

1025

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DEER TRAIL, SECTION TWO

THIS DECLARATION, made as of August 11, 2006, by DUANE T. CORLEY, TRUSTEE, hereinafter referred to as "Declarant".

WITNESSETH

WHEREAS, Declarant is the owner of a certain tract of land containing 96.646 acres of land located in the Jonathan Pitts Survey, A-28, Montgomery County, Texas, being out of and a part of that certain 1,068 acres of land, comprised of multiple tracts, described in Deed filed for record in the Official Public Records of Real Property of Montgomery County, Texas under Clerk's File No. 2004-094357 (said 96.646 acre tract being hereinafter sometimes called and referred to as the "Property"). The Property has been heretofore platted and subdivided into that certain Subdivision known and designated as DEER TRAIL, SECTION TWO (containing 32 Lots and 1 Restricted Reserve in 1 Block), as per map or plat thereof, of record in Cabinet Z, Sheets 412 - 414, inclusive, of the Map Records of Montgomery County, Texas; and

WHEREAS, Declarant desires to develop the Property and to provide for and adopt a uniform plan of covenants, easements, restrictions, conditions, dedications, reservations, charges and liens designed to govern, control and preserve the values and amenities of the Property for the better development, improvement, sale, use and enjoyment of the Property; and

WHEREAS, Declarant desires to provide for the maintenance of any Common Areas, and to this end desires to subject the Property to the covenants, easements, conditions, dedications, restrictions, reservations, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner of any part thereof; and

WHEREAS, in order to efficiently preserve the values and amenities in the Property and other sections of Deer Trail, there has been created a nonprofit corporation to which shall be delegated and assigned the powers of maintaining, administering and enforcing these covenants and restrictions, and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Deer Trail Property Owners Association, a Texas nonprofit corporation, has been formed and has established the bylaws by which said corporation is governed through its Board of Directors, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Declarant hereby declares that the Property shall be developed, improved, held, used, sold and conveyed in accordance with and subject to the following easements, restrictions, reservations, dedications, covenants, conditions and stipulations, all of which are hereby adopted for and placed upon said Property and which shall run with the Property and be binding on all parties, now and at any time hereafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of or the manner in which any such right, title or interest is or may be acquired, and all of which shall inure to the benefit of each Owner of any part of the Property.

ARTICLE I - DEFINITIONS

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

SECTION 1. "Annexable Area" shall mean and refer to (i) the residual of that certain 1,068 acres conveyed to Duane T. Corley, Trustee, by Deed filed for record in the Official Public Records of Real Property of Montgomery County, Texas under Clerk's File No. 2004-094357, and (ii) any other tracts or parcels of land situated adjacent to or in close proximity to the Subdivision and now or hereafter owned by Declarant.

SECTION 2. "Architectural Control Committee" or "Committee" shall mean and refer to the Deer Trail Architectural Control Committee, as provided for in ARTICLE II hereof.

SECTION 3. "Association" shall mean and refer to Deer Trail Property Owners Association, a Texas nonprofit corporation, its successors and assigns.

SECTION 4. "Builder" shall mean and refer to the Owner of a Lot who owns the Lot for the sole purpose of building a residence for sale to third parties and is designated in writing as a Builder by Declarant. If a Builder rents or leases a Lot to a third party, he shall cease to occupy the status of a Builder with respect to such Lot.

SECTION 5. "Common Area" shall mean and refer to any properties, real or personal, now owned or hereafter acquired by the Association for the common use, benefit and/or enjoyment of Members of the Association. The term shall not apply to any property acquired by the Association pursuant to a foreclosure of the assessment lien provided for in ARTICLE IV below unless such property is later dedicated by the Association for the use and benefit of the Members.

SECTION 6. "Declarant" shall mean and refer to Duane T. Corley, Trustee, and to any entity which succeeds to all or substantially all of the Properties by merger, consolidation or conveyance and to whom the Declarant's rights and privileges as the developer of the Properties are specifically assigned in writing.

SECTION 7. "Developer Control Period" is the period of time beginning on the date that

this Declaration is filed for record with the County Clerk of Montgomery County, Texas and continuing until neither Declarant nor Declarant's successor owns any part of the Annexable Area, or for such shorter period as the Declarant or his successor shall determine.

SECTION 8. "FHA" shall mean and refer to the Federal Housing Administration.

SECTION 9. "Lot" shall mean and refer to any of the numbered Lots shown on the Subdivision Plat intended for the construction of a single family residence. Restricted Reserves "A", "B" and "C" as depicted on Subdivision Plat are not Lots within the meaning of this Declaration and are restricted and shall be used for the purpose(s) indicated on the Subdivision Plat.

SECTION 10. "Member" shall refer to every person or entity that holds a membership in the Association during the period of such membership.

SECTION 11. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation or those owning only an easement right, a mineral interest, or a royalty interest.

SECTION 12. "Properties" shall mean and refer to the real property within the jurisdiction of the Association including the property included in the Subdivision Plat of the Property, the property included in the plat of Deer Trail, Section One, as per map or plat thereof, of record in Cabinet Z, Sheets 409 - 411, inclusive, of the Map Records of Montgomery County, Texas, and any additional lands incorporated into the general scheme of development of the Deer Trail Subdivision and/or brought within the jurisdiction of the Association as provided herein.

SECTION 13. "Street" shall mean and include any street, drive, boulevard, road, alley, lane, avenue, or any place shown on the Subdivision Plat as a thoroughfare.

SECTION 14. "Subdivision" shall mean and refer to DEER TRAIL, SECTION TWO, as set forth in the map or plat thereof recorded in Cabinet Z, Sheets 412 - 414, inclusive, of the Map Records of Montgomery County, Texas.

SECTION 15. "Subdivision Plat" shall mean and refer to the recorded map or plat of the Subdivision.

SECTION 16. "VA" shall mean and refer to the Veterans Administration.

ARTICLE II - ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. INITIAL COMPOSITION, TERM, ASSUMPTION OF CONTROL BY ASSOCIATION, NUMBER, ETC. The Declarant or the Declarant's designate(s) shall serve as the initial Architectural Control Committee for DEER TRAIL, SECTION TWO. The initial member(s)

of the Architectural Control Committee need not be Owners of Lots or Members of the Association. The initial Architectural Control Committee shall serve during the Developer Control Period. The initial Architectural Control Committee shall act independently of the Association. During the Developer Control Period, Declarant may add, remove and/or replace committee members in Declarant's discretion. At the end of the Developer Control Period, architectural control for the Subdivision shall become vested in the Association and the members of the Architectural Control Committee shall be elected or appointed by the Board of Directors of the Association in accordance with its Bylaws. From and after such time the Committee shall consist of at least three (3) members.

Compensation. No person serving on the Committee shall be entitled to compensation for services performed as a committeeman. However, the Committee may employ one or more architects, engineers, attorneys or other consultants to assist the Committee in carrying out its duties hereunder; and the Association shall pay such consultants for such services as they render to the Committee; provided, further, however, the members of the Committee shall be entitled to such compensation for services rendered and reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Declarant (during the Developer Control Period) or the Board of Directors (after Developer Control Period) may from time to time authorize or approve.

SECTION 2. ARCHITECTURAL APPROVAL, SUBMISSION OF PLANS, APPLICATION OF PLANS, APPLICATION FEE, FAILURE TO ACT, PROMULGATION OF CONSTRUCTION STANDARDS, OTHER POWERS. No building or other improvements, including dwellings, garages, outbuildings, streets, driveways, sidewalks, drainage facilities, landscaping, fences, animal pens, enclosures, mailboxes, walks, fountains, statuary, outdoor lighting or signs shall be commenced, constructed, erected, placed or maintained on any Lot or elsewhere in the Subdivision (but not including commercial reserves, if any), nor shall any exterior addition or alteration thereto be made, unless and until (1) a preliminary site plan showing all uses and dimensions, the location of buildings, entries, streets, driveways, parking areas, pedestrian ways and storage areas, and a schematic plan for the landscaping and lighting of the property, have been submitted to and approved in writing by the Architectural Control Committee, and thereafter (2) the final working plans and specifications for the work shown on the preliminary site plan and schematic plan have been submitted to and approved in writing by the Architectural Control Committee as to compliance with this Declaration and as to harmony of external design and location in relation to property lines, building lines, easements, grades and finished ground elevation, surrounding structures, walks, paths and topography. The final working plans and specifications shall not be commenced until the preliminary site plan and schematic plan have been so approved. The final working plans and specifications shall specify, in such form as the Architectural Control Committee may reasonably require, structural, mechanical, electrical and plumbing details and the nature, kind, shape, height, exterior color scheme, materials and location of the proposed improvements or alterations thereto. The Architectural Control Committee may require the submission of such plans, specifications and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect in its discretion.

The Architectural Control Committee may charge a reasonable application and/or review fee in an amount to be determined by the Committee.

In the event the Architectural Control Committee fails to approve or disapprove the preliminary site plan and schematic plan within thirty (30) days after they have been submitted to it, approval thereof will not be required and the provisions of this section will be deemed to have been fully complied with.

Without limitation of the powers herein granted, the Architectural Control Committee shall have the right, with the approval of a majority of the Directors of the Association after control of the Committee passes to the Association, to specify an outline of minimum acceptable construction standards, including but not limited to acceptable exterior materials and/or finishes which may be used in the construction, alteration or repair of any improvement; provided however, that such outline will serve as a minimum guideline and the Architectural Control Committee shall not be bound thereby.

Where not otherwise specified herein, the Architectural Control Committee also shall have the right to specify requirements for each building site as follows: minimum setbacks; the location, height and extent of fences, walls or other screening devices; and the orientation of structures with respect to streets, walks, paths and structures on adjacent property. The Architectural Control Committee shall have full power and authority to reject any plans and specifications that do not comply with the restrictions herein imposed or meet its minimum construction requirements or architectural design requirements or that might not be compatible, in its judgment, with the overall character and aesthetics of the Subdivision.

SECTION 3. SELF-HELP REMEDY FOR OWNER'S FAILURE TO REPAIR OR MAINTAIN DWELLING. If in the opinion of the Architectural Control Committee the exterior of any dwelling is in need of repair or maintenance, the Committee shall notify the Owner thereof in writing of the need for such repairs or maintenance, and if such repairs or maintenance are not accomplished within sixty (60) days of said date then the Committee may proceed to have such repairs or maintenance work done for the account of and payment by the Owner, and the Owner shall pay upon demand the Committee's cost, together with interest at the rate of ten percent (10%) per annum until such payment is made, and reasonable attorney's fees if referred to an attorney for collection.

SECTION 4. NON-LIABILITY FOR COMMITTEE ACTION. The granting of approvals by the Committee shall in no way serve as a representation, warranty or guaranty as to the quality of the plans and specifications and/or that a residence or other structure is properly and adequately constructed in accordance with the plans and specifications therefor or in a good and workmanlike manner. In no event shall the Declarant, the Committee or the Association have any liability as a result of the Committee's approval or disapproval of any improvement. No member of the Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of any plans or specifications be deemed an approval of, any building or improvement from the standpoint of

safety, whether structural or otherwise, or conformance with existing building codes, governmental laws or regulations. Furthermore, no member of the Committee, any officer or member of the Board of Directors or the Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such individuals were acting on behalf of the Association, the Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board of Directors, or the Committee, or their officers, agents, members or employees, shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements, or portion thereof, or for failure to repair or maintain the same.

ARTICLE III - DEER TRAIL PROPERTY OWNERS ASSOCIATION

SECTION 1. ORGANIZATION; PURPOSES; AUTHORITY. Deer Trail Property Owners Association has been organized and formed as a nonprofit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure and management of the maintenance funds, enforcement of the restrictions contained herein, providing for the maintenance, preservation and architectural control of the Lots, the general overall supervision of all of the affairs of and the promotion of the health, safety, and welfare of the Owners and residents within the Properties. To this end, the Subdivision is expressly made subject to the jurisdiction of the Association, and the Association shall have all of the powers and authority set out in its Certificate of Formation and/or Bylaws, including, but not limited to, all of the powers and authority of property owners associations as provided in Chapter 202 and Chapter 204 of the Texas Property Code.

SECTION 2. BOARD OF DIRECTORS. The Association shall act through a Board of Directors which shall manage the affairs of the Association as specified in the Bylaws of the Association. During the Developer Control Period, the Board shall consist of not less than three (3) Directors, none of whom need be Owners or Members of the Association. After the Developer Control Period, the Board shall consist of not less than five (5) Directors, all of whom shall be Members of the Association. The initial members of the Board of Directors shall be chosen by the Declarant. Except for the initial Directors, during the Developer Control Period the Directors of the Association shall be appointed or elected by the Board of Directors. After the Developer Control Period, the Board of Directors shall be elected by the Members of the Association.

SECTION 3. MEMBERSHIP. The Declarant (during the Developer Control Period) and every person or entity, who is a record Owner of any Lot or of any of the Properties which are subject, or which may hereafter be subject to the Association, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation; those owning only an easement right, or those having only an interest in the mineral estate. No Owner shall have more than one membership. Except for the Declarant's membership in the Association during the Developer Control Period, memberships shall be appurtenant to and may not be separated from ownership of the Lot or other property. Membership shall automatically pass with the title to the Lot or other property. Except for the Declarant's membership in the Association during the Developer Control Period, ownership of such land shall be the sole qualification for membership. The owners of Reserves, if any, shall not be Members.

SECTION 4. CLASSES OF MEMBERSHIP; VOTING RIGHTS. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and, except as provided in the next grammatical paragraph, shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. During the Developer Control Period, the Class A Members shall not be entitled to vote on (i) the election of Directors, (ii) amendment of the Certificate of Formation of the Association, or (iii) amendment of the Bylaws of the Association.

Class B. Class B Members shall be Declarant. The Class B Member(s) shall be entitled to ten (10) votes for each Lot owned within the Properties and shall have the exclusive right to vote on (i) the election of Directors (if the Directors are not elected by the Board of Directors), (ii) amendment of the Certificate of Formation of the Association, and (iii) amendment of the Bylaws of the Association. The Class B membership shall exist during the Developer Control Period. At the end of the Developer Control Period the Class B membership shall cease. If Declarant (or any other person or entity entitled to Class B membership as above provided) then owns any Lot in the Subdivision or the Properties, it shall become a Class A Member with all of the rights and privileges of the Class A Members.

Declarant hereby agrees to assign to the Association all of its rights and powers as herein expressly provided for at such time as the Class B membership shall terminate in accordance with the foregoing provisions.

SECTION 5. BOOKS AND RECORDS. The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, for any proper purpose. The Certificate of Formation, Bylaws, and this Declaration shall likewise be available, upon written request, for inspection, by appointment during normal business hours by any Member at the office of the Association, for any proper purpose. The Association may charge a reasonable fee for copies of any books, records, papers or dedicatory instruments requested by a Member or other person.

ARTICLE IV - MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, imposes on each Lot within the Subdivision, and the Owner of each Lot, by acceptance of a Deed thereto, whether or not it shall be expressed in the Deed or other evidence of conveyance, is deemed to covenant and agree to pay the Association the following:

- (a) Annual assessments or charges; and
- (b) Special assessments for capital improvements, such assessments or charges to be fixed, established and collected as hereinafter provided.

These assessments and charges, together with interest thereon as hereinafter provided, costs of

collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment or charge, together with such interest, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge falls due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and residents in the Properties, and for the improvement and maintenance of the Common Area, if any. Without limiting the foregoing, the assessments accumulated by the Association, insofar as the same may be sufficient, shall be applied toward the payment of all taxes, insurance premiums and repair, maintenance and acquisition expenses incurred by the Association and, at the option of the Board of Directors of the Association, for any and all of the following purposes: street lighting, improving and maintaining streets, alleyways, paths, easements, and esplanades in the Properties; collecting and disposing of garbage, ashes, rubbish and materials of a similar nature; payment of legal and all other expenses incurred in connection with the collection, enforcement and administration of all assessments and charges and in connection with the enforcement of this Declaration; providing for the planting and upkeep of trees, grass and shrubbery in esplanades, easements, and in the Common Area, if any; and doing any other thing necessary or desirable in the opinion of the Board of Directors of the Association to keep and maintain the lands within the Properties in a neat and good order or which they consider of general benefit to the Owners or occupants of the Properties, including the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, and other charges as specified herein. The judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS. The annual assessment per Lot is hereby set at Two Hundred Forty and No/100 (\$240.00) Dollars for the calendar year 2006. Thereafter, the Board of Directors of the Association at its sole discretion may increase the annual assessment by a maximum amount equal to a twenty percent (20%) increase over the annual assessment for the previous year without a vote of the Members of the Association. Each year after 2006, the annual assessment may be increased by more than twenty per cent (20%) by a vote of the Members who are voting, in person or by proxy, at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum. Annual assessments may be collected in advance on an annual, monthly or quarterly basis at the Board's election.

SECTION 4. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon any Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting, in person or by proxy, at a meeting duly called for this purpose. Special assessments may be collected on an annual, monthly or

quarterly basis at the Board's election.

SECTION 5. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action under Sections 3 or 4 above shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of proxies entitled to cast twenty per cent (20%) of all the votes of the membership of the Association shall constitute a quorum.

SECTION 6. RATES OF ASSESSMENT. Both annual and special assessments on all Lots (except Lots owned by Declarant and Builders) shall be fixed at uniform rates.

SECTION 7. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT. The annual assessment provided for herein shall commence as to each Lot on the conveyance of such Lot by the Declarant. Such assessment shall be adjusted according to the number of months remaining in the calendar year. On or before the 31st day of May in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. If the Board of Directors does not fix the amount of the annual assessment for the next calendar year, it shall remain the same as the previous year's assessment. Each annual assessment shall be due and payable in advance on the first day of July of each calendar year unless the Board elects to collect the assessment on a monthly or quarterly basis. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessments or charges which are not paid when due, shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest from the original due date until paid at the lesser of eighteen per cent (18%) per annum or the highest non-usurious rate permitted by law, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or against the then Owner of the subject Lot(s) to foreclose the lien herein retained against the respective Lot or Lots. Interest as above specified, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment as a charge. Each such Owner, by his acceptance of a Deed, hereby expressly vests in the Association or its agents, the right and power to bring all actions against such Owner personally for the collection of such assessments and charges as a debt and to enforce the lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien foreclosure on real property, and such Owner expressly grants to the Association a power of sale and non-judicial foreclosure in connection with the lien. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

SECTION 9. SUBORDINATION OF THE LIEN TO MORTGAGES. As hereinabove provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to any valid purchase money lien, improvement lien, home equity lien or reverse mortgage (or any renewal and extension or such liens)

affecting such Lot. The sale of any Lot shall not affect the lien in favor of the Association; PROVIDED, HOWEVER, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

SECTION 10. LOTS OWNED BY DECLARANT AND BUILDERS. Notwithstanding any provision to the contrary in this Article IV or in this Declaration in general, Lots owned by Declarant are exempt from the annual and special assessments, and no annual or special assessments or charges shall accrue or be assessed against Lots owned by the Declarant, whether such Lots are unsold Lots remaining in Declarant's inventory or have been previously sold or conveyed and subsequently foreclosed on or repossessed by Declarant. Additionally, Lots owned by Builders shall be exempt from annual and special assessments for a maximum period of one (1) year after the Lot is acquired by the Builder.

ARTICLE V - PROPERTY RIGHTS IN COMMON AREAS

SECTION 1. OWNER'S EASEMENT FOR ACCESS AND ENJOYMENT. Subject to the provisions herein stated, every Member shall have an easement of access and a right and easement of enjoyment in the Common Area, if any, and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following rights of the Association:

- (a) The Association has the right to borrow money to be used in furtherance of the purposes of the Association, and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area, if any, as security for money borrowed or debts incurred.
- (b) The Association has the right to take such steps as are reasonably necessary to protect any Common Area against foreclosure of any such mortgage.
- (c) The Association has the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, if any, and to suspend the enjoyment rights and voting rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.
- (d) With the assent of Members representing two-thirds (2/3rds) of the total votes of the Members of the Association, the Association shall have the right to dedicate, sell or transfer all or any part of the Common Area, if any, to any public agency or authority for such purposes and subject to such conditions as may be approved by said two-thirds (2/3rds) of the votes of all Members; provided, however, nothing contained herein shall be construed to limit the right of the Association to grant or dedicate easements in portions of the Common Area, if any, to public or private utility companies.

SECTION 2. DELEGATION OF USE. Each Member has the right to extend his rights and easements of enjoyment to the Common Area, if any, to the members of his family, to his tenants who

reside in the Subdivision, and to such other persons as may be permitted by the Association.

SECTION 3. LIABILITY OF OWNERS FOR DAMAGE BY MEMBER. Each Member shall be liable to the Association of any damage to any Common Area or for any expense or liability incurred by the Association, to the extent not covered by insurance, that may be sustained by reason of the negligence or willful misconduct of such Member or for any violation by such Member of this Declaration for any of the rules or regulations adopted by the Board of Directors. The Association has the power to levy and collect an assessment against a Member, after notice and hearing, to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of this Declaration or of its rules and regulations, or for any increase in insurance premiums directly attributable to any such damage or any such violation.

SECTION 4. ASSOCIATION POWERS IN THE EVENT OF CONDEMNATION. If any Common Area or interest therein is taken under exercise of the power of eminent domain or by private purchase in lieu of condemnation, the award in condemnation or the price payable shall be paid to the Association, except to the extent payable to any mortgagee of any such property, or to any Lot Owner, to the extent such Common Area consists of an easement over the Lot of the Owner in question. The Association shall have the exclusive right to participate in such condemnation proceeding and to represent the interest of all Owners therein. Any award or funds received by the Association shall be held by the Association as determined by the Board of Directors, as reserve for future maintenance, repair, reconstruction, or replacement of the Common Area or may be used for improvements or additions to or operations of the Common Area.

ARTICLE VI - USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot is hereby restricted to residential dwellings for single-family residential use only. No business, professional, commercial or manufacturing use shall be made of any of said Lots, even though such business, professional, commercial or manufacturing use be subordinate or incident to use of the premises as a residence; provided, however, an Owner of a Lot in the Subdivision may use his residence for professional or other home occupations such as the maintenance of a personal or professional library, the keeping of personal business or professional records or accounts, or for the handling of personal business or professional telephone calls or correspondence so long as there are no external evidences thereof (such as signs, advertising a business or the storing of any equipment, inventory or other materials of whatever kind or character on the Lot or elsewhere in the Subdivision, or meeting with or consulting in person with clients or customers on the Lot or within the Subdivision), and no unreasonable inconvenience to such Owner's neighbors. No structure other than one private single-family dwelling, a guest house and/or servants quarters, a garage and carport appurtenant thereto and no more than two related outbuildings shall be constructed or permitted to remain on any Lot in the Subdivision. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, garage apartments for rental purposes, or apartment houses. Notwithstanding any provision to the contrary contained in this Section 1 or in any other provision of this Declaration, Declarant reserves the right and privilege of using any one Lot in the Subdivision for constructing and maintaining a sales and/or construction office in connection with the marketing and sale of Lots in the Subdivision and/or the construction of homes and other improvements in the Subdivision. During the period of such use by Declarant, Declarant may store construction materials and machinery on such Lot and, in general, utilize such Lot for any purpose reasonably consistent with its use as a sales

and/or construction office. After Declarant ceases to use the Lot as a sales and/or construction office, such Lot thereafter may be used for inside light commercial use such as a beauty shop, barber shop, professional office (i.e., bookkeeping, taxes, real estate sales or insurance agency).

SECTION 2. ANIMALS AND LIVESTOCK. Except as specifically permitted in this section, no animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot. Dogs, domestic cats, or other household pets may be kept on a Lot, provided that they are not kept, bred or maintained for any business or commercial purposes; and provided further, however, no exotic cats or other wild animals shall be allowed. Additionally, a maximum of two (2) horses per acre may be maintained on a Lot provided that they are not kept, bred or maintained for any business or commercial purposes. All Montgomery County or, if applicable, City of Conroe leash laws related to animals shall apply. No animals will be allowed to run loose in the Subdivision. The Association, acting through its Board of Directors, shall have the authority (but not the obligation) to designate and identify, in its sole judgment and discretion, certain of the animals or breeds of animals that are permitted in the Subdivision by the above provisions that it deems to be unusually dangerous or to be an unusual risk to the health, safety and welfare of the residents of the Subdivision, and in connection therewith, the Association may require that such animals as so identified and designated be kept in an enclosure approved by the Association or removed from the Subdivision.

Notwithstanding the foregoing prohibitions, with the prior written approval of the Association, animals may be raised for FFA and 4-H school sponsored programs.

No animal pens, cages, kennels, shelters or stalls shall be located on any Lot closer than one hundred fifty (150) feet from the front property line.

SECTION 3. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Subdivision. The Association shall have the sole and absolute discretion to determine what conditions or activities constitute annoyances or nuisances.

SECTION 4. VEHICLES; DRIVEWAYS. No vehicles, or parts thereof, may be parked or maintained in the streets of the Subdivision. No inoperable vehicle or vehicle without a current license tag and state inspection sticker shall be allowed on any Lot or in the Subdivision. No large trucks, such as eighteen-wheelers, tractor-trailer rigs, concrete trucks, garbage trucks, or construction vehicles, or commercial vehicles with a rated carrying capacity of more than one and one-half (1 1/2) ton shall be parked or permanently kept in the Subdivision. Unless otherwise approved by the Committee, no boat, boat trailer, boat rigging, trailer, bus, motor home, recreational vehicle or camper shall be parked or kept in the street or on any Lot unless such vehicle is stored within a garage or behind the back of the residential dwelling; provided, however, boats, boat trailers, boat riggings, motor homes, recreational vehicles, trailers, and campers may be temporarily parked in a driveway for a period not exceeding seventy-two (72) hours in any thirty (30) day period. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature.

ATV's shall be allowed only on the ATV's owner's Lot and shall not be kept or operated on any street, drainage easements, detention ponds or elsewhere in the Subdivision or elsewhere in the Annexable

Area; provided however, with respect to the Annexable Area, Declarant reserves the right to unilaterally cancel or amend this restriction at any time before the Annexable Area becomes part of the Properties.

Notwithstanding any provision to the contrary contained in this section, with the prior written consent of the Association, an Owner may temporarily keep on his Lot one (1) "project" car or truck that is being restored by or for the Owner provided that such vehicle must not be located forward of the back exterior wall of the residence and must not remain on the Lot for more than two (2) years without becoming operable and having a current license tag and state inspection sticker.

All personal vehicles must be parked on a driveway. All driveways shall be constructed of crushed concrete, limestone, iron ore gravel, concrete or asphalt and shall be at least ten (10) feet wide [eighteen (18) feet wide at the street] extending from the street to the Owner's residence. Except as otherwise provided in this Section 4, the parking of vehicles on any Lot other than on the driveway is expressly restricted to behind the rear exterior wall of the of the dwelling.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, outside construction work or noisy interior construction work shall be permitted only between the hours of 6:00 a.m. and 9:00 p.m.

SECTION 6. OWNER'S LIABILITY FOR CONTRACTOR'S DAMAGE. The Board of Directors shall establish guidelines for building contractors and home movers whose trucks and equipment will be used on the Properties. A copy of such guidelines shall be given to Owner upon approval by the Committee of Owner's plans. It shall be Owner's responsibility to provide such guidelines to the contractor or the mover. In the event the Common Areas of the Property are damaged as a result of Owner's contractor or mover, the provisions of Article V, Section 3 shall apply.

SECTION 7. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened from the view of any streets. Equipment used for the temporary storage and/or disposal of such materials prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

SECTION 8. BUILDING MATERIALS. Unless otherwise approved by the Committee, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on any street.

SECTION 9. MINERAL PRODUCTION. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations 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 10. NO FURTHER SUBDIVISION. No Lot or residential unit thereon in the Subdivision may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof (including the Association) except for the retention of easements and any Common Areas by the Declarant, without the prior written approval of the Committee. Nothing in this Section 10 of Article VI shall be deemed to prevent an Owner from, or require the approval of the Committee for, (a) selling or leasing of an entire Lot; or (b) transferring or selling any Lot to more than one (1) owner to be held by them as tenants in common, joint tenants, or tenants by the entirety.

SECTION 11. MAINTENANCE OF LOT. Owners shall regularly mow all Lots such that the grass and other vegetation are never permitted to exceed six inches (6") in height. The Lot Owner shall also maintain, in a similar manner, the area between the property line and the pavement of a street. During construction of improvements upon any Lot, the Owner and Builder will cause all construction debris and subcontractors' trash to be confined to or disposed of in a suitable enclosure. Under no circumstances shall any debris or trash be allowed to blow freely on the Lot, adjoining Lots, roadway ditches or streets.

SECTION 12. OUTDOOR BURNING PROHIBITED. No outdoor burning shall be permitted on any Lot except in connection with (i) the initial clearing of such Lot for the construction thereon; (ii) the burning of debris during construction; or (iii) the burning of leaves or other botanical waste from the Lot. Under no circumstances shall any household trash or garbage be burned on any Lot.

SECTION 13. FIREARMS. The use or discharge of firearms in the Subdivision is strictly and expressly prohibited.

SECTION 14. TIMBER HARVESTING; REMOVAL OF DIRT. Unless approved by the Committee in writing, the harvesting of timber or removal of trees shall not be permitted on any Lot except as may be necessary for the construction of permitted improvements thereon. The digging and removal of dirt, gravel, iron ore, or any other surface materials or substances from a Lot is expressly prohibited except as may be necessary for the landscaping of or construction on such Lot.

SECTION 15. ROADWAY DITCHES; CULVERTS. All roadway ditches are constructed according to approved plans and planted with grass or other vegetation. After any construction activity on a Lot, any ditch affected by such construction must be returned by the Owner of the Lot to the condition such ditch was in prior to construction. All driveway culverts (i) shall be installed with the bottom of the culvert consistent with the existing ditch flow line elevation with the majority of the culvert opening above this elevation so as not to impede the free flow of water in the ditch, and (ii) shall otherwise conform to applicable rules and regulations of Montgomery County and, if applicable, the City of Conroe, relating to the size and manner of installation of such culverts.

SECTION 16. GRASS AND SHRUBBERY. Grass and weeds shall be kept mowed so that the height from the ground level up does not exceed six (6) inches. If the height of the grass and/or underbrush on a Lot exceeds six (6) inches and after ten (10) days written notice to Owner of his violation

of these covenants and said condition remains, the Association by its representative shall have the right of entry onto the property for the purpose of mowing the grass and/or underbrush with the Owner being billed for the expense. If the expense remains unpaid for thirty (30) days, the unpaid account shall be considered an assessment and subject to the lien provided for in Article IV Section 1 hereof and to collection as set out under Article IV Section 8 herein. Dead or damaged trees which might create a hazard to property or persons within the Subdivision shall be promptly removed or repaired, and if not removed by the Owner upon request, then the Association may remove or cause to be removed such trees at the Owner's expense and shall not be liable for damages caused by such removal. Trees having a diameter of six (6) inches or greater shall not be removed without the consent of the Committee. Vacant Lots shall not be used as dumping grounds for rubbish, trash, rubble, or soil, except that the Declarant may designate fill areas into which materials specified by Declarant may be placed. The Association may plant, install and maintain shrubbery and other screening devices around boxes, transformers and other above-ground utility equipment. The Association shall have the right to enter upon the Lots to plant, install, maintain and replace such shrubbery or other screening devices.

SECTION 17. SIGNS. No signs, billboards, posters, or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Committee other than one sign of not more than three (3) square feet advertising the particular Lot on which the sign is situated for sale or rent. The right is reserved by Declarant to construct and maintain signs, billboards, and advertising devices as is customary in connection the sale of newly constructed residential dwellings. In addition, the Declarant and the Association shall have the right to erect identifying signs at each entrance to the Subdivision.

SECTION 18. INTERFERENCE. No radio or television signal or any other forms of electromagnetic radiation shall be permitted to originate from any Lot that unreasonably interferes with the reception of television or radio signals upon any other Lot.

SECTION 19. SOUND DEVICES. No horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect a residence, shall be placed or used on any Lot or on any residence. This paragraph shall not preclude the use of outdoor speakers for hi-fi's, stereos, or radios if the sound level is maintained at a reasonably low level with respect to the adjoining property.

SECTION 20. STORAGE AND DISPOSAL OF GARBAGE AND REFUSE. The Association may enter into contracts with a commercial waste disposal company that grants that company the exclusive right for the trash collection and waste disposal in the Subdivision. Owner shall be responsible to contract individually with such company for the collection and removal of Owner's trash or waste from the Subdivision. No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage and other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction commences and may be maintained for a reasonable time, so long as the construction progresses without undo delay, until the completion of the improvements, after which such materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

SECTION 21. CLOTHESLINES. All clotheslines must be set behind any residence, out of view

from any street.

ARTICLE VII - ARCHITECTURAL RESTRICTIONS

SECTION 1. TYPE OF RESIDENCE. Only one residence shall be placed on each Lot. A residence is defined as a site-built frame or brick dwelling intended for use as a residence for one (1) family. No mobile homes, house trailers, manufactured homes or modular homes shall be permitted in the Subdivision. There shall be no basements, tents, shacks, garages, trailers, buses, barns, or other outbuildings erected or placed on any of said Lots to be used at any time as a residence, and all of the outbuildings must be kept painted and in a state of good appearance and repair at all times. No building or other structure shall be erected or placed on any Lot that has not been first approved by the Committee. All structures shall be of new construction and no structure shall be moved from another location onto any Lot without the approval of the Committee. All residences must be built on a concrete slab or pier and beam foundation. No residence shall be constructed on blocks. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

With the prior written approval of the Association, approved garages or barns may be used as temporary residence, as long as they are maintained and completely finished within one (1) year from the date of the commencement of the construction thereof. The construction of the main dwelling must begin within three (3) years after the start of construction of the garage or barn to be used as the temporary residence and must be completed within the time period provided in Section 3 below. Before any written approval is granted by the Association for the temporary occupancy of a garage or barn, the Owner must submit a request in writing along with the expected commencement date of the garage or barn.

SECTION 2. LIVING AREA AND CONSTRUCTION REQUIREMENTS. All residences constructed upon Lots in the Subdivision shall contain not less than fifteen hundred (1,500) square feet, exclusive of open porches and garages, unless otherwise approved by the Committee.

SECTION 3. SEQUENCE OF BUILDING. Without the prior written consent of the Committee, no detached garage or other service function building of the dwelling establishment shall be erected or placed upon any Lot until the dwelling is fully complete and ready for occupancy. Any structure begun on a Lot must be diligently completed within a reasonable length of time, not to exceed two hundred seventy (270) days.

SECTION 4. LOCATION OF RESIDENCE ON LOT. The location of each residence on a Lot will be approved by the Committee with its approval of the site plan and the final working plans and specifications. No residence or other building shall be located on any Lot nearer to the front or rear boundary lines or nearer to the side boundary lines than the minimum building setback lines as shown or referenced on the Subdivision Plat. Notwithstanding any contrary building setback lines depicted on the Subdivision Plat, the applicable minimum building setback requirement for the front property line shall be one hundred (100) feet from the front boundary line of each Lot. If not otherwise depicted or referenced on the Subdivision Plat, the applicable minimum side and rear building setback lines on each Lot shall be five feet (5') and twenty-five feet (25'), respectively. The Committee, in its discretion and for good cause, may grant variances in the minimum setback requirements for particular Lots.

SECTION 5. CONSTRUCTION PERIOD EXCEPTION. During the course of actual

construction of any permitted structure or improvement thereunder, and provided construction is proceeding with due diligence, the Committee may suspend the provisions of one or more sections of Article VI contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of the construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of the other properties within the Subdivision.

SECTION 6. TEMPORARY BUILDINGS. Except for storage buildings approved by the Committee, no temporary buildings or structures shall be permitted on any Lot.

SECTION 7. LOCATION OF GARAGES, BARNs AND STORAGE BUILDINGS. No detached garage nor any barn or storage building shall be located on any Lot forward of the rear of the dwelling thereon.

SECTION 8. FENCES. The construction or installation of walls, fences, and hedges by Owners shall be subject to the approval by the Committee in accordance with the provisions of this Declaration. All walls or fences shall be a maximum of six (6) feet in height and shall be constructed only of materials approved by the Committee. Owners shall construct and maintain a fence or other suitable enclosure as approved by the Committee to screen from public view, yard equipment, woodpiles or storage piles and all other items required to be screened in this Declaration. The Owner shall be responsible for maintaining and repairing all walls, fences and hedges located on the Owner's Lot.

SECTION 9. EXTERIOR ANTENNAE AND SATELLITE DISHES. All radio and television wires, antennae and satellite dishes shall be placed to the rear of the roof ridge line. Satellite dishes shall not exceed twenty-four inches (24") in diameter.

SECTION 10. CONSOLIDATION OF LOTS. With the prior written approval of the Committee, any person owning two or more adjoining Lots may consolidate such Lots into a single building site with the privilege of constructing improvements permitted herein. The resulting building site shall be considered a single Lot for all purposes under this Declaration, including but not limited to, the purpose of the minimum setback lines, voting and the payment of annual maintenance assessments and special assessments. If, after consolidation of two or more adjoining Lots, one or more tracts are segregated from the consolidated building site by the construction of an additional dwelling thereon, the segregated tract shall thereupon become a separate Lot for all purposes. Any such division of the consolidated building site shall require the prior written approval of the Committee.

SECTION 11. MAILBOXES. The United States Postal Service will not be providing door to door delivery of mail, but will be utilizing Cluster Box Units placed at a location within or in close proximity to the Subdivision. In the event individual delivery service becomes available, mailboxes must be harmonious with the overall character and aesthetics of the community. Furthermore, mailboxes shall meet the minimum standards of the United States Postal Service as to type, location and placement of the mailboxes. All mailboxes, house numbers and similar matter must be approved by the Committee.

SECTION 12. AIR CONDITIONERS. No window or wall type air conditioners shall be permitted in any residence, but the Committee, at its discretion, may permit window or wall type air

conditioners to be installed if such unit or units will not be visible from any street.

SECTION 13. WATER SUPPLY AND WASTE WATER DISPOSAL. No water well system shall be constructed or used on any Lot, but each Lot Owner must use the utility services provided by the Declarant or other designated utility operator for the Subdivision. No privy, cesspool or outdoor toilets shall be placed or maintained on any part of the Property. All residences shall be connected to a septic or aerobic system that meets or exceeds Montgomery County and, if applicable, City of Conroe requirements. All such systems shall be maintained in proper working condition and approve by the appropriate governmental authority. The drainage of septic tanks into any road, street, ally or ditch, either directly or indirectly, is strictly prohibited.

SECTION 14. SOLAR COLLECTORS. No solar collector shall be installed without the prior written approval of the Committee. Any such installation shall be in harmony with the design of the residence that is it used in conjunction with. Solar collectors shall be installed in a location not visible from any street in front of the residence.

SECTION 15. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities that are located on a Lot and are not owned 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 Committee.

SECTION 16. PROPANE AND BUTANE STORAGE TANKS. No tanks for the storage of propane or butane shall be placed on any Lot outside of the minimum setback lines for such Lot. All such tanks shall be located in the back yard of the residence and shall be screened from street view by buildings, lattice work, fencing or shrubbery.

SECTION 17. ENFORCEMENT OF LOT MAINTENANCE. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, Declarant or the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with the restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Declarant or Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Declarant, the Association, or their agents and employees shall not be liable and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

SECTION 18. DAMAGE OR DESTRUCTION OR IMPROVEMENTS. The Owners are bound and obligated through the purchase of a Lot to maintain the Lot and all improvements thereon in a neat and habitable manner. In the event of damage to any improvements, the Owner shall have the shorter of the period permitted by applicable law or sixty (60) days to begin repairing or demolishing the destroyed or damaged portion, and once commenced, such repairs or demolition must be pursued

diligently to completion. If, however, damage to the improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board of Directors within sixty (60) days from the date of such destruction or damage. The Board of Directors shall rule on the Owner's application of a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a "hardship" extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Committee, so as to present a pleasing and attractive appearance.

SECTION 19. AUTHORITY TO GRANT VARIANCES. The Board of Directors of the Association, upon recommendation of the Architectural Control Committee, may authorize variances from strict compliance with any of the Architectural restrictions of this Declaration, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing and must be approved by at least a majority vote of the Board of Directors of the Association, and shall become effective upon execution of the variances. No Board member, except Declarant, shall participate in any voting, in the capacity as a Board member, regarding a variance involving that Board member's lot or the improvements thereon. If such a variance is granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision thereof, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations. No granting of a variance shall be relied on by any Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration.

ARTICLE VIII - RESERVATIONS, EXCEPTIONS AND DEDICATIONS

SECTION 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat further establishes certain restrictions applicable to the Subdivision, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property depicted thereon or any part thereof, whether specifically referred to therein or not.

SECTION 2. All sales and conveyances of Lots by contract, deed or other conveyance and dedications of streets in the Subdivision shall be subject to the easements and rights-of-way as shown on the Subdivision Plat, and to any easements over, under, along or across such portion of each Lot, as may be reserved in each deed, as being appropriate or necessary for the purpose of installing, using, repairing and maintaining public utilities, water, sewer lines, electric lighting and telephone poles, pipe lines, drainage ditches or structures, and/or any equipment necessary for the performance of any public or quasi-public utility service and functioning, with the right of access thereto for the purpose of further construction, maintenance and repairs. Such easements shall be for the general benefit of the Subdivision and the owners of the Properties and are hereby reserved and created in favor of any and all utility

companies into and upon said property for the purposes aforesaid.

SECTION 3. Declarant reserves the right, in Declarant's sole judgment and discretion, to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements, but such changes and additions shall be reserved and created in favor of any and all utility companies into and upon said Lots for the purposes hereinabove set forth.

SECTION 4. Neither Declarant nor any utility company using the easements referred to herein shall be liable for any damages done by them, or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, structures or buildings or other property situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by Declarant, the utility company or their assigns, agents, employees or servants.

SECTION 5. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or other parcel of land within the Properties by contract, deed or other conveyance shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto constructed by or under Declarant, any utility company or any easement owner, or their agents, through, along or upon the premises affected thereby, or any part thereof, to serve said land or other portion of the Properties, or the right to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party, and such right is hereby expressly reserved.

SECTION 6. Declarant shall have the right (but shall never be obligated) to subdivide or resubdivide into Lots, by recorded plat or in any other lawful manner, all or any part of the property in DEER TRAIL, SECTION TWO.

SECTION 7. DEER TRAIL, SECTION TWO, is part of a larger tract or block of land owned by Declarant. While Declarant may subdivide other portions of its property, or may subject the same to a declaration, Declarant shall have no obligation to do so, and if Declarant elects to do so, any subdivision plat or declaration executed by Declarant with respect to any of its property may be the same or similar or dissimilar to the Subdivision Plat covering DEER TRAIL, SECTION TWO, or any part thereof, or to this Declaration.

SECTION 8. MAINTENANCE OF DETENTION FACILITIES AND DRAINAGE AND DETENTION. The Association shall be responsible for maintaining all detention facilities and drainage and detention easements depicted on the Subdivision Plat or otherwise applicable to any and all sections of Deer Run, and the Association may use so much of the maintenance fund as is required in order to maintain such facilities and easements. In the event the Association fails to maintain the detention facilities or drainage and detention easements, Montgomery County or the City of Conroe, as applicable, is authorized, but shall not be obligated, to maintain such facilities and easements, and for such purpose, to exercise the maintenance assessment authority provided for herein, including enforcement of the maintenance lien securing payments of the maintenance charges.

ARTICLE IX - ENFORCEMENT

The restrictions herein set forth shall inure to the benefit of, be binding upon, and be enforceable

by Declarant, its successors and assigns, and all parties claiming through or under it or them, by the Association (and the Association is hereby expressly authorized to use its funds for the purpose of assisting in the enforcement of the terms and provisions hereof), and by any and all Owners, each of whom shall be obligated and bound to observe such restrictions, covenants and conditions; provided however, that neither Declarant nor any other person shall be liable except in respect to breaches committed during its, his or their ownership of said property. The violation of any restriction, covenant or condition shall not operate to invalidate any mortgage, deed of trust or other lien acquired and held in good faith against the Property, or any part thereof, but such liens may be enforced against any and all property covered thereby subject, nevertheless, to the restrictions, covenants and conditions mentioned herein.

In the event of any violation or attempted violation of any of the terms or provisions hereof, including any of the restrictions or covenants set forth herein, enforcement of the terms and provisions hereof shall be authorized by any proceeding at law or in equity against any person or persons so violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory, and it shall not be a prerequisite to the granting of any such injunction that there be inadequate remedy at law or that there be any showing of irreparable harm or damage if such injunction is not granted, and against the property to enforce any lien created by this Declaration. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violation of the terms and provisions hereof. The Owner of any Lot or Lots affected shall have the right to either prevent a breach of any restriction, covenant or condition, or to enforce the performance of same. Failure by the Association or any Owner to so enforce any covenant or restriction hereof shall not be construed to constitute a waiver of the right to thereafter enforce such provision or any other provision hereof.

Fines for Violations. In addition to the other remedies and rights of enforcement provided for herein, the Association may assess fines for violations of the restrictive covenants contained in this Declaration, other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors of the Association, which fines shall be secured by the continuing assessment lien set out in this Declaration. Such fines shall be recoverable in the same manner as the maintenance charge; provided however, the Association may not foreclose the Association's lien if the debt secured by the lien consists solely of fines assessed by the Association or attorney's fees incurred by the Association solely associated with fines assessed by the Association.

ARTICLE X - ANNEXATION OF ADDITIONAL PROPERTY

The Annexable Area, or portions thereof, as well as other lands adjacent thereto may hereafter be brought within the jurisdiction of the Association by Declarant at Declarant's option and discretion; provided however, no such annexation of such Annexable Area shall be inferred or implied from any provision herein. The Owners of Lots in each existing or future section of DEER TRAIL so brought within the Association's jurisdiction, as well as all other owners of lands made subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Area that may become subject to the jurisdiction of the Association as a result thereof, and the facilities thereon, and shall be entitled to the use and benefit of the Deer Trail Maintenance Fund, provided that each future section of DEER TRAIL must be impressed with and subject to the annual maintenance charge and assessment imposed

hereby on a uniform, per lot basis equivalent to the maintenance charge imposed hereby, and further, such sections shall be made by recorded restrictions subject to the jurisdiction of the Association. Such additional stages of development may be subjected to the jurisdiction of the Association by Declarant without approval by the membership of the Association.

ARTICLE XI - GENERAL PROVISIONS.

SECTION 1. DURATION. This Declaration shall remain in full force and effect until December 31, 2036, and thereafter shall, as then in force, be extended automatically and without further notice, and without limitation, for successive periods of ten (10) years each, unless modified or terminated in the manner hereinafter set forth.

SECTION 2. AMENDMENT, MODIFICATION OR TERMINATION. This Declaration may be amended or modified at any time in any particular or terminated in its entirety by the recording in the Official Public Records of Real Property of Montgomery County, Texas of an amendment or termination instrument, signed by the Owners representing two-thirds (2/3rds) of the total votes of the Class A Members of the Association and by the Class B Member(s), if any.

SECTION 3. DECLARANT'S RIGHT TO AMEND. Additionally, Declarant reserves the right, at all times, without the joinder or any Owner, Member and other person owning an interest in any of the property within the Subdivision, to amend this Declaration for the purpose of correcting any inadvertent errors in form, grammar or other ministerial or scrivener's errors. Declarant also reserves the right, without the joinder of any Owner or any Member or other person owning an interest in any of the property within the Subdivision, to amend this Declaration, in form or substance, for the purpose of complying with or satisfying FHA or VA requirements or regulations for FHA or VA insured loans in the Subdivision.

SECTION 4. SECURITY. NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTIES. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNATED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY

SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST, INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF DWELLINGS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES. DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

SECTION 5. NOTICES. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

SECTION 6. SEVERABILITY. Invalidation of one or more of the covenants, conditions, reservations, or restrictions herein contained by judgment or court order or otherwise shall in no way affect any of the other covenants, conditions, dedications, reservations or restrictions, which shall continue and remain in full force and effect.

SECTION 7. GOOD-FAITH LENDERS CLAUSE. Any violation of these restrictions shall not affect any lien or deed of trust of record held in good faith upon any Lot or any part thereof, which liens may be enforced in due course, subject to the covenants, conditions, dedications, reservations and restrictions contained herein.

SECTION 8. GENDER AND GRAMMAR. The singular whenever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 9. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 10. MERGER AND CONSOLIDATION. Upon a merger or consolidation of the Association with another non-profit corporation organized for the same purposes, the Association's properties, rights and obligations may be transferred to the surviving or consolidated association, or alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants, conditions, and restrictions established by this Declaration, together with the covenant, conditions, and restrictions applicable to the properties of the other association, as one scheme. However, such merger or consolidation shall not affect any revocation, change or addition to the covenants established by this Declaration and no merger or consolidation shall be permitted except with the assent of the Members representing two-thirds (2/3rds) of the total votes of the Members of the Association or with the consent of Declarant.

SECTION 11. DISSOLUTION. The Association may be dissolved with the assent given in writing and signed by Members representing not less than two-thirds (2/3rds) of the total votes of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for conveyances to an appropriate public or governmental agency of Montgomery County, Texas. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization devoted to such similar purposes.

SECTION 12. RIGHT OF ENTRY; ENFORCEMENT BY SELF-HELP. During reasonable hours subject to reasonable security requirements, the Association and its authorized agents and representatives shall have the right, in addition to and not in limitation of all of the rights it may have under this Declaration, to enter upon any Lot, including any improvements located thereon, for emergency, security, maintenance, repair or safety purposes, which right may be exercised by the Associations' Board of Directors, officers, agents, employees, managers and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in any emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of a Lot. Authorized personnel of the Association performing outside lawn and landscape maintenance shall also have such right of entry. Any such entry shall constitute an authorized entry and neither the Declarant, the Association, nor their agents and representatives shall be deemed guilty of trespass by reason thereof. In addition to any other remedies provided herein, the Association or its duly authorized agent shall have the power to enter upon any Lot to abate or remove, using such force as is reasonably necessary, any improvement that is made to the Lot, other structures, thing or condition that violates this Declaration, or any use restrictions. Unless an emergency situation exists, such self-help shall be preceded by written notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments. All such entries shall be made with as little inconvenience to the Owner as is practicable in the judgment of the Association and any damages caused thereby (as distinguished from repairs with respect to which the Association is entitled to an assessment and lien to be reimbursed) shall be borne by the Association.

SECTION 13. COMPLIANCE WITH APPLICABLE LAW. Notwithstanding any provision to the contrary contained in this Declaration, the Association's collection of maintenance assessments and enforcement of the covenants and restrictions set out in this Declaration shall be pursuant to and in accordance with the relevant provisions of the Texas Property Code and other applicable law and nothing herein shall be construed as authorizing any enforcement procedures or other action by the Association in contravention of any such Property Code provisions or other applicable law.

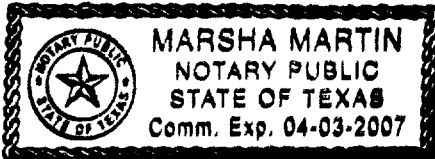
IN WITNESS WHEREOF, the Declarant has executed this Declaration this the 11th day of August, 2006.


DUANE T. CORLEY, TRUSTEE

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this the 11th day of August, 2006, by DUANE T. CORLEY, TRUSTEE.



Marsha Martin
Notary Public, State of Texas

FILED FOR RECORD

06 AUG 11 AM 8:55

Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the Official Public Records of Real Property at
Montgomery County, Texas.

AUG 11 2006



Mark Turnbull
County Clerk
Montgomery County, Texas

AFTER RECORDING RETURN TO:
Leo Hewett Properties
1712 N. Frazier, Suite 210
Conroe, Texas 77301