

DECLARATION OF PROTECTIVE COVENANTS

FOR

THE ESTATES OF WELLINGTON RUN COMMUNITY ASSOCIATION, INC.

This DECLARATION OF PROTECTIVE COVENANTS FOR THE ESTATES OF WELLINGTON RUN COMMUNITY ASSOCIATION ("Declaration") is made on the date hereinafter set forth by The Estates of Wellington Run Community Association, Inc., a Delaware corporation (hereinafter sometimes called "Declarant").

Declarant is the owner of the real property described on Exhibit "A" attached to this Declaration and incorporated by reference. This Declaration imposes on such property mutually beneficial restrictions under a general plan of improvement for the benefit of the present and future owners of each portion of such real property, and establishes flexible and reasonable procedures for the overall development, administration, maintenance and preservation of such property.

Declarant hereby declares that the real property described in Exhibit "A", including the improvements constructed or to be constructed thereon, and any additional property which is hereafter annexed in accordance with Article XII, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the following covenants, conditions, restrictions, easements, assessments and liens, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, such real property. This Declaration shall be binding on and shall inure to the benefit of all persons having any right, title or interest in all or any portion of such real property, their respective heirs, legal representatives, successors, successors-in-title and assigns.

ARTICLE I DEFINITIONS

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Association" - Estates of Wellington Run Community Association, Inc., a Texas non-profit corporation, its successors and assigns.

1.2 "Board of Directors" or "Board" - The body responsible for administration of the Association, selected as provided in the Bylaws and generally serving the same role as the board of directors under Texas corporate law.

1.3 "Builder" - Any Person which purchases one or more Lots or parcels of land within the Community for the purpose of constructing improvements thereon for sale in the ordinary course of such Person's business.

1.4 "Bylaws" - The Bylaws of the Estates of Wellington Run Community Association, Inc. attached to this Declaration as Exhibit "C" and incorporated by this reference.

1.5 "Common Property" - Any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, if any, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.6 "Community" - That certain real property described in Exhibit "A" to this Declaration, together with any additional property which is hereafter made subject to this Declaration in accordance with Article XII.

1.7 "Community-Wide Standard" - The standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board.

1.8 "Declarant" - U. S. Home Corporation and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the Community and is designated as the "Declarant" hereunder in a recorded instrument executed by the immediately-preceding "Declar-ant". Upon designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that there shall be only one "Declarant" hereunder at any given time.

1.9 "Lot" - Any plot of land within the Community, other than the Common Property, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site as shown on a plat recorded in the land records of Dallas County, Texas. Where the context indicates or requires, the term Lot includes any structure on the Lot.

1.10 "Member" - A person entitled to membership in the Association, as provided in Section 2.2.

1.11 "Mortgage" - Any mortgage, security deed, deed of trust and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

1.12 "Mortgagee" - The holder of a Mortgage.

1.13 "Occupant" - Any Person occupying all or any portion of a Lot for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.14 "Owner" - The record owner(s) of the fee simple title to or an undivided fee interest in any Lot, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.15 "Person" - Any natural person, as well as a corporation, joint venture, partnership (general or limited), association, or other legal entity.

1.16 "Total Association Vote" - All of the votes attributable to Members of the Association (including votes of Declarant), and the consent of Declarant so long as Declarant owns any property for development and/or sale in the Community.

ARTICLE II ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

2.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Property. The Association shall be responsible for enforcement of this Declaration and such reasonable rules regulating use of the Lots and Common Property as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines (as defined in Section 7.3). The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles and Texas law.

2.2 Membership. Each Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 2.3 and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

The membership rights and privileges of an Owner who is a natural person may be exercised by the Member or the Members' spouse. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any officer, director, partner or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

2.3 Voting. The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 2.2 of this Article; there shall be only one vote per Lot. In any situation where a Member is entitled personally to exercise the vote for his Lot and there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member is entitled to five (5) votes for each Lot in which it holds the interest required for membership under Section 2.2 of this Article. Additional rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration and the Bylaws, are specified elsewhere in the Declaration and the Bylaws. The Class "B" Member may appoint a majority of the members of the Board of Directors as specified in Section 3.2 of the Bylaws.

The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of (i) four (4) years after expiration of the Class "B" Control Period pursuant to Article III of the Bylaws; or (ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

2.4 Irrevocable Proxy. Each Member, by acceptance of a deed to any Lot, constitutes and appoints the Declarant as its

duly authorized attorney-in-fact, with full power of substitution, to provide any necessary approval of the exercise of all rights and powers of the Declarant set forth in this Declaration and in the Bylaws, including the right to select the members of the Board of Directors until the first to occur of the events specified in Article III, Section 6 of the Bylaws. This proxy is coupled with an interest and is irrevocable.

ARTICLE III RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Property and all improvements thereon (including, without limitation, furnishings, equipment and common landscaped areas), and shall keep it in good, clean, attractive and sanitary order and repair, consistent with this Declaration and the Community-Wide Standard.

3.2 Personal Property and Real Property for Common Use. The Association may acquire, hold and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the Community, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Property by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed. Declarant shall not be required to make any improvements whatsoever to the property to be conveyed and accept it pursuant to this Section.

3.3 Rules. The Association, through its Board, may make and enforce reasonable rules governing the use of the Lots and Common Property. Such rules shall be binding upon all Owners, occupants, invitees and licensees until and unless repealed or modified in a regular or special meeting by a majority of the Total Association Vote.

3.4 Enforcement. The Association may impose sanctions for violations of this Declaration, the Bylaws or rules in accordance with procedures set forth in the Bylaws, including reasonable monetary fines and suspensions of the right to vote and to use recreational facilities, if any, within the Common Property. In addition, in accordance with Article III, Section 22 of the Bylaws, the Association may exercise self-help to cure violations (including, without limitation, the towing of vehicles and the removal of personal property), and may suspend any services it provides to the Lot of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall also be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

3.5 Occupants Bound. Each Owner shall cause all Occupants of his or her Lot to comply with the Declaration, Bylaws and the rules and regulations of the Association, and shall be responsible for all violations and all losses or damages resulting from violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be personally sanctioned for any violation.

In the event that an Occupant violates the Declaration, Bylaws or a rule or regulation for which a fine is imposed, such fine shall be assessed against the Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the Occupant's failure to do so. Unpaid fines shall constitute a lien against the Lot. Any Occupant charged with a violation of the Declaration, Bylaws or rules and regulations is entitled to the same procedure to which an Owner is entitled prior to the imposition of a fine or other sanction.

Any violation of the Declaration, Bylaws or rules and regulations by a lessee or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Texas law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws and the rules and regulations of the Association, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner.

In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be assessed as a specific assessment against the Lot and the Owner.

3.6 Enforcement of Ordinances. The Association, by contract or other agreement, may enforce county ordinances and may permit Dallas County or the City of Carrollton to enforce ordinances within the Community for the benefit of the Association and its Members.

3.7 Implied Rights; Board Authority. The Association may exercise any other right or privilege given to it expressly by this

Declaration or the Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the Bylaws or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Membership.

3.8 Indemnification. The Association shall indemnify every officer, director and committee member against all expenses, including legal fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the current Board) to which he or she may be a party by reason of being or having been an officer, director or committee member.

The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.9 Dedication of Common Property. The Association may dedicate portions of the Common Property to Dallas County, Texas, or to any other local, state or federal governmental entity, subject to such approval as may be required by Section 11.2 of this Declaration.

3.10 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE COMMUNITY, NOR SHALL THE ASSOCIATION BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES AND DECLARANT, AND ANY SUCCESSOR DECLARANT, ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTY WITHIN THE COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF DWELLINGS ON LOTS RESULTING FROM ACTS OF THIRD PARTIES.

ARTICLE IV MAINTENANCE

4.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall also maintain, repair and replace, if necessary: (a) all entry features for the Community including the expenses for water and electricity, if any, provided to all such entry features; and (b) all landscaping (including sprinkler systems) located on the Common Property or public right-of-way within the Community.

In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association, whether within or outside the Community, where the Board has determined that such maintenance would benefit all Owners, including, without limitation, property situated within that certain 125' Dallas Power & Light Company easement recorded in Volume 4721, Page 30 et seq. of the Deed Records of Dallas County, Texas.

In the event that the Association determines that the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, or the family, guests, lessees or invitees of an Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the lot of such Owner.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

4.2 Owner's Responsibility. Except as provided in Section 4.1, all maintenance of the Lot and all structures, parking

areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration.

In addition to its other enforcement rights, in the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Board may cause such maintenance to be performed at the Owner's sole cost and expense, subject to the following procedures. Except in an emergency situation, the Board shall give the Owner prior written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement 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 which shall be completed within a reasonable time. If the Owner fails to do so, the Association may provide any such maintenance, repair or replacement without further notice, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot pursuant to Section 6.6 of this Declaration.

4.3 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party structure, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators appointed shall appoint one additional arbitrator. The decision by a majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE V INSURANCE AND CASUALTY LOSSES

5.1 Association Insurance. The Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements which the Association is obligated to maintain, whether or not located on the Common Property. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be 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. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Association also shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on behalf of the Association and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least \$1,000,000.00.

The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required thereunder through the Declarant and to reimburse Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Article III, Section 22 of the Bylaws, that the loss is the result of the negligence of willful conduct of one or more Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Lot of such Owner or occupant, pursuant to Section 6.6.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association and shall be governed by the following provisions:

- (a) All policies shall be written with a company authorized to do business in Texas.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- (d) All property insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available, and shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the metropolitan Dallas, Texas, area.
- (e) The Board shall make every reasonable effort to secure insurance policies that will provide for the following:
 - (i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, the manager, the Owners and occupants and their respective tenants, servants, agents and guests;
 - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - (iii) that no policy may be canceled, subjected to non-renewal, invalidated or suspended on account of any curable defect or the conduct of any Owner or occupant, or any director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;
 - (iv) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
 - (v) that no policy may be canceled, subject to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. The amount of fidelity coverage shall be determined in the directors' best business judgment and, if reasonably available, shall at least equal three months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, subjected to non-renewal or substantially modified without at least thirty (30) days' prior written notice to the Association.

The Association shall also obtain construction code endorsements, steam and boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U. S. Department of Veterans Affairs or the U. S. Department of Housing and Urban Development. It is the intent of this Section that the Association maintain insurance in effect meeting the requirements of the above-named entities as applicable, and as said requirements may change from time to time.

5.2 Individual Insurance. By virtue of taking title to a Lot, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of any Lot, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry property insurance on his Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on the Lot. Each Owner shall furnish a copy of such insurance policy or policies to the Association within ten (10) days of the Association's request for same. The property insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism

and malicious mischief, and shall be 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. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall remain in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within thirty (30) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment pursuant to Section 6.6.

5.3 Damage and Destruction -- Insured by Association.

(a) General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least sixty-seven percent (67%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within thirty (30) days following commencement of said sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to cover the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against each Lot and the Owner thereof for the deficiency. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

5.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

ARTICLE VI ASSESSMENTS

6.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Lots, including the maintenance and insurance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

6.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) specific assessments, as applicable, including, but not limited to, reasonable fines imposed in accordance with the terms of this Declaration and the Bylaws. Such assessments shall be established and collected as hereinafter provided.

All such assessments, together with late charges, interest (not to exceed the lesser of the maximum rate permitted by law or ten percent (10%) per annum on the principal amount due), and costs of collection (including, without limitation, reasonable attorney's fees), shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is

made until paid, as more particularly provided in Section 6.8. Each such assessment, together with late charges, interest and costs of collection, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. Upon transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges against the Lot due at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

No Owner may exempt himself from liability for assessments, by non-use of Common Property, abandonment of his Lot, or for any other reason. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials or a combination thereof with the Declarant for payment of all or a portion of assessments due from the Declarant.

6.3 Estoppel Certificates. The Association shall, within ten (10) days after receiving a written request therefor and for a 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 Lot shall be binding upon the Association as of the date of issuance.

6.4 Computation of Annual Assessments. It shall be the duty of the Board annually to prepare a budget covering the estimated costs of operating the Association during the coming fiscal year which shall include a contribution to a capital reserve for repair and replacement of capital items, if any, in accordance with a capital budget separately prepared. The annual assessment to be levied against each Lot shall be set at a level which is reasonably expected to produce total income to the Association at least equal to the total budgeted expenses, including reserves. The Board shall cause a copy of the budget and notice of the annual assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year.

The budget and the assessment shall automatically be effective provided that the proposed assessment does not exceed one hundred twenty-five percent (125%) of the prior year's annual assessment. If the proposed assessment exceeds such percentage, such assessment shall automatically be effective unless disapproved at a meeting by Owners holding a majority of the Total Association Vote; provided, there shall be no obligation to call a meeting for the purpose of considering the budget except upon petition of the Members as provided for special meetings in Article II of the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the budget and notice of the assessment. In the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined, as provided herein, the proposed assessment, to the extent that such assessment does not exceed one hundred twenty-five percent (125%) of the prior year's annual assessment, shall be in effect for the current year.

Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors. If the Board so provides by resolution, the annual assessment may be paid in two or more installments. If any Owner is delinquent in paying any assessment or installment thereof, the Board may, upon ten (10) days' prior written notice, accelerate the annual assessment and require all unpaid installments to be paid in full immediately. Unless otherwise provided by the Board, the assessment shall be due and payable in full on the first day of each fiscal year.

So long as the Declarant has the right to unilaterally annex additional property pursuant to Article XII hereof, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting annual assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under this Article), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be conspicuously disclosed as a line item in the budget and its characterization shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless provided for in a separate written agreement between Declarant and the Association.

6.5 Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time to cover unanticipated or unbudgeted expenses. Except as otherwise provided in Section 5.3(b), any special assessment shall require approval at a meeting of Owners holding two-thirds (2/3) of the Total Association Vote. 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.

6.6 Specific Assessments. The Board shall have the power to levy specific assessments against a particular Lot or Lots constituting less than all Lots within the Community as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to any Lot or the Occupants thereof upon request of the Owner or Occupants, which benefits, items or services the Board may (but shall not be obligated to) offer from time to time; such assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred;

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, the Bylaws or rules of the Association, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their licensees, invitees or guests; provided, the Board shall give the Owner prior written notice and an opportunity for a hearing before levying any Specific Assessment under this subsection (b); and

(c) or fines levied pursuant to this Declaration and the Bylaws.

Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section.

6.7 Date of Commencement of Assessments. The assessments provided for herein shall commence as to a particular Lot on the first day of the month following the earlier of (a) the month in which such Lot is first conveyed to an Owner other than a Builder, or (b) the month in which such Lot is first occupied as a residence. The first annual assessment due on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time the obligations or assessments commence.

6.8 Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest and costs of collection as set forth in Section 6.2, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes, or (b) liens for all sums unpaid on a first Mortgage duly recorded in the land records of Dallas County, Texas (and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument).

All other Persons acquiring liens or encumbrances on any Lot after the recording of the original Declaration shall be deemed to consent that such liens or encumbrances are inferior to the lien provided herein to secure the payment of future assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Lot the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability or priority of the lien. The lien may be foreclosed through judicial or nonjudicial foreclosure proceedings in accordance with Tex. Prop. Code Ann. Section 51.002 et seq. (Vernon 1984), as it may be amended (the "Foreclosure Statute"), in like manner for any deed of trust on real property. In connection with the lien created herein, each Owner of a Lot hereby grants to the Association, whether or not it is so expressed in the deed or other conveyance to such Owner, a power of sale to be exercised in accordance with the Foreclosure Statute.

The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. The Association may sue for unpaid assessments and other charges without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the first Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be common expenses collectible from Owners of all Lots subject to assessment under this Declaration, including such acquirer, its successors and assigns.

6.9 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than fifteen (15) days shall incur a late charge in such amount as the Board may from time to time determine. In the event that the assessment remains unpaid after sixty (60) days, the Association may commence nonjudicial foreclosure proceedings and/or institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, or to enforce the lien by suit, judgment and judicial or nonjudicial foreclosure in the same manner as other liens for the improvement of real property.

All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

6.10 Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may, but shall not be obligated to: (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, such advances to be evidenced by promissory notes from the Association in favor of the Declarant; or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the metropolitan Dallas, Texas, area. The Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

6.11 Failure to Assess. Failure of the Board to fix the annual assessment amount or rate or to deliver or mail each Owner a notice of annual assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay such assessments. In such event, each Owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may, without limitation, retroactively assess any shortfalls in collections or reimburse any excess in collections.

6.12 Exempt Property. The following property shall be exempt from payment of assessments:

- (a) any Lot owned in fee simple by the Association as Common Property; and
- (b) any property dedicated to and accepted by any governmental authority or public utility.

ARTICLE VII ARCHITECTURAL STANDARDS

7.1 General. No structure shall be placed, erected or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements and planting or removal of landscaping materials) shall take place except in compliance with this Article and the Design Guidelines and upon approval of the Architectural Review Committee as required herein.

Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. No approval shall be required to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect and shall conform to all applicable laws, codes and ordinances.

This Article shall not apply to improvements to the Common Property by or on behalf of the Association.

7.2 Architectural Review Committee. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by an Architectural Review Committee ("ARC") consisting of not less than three (3) nor more than five (5) persons.

So long as the Declarant owns any property for development and/or sale in the Community, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration of this right, the Board shall appoint the members of the ARC, a majority of whom shall be Board members. The remaining members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

7.3 Guidelines and Procedures. The ARC may prepare, adopt and amend design and development guidelines and application and review procedures (the "Design Guidelines") which shall apply to all construction activities within the Community. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The ARC shall make the Design Guidelines available to Owners and contractors who seek to engage in construction within the Community and all such Persons shall conduct their activities in accordance with such Design Guidelines.

7.4 Submission of Plans and Specifications.

(a) No construction or improvements shall be commenced, erected, placed or maintained on any Lot, nor shall any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") showing, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, screening and estimated time schedules for commencement and completion of construction have been submitted to and approved in writing by the ARC or appropriate subcommittee. A complete copy of the final Plans shall be submitted at least fifteen (15) days prior to the construction of improvements. The Plans shall show the nature, kind, shape, height, materials and improvements including, but not limited to, elevations and floor plans on each house intended to be built, square footage, roof pitch and percentage of brick or other material to be used as siding. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this Declaration. Samples of proposed construction materials shall be delivered promptly to the ARC upon request. At such time as the Plans meet the approval of the ARC, the ARC shall send written authorization to proceed and will retain the Plans. If disapproved by the ARC, the Plans shall be returned marked "Disapproved" and shall be accompanied by a statement of the reasons for disapproval, which statement shall be signed by a representative of the ARC. Any modification of the approved set of Plans must again be submitted to the ARC for its approval. The ARC's approval or disapproval, as required herein, shall be in writing. In no event shall the ARC give verbal approval of any Plans. If the ARC fails to approve or disapprove such Plans within fifteen (15) days after the date of submission, written approval of the matters submitted shall not be required and compliance with this Section 7.4 shall be deemed to have been completed. In case of a dispute about whether the ARC responded within such time period, the person submitting the Plans shall have the burden of establishing that the ARC received the Plans. The ARC's receipt of the Plans may be established by a signed certified mail receipt or by a signed delivery receipt. The ARC shall consider pre-approval of standard Builder plans and landscaping specifications for each home planned for construction in the subdivision. Each Builder shall provide to the ARC the following information for the pre-approval process:

- (a) elevations of all home sides, showing masonry percentage computation;
- (b) floor plan of first and second floors; and
- (c) landscaping standard specifications, including a minimum of two (2) trees in the front yard and bushes along the front and side elevations, in front of the side fences planned for the home. The ARC may authorize certain types of modifications and improvements to be made without the necessity of applying for approval hereunder, provided they are made in strict compliance with the Design Guidelines.

(b) In reviewing each submission, the ARC may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life, among other things.

(c) Once the ARC has approved a set of final plans and specifications submitted by a Builder for a house to be constructed on a Lot, that Builder may use such plans and specifications for other homes it will construct in the Community provided that: (a) there shall be at least two (2) Lots on the same side of the street between Lots with houses using the same floor plan; (b) there shall be at least four (4) Lots on the same side of the street between Lots with houses using the same exterior elevations; and (c) no houses with the same exterior elevations shall be constructed on Lots directly across the street from each other.

(d) If construction does not commence on a project for which Plans have been approved within thirty (30) days of the estimated commencement date set forth in such approved Plans, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans to the ARC for reconsideration.

(e) If construction has commenced but is not completed on a project for which Plans have been approved within thirty (30) days of the estimated completion date set forth in such approved Plans, the Board may, in addition to any other remedy provided in this Declaration, cause the completion of the construction at the Owner's sole cost and expense, subject to the following procedures. The Board shall give the Owner prior written notice of the Association's intent to complete construction at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the construction deemed necessary. The Owner shall have ten (10) days after delivery of such notice within which to complete such construction or, in the event that construction cannot be completed within a ten (10) day period, to diligently pursue completion of construction within a reasonable time. If the Owner fails to do so, the Association may complete construction without further notice, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot pursuant to Section 6.6 of this Declaration.

7.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the ARC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

7.6 Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

7.7 Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and not for engineering, structural design or quality of materials. Neither the ARC nor the Declarant shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for reviewing drainage plans or ensuring the effectiveness thereof, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARC, nor any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Lot, nor for any defect in any structure constructed from approved Plans.

Neither the Declarant, the Association, the ARC, the Board nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions, by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits Plans and every Owner agrees that he will not bring any action or suit against the Declarant, the Association, the ARC, the Board or the officers, directors, members, employees and agents of any of them, to recover any such damages and hereby releases, premises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

7.8 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Specific Assessment.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers, nor its directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARC.

7.9 Notice of Violation. To evidence any violation of this Declaration, the Bylaws, rules or Design Guidelines by any Owner or Occupant, the Board of Directors may file, but is not required to file, in the deed records of Dallas County, Texas, a notice of violation setting forth (i) the violation, (ii) the name of the Owner and Lot, and (iii) a sufficient legal description of the Lot. Such notice shall be signed and acknowledged by an officer or duly authorized agent or attorney of the Association. The cost of preparing and recording such notice shall be assessed as a specific assessment against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing pursuant to Section 6.6 hereof.

ARTICLE VIII USE RESTRICTIONS

8.1 General. In addition to the use restrictions set forth herein, the Board may, from time to time, without consent of the Members, promulgate, modify or delegate rules and regulations applicable to the Community, as provided in Section 3.3. The Board may also adopt rules further limiting, defining or creating limited exceptions to any provision of this Article.

8.2 Occupants Bound. All provisions of the Declaration and of any rules promulgated by the Board which govern the conduct of Owners within the Properties and provide for sanctions against Owners shall also apply to all Occupants, tenants, guests and invitees of any Lot. Any lease on any Lot shall be deemed to provide that the lessee and all Occupants of the

leased Lot shall be bound by the terms of this Declaration, the Bylaws and the rules of the Association.

8.3 Residential Use. The Property and all Lots platted on the Property shall be used for single-family residential purposes only, except that a Lot may be used by a Builder for a model home or as a temporary parking lot adjacent to a model home. No building shall be erected, altered, placed or permitted to remain on the Property or on any Lot other than one detached single-family residence ("Residence") per Lot not exceeding two stories in height with a private garage as provided below. Each Residence shall be constructed in conformance with minimum city standards.

8.4 Single-Family Use. Each Residence may be occupied by no more than three (3) adults, living and cooking together as a single housekeeping unit. Any number of person(s) under the age of eighteen (18) may also live in the house as long as they are under the legal custody of one adult or married couple, also living in the house.

8.5 Garage Required. Each Residence shall have at least a two-car garage conforming with the applicable city zoning ordinances and codes, and the garage must conform in design and materials with the main structure of the Residence. No garage shall be converted to living space or used in any manner so as to preclude the parking of two automobiles therein, except for temporary usage as part of the sales facilities contained in any model homes constructed by a Builder.

8.6 Restrictions on Re-subdivision. Once platted, none of the Lots shall be subdivided into Lots in a zoning category different from the zoning of the Lots at the time the plats are filed of record in the Real Property Records of Dallas County, Texas.

8.7 Driveways. All driveways shall be surfaced with concrete, asphalt or similar substances approved by the ARC.

8.8 Uses Specifically Prohibited and Other Provisions.

(a) No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment may be placed on a Lot only in places which are not visible from any street) shall be permitted on any Lot, except that Builder or contractor may have temporary improvements (such as a sales office, parking lot and/or a construction trailer) on a Lot during construction of the Residences and during construction of the infrastructure improvements (such as the streets, utilities and any necessary drainage systems). No building material of any kind or character shall be placed or stored upon a Lot until the owner thereof is ready to commence construction of improvements, and then such material shall be placed only within the property lines of the Lot upon which the improvements are to be erected during construction so long as construction progresses without undue delay.

(b) No boat, trailer, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street in the Community, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a Residence in the immediate vicinity.

(c) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Community at any time.

(d) No vehicles or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks and pick-up trucks with attached bed campers that are in operating condition, have current license plats and inspection stickers and are in regular use as motor vehicles on the streets and highways of the State of Texas. Any vehicle parked or stored in violation of this Section 8.8 or any parking rules promulgated by the Board may be towed in accordance with Texas law.

(e) No structure of a temporary character, such as a trailer, basement, tent, shack, barn or other out-building, shall be used on any of the Lots at any time as a dwelling house; provided, however, that any Builder may maintain and occupy model houses, sales offices and construction trailers during construction periods.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted on the surface of any Lot. No oil wells, tanks, tunnels, mineral excavations or shafts shall be permitted upon or in any part of the Lots. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on the Lots.

(g) No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept in the Community, except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the Lots so that no person shall quarter on any part of the Community cows, horses, bees, pigeons, hogs, sheep, goats, guinea fowls,

ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety of the Community. No more than four (4) pets will be permitted on each Lot. Pets must be restrained or confined to the rear of the Lot inside a fenced area or within the house. It is the pet owner's responsibility to keep the Lot clean and free of pet debris. All animals must be properly tagged for identification and vaccinated against rabies. The Board shall also have the authority to restrict or prohibit the keeping of breeds of dogs with a known history of dangerous or vicious behavior. Any animal in violation of this section shall be removed from the Community upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board.

(h) No Lot or other area of the Community shall be used as a dumping ground for rubbish or a site for the accumulation of unsightly materials of any kind, including, but not limited to, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition. All containers and other facilities for trash disposal must be located and screened in a manner approved by the ARC.

(i) No individual Lot water supply system shall be permitted in the Community.

(j) No individual Lot sewage disposal shall be permitted in the Community.

(k) No air conditioning apparatus shall be installed on the ground in front of a Residence or on the roof of any Residence. No window air conditioning apparatus or evaporative cooler shall be installed on any Lot.

(l) Except with the written permission of the ARC, no antennas, discs or other equipment for receiving or sending sound or video messages shall be permitted in the Community except for antennas for AM or FM radio reception and UHF or VHF television reception. All antennas shall be located inside the attic of the main residential structure, except that, with the written permission of the ARC, one antenna may be permitted to be attached to the roof of the main residential structure (but only if the place of attachment is not visible from the street in front of the house) and to extend above said roof a maximum of five (5) feet, and one (1) satellite dish or other similar instrument or structure may be placed in the back yard so long as it is completely screened from view from any street, alley, park or other public area.

(m) No Lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not or whether engaged in full or part time, shall be conducted in the Community which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken in the Community, and nothing shall be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a Builder's temporary use of a Residence as a sales office until such Builder's last Residence in the Community is sold. Nothing in this subparagraph shall prohibit an owner's use of a Residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities (i) do not materially increase the number of cars parked on the street, (ii) do not interfere with adjoining homeowners' use and enjoyment of their Residences and yards, (iii) are not apparent or detectable by sight, sound or smell from outside the Residence, (iv) the activities conform to all zoning requirements of the Community, (v) the activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees or door-to-door solicitation of Residences of the Community, and (vi) the activity is consistent with the residential character of the Community and does not constitute a nuisance or hazardous or offensive use or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. Notwithstanding the above, the leasing of the Lot shall not be considered a business or trade within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Community or its use of any Lots which it owns within the Community.

(n) No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten (10) feet from the intersection of the street right-of-way lines, or, in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance or such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No trees or shrubs, except for those which are diseased or dead or create a safety hazard, shall be removed except in strict compliance with the Design Guidelines and upon prior approval in accordance with Article VII of this Declaration. In the event of an intentional or unintentional violation of this section, the violator may be required by the ARC to replace the removed tree or shrub with one or more comparable trees or shrubs of such size and number and in such locations as the ARC may determine necessary, in its sole discretion, to mitigate the damage.

(o) Except for childrens' playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment placed at locations on a Lot that are not visible from any street, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.

(p) Within easements on each Lot, no structures, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or may change the direction of flow within drainage channels or which may obstruct or retard the flow of water through drainage channels.

(q) After a Lot has been graded by Developer (or another developer and/or Builder who has purchased a portion of the Community from Developer for development), the general grading, slope and drainage plan of a Lot may not be altered without (i) written permission of the ARC and (ii) any approvals of the city and other appropriate agencies having authority to grant such approval which may be required. No person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. The Declarant hereby reserves for itself and the Association perpetual easement across the Community for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any adjacent property without the owner's consent. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited within the Community.

(r) No sign of any kind shall be displayed to the public view on any Lot except (i) one (1) sign of not more than five (5) square feet advertising the property for rent or sale, and (ii) signs used by Developer, by a developer who has purchased a portion of the Community from Developer for development, or by a Builder building homes within the Community to advertise the Community during the development, construction and sales periods. The ARC shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

(s) The drying of clothes in public at street level view is prohibited. The owners and occupants of any Lots at the intersections of streets or adjacent to parks, playgrounds or other facilities where the rear yard is visible to full public view shall install a suitable enclosure to screen from public street level view equipment which is incident to normal residences, such as clothes drying equipment, yard equipment and storage piles. Notwithstanding the above, no clotheslines shall be permitted on any Lot or in any part of the Community.

(t) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere in the Community.

(u) All exterior mechanical equipment, including, but not limited to, HVAC equipment, shall be located on the side or rear yard of each Lot and shielded from public view from any adjacent street.

(v) All utilities shall be installed underground. No gas meter shall be set nearer the street than the front or side of the Residence unless the meter is designed for and installed underground.

(w) No above-ground swimming pools shall be erected, constructed or installed on any Lot. Jacuzzis, whirlpools or spas approved pursuant to Article VII shall not be considered an above-ground pool for the purposes of this section.

(x) Except for traditional holiday decorative lights, which may be displayed for two (2) months prior to and one (1) month after any commonly recognized holiday for which lights are traditionally displayed, all exterior lights must be approved in accordance with Article VII of this Declaration.

(y) No artificial vegetation or permanent flag poles shall be permitted on the exterior of any porch in the Community. No exterior sculpture, fountains, flags and temporary flag poles, birdhouses, bird baths, other decorative embellishments, or similar items shall be permitted unless approved in accordance with Article VII of this Declaration.

8.9 Minimum Floor Area. The total air conditioned living area of the main residential structure, as measured to the outside of exterior walls, but exclusive of open porches, garages, patios and detached accessory buildings, shall be not less than a minimum of two thousand (2,000) square feet per home. The ARC shall have the right, in its discretion, to allow variances of up to ten percent (10%) from the square footage referenced herein.

8.10 Building Materials. Unless otherwise approved in writing by the ARC, the front wall area (exclusive of windows and doors) of each building constructed on a Lot, including, but not limited to, chimney flues, shall be not less than one hundred percent (100%) brick, brick veneer, stone, stone veneer or other masonry material approved by the ARC. Notwithstanding the foregoing, the front wall area on all first floor walls of a two-story dwelling shall be brick only. The total exterior wall area of each building constructed on a Lot, including, but not limited to, chimney flues, shall be not less than seventy-five percent (75%) (or a higher percentage if required by the city) brick, brick veneer, stone, stone veneer or other masonry material approved by the ARC (windows, doors and gables are excluded from the calculation of the total exterior wall area). Notwithstanding the foregoing, unless otherwise approved in writing by the ARC, for each building constructed on a Lot adjacent to Willowgate Lane, the wall area of such buildings facing Willowgate Lane, including, but not limited to, chimney flues, shall be one hundred percent (100%) brick, brick veneer, stone, stone veneer or other masonry material approved by the Committee.

8.11 Setback Restrictions. No dwelling shall be located on any Lot in violation of the minimum setback lines required by the city.

8.12 Fences and Walls. Any fence or wall must be constructed of brick or wood or other material approved by the ARC. Any fence facing any street must be constructed so that the side of the fence containing the horizontal structural supports is not visible from such street abutting the front Lot line than the front building line of any Residence. Fences or walls erected by developers of the Lots, including Developer, or Builders, shall become the property of the owner of the Lot on which the same are erected and, in the event no other person or entity maintains such fences or walls, shall be maintained and repaired by such owner. No portion of any fence shall extend more than eight (8) feet in height.

Fences must be maintained in good condition as defined by the Architectural Review Committee. All ground coverings, trees, landscaping, and other such items as normal to backyard living, are to be maintained at the same level as expected of front yards. Debris and any such item, as deemed by the Architectural Review Committee as unconventional, hazardous or non-conforming to Community standards, shall not be stored anywhere on the Lot.

8.13 Screening Fence. The owner of each Lot, no later than the sixtieth (60th) day after occupancy of a house built on a corner Lot along Willowgate Lane or on a Lot with the rear or side lot line adjacent to Willowgate Lane, shall construct or cause to be constructed a screening fence along the side of the Lot which is adjacent to Willowgate Lane. Each such screening fence shall:

- (a) Be immediately inside the applicable property line of such Lot;
- (b) For corner Lots only, extend from the rear Lot line to a point which will enclose all utility fixtures (exclusive of electric utility company transformers) when connected to the fence connected with the side of the house constructed on the Lot, but shall not extend beyond the front of the house;
- (c) Comply with city and FHA requirements;
- (d) Be constructed at owner's sole cost and expense;
- (e) Be constructed of wood or brick or other material approved in writing by the ARC;
- (f) Be a minimum of six (6) feet and a maximum of eight (8) feet in height;
- (g) Be parallel with the applicable property line of such Lot; and
- (h) Be constructed so that the side of the fence containing the horizontal structural supports is not visible from the public right-of-way.

8.14 Sidewalks. Each owner of a Lot, when building houses on the Lots, shall build sidewalks along the fronts and sides of Lots abutting streets, which sidewalks shall conform to the city, FHA and VA specifications and regulations.

8.15 Mailboxes. Mailboxes shall be constructed with the same color brick as the Residence and shall be in conformity with the requirements of the city. If required by governmental regulations, mailboxes shall be built in enclosures containing multiple mailboxes, and in such event the owners of the Lots with mailboxes in such enclosure shall be responsible, equally, for maintaining such enclosure in good condition and repair. If such owners fail to do so, Developer and the ARC shall each have the right, but not the obligation, to make any repairs, the cost of which shall be reimbursed to Developer or the ARC, as the case may be, by such owners, equally, promptly upon receipt of an invoice therefor. The amount to be reimbursed, if not paid within ten (10) days after the date of such invoice, shall bear interest from the date of the invoice until paid at the maximum legal rate of interest that can be contracted for under the laws of the State of Texas and shall be assessed as a specific assessment pursuant to Section 6.6 hereof.

8.16 Roofs. No roof on any house constructed on a Lot shall have less than a 6'/12' slope. All roofs shall be constructed or covered with 20-year architectural composition shingles with the appropriate color of grey, as approved by the ARC. All roof stacks and flashings must be painted to match the roof color.

8.17 Leasing of Lots. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity or emolument. Lots may be leased only in their entirety. No fraction or portion may be leased. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Lot. All leases shall be in writing and shall be for an initial term of no less than thirty (30) days, except with the prior written consent of the Board of Directors. Notice of any lease, together with such

additional information as may be required by the Board, shall be given to the Board by the Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, Bylaws and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

8.18 Variances and Dispute Resolution. Temporary or permanent variances of the Use Restrictions may be authorized by a majority vote of the Board of Directors. Owners must submit a request for variance in writing and deliver such request by certified mail to the Board at the customary mailing address. A variance must be sought for any violation, or series of violations, that exceed three (3) months. The Board shall approve or disapprove such requests within thirty (30) days after the date of submission. In reviewing each submission, the Board may consider the desires of other owners and any expected impact of the variance to the Community. The approval of any variance does not extend the same rights to any other residence or owner in the Community. The approval of any variance does not construe any rights to an extension or second variance.

In the event of any dispute arising concerning the variance, whether by the Board of Directors or any owner in the Community, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request by the Board, the Board shall appoint an arbitrator for the refusing party. The arbitrators appointed shall appoint one additional arbitrator, if necessary, so as to create an uneven number of arbitrators. The decision by a majority of all arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE IX CONDEMNATION

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of Section 5.3 applicable to damage to improvements on the Common Property shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE X MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

10.1 Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number, therefore becoming an "eligible holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; or

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Association.

10.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

10.3 Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

10.4 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following

provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the first Mortgagees or Owners representing at least sixty-seven percent (67%) of the Total Association Vote entitled to cast consent, the Association shall not:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Lot;
- (c) By act or omission change, waive or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver or abandonment within the meaning of this provision);
- (d) Fail to maintain insurance, as required by this Declaration; or
- (e) Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement or reconstruction of such property.

First Mortgagees may, jointly or single, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

10.5 Other Provisions for Mortgagees. To the extent possible under Texas law:

- (a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the eligible holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such eligible holders are allocated.
- (b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the eligible holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such eligible holders are allocated.

10.6 Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage or condemnation pursuant to Sections 10.5(a) and (b) of this Article or to the addition of land in accordance with Article XII.

- (a) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the eligible holders of first Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.
- (b) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of eligible holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, Bylaws or Articles of Incorporation or to add any material provisions thereto which establish, provide for, govern or regulate any of the following:
 - (i) voting;
 - (ii) assessments, assessment liens or subordination of such liens;
 - (iii) reserves for maintenance, repair and replacement of the Common Property;
 - (iv) insurance or fidelity bonds;
 - (v) rights to use the Common Property;
 - (vi) responsibility for maintenance and repair of the Community;

(vii) expansion or contraction of the Community or the addition, annexation or withdrawal of Community to or from the Association;

(viii) boundaries of any Lot;

(ix) leasing of Lots;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer or otherwise convey his or her Lot;

(xi) establishment of self-management by the Association where professional management has been required by an eligible holder; or

(xii) any provisions included in the Declaration, Bylaws or Articles of Incorporation which are for the express benefit of holders, guarantors or insurers of first Mortgages on Lots.

10.7 VA/HUD Approval. As long as the Declarant has the right to appoint and remove the directors of the Association and so long as the project is approved by the U. S. Department of Housing and Urban Development ("HUD") for insuring by the U. S. Department of Veterans Affairs ("VA") for guaranteeing any Mortgage in the Community, the following actions shall require the prior approval of the VA or HUD: annexation of additional property to the Community; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

10.8 Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

10.9 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request; provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

10.10 Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws or Texas law for any of the acts set out in this Article.

ARTICLE XI EASEMENTS

11.1 Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than one (1) foot, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant or the Association.

11.2 Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, and the family, tenants, guests and invitees of an Owner;

(ii) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is herein provided for remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws

or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community (any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community). No such Mortgage shall be effective unless an instrument agreeing to such Mortgage has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community) and two-thirds (2/3) of the Owners (other than Declarant);

(iv) the right of the Association to dedicate or grant licenses, permits or easements over, under and through the Common Property to governmental entities for public purposes; and

(v) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association. No such dedication, transfer or conveyance shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community) and two-thirds (2/3) of the Owners (other than Declarant).

(b) Any Lot Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot, if leased.

11.3 Easements for Utilities. There is hereby reserved to the Declarant blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which Declarant or the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Declarant to install, repair, replace and maintain or to authorize the installation, repairing, replacing and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant shall have the right to grant such easement.

11.4 Easement for Entry. In addition to the right of the Board to exercise self-help as provided in this Declaration, the Association shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security and safety reasons, which right may be exercised by the manager and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Association to enter to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

11.5 Easement for Maintenance. The Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article IV. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

11.6 Easement for Entry Features. There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot as more fully described on the recorded subdivision plats for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

11.7 Easement for Screening Walls. Declarant does hereby perpetually dedicate, establish, create and set aside a non-exclusive ten foot (10') wide easement over, across and upon the Community, such easement to be five feet (5') on either side of the entry features and screening walls. Such easements are reserved for the exclusive benefit of Declarant and the Association, and the designees of each (which may include, without limitation, the City of Carrollton and any utility) for the

construction, maintenance and repair of entry features and screening walls. Owners shall not alter, paint, attach fences to or otherwise use such walls even though certain of such walls and/or the easement reserved herein may be located on such Owner's Lot.

11.8 Construction and Sale Period Easement. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation, rules, Design Guidelines and any amendments thereto, so long as Declarant owns any property in the Community for development and/or sale, Declarant reserves an easement across the Community for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary.

ARTICLE XII ANNEXATION AND WITHDRAWAL OF PROPERTY

12.1 Annexation Without Approval of Membership. The Declarant shall have the unilateral right, privilege and option, from time to time at any time until the Declarant no longer owns property for development and/or sale in the Community, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described on Exhibit "B". The Declarant shall have the unilateral right to transfer to any other Person the right, privilege and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit "A" and Exhibit "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Such annexation shall be accomplished by filing a supplemental declaration annexing such property in the County Clerk official records of Dallas County, Texas. Such supplemental declaration shall not require the consent of Members but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such supplemental declaration unless otherwise provided therein.

12.2 Annexation With Approval of Membership. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B" and following the expiration of the right in Section 12.1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose.

Annexation shall be accomplished by filing a supplemental declaration describing the property being annexed in the County Clerk official records of Dallas County, Texas. Any such supplemental declaration shall be signed by the President and the Secretary of the Association and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

12.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Community pursuant to Section 12.1 of this Article XII without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Community then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

12.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by supplemental declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through assessments. Such additional covenants and easements shall be set forth in a supplemental declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

12.5 Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit "A" or Exhibit "B".

ARTICLE XIII GENERAL PROVISIONS

13.1 Duration. This Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, perpetually to the extent provided by law; provided, however, so long as, and to the extent that, Texas law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run

with and bind the land so long as permitted by such law, after which time, any such provision shall be (a) automatically extended (to the extent allowed by applicable law) for successive periods of ten (10) years, unless a written instrument reflecting disapproval of the extensions signed by the then Owners of at least two-thirds (2/3) of the Lots and the Declarant (so long as Declarant owns any property for development and/or sale in the Community) has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

13.2 Amendment.

(a) By Declarant. This Declaration may be amended unilaterally at any time and from time to time by the Declarant if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure or guarantee mortgage loans on the Lots; or (iv) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Lot Owner shall consent thereto in writing. So long as the Declarant still owns property for development and/or sale as part of the Community, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse affect upon the right of any Owner.

(b) By Owners. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots and the consent of the Declarant (so long as the Declarant owns any property for development and/or sale in the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of this Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

13.3 Partition. The Common Property shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots.

13.4 Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

13.5 Severability. Whenever 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 or to any property shall be prohibited or held invalid, such prohibition or invalidity 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.

13.6 Captions. 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.

13.7 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

13.8 Notice of Sale, Lease or Acquisition. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, within thirty (30) days of the effective date of such sale or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably require.

13.9 Agreements. Subject to the prior approval of Declarant (so long as Declarant owns any property for development and/or sale in the Community), all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

13.10 Litigation. No judicial or administrative proceeding (including, without limitation, arbitration proceedings) shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to (a) actions or proceedings brought by the Association to enforce the provisions of this Declaration (including, without limitation, the judicial or nonjudicial foreclosure of liens), (b) the imposition and collection of assessments as provided in Article VI hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by at least seventy-five percent (75%) of the Total Association Vote.

ARTICLE XIV SPECIAL PROVISIONS - CITY OF CARROLLTON

14.1 Mandatory Membership. The owner of fee simple title to every individual lot of land within the subdivision shall be a member of the Association.

14.2 Membership Fees. The Association shall have the authority to collect membership fees as provided in Article VI hereof.

14.3 Maintenance of Common Areas. The Association shall be responsible for the maintenance of all common areas and non-required screening walls.

14.4 Right of Access. The city shall have a right of access to common areas to abate any nuisances thereon, and the right to attach a lien for the prorated cost of abatement upon each individual lot.

14.5 Indemnity and Hold Harmless. The Association shall indemnify and hold the City of Carrollton harmless from any and all costs, expenses, suits, demands, liabilities, damages or otherwise, including attorney's fees and costs of suit, in connection with the city's maintenance of common areas.