complete same within a reasonable time not to exceed thirty (30) days unless otherwise specifically approved by the Association.
- (b) If any Owner fails fully to comply with the aforesaid notice, the Association shall have the right (but not the obligation), through its officers, Directors, agents and employees, to enter upon said Building Site and to repair, maintain and restore the Building Site and the exterior of the buildings and any other improvements located thereon, and in case of emergency, or to the extent necessary to diminish any threat of infestation by rats or other vermin or any health, fire or other safety hazards, the Association shall have the right (but not the obligation), through its officers, Directors, agents and employees, to enter any residence or Improvement located upon such Building Site, and to take all actions reasonably necessary to abate the same.
- (c) The good faith determination by the Board that maintenance, repair or replacement is necessary, or that an emergency or threat of infestation or health, safety or other hazard exists, shall be final and conclusive, and shall extend to anything or condition upon any Building Site as to such Building Site or which adversely affects any other Building Site or Community Properties.

- (d) All reasonable costs of maintenance, repair or replacement performed by the Association pursuant to this **Section 6.2** shall be added to and become a part of the specific assessment to which such Owner and the Owner's Building Site shall be subject, and shall be secured by the continuing lien hereby established against such Owner's Building Site.

SECTION 6.3 Limitation of Liability. Neither the Association nor its officers, Directors, agents or employees shall be liable for trespass or any other tort or claim for damages in connection with any actions or failure to act as provided in this **Article VI**. The provisions hereof are cumulative of the provisions of **Section 3.6**.

Article VII

Use Restrictions

SECTION 7.1 Residential Use, Group Homes, Treatment Facilities

7.1.1 General. Each and every Building Site is hereby restricted to residential dwellings for single family residential use only.

7.1.2 No Business, Professional, Commercial or Manufacturing Use. No business, professional, commercial or manufacturing use shall be made of any Building Site or any improvement located thereon, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence, and regardless of whether or not done for profit or remuneration. Notwithstanding the foregoing, so long as there is no external evidence thereof (including signs, advertising, or contacts in person at a residence with clients or customers) and no unreasonable inconvenience to Owners or occupants of any area Building Sites or Community Properties as determined in the sole good faith opinion of the Board, the following activities at a residence by an Owner or the Owner's tenants shall not be prohibited:

- (a) maintenance of any personal professional library,
- (b) keeping of personal or professional records or accounts, or
- (c) handling personal business or professional telephone calls or correspondence, provided, no business, professional, commercial or manufacturing telephone listing shall be permitted, and the conducting of any telemarketing or similar type business from a residence shall be strictly prohibited.

7.1.3 Residential Structures Only. No structure other than one single family residence and its permitted outbuilding shall be constructed, placed on or permitted to remain on any Building Site in the Subdivision.

7.1.4 Residential Use Only. Without limitation of the foregoing, as used in this

Declaration the term "residential use" shall be construed to prohibit the use of any Building Site or the residence thereon for apartment houses or other type of dwelling designed for multi-family dwelling, or use for or operation of a boarding or rooming house or residence for transients, or the use of any garage as a garage apartment or residential living quarters.

7.1.5 Single Family Defined. As used in this Declaration the term "single family shall be construed to mean one (1) or more natural persons maintaining a common household within a single family residence upon a Building Site and includes only (i) parents, children, grandparents and grandchildren who are members of a single family related by blood, marriage or adoption, or (ii) a group of natural persons not so related but not to exceed in number the number of bona fide bedrooms contained in the residence being so occupied, and (iii) the domestic servants of either.

7.1.6 Maximum Occupancy. Notwithstanding any of the foregoing provisions but in addition to the limitations above set forth, in no event shall a single family residence be occupied by more persons than the product of the total number of bona fide bedrooms contained in the single family residence multiplied by two (2).

7.1.7 Group Homes, Treatment Facilities. To the fullest extent allowed by law, no Building Site or any part of the single family residence thereon shall be used for the operation of a "group home," "family home," "community home," "half-way house," day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters.

SECTION 7.2 Animals and Livestock. No hogs, horses, livestock or poultry of any kind shall be raised, bred, or kept on any Building Site. If consistent with its use as a residence, dogs, cats or other household pets may be kept on a Building Site. All such household pets must be kept on a leash or otherwise maintained under the control of their Owner when not maintained in an enclosed yard. As to any animals or livestock not permitted, or in the event permitted pets, as aforesaid, are permitted to roam free, or, as determined in the sole discretion of the Board, endanger the health or safety, make objectionable noise, or constitute a nuisance, annoyance or inconvenience to the Owners or occupants of the other Building Sites or the owner of any property located adjacent to or in the vicinity of the Subdivision, the Board may cause any such animal, livestock or permitted pet to be removed from the Subdivision and may prohibit the return of any such permitted pet to the Subdivision. Removal as aforesaid shall be at the sole expense of the Owner and without liability of any kind whatsoever to the Association, its officers, Directors, agents or employees, and including any Person which the Board may direct to remove any such animal, livestock or permitted pet.

SECTION 7.3 Vehicles

7.3.1 Street and Driveway Parking. All vehicles of Owner and his/her guests shall be parked in Owner's garage overnight. Only automobiles of Owner and his/her guests will be allowed to be parked in Owner's driveway overnight. No vehicle of any kind, shall be parked, stored or otherwise permitted to remain upon any street or upon any Community Properties, unless prior written consent of the Board is obtained, except that an automobile may be parked for no more than 48 consecutive hours upon any street or upon any Community Properties, provided such 48 hour period is followed by the removal of such automobile for a minimum of 48 consecutive hours. No boat, mobile

home, trailer, boat rigging, truck larger than a three-quarter ton pick-up, bus, unused vehicle, inoperable vehicle of any kind (including any vehicle requiring same which does not have both a current and valid license plate and current and valid state inspection sticker), and no unsightly vehicle as determined in the sole good faith opinion of the Board, shall be parked or kept at any time within the Subdivision, or on any driveway or upon any Building Site unless such vehicle is stored completely within a garage.

7.3.2 Designated Parking. The Board may designate specific areas in the Subdivision as it may in its sole discretion determine as parking areas for any Building Site or as visitor parking. Parking area for a Building Site may be conveyed as appurtenant to a Building Site and in such event such parking area shall be and remain appurtenant to and pass with title to the Building Site Any designation of parking areas except when made appurtenant to a Building Site as aforesaid may be changed from time to time as the Board may determine.

7.3.3 Repair of Vehicles. No Person shall be permitted to perform work on any vehicle within the Subdivision, or on any street in front or along the side or back of any Building Site, or on any Building Site, at any time other than temporary emergency repairs or other work required in order to promptly remove an inoperable or disabled vehicle from the Subdivision or to and within a garage.

7.3.4 Vehicle Defined. As used in this Section 7.3, "vehicle" shall include motorhomes, boats, trailers, motorcycles, scooters, trucks, campers, buses, and automobiles and such other devices as from time to time specified in applicable Rules and Regulations.

7.3.5 Presumptive Violations. Repairs or other work exceeding twenty-four (24) hours shall be conclusively presumed not to be "temporary." Any vehicle shall be conclusively presumed to be "unused" or "inoperable" if the vehicle has not been operated outside the Subdivision for seven (7) or more consecutive days or the vehicle has not been operated outside the Subdivision more than once in any fourteen (14) day period. The provisions hereof shall not prejudice the right of the Association to otherwise establish a violation. The foregoing provisions shall not apply to any vehicle completely stored within a garage. The Board may grant reasonable exceptions to the foregoing upon receipt of written request from an Owner or their tenant.

7.3.6 Towing. The Board or its designated representative may cause any vehicle which is parked or stored (whether or not pending repairs) in violation of this Declaration or other Governing Documents to be removed from the Subdivision to any vehicle storage facility within Galveston County, Texas at the sole cost and expense of the Person owning such vehicle (whether or not such Person is an Owner) and/or the Owner as to whom such Person is a tenant, visitor, guest or invitee. Any such removal may be in accordance with any applicable statute or ordinance, or in accordance with the following:

- (a) Conspicuous notices shall be posted at all entrances to and exits from the Subdivision advising in effect that parking on any street in the Subdivision is prohibited, that work on or parking of any vehicle in the Subdivision is subject to strict compliance with other posted notices and the Association's Governing Documents and that violating vehicles may be towed without further notice. Said notices shall also provide a telephone number and/or address for recovery of towed vehicles.

- (b) Written and dated notice shall be securely affixed to the vehicle, and, if applicable, placed in the mailbox or affixed to the front door of the residence on the Building Site on which or in front of which the vehicle is parked or stored. No other notice whatsoever shall be required, any other notice being expressly waived.
- (c) The notice shall state the vehicle is deemed in violation of this Declaration or other Governing Documents, and that the vehicle will be towed at any time after a date certain stated in the notice unless a written explanation substantiating no violation exists is provided at an address stated in the notice by the date certain. Except as provided below, the date certain stated in the notice shall not be less than twenty-four (24) hours after the date of the notice.
- (d) In case of an emergency, substantial threat of a health or safety hazard or blocking of access to any street, driveway, garage or the Community Properties, as determined in the sole good faith opinion of the Board, the right of removal shall be immediate and all above prerequisites shall be waived except that notice of an address for a contact Person regarding the towing shall be affixed to the vehicle and given to the affected residence, if applicable, as above provided.
- (e) The Association shall maintain a record of the location of each towed vehicle for at least ninety (90) days after towing, and provide the address of such location upon written request of the owner or reputed owner of the vehicle.
- (f) Without limitation of the provisions of **Section 3.6**, neither the Association nor any officers, Directors, agents or employees thereof, nor any Person removing any vehicle as herein provided, shall have any liability whatsoever in consequence of removal of any vehicle as herein provided, and the Person owning such vehicle (whether or not such Person is an Owner) and/or the Owner as to whom such Person is a tenant, visitor, guest or invitee, shall hold all such parties harmless from any and all claims, suits, actions, liabilities or damages arising, directly or indirectly, as result of such removal.

SECTION 7.4 Nuance, Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Building Site. No Building Site shall be used, in whole or in part, for the storage of any property or thing that will cause such Building Site to appear to be in an unclean or untidy condition, or that will be obnoxious to the eye. No hobbies or activities which will cause disorderly, unsightly, or unkempt conditions, including without limitation, the assembly or disassembly of or repair work on motor vehicles or other mechanical devices, shall be performed within the Subdivision. No substance, thing, or material shall be kept upon any Building Site that will emit foul or obnoxious odors, or that will cause

any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive trade or activity shall be earned on upon any Building Site, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or a nuisance to any residents of the Subdivision or to any Person using any property adjacent to the Building Site. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the residents of the Subdivision. No storage on patios/balconies or any unsightly condition or property that is not suitable for patios/balconies. No spirituous, vinous, malt, medicated bitters, alcohol, drugs or other intoxicants shall be sold or offered for sale on any part of any Building Site or any other place within the Subdivision. No Building Site or any part thereof shall be used for any immoral or illegal purposes. Upon the good faith determination of the Board that a violation of this Section exists, the Board may take such actions as it shall deem necessary to abate the violation in the manner provided in **Section 6.2.3** at the sole cost and expense of the violating owner.

SECTION 7.5 Septic Tanks. No septic tank, private water well or similar private sewage or water systems shall be permitted upon any Building Site.

SECTION 7.6 Disposal of Trash. No trash, rubbish, garbage, manure, debris or offensive material of any kind shall be kept or allowed to remain on any Building Site, nor shall any Building Site be used or maintained as a dumping ground for such materials. No incinerator may be maintained on any portion of the Subdivision. All trash and similar matter to be disposed of shall be placed in cans or similar receptacles with tight fitting lids or plastic bags tied or otherwise tightly secured, and shall be placed in an area adequately screened by planting or fencing from public view or within a garage except when placed for regular pickup as herein provided. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition, and shall comply with all applicable federal, state, county, municipal or other governmental laws and regulations. All such prohibited matter shall be removed from each Building Site at regular intervals if not removed or removable by a regular garbage and sanitation service. Trash and garbage for pickup by a regular service shall be placed in such area or areas as the Board may from time to time direct, or as the applicable garbage and sanitation service or provider may require, provided trash and garbage shall not be placed for pickup earlier than eight (8) hours prior to a scheduled pickup day and all receptacles therefor and any remaining trash and garbage shall be removed from the pickup site by midnight of the pickup day. Any of the foregoing provisions may be modified, added to or deleted by applicable Rules and Regulations.

SECTION 7.7 Permitted Hours for Construction Activity. Except as is reasonably necessary for initial construction of a residence on a Lot, or in an emergency, or when other unusual circumstances exist, all as determined in the sole good faith opinion of the Board, outside construction work or noisy interior construction work shall not be permitted except (i) as to initial construction of a residence upon a Lot, only between the hours of 6 a.m. to 8 p.m., Monday through Friday, 7 a.m. to 6 p.m. on Saturday and 10 a.m. to 6 p.m. on Sunday, and (ii) in all other cases, not on any legal holiday or Sunday, and otherwise only between the hours of 7 a.m. to 7 p.m., Monday through Friday, and 9 a.m. to 6 p.m. on Saturdays.

SECTION 7.8 Building Materials. No Building Site shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Building Site may be placed upon such Building Site as provided in **Section 4.7**. Under no circumstances

shall building materials be placed or stored on any street or walkway or upon any Community Properties except as expressly authorized in writing by the Board.

SECTION 7.9 Outdoor Cooking. Outdoor cooking shall be permitted on any Building Site only in equipment especially constructed for same, and only in such manner as not to create a hazard of fire or injury to persons or property. Outdoor cooking is prohibited upon Community Properties unless authorized by the Board. All outdoor cooking equipment shall be properly maintained, and shall be stored in an area screened from public view when not in use. The Board may enact Rules and Regulations specifically prohibiting outdoor cooking any place within the Subdivision, or otherwise restricting or regulating outdoor cooking.

SECTION 7.10 Firearms. The use of firearms in the Subdivision is strictly prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and small or large firearms of all types.

SECTION 7.11 Basketball Goals. No basketball goals or backboards shall be mounted on a garage or on a pole, or otherwise erected or maintained upon any Building Site, without the prior written approval of the ACC.

SECTION 7.12 Leases

7.12.1 Restrictions. No Building Site may be leased other than for use as a single family residence as herein provided and defined. No Owner may lease a Building Site and attendant use of the residence and improvements thereon for transient or hotel purposes. No Owner may lease less than an entire Building Site and attendant use of the residence and improvements thereon. All leases shall:

- (a) be in writing, and
- (b) shall be specifically subject in all respects to all provisions of this Declaration and all other Governing Documents (whether or not expressly stated in the lease), and any failure by lessee to comply with the terms and conditions of the Governing Documents shall be a default under the lease and grounds for termination of the lease and eviction by the Owner or the Association.

7.12.2 Owner's Liabilities. Each Owner hereby irrevocably appoints the Board or its designated representative as their attorney in fact for purposes of termination of any lease and/or eviction due to violation or breach of this Declaration or other Governing Documents, agrees to indemnification in regard thereto to the fullest extent herein provided (including as set forth in **Section 3.6**) and shall be solely responsible for all costs thereof (including as provided in **Section 5.6**).

7.12.3 Joint Liabilities. Lessor(s) and lessee(s) shall be jointly and severally liable for the observance and performance of all of the terms and provisions of this Declaration and all other Governing Documents, including without limitation joint and several liability for all damages, costs and expenses resulting from any violation thereof, and/or all fines and assessments imposed thereby.

7.12.4 Surrender of Use of Community Properties by Lessor(s). During all periods of time during which a Building Site is occupied by lessee(s), lessor(s) shall surrender all of

lessors' rights as an owner to the use of all of the Community Properties unto such lessee(s), including without limitation all rights of use of recreational facilities. The provisions of this Section shall not impair the voting rights of the lessor(s), the right to inspect the leased premises or to exercise any other rights or remedies customarily reserved for the protection of lessor(s).

SECTION 7.13 Unoccupied Residences. The Owner of a Building Site with an unoccupied residence, including any mortgagee in possession and any mortgagee obtaining title to a Building Site by foreclosure or by any deed or other arrangement in lieu of foreclosure, shall remain liable for full observance and performance of all terms and conditions of this Declaration and all other Governing Documents, including in particular but without limitation (i) proper maintenance of the Building Site and all improvements thereon, and (ii) securing of the unoccupied residence, including fastening of windows and locking of all entry and garage doors, and maintenance of appropriate curtains or other permitted window covers in order to prevent unauthorized entry or use.

SECTION 7.14 Undeveloped Lots. The Owner of any Building Site upon which a single family residence has not been constructed shall maintain such Building Site in a neat, sanitary and attractive condition, including without limitation, periodic removal of trash and debris therefrom and mowing of grass and other vegetation thereon as necessary to prevent growth to more than twelve inches (12") in height.

SECTION 7.15 Visitors, Guests and Invitees. Each Owner and each Owner's tenant shall insure that their family members, visitors, guests and invitees fully comply with applicable provisions of this Declaration and all other Governing Documents, and shall be liable for all costs, expenses, losses, damages and fines caused by violations by any such family members, visitor, guest or invitee.

SECTION 7.16 Children and Other Dependents. Owners and their tenants shall insure that their children and other dependents, and the children and other dependents of their visitors, guests or invitees, are properly supervised at all times, and shall not permit such children and other dependents to engage in any activity or conduct that will cause damage to or require additional maintenance of any of the Community Properties or other Building Sites, including landscaped areas and recreational facilities, or which is otherwise in violation of this Declaration. The parent(s), guardian(s) or other Person(s) with whom any child or dependent resides or who are otherwise legally responsible for the care and custody of the child or dependent shall be responsible for ensuring such child or dependent complies with applicable provisions of the Declaration and other Governing Documents, and shall be liable for the consequences of any violation(s) thereof by any such child or dependent.

SECTION 7.17 Garage Usage. No portion of any garage shall be diverted to any use other than the parking of vehicles and other generally accepted and customary usage of a garage. In particular but not in limitation of the foregoing, no portion of any garage shall be used as a residence, or for any similar use as living quarters. Garage doors facing the street shall be kept in a closed position when the garage area is not being actively used.

SECTION 7.18 Mineral Production. No drilling, development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

SECTION 7.19 Clotheslines. No outside clotheslines shall be constructed or maintained on any Building Site or Community Properties, nor shall any other outside drying of clothes be permitted.

SECTION 7.20 Rules and Regulations. The Board is hereby specifically authorized to promulgate, modify and delete such reasonable Rules and Regulations applicable to the operation, use and occupancy of the Subdivision, including all Building Sites and Community Properties, as the Board shall from time to time deem beneficial to the Subdivision. Such authority shall include but is not limited to (i) the right to limit, in addition to the provisions of **Section 7.3**, the type and size of vehicles within the Subdivision, traffic and parking regulations and other traffic control procedures, and the maximum permissible noise levels of vehicles within the Subdivision, (ii) procedures and reasonable restrictions and limitations on the right to use Community Properties, and (iii) all procedural and substantive aspects for the establishment, levy, collection and payment of fines for any violations of the Governing Documents Rules and Regulations shall be of equal dignity with and shall be enforceable in the same manner as the provisions of this Declaration, provided:

7.20.1 Rules and Regulations. Rules and regulations shall not be enacted retroactively (except that if any activity is subsequently covered by Rules and Regulations and such activity shall cease after enactment of the Rules and Regulations covering same, then the Rules and Regulations shall apply to the activity thereafter).

7.20.2 Rules and Regulations. Rules and regulations shall not be incompatible with the provisions of this Declaration.

7.20.3 Rules and Regulations Rules and regulations shall not become effective until thirty (30) days after true and correct copies thereof are delivered or mailed to all Owners.

Article VIII

Architectural Restrictions

SECTION 8.1 Type of Residence

8.1.1 Type of Structures. Only one single family residence not to exceed three (3) stories shall be built or permitted on each Building Site, excluding fourth floor tower areas approved by the ACC. Lot 1 (2182 Marina Way) may have 2 structures.

8.1.2 Garages. All single family residences shall have an attached enclosed garage, unless otherwise approved by the ACC. Carports on Building Sites are prohibited. All garages must be enclosed with permanent walls and their fronts enclosed with standard type overhead doors customarily used in the building industry which garage door shall be maintained in good working order by the Owner at all times. Any replacement garage door shall be painted to match the then existing color scheme of the residence. Except for interior modifications of a garage wholly consistent with its use as a garage and which do not alter the exterior appearance of the garage as originally constructed, no modification of the interior or exterior of any garage as originally constructed shall be permitted without prior written approval of the ACC.

8.1.3 New Construction and Continued Maintenance Required. All structures shall be of new construction, and no structure shall be moved from another location to any Building Site

without prior written approval of the ACC. All residences must be kept in good repair, and must be painted when necessary to preserve their attractiveness.

SECTION 8.2 Living Area Requirements. All single family residences, exclusive of porches and garages, shall contain not less than two thousand (2,000) square feet.

SECTION 8.3 Location of Residence on Lot

8.3.1 General. No building or structure (including any single family residence, but excluding any roof overhang, fireplace, chimney, bay window, decking, steps or similar architectural detail which is part of a single family residence) shall be located upon any Building Site (i) except in accordance with building setback lines shown on the Plat, or as established by this Declaration or applicable ordinances of the City of League City, State of Texas, or (ii) within any easement existing at the time of construction as shown on the Plat or otherwise prohibited by Article IX hereof.

8.3.2 Setback. No single family residential dwelling shall be located upon any Building Site closer than ten feet (10') from the front lot line or as shown on Plat, upon which same is situated. The ACC may authorize any other placement of a single family residence, including placement on or within one foot (1') of any other boundary of the Building Site. A single family residence, once constructed, shall not thereafter be modified or reconstructed except within the footprint of the single family residence as originally constructed.

8.3.3 Encroachment. Notwithstanding the foregoing but in addition to the provisions of **Section 9.3**, any roof overhang, fireplace, chimney, bay window, decking, steps or similar architectural detail of a single family residence may encroach across any setback line or any Lot line in accordance with the League City Code.

SECTION 8.4 Construction Standards

8.4.1 Applicability. Except as may be otherwise authorized in writing by the ACC and in addition to all other applicable requirements of this Declaration and other Governing Documents, initial construction of all single family residences and appurtenant structures shall be in accordance with, and such residences or appurtenant structures shall thereafter be maintained to the extent applicable in accordance with, the provisions of this **Section 8.4**

8.4.2 Maximum Period for Completion of Construction. Upon commencement of construction of a single family residence, the work thereon shall be prosecuted diligently to the end that the same shall not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event construction shall be substantially completed by the last day of the twelfth (12th) month following the first (1st) day of the next month after the first conveyance of the applicable Building Site by Declarant to a builder (as so designated in the sole discretion of Declarant) or to an Owner. The foregoing twelve (12) month period shall be extended in the event of and only for the duration of delays due to strikes, war, acts of God or other good causes beyond the reasonable control of the builder or Owner as determined in sole good faith opinion of the ACC.

8.4.3 Zero Lot Line Walls. Any wall of a single family residence located within one foot (1') of a Building Site boundary (a "Zero Lot Line Wall") shall be constructed using permanent

low-maintenance material as approved by the ACC and as required by applicable building codes and other governmental regulations or ordinances. No Zero Lot Line Wall shall have any exterior objects or appurtenances, including without limitation electrical panels, vents, plumbing cleanouts, windows or openings of any kind, and nothing shall be attached to a Zero Lot Line Wall by any Person.

8.4.4 New Construction Materials Required. Only new construction materials may be used.

8.4.5 Storage of Materials, Clean-Up. No building materials of any kind or character shall be placed or stored upon any Building Site more than thirty (30) days before construction is commenced. Except as otherwise permitted by the ACC, all materials permitted to be placed on a Building Site shall be placed within the boundaries of the Building Site. Upon completion of construction, any unused materials shall be promptly removed from the Building Site and the Subdivision and in any event not later than thirty (30) days after construction is completed.

8.4.6 Landscaping. All initial landscaping installed on any Building Site shall be in accordance with the plans and specifications therefor approved by the ACC.

8.4.7 Home Address Numbers. Any house address number markers shall be subject to the prior written approval of the ACC, and as to same, the ACC shall maintain general uniformity.

8.4.8 Driveways. Each Building Site shall contain a driveway constructed from the garage to the abutting street, including any street right-of-way. All driveways shall be constructed of reinforced concrete, concrete pavers or, as otherwise approved by the ACC.

8.4.9 Exterior Materials The exterior materials for a single family residence and appurtenant structures constructed on a Building Site must be Hardie Board or such other materials as the ACC may from time to time establish by Architectural Guidelines or otherwise expressly approve, or such other materials as the ACC may from time to time establish by Architectural Guidelines or otherwise expressly approve.

8.4.10 Drainage. All construction of residences and appurtenant structures or other improvements on a Building Site, and all grading and all other work in relation thereto, shall be performed in such manner as to prevent so far as practicable drainage from such Building Site to another Building Site or the Community Properties, and to such end gutters on roofs, drains, drainage lines and similar devices may be required by the ACC either upon initial construction or at any time thereafter that circumstances reasonably require.

8.4.11 Garage Height. No garage shall exceed in height the dwelling to which it is appurtenant.

8.4.12 Painting of Frame Construction. No structure of any kind or character which incorporates frame construction on the exterior shall be erected on any Building Site unless such structure receives at least two (2) coats of paint at the time of construction or the exterior is Hardie board material, and is approved by the ACC.

8.4.13 Roof Materials. Roofs of all residences shall be constructed so that the exposed material is composition shingles, or such other material which is compatible in quality and appearance to the foregoing as may be approved by the ACC. Wood shingles of any type are prohibited on the roof of any residence, building or structure.

8.4.14 Tree Removal. No living tree with a trunk diameter of six inches (6") or greater shall be cut down or removed from any Building Site without the prior written approval of the ACC except for trees within the footprint of the single family residence to be constructed on the Building Site or within five feet (5') thereof.

8.4.15 Pre-Fabricated Homes Prohibited. No mobile homes, modular homes or similar pre-fabricated residential structures of any kind shall be permitted upon any Building Site.

8.4.16 Compliance with Laws. All construction of any single family residence shall be in compliance with applicable governmental laws, ordinances and regulations, including applicable building codes or permit or licensing requirements.

SECTION 8.5 Metal Buildings or Structures Prohibited. Subject to **Sections 8.6 and 12.12** no metal buildings of any kind are permitted anywhere within the Subdivision. The foregoing shall not prohibit incorporation of metal components in permitted buildings (such as stairs) as approved by the ACC.

SECTION 8.6 Temporary Structures. Sales Office Temporary buildings or structures shall not be permitted on any Building Site, provided, the Board may permit (and shall not unreasonably withhold or delay approval for) temporary toilet facilities, sales and construction offices and storage areas to be used in connection with the construction and sale of residences at such locations as the Board shall direct, and may authorize usage of garages as sales offices during the Development Period. At the time of the sale of a residence, any garage appurtenant to any residence used for sales purposes must have been reconverted to a garage.

SECTION 8.7 Building Site or Lot Subdividing Prohibited. Subject to **Section 12.8** hereof, no Building Site as originally conveyed and no Lot as shown on the Plat shall be subdivided or its boundaries changed except in conjunction with the combination of Building Sites or Lots.

SECTION 8.8 Building Site or Lot Combinations. Any Owner of one (1) or more adjoining Building Sites or Lots (or portions thereof) may, with the prior written approval of the ACC, consolidate same or portions thereof in to one (1) building site for the purpose of constructing a single family residence and appurtenant improvements on the resulting composite site. Each such composite site shall be regarded as one (1) Building Site for purposes of constructing one single family residence and appurtenant improvements thereon. Any approval by the ACC shall be conditioned upon (whether or not stated therein) obtaining of abandonment or release of all affected utility and other easements applicable to the combined Building Sites prior to consolidation, and compliance with replotting requirements of applicable statutes and ordinances. Obligations for payment of assessments and voting rights shall be determined as to the composite site based on the number of Building Sites per the Plat (or fractional parts thereof) combined, it being the intent hereof for example that if one and one-half (1 1/2) Building Sites as designated by the Plat are combined, then thereafter the Owner of such composite site shall be required to pay regular assessments at the rate of one and one-half times the

rate otherwise applicable to Building Sites designated by the Plat and be entitled to one and one-half (1 1/2) votes as the composite site.

SECTION 8.9 Lot Fences, Walls and Hedges. Except as to perimeter Subdivision fencing, all fences and freestanding fence type walls, gateposts, hedges and planters (sometime herein referred to as "Building Site Fencing"), whenever and wherever located on any Building Site, shall comply with the following:

8.9.1 ACC Approval Required. No Building Site Fencing shall be constructed, placed or maintained on any Building Site without prior written approval of the ACC.

8.9.2 Setbacks. No Building Site Fencing shall extend past the front setback line of the Building Site or the front of the residence. Any fencing extending past the rear building setback line shall be made of rod iron not to exceed four feet (4) high or treated wood fences not to exceed three foot (3') high.

8.9.3 Maximum Height. No Building Site fencing shall be more than four feet (4') in height, unless approved in writing by the ACC.

8.9.4 Composition. All Building Site Fencing other than hedges shall be constructed of rod iron, treated wood or cedar or other material as approved by the ACC. All design and placement of Building Site Fencing shall require the prior written approval by the ACC.

8.9.5 Chain Link Fences Prohibited. No chain link type fences will be permitted on any Building Site.

8.9.6 Ownership and Maintenance. Ownership of all Building Site Fencing shall pass with title to the Building Site, and it shall be the Owner's responsibility to continuously maintain all Building Site Fencing in a neat and attractive condition and in good repair.

8.9.7 Hedge Defined. For the purposes of this Section, a "hedge" shall be defined as a row of bushes, shrubs or trees which, at natural maturity, will exceed three feet (3') in height and have sufficiently dense foliage as to present a visual and physical barrier in the same manner as a fence.

SECTION 8.10 Antennas and Satellite Dish System

8.10.1 Antenna. No antenna shall be permitted on any Building Site or elsewhere in the Subdivision unless approved by the ACC.

8.10.2 Prohibited Antenna. In no event shall any antenna be used for transmitting electronic signals of any kind. No electronic antenna or device of any type, citizen band, "HAM", "CB" or similar radio antenna or other television antenna or accessories except as above provided, shall be erected or permitted to remain on or outside of a building on any Building Site or Lot.

8.10.3 Satellite Dish Systems. No satellite dish system, microwave television antenna or similar devices of any type shall be permitted on any Building Site or elsewhere in the Subdivision unless approved by the ACC. The ACC may (but shall not be required to) permit installation

of a satellite dish system, microwave television antenna or similar device if the size and location of the satellite dish system or microwave television antenna are inconspicuous. The provisions hereof shall not apply to any satellite dish or similar system maintained by the Association.

SECTION 8.11 Signs. No signs, billboards, posters or advertising devices of any kind, including without limitation business, professional, promotional, "for sale," "for rent," "for lease," or institutional signs, shall be permitted on any Building Site, or upon any residence, or within any residence if visible from the exterior of the residence, or within the Subdivision without the prior written consent of the ACC.

SECTION 8.12 Exterior Lighting. Any exterior lighting of a residence or Building Site shall be subject to prior written ACC approval. No exterior lighting shall be directed outside property lines of the Building Site upon which same is located. All lighting fixtures shall be compatible in style and design to the residence where located.

SECTION 8.13 Landscaping and Maintenance. Grass shall be kept mowed and edged, and all grass, flower and shrubbery bed and all other landscaping shall be continuously maintained to prevent unsightly appearance and as may be more particularly specified by applicable Architectural Guidelines or Rules and Regulations. Without limitation of the foregoing, grass on Building Sites with single family residences thereon shall not be permitted to grow to a height exceeding nine inches (9"). Dead or damaged trees which may create a hazard to property or persons within the Subdivision shall be promptly removed or repaired at the Owner's expense. Vacant Building Sites shall be mowed and maintained in appearance by the Owner, and shall not be used as dumping grounds for rubbish, trash, rubble or soil.

SECTION 8.14 Traffic Sight Line Areas. No fence, wall, hedge, tree, shrub planting or any other thing or device which obstructs sight lines at elevations between two and six feet (2' & 6') above a street shall be permitted on any corner Building Site within the triangular area formed by the two (2) boundary lines thereof abutting the street and a line connecting them at points twenty-five feet (25') from their intersection, or within the triangular area formed by the boundary line abutting a street, the edge line of any driveway pavement and a line connecting them at points ten feet (10') from their intersection.

SECTION 8.15 Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be permitted upon any portion of the Subdivision, including any Building Site and/or residence located thereon, without the prior written consent of the ACC. Any such installation shall be in harmony with the design of the residence, and such that the device is not visible from any street.

SECTION 8.16 Exterior Colors. Unless otherwise approved by the ACC, all residences must be painted or repainted in a color used in the original construction of residences within the Subdivision.

SECTION 8.17 Maintenance Of Utilities. All utility services intended to be provided to each single family residence as originally constructed, including without limitation water, sewage, electric and gas services, shall be maintained by the Owner at all times when a residence is occupied.

SECTION 8.18 Air Conditioners. Except as approved by the ACC, no window, wall or exterior roof mounted type air conditioners or heating units, or any part thereof, and no air conditioners or heating units, or any part thereof, which is visible from any street shall be permitted.

SECTION 8.19 Window Coverings. All window coverings shall be white in color from the exterior viewpoint. No window film covering shall be allowed unless approved in writing by the ACC.

SECTION 8.20 Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Building Site and which are not owned and maintained by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the ACC, and shall be maintained at all times by the Owner of the Building Site upon which same is located.

SECTION 8.21 Evacuation. The digging of dirt or the removal of any dirt from any Building Site is expressly prohibited except upon written approval of the ACC as may be necessary in conjunction with the landscaping of or construction on such Building Site.

Article IX

Easements

SECTION 9.1 Incorporation of Easements. All easements, dedications, limitations, restrictions and reservations shown on the surveys of each Building Site, the Subdivision Plat and any other plat, map or other instrument duly filed in the plat, map or other public records of Galveston County, Texas which legally applies to the Subdivision or any Building Site, and all grants and dedications of easements and related rights heretofore made or hereafter established as herein provided affecting the Subdivision or any Building Sites and filed in the Real Property Records of Galveston County, Texas, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by any Person covering any portion of the Subdivision, including any Lot or Building Site. In the event of any conflict between any of the foregoing filed after the date of filing of this Declaration and any provisions of this Declaration, the provisions of this Declaration shall control:

SECTION 9.2 Owner's Easements for Use and Enjoyment. Every Owner of a Building Site shall have a right and easement of ingress and egress, use and enjoyment in and to the Community Properties which shall be appurtenant to and shall pass with the title to the Building Site, subject to the following provisions:

9.2.1 Usage Control. The Board shall have the right to (i) establish, install, maintain, operate and regulate a limited access gate or gates and such other security oriented systems, devices, and procedures as it may determine, (ii) issue, charge for, and require as a condition of entry to the Subdivision and/or Community Properties such identification cards, passes, keys, or similar devices as the Board may from time to time determine, limit the number of guests of Building Site Owners and their tenants who may use the Community Properties, provide for the exclusive use and enjoyment of specific portions of the Community Properties at certain designated times by an Owner, his family, and the Owner's tenant, and the guests or invitees of either, and (iii) charge reasonable admission and other fees for the use of any portion of the Community Properties, including any Subdivision Facilities.

9.2.2 Suspension of Usage Rights. The Board shall have the right, upon ten (10) days written notice and opportunity to be heard as provided in Article XII, to suspend the right of an Owner, and the Owner's tenant, and the guests or invitees of either, to use all or any part of the

Community Properties and/or Subdivision Facilities for any breach, violation or infraction of this Declaration or other Governing Documents until all such breaches, violations and infractions are cured

SECTION 9.3 Easements for Encroachment and Overhang. In the event that any portion of any roadway, walkway, parking area, driveway, water line, sewer line, utility line, sprinkler system, building or any other structure or improvement, including without limitation any building steps, fences, paving, decking, footings, piers, piles, grade beams or similar improvements, or any overhang of walls or roofs of any such building or structure as originally constructed, encroaches on any Building Site or the Community Properties due to the unintentional placement or setting or shifting of any of the foregoing to a distance of not more than thirty inches (30"), as measured from any point on the common boundary between each Building Site and the adjacent portion of the Community Properties or as between adjacent Building Sites, as the case may be, along a line perpendicular to such boundary at such point, it shall be deemed that the Owner of such Building Site or the Association has granted a perpetual easement to the Owner of the adjoining Building Site or to the Association for continuing maintenance and use of such encroaching improvements for maintenance, repair or replacement of any of the foregoing if performed in substantial compliance with the original construction. The foregoing shall also apply to any encroachment which is completely underground for any distance which does not substantially and adversely affect the Building Site or Community Properties being encroached.

SECTION 9.4 Owners' Access Easement

9.4.1 Defined. Each Building Site and the Community Properties shall be subject to a non-exclusive access easement for the construction, maintenance, repair and replacement of improvements located upon any adjacent Building Site (the "Accessing Building Site") for usage by an Accessing Building Site Owner or occupant, or their agents or employees. The Building Site or Community Properties being accessed is herein referred to as the "Easement Building Site." This access easement area on the Easement Building Site (the "Access Area") shall consist of a strip of land abutting the nearest boundary line of the Accessing Building Site of not less than three feet (3') nor more than six feet (6'), as may be reasonably required. In no event shall such easement extend to any part of the single family residence located on the Easement Building Site.

9.4.2 Notice, Duration. Prior to use of the Access Area, the Owner or occupant of the Accessing Building Site shall give written notice of intent to utilize the Access Area stating therein the nature of intended use and the duration of such usage. Such notice shall be delivered to the Owner or occupant of the Easement Building Site by regular or certified mail or personal delivery, or by attaching same to the front door of the residence located upon the Easement Building Site. If by mail, such notice shall be given at least five (5) business days prior to use of the Access Area, and if by personal delivery or affixing to the front door, such notice shall be given at least forty-eight (48) hours prior to use of the Access Area. In case of emergency the Accessing Building Site Owner or occupant may commence and continue usage of the Access Area without giving the foregoing notice for so long as is reasonably necessary to control the emergency and complete work necessitated thereby, but shall proceed with giving of required notice as soon as practical after commencement of usage.

9.4.3 Usage. Usage of the Access Area shall be limited to the minimum reasonable amount of time and area required to complete necessary work to preserve, protect, construct, maintain, repair, and replace the residence or other structures and improvements located on the Accessing Building Site. Work during the usage period shall be conducted in such manner as to minimize so far as reasonably possible inconveniences and disruptions to the Easement Building Site and

its occupants. Except in case of emergency or unless otherwise authorized by the Owner or occupant of the Easement Building Site, work during the usage period shall not be conducted during legal holidays or any Sunday and shall otherwise be confined to the hours of 7 a.m. to 7 p.m. , Monday through Friday and 9 a.m. to 6 p.m. on Saturdays.

9.4.4 ACC Approval of Access Area Improvements. No structure or improvements other than grass, flower and shrubbery beds and sprinkler systems shall be placed within the Access Area at any time without the prior written approval of the ACC. The ACC shall not approve any such structures or improvements which would substantially interfere with, or be unduly burdensome to, or which would cause excessive expense to any potential Accessing Building Site if access becomes necessary as herein provided.

9.4.5 Restoration. Promptly after completion of usage of an Access Area, the Accessing Building Site Owner or occupant shall thoroughly clean the Access Area and repair and restore same to substantially the same condition that existed at the time of commencement of usage, provided, such obligation for restoration shall not apply to any structures or improvements which have been placed in the Access Area without written ACC approval. At the time of receipt of notice, the Easement Building Site Owner or occupant shall promptly notify the Accessing Building Site Owner or occupant as provided in **Section 9.4.2** of any structures or improvements within the Access Area which have been approved by the ACC, and include with such notice documentation evidencing ACC approval.

SECTION 9.5 Utilities and Other Services

9.5.1 Service Vehicles. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles, to garbage and trash collection vehicles and other service vehicles and to all Association agents and employees in connection with any work or other duties as set forth in this Declaration to enter upon any portion of the Subdivision or any of the Building Sites in the performance of their duties. An easement is also specifically granted to the United States Post Office, its agents and employees to enter upon any portion of the Subdivision or Building Site in performance of mail delivery or any other United States Post Office services.

9.5.2 Changes and Additions. At the sole election of the Board, the Association shall have the right to grant, dedicate, reserve or otherwise create, at any time or from time to time, easements for public, quasi-public or private utility purposes, including, without limitation, gas, electricity, telephone, sanitary or storm, cable television and similar services, along, over, above, across and under the Subdivision and any Building Site, provided, such additional easements shall not (i) until substantial completion of initial construction of a residence thereon, be located within the portion of any Building Site upon which the Owner may construct a residence as provided in **Section 8.3**, or thereafter, (ii) interfere with any existing building (including a residence) or swimming pool within the Subdivision or upon any Building Site.

SECTION 9.6 Egress/Regress to Public Way Required. All single family residences shall be constructed, and thereafter same and related improvements shall be maintained, such that a continuous and unobstructed means of egress and regress to a common public way is maintained in accordance with applicable building codes and ordinances of the City of League City, State of Texas.

SECTION 9.7 Title to Easements and Appurtenances Not Conveyed. Title to any Building Site conveyed by contract, deed or other conveyance shall not be held or construed in any event to include

the title to any easement established by this **Article IX**, including but not limited to any roadways or any drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone way or any pipes, lines, poles, or conduits on or in any utility facility, service equipment or appurtenances thereto,

SECTION 9.8 Easements, Perpetual. So long as reasonably necessary, all easements set forth in **Sections 9.1 through 9.7** shall be perpetual in duration, and once established shall not be subject to amendments or termination otherwise applicable to this Declaration.

SECTION 9.9 Reserve Easements. Declarant during the Development Period and the Board thereafter may grant as appurtenant to any Building Site usage easements covering any of the reserves designated by the Plat on such terms as either shall determine, including perpetual usage easements but subject in any event to all applicable building codes and ordinances of the City of League City, State of Texas and all other easements which have or may be granted under this Declaration. The Owner of the Building Site to which any such easement is appurtenant shall be solely liable and responsible for all costs of maintenance of and payment (by reimbursement to the Association or direct payment) of all property and other taxes covering the entire easement area during the full term of the easement, shall be solely liable for damages or otherwise regarding the easement area and any usage thereof by any Person and shall indemnify and hold the Association harmless regarding same to the fullest extent provided herein (including as provided in **Section 3.6**).

Article X

Insurance, Casualty Losses and Condemnation

SECTION 10.1 Association Insurance. The Board or its duly authorized agents shall have the authority to obtain, with such deductibles as the Board shall determine, the following insurance coverage or substantial equivalent, and to pay all premiums or other costs thereof from the Maintenance Fund.

10.1.1 Insurable Improvements. Insurance for all insurable improvements on the Community Properties covering loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard (exclusive of land, foundations or slabs, excavations and such other items usually excluded from insurance coverage).

10.1.2 Liability Insurance. Officers' and directors' liability insurance and public liability applicable to the Community Properties covering the Association and its Members for all damage or injury caused by the negligence of the Association and any committees thereof (including the ACC), and any of its Members, Officers, Directors, agents or employees.

10.1.3 Worker's Compensation. Worker's Compensation to the extent required by law.

SECTION 10.2 Damage or Destruction of Building Sites

10.2.1 Required Owner's Insurance. Obtaining of liability and property insurance regarding and for Building Sites and all improvements thereon (including residences and

appurtenant structures, and the contents of residences) shall be the sole responsibility of the Owners thereof. At a minimum, the Owner(s) of each Building Site shall obtain property insurance to insure the residence thereon, and all fixtures, equipment and other improvements pertaining thereto normally insured under building coverage. Said building coverage shall be on a current replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value against risks of loss or damage by fire and other hazards as are covered by standard extended coverage, and shall include coverage against vandalism. Said building coverage shall be obtained effective as of the date of acquisition of ownership of a Building Site by an Owner (or after substantial completion of construction of a residence thereon, if applicable), and shall remain continuously in effect to the date of acquisition of ownership by the next succeeding Owner(s). Each Owner of a Building Site shall provide to the Association proof of said building coverage satisfactory to the Board upon not less than five (5) days written notice failing which the Board may obtain said building coverage on behalf of the Owner and assess as a specific assessment all premiums and all other costs and expenses related thereto to the defaulting Owner.

10.2.2 Repair or Replacement Required. Whether or not insured, the damage or destruction by fire or other casualty to all or any portion of any improvement on a Building Site (including the residence thereon) shall be repaired or replaced by the Owner thereof within seventy five (75) days after such damage or destruction, or where repairs or replacement cannot be completed within seventy five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter as determined in the sole good faith judgment of the ACC. In the event of the noncompliance with this provision, the Association shall have all enforcement powers permitted by law and this Declaration, including without limitation, the right to seek specific performance and/or to invoke the powers specified in **Section 6.2.3** of this Declaration.

SECTION 10.3 Condemnation. Whenever all or any part of the Community Properties shall be taken (or conveyed in lieu of an under threat of condemnation by the Association acting on the approval of the Owners of a majority of Building Sites then contained within the Subdivision) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners.

Article XI

Enforcement

SECTION 11.1 Strict Compliance Required. Each Owner and each Owner's tenants, by acquisition of any right, title or interest in any Building Site, covenant and agree to be bound by and to strictly comply with all restrictions, covenants, conditions and easements set forth in this Declaration and all other Governing Documents as same may from time to time or at any time be hereafter amended. The foregoing provisions shall apply regardless of whether or not any such Governing Documents are filed in the Galveston County Real Property Records or any other public records except as otherwise expressly required by this Declaration.

SECTION 11.2 Enforcement – General. The Association, its successors and assigns, and any Owner shall have the right to enforce observance and performance of all restrictions, covenants, conditions and easements set forth in this Declaration and in other Governing Documents, and in order to prevent a breach thereof or to enforce the observance or performance thereof shall have the right, in addition to all legal remedies, to an injunction either prohibitive or mandatory. Failure of the Association

or any Owner to enforce any of the provisions of this Declaration or any other Governing Documents shall in no event be deemed a waiver of the right to do so thereafter (including without limitation as to the same or similar violation whether occurring prior or subsequent thereto). No liability shall attach to, the Association, or its officer, Directors, agents, employees or committee members, for failure to enforce the provisions of this Declaration or any other Governing Documents.

SECTION 11.3 Obligation for Payment of Costs and Expenses Resulting from Violations. Each Owner and tenant of an Owner found to have committed, or who is responsible for, a violation or violations of any of the provisions of this Declaration or any other Governing Documents, shall be jointly and severally liable for payment to the Association for, and to indemnify the Association and to hold and save it harmless from, any and all claims, liabilities, damages, loss, costs and expenses of whatsoever kind, including reasonable attorney's fees whether incurred prior to, during or after proceedings in a court of competent jurisdiction, incurred or attributable to any such violation(s), and shall pay over to the Association all sums of money which the Association or its representatives shall pay or become liable to pay as a consequence, directly or indirectly, of such violation(s). All such sums shall be assessed as a specific assessment, and shall be secured by the continuing lien established by **Article V** hereof. All such sums shall be due and payable upon demand by the Association or its representative upon presentment of a written statement setting forth the Association's payment or liability to pay such sums without the necessity of any other or further notice of any act, fact or information concerning the Association's rights of such Owner's or tenant's liabilities under this Section.

SECTION 11.4 Cumulative Rights and Remedies. Each right and remedy set forth herein shall be separate, distinct and non-exclusive, and all shall be deemed cumulative. The pursuit of any right or remedy provided for herein or by law or the failure to exercise that particular right or remedy shall not be construed as a waiver of such right or remedy or any other right or remedy.

Article XII

Development Period

SECTION 12.1 Application. Notwithstanding any other provisions of this Declaration to the contrary, the provisions of this **Article XII** shall apply until termination of the "Development Period" as defined in **Section 2.10** hereof.

SECTION 12.2 Appointment of Board and ACC, Authority of Association. During the Development Period, Declarant shall appoint all members of the Board of Directors and ACC, and Declarant shall be entitled to remove and replace any of same, and in all other respects to exercise all rights and authority of the Association as set forth in this Declaration and all other Governing Documents. Without limitation of the foregoing, the provisions of **Section 3.2.2** are hereby specifically declared inapplicable to Developer during the Development Period.

SECTION 12.3 ACC Approval Not Required. Declarant shall not be required to obtain ACC approval regarding any of its developmental activities during the Development Period.

SECTION 12.4 Declarant as Member. Declarant shall be deemed a Member of the Association for all purposes during the Development Period whether or not Declarant continues to own any Lot or Building Site.

SECTION 12.5 Community Properties

12.5.1 Designation or Change as to Community Properties and/or Subdivision Facilities. In addition to the provisions of **Section 9.9** and regardless of designation by the Plat, during the Development Period Declarant may designate Community Properties and/or Subdivision Facilities, and at any time during the Development Period modify, discontinue, redesignate or in any other manner change the Community Properties and/or Subdivision Facilities.

12.5.2 Conveyance of Community Properties. Declarant may convey, transfer or assign any or all Community Properties and/or Subdivision Facilities to the Association during the Development Period, and shall do so within a reasonable time after termination of the Development Period, provided, from the date of termination of the Development Period and thereafter, the Association shall be solely liable and responsible for payment (by reimbursement to Declarant or direct payment) of all costs pertaining thereto, shall be solely liable for damages or otherwise regarding the Community Properties and any usage thereof by any Person and indemnify and hold Declarant harmless regarding same to the fullest extent provided herein as to the Association (including as provided in **Section 3.6**).

SECTION 12.6 Easements. Declarant and Its agents or employees (including any builder, contractor or subcontractor) shall be entitled during the Development Period to exercise all easements set forth in this Declaration, and to grant or exercise such additional easements for ingress, egress and usage as is reasonably necessary to construction of single family residences, providing and development of utilities, Community Properties and/or Subdivision Facilities and any other developmental activities.

SECTION 12.7 Sales Activities. During the Development Period Declarant shall have the right to transact any business reasonably necessary to consummate the sale or rental of Building Sites and single family residences to be constructed thereon, and in connection therewith to maintain models, have signs and to use without charge any Community Properties (including Subdivision Facilities).

SECTION 12.8 Maximum Building Site Density. During the Development Period Declarant may add additional Building Sites other than as reflected on the Plat, provided, in no event shall more than two (2) Building Sites be placed on any one (1) Lot Except as aforesaid and after the Development Period, the provisions of **Sections 8.7 and 8.8** hereof shall apply.

SECTION 12.9 Assessments

12.9.1 Right of Declarant to Set Rate. During the Development Period Declarant shall be entitled to change the annual rate of regular assessment as set forth in **Section 5.3.1** without the vote or consent of any Owner and without further formality other than giving of notice thereof as provided in **Section 5.4.2** but subject to (and only to) **Section 5.4.3**.

12.9.2 Payment of Assessments by Declarant. Notwithstanding anything to the contrary contained herein, all Building Sites owned by Declarant shall be exempt from payment of all assessments (regular, special or specific) for the year 2017 and 2018. For the year 2019 and each year thereafter, Declarant shall pay the amount of \$25 per month with respect to any Building Sites then owned by Declarant In lieu of payment of assessments for the year 2017 and 2018 (i) developer shall contribute to the Maintenance Fund during the year 2016 an amount equal to the Actual Operating Expenses of the Association less all assessments received from all other Owners. Said contribution shall

be paid from time to time as Declarant shall determine "Actual Operating Expenses" shall mean those expenses reasonably necessary for the discharge of the Association's functions and duties under this Declaration, but shall not include capital expenditures (determined in accordance with generally accepted accounting principles), any amounts paid or to be paid to capital or contingency reserves, or prepaid items, inventory or similar expenses attributable to periods after December 31, 2016. The determination of Actual Operating Expenses by Declarant shall be final and conclusive so long as made in good faith, (ii) Developer shall contribute to the Maintenance Fund during the year 2018, by means of loans to the Association which are interest free for the year 2017 and 2018, in an amount equal to the Actual Operating Expenses of the Association less all assessments received from all other Owners If said loans are not paid in full to Declarant by December 31, 2018, then the outstanding balance of such loans will start accruing interest on January 1, 2018 at the rate of prime plus 2%. Any loans made to the Association by Declarant after January 1, 2017 shall accrue interest at the rate of prime plus 2%.

SECTION 12.10 Notices to Declarant, Association and ACC. Until termination of the Development Period, all notices required or permitted by this Declaration or any other Governing Documents to the Association or ACC or to Declarant, shall be given as provided in **Section 13.1.1**; provided, same shall be given to Marina del Sol Patio Homes, Inc., 2511B Nasa Parkway, Suite 106, Seabrook, TX 77586, or as otherwise directed by written notice of Declarant filed in the Real Property Records of Galveston County, Texas.

SECTION 12.11 Amendment of Governing Documents, Annexation. During the Development Period Declarant reserves the sole and exclusive right to amend, and may from time to time and at any time amend, this Declaration or any other Governing Documents without joinder or consent of any Owner, mortgagee or any other Person. During the Development Period Declarant may subject any other property to the scheme of this Declaration without the joinder or consent of any Owner, mortgagee or any other Person provided any such annexation is not inconsistent with the scheme of development contemplated hereby

SECTION 12.12 Limitation of Liability

12.12.1 General. Without limitation of **Section 3.6** hereof, the good faith decisions of Declarant regarding all developmental activities, management and operation of the Association and all other activities undertaken by Declarant pursuant hereto shall be final and conclusive, provided, Declarant shall conduct all such activities in a manner consistent with the general scheme of development hereby established.

12.12.2 Developmental Activities. Declarant may or will be required during the Development Period to engage in construction activities upon multiple Building Sites or Community Properties, store equipment or materials on multiple Building Sites or Community Properties, create accumulations of trash and debris and otherwise engage in activities and create conditions related to its initial development of the Subdivision (the "Developmental Activities"). Declarant will use reasonable efforts to minimize the adverse effects of its Developmental Activities upon Owners and their tenants, guests and invitees. However, Declarant shall not be liable to any Owner, tenant or guests or invitees of either for any consequences of the reasonable conducting of its Developmental Activities. Further, Declarant may establish any reasonable regulations as to Owners, tenants, and the guests and invitees of either which Declarant deems appropriate to avoid hindrance or interference with its Developmental Activities, including limiting or denying access to areas of the Subdivision, designating temporary

dumping sites, maintenance of metal buildings or structures and use of Community Properties and/or Subdivision Facilities in connection with its Developmental Activities.

Article XIII

General Provisions

SECTION 13.1 Notices to Association, ACC and Owners. Unless otherwise expressly provided herein, all notices or other communications permitted or required under this Declaration shall be in writing and shall be deemed properly given if but only if given in accordance with the following:

13.1.1 Notices to Association or ACC. All notices or other communications to the Association or ACC shall be given by (i) personal delivery acknowledged in writing, or (ii) certified or registered mail, return receipt requested, and by deposit in the United States mail, postage prepaid and addressed, to any member of the Board or ACC, to the Association's registered agent, or to the Association's Managing Agent as from time to time designated by the Board, such notice or other communications to be deemed given only upon receipt of same by the member of the Board or ACC or registered agent or Managing Agent, as the case may be.

13.1.2 Notice to Owners. All notices or other communications to any Owner shall be deemed given upon personal delivery to or when deposited in the United States mail, postage prepaid and addressed to, the street address of the Owner's Building Site located within the Subdivision, or to the most current street address given by an Owner for purposes of notice as provided in **Section 13.1.3**. Where more than one (1) Person is the Owner of a single Building Site, the mailing of any notices or other communications as aforesaid to any single Owner shall constitute notice given to all such Owners.

13.1.3 Owner's Notice of Address Other Than Building Site Address Required. Any Owner may request any notices required or permitted hereby be mailed to an address other than such Owner's Building Site address by giving written and dated notice of the alternate address to the Association in the manner provided in **Section 13.1.1**, provided, such request shall be mailed only by certified or registered mail, return receipt requested. Any such request shall be conclusively deemed not to have been received unless the Owner produces the original or copy of the properly signed and dated return receipt request. In the event of conflict in such requests by a single Owner or multiple Owners, the request last received shall control.

13.1.4 Other Governing Documents. The foregoing provisions of this **Section 13.1** shall also apply to notices or other communications permitted or required by the Governing Documents other than this Declaration except as otherwise expressly provided in such other Governing Documents, and provided that notice given in accordance herewith shall be sufficient regardless of contrary provisions in other Governing Documents.

SECTION 13.2 Term. Subject to the provisions of **Section 13.3**, these covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the land and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, their respective legal representatives, heirs, executors and administrators, predecessors, successors and assigns, and all Persons claiming under them for a period of twenty (20) years from the date this Declaration is recorded in the Real Property Records of Galveston County, Texas, after which time said covenants, conditions, restrictions,

reservations, easements, liens and charges shall be automatically extended for successive periods of ten (10) years each.

SECTION 13.3 Amendment

13.3.1 By Owners. Except as otherwise expressly herein provided, the Owners of two-thirds (2/3rds) of the total number of Building Sites then contained within the Subdivision shall always have the power and authority to amend this Declaration, in whole or in part, at any time and from time to time. Any such amendment shall become effective upon the date an instrument of amendment covering same is filed for record in the Real Property Records of Galveston County, Texas. The terms "amend", "amendment" or substantial equivalent shall mean and refer to any change, modification, revision or termination of any provisions of this Declaration or other Governing Documents.

13.3.2 By Association. The Association, by vote of the Board of Directors, shall have the right in its sole good faith judgment, from time to time and at any time, to amend this Declaration without joinder of any Owner or any Person, effective upon recordation of an instrument of amendment in the Real Property Records of Galveston County, Texas, solely for the following purposes:

- (a) to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, errors or omissions herein, or
- (b) to conform this Declaration to the requirements of any lending institution, provided, the Board shall have no obligation whatsoever to amend this Declaration in accordance with any such lending institution requirements, and the Board shall not so amend this Declaration if in the sole good faith opinion of the Board any substantive and substantial rights of Owners would be adversely affected thereby, or
- (c) to conform this Declaration to the requirements of any governmental agency, including the Federal Home Loan Mortgage Corporation, Federal National Mortgage Agency, Veterans Administration or Federal Housing Administration, and in this respect the Board shall so amend this Declaration to the extent required by law upon receipt of written request and notice of such requirements.

13.3.3 Method for Approval of Amendment by Owners, The Owner's approval of any amendment of this Declaration as provided in Section 13.3.1 may be obtained either (i) by execution of the amending instrument or consent thereto, or (ii) by affirmative vote, in person or by proxy, at a special meeting called for consideration of any such amendment. The certification of the Association's Secretary as to compliance with all prerequisites for amendment set forth in any instrument filed in the Real Property Records of Galveston County, Texas evidencing any such amendment shall be final and conclusive from and after two (2) years after filing of the applicable amending instrument.

SECTION 13.4 Managing Agent. The Board shall have the authority, from time to time and at any time, to retain, hire, employ or contract with any one (1) or more Persons to provide management services to the Association, including discharge of such duties of the Board and/or officers of the Association as the Board may specify (any such Person herein referred to as a "Managing Agent"). Any Managing Agent shall be retained, hired, employed or contracted for on such terms and conditions as the Board in its sole good faith judgment may determine, provided, the Board shall retain the right in all cases as to any Managing Agent to remove the Managing Agent, with or without cause, upon not more than sixty (60) day notice.

SECTION 13.5 Conflicts In Governing Documents. In the event of any conflict in the Governing Documents which cannot be reasonably reconciled after application of rules of interpretation as provided herein or by law, this Declaration shall control over any other Governing Documents, and all other Governing Documents shall control in the following order of priority (i) Architectural Guidelines; (ii) Rules and Regulations, (iii) Articles of Incorporation, (iv) Bylaws, (v) Board and Member resolutions, and (vi) all others.

SECTION 13.6 Interpretation. The provisions hereof are to be liberally construed to give full effect to their intent and purposes. If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible to more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration and the scheme of development thereunder shall govern. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience, and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. In particular and without limitation, the division of use restrictions under **Article VI** hereof and architectural restrictions under **Article VII** hereof are for convenience of reference, it being the intent that all such provisions be given full effect in an integrated manner in light of the general purposes and objectives of this Declaration and the scheme of development accomplished thereby. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

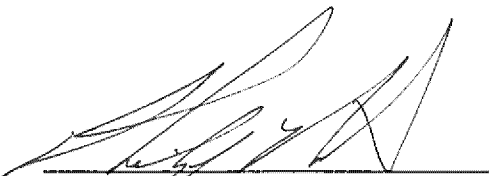
SECTION 13.7 Severability. Wherever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person, particular circumstance or property shall be prohibited or held invalid, such prohibition or invalidity shall not extend beyond such Person, particular circumstance or property and shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

SECTION 13.8 Effective Date. This Declaration shall be effective from and after date July 7, 3027.

In WITNESS WHEREOF, the undersigned, being the sole Owners of all Lots and Building Sites initially subject to this Declaration, have executed this Declaration this 7th day of July, 2017.

OWNER and DECLARANT:

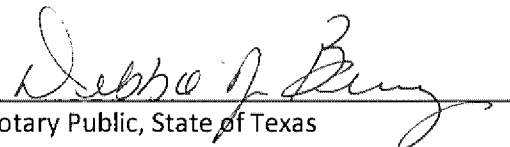
Marina del Sol Patio Homes, Inc.

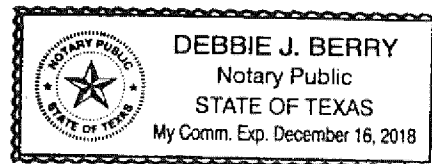
By 
Philip Newton, President

STATE OF TEXAS §

COUNTY OF GALVESTON §


This instrument was acknowledged before me on the 13th day of July, 2017,
by Phillip Newton, President of Marina del Sol Patio Homes, Inc., a Texas corporation, on behalf of said
corporation.


Notary Public, State of Texas



OWNER AND DECLARANT:

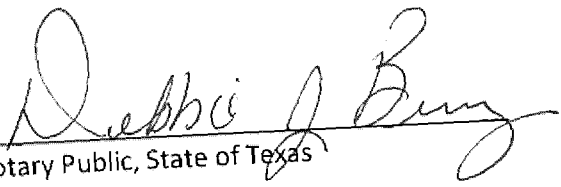
Peak Capital LLC

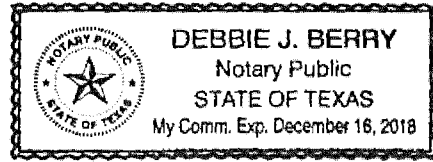
By: 
Philip Newton, Manager

STATE OF TEXAS §

COUNTY OF GALVESTON §

This instrument was acknowledged before me on the 13th day of July, 2017,
by Phillip Newton, Manager of Peak Capital, LLC, a Wyoming Limited liability company, on behalf of said
company


Notary Public, State of Texas



SLT-CLC
contesty

FILED AND RECORDED

Instrument Number: *2017043488*

Recording Fee: 230.00

Number Of Pages: 53

Filing and Recording Date: 07/17/2017 2:31PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in black ink, reading "Dwight D. Sullivan". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Dwight D. Sullivan, County Clerk
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

DO NOT DESTROY - *Warning, this document is part of the Official Public Record.*