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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
THE RETREAT IN LIVINGSTON**

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS.....	1
ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION.....	4
2.01 Property	4
2.02 Additions to the Property	4
ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.....	5
3.01 Membership.....	5
3.02 Voting Rights.....	5
3.03 Board of Directors.....	5
3.04 Notice and Voting Procedures	6
ARTICLE 4 RIGHTS OF ENJOYMENT IN THE COMMON PROPERTIES.....	6
4.01 Easement.....	6
4.02 Extent of Easements.....	6
4.03 Restricted Actions	7
4.04 Damage to the Common Properties	7
4.05 Rules of the Board.....	7
4.06 Use of Common Properties	7
4.07 User Fees and Charges	7
4.08 Encroachments.....	8
ARTICLE 5 COVENANTS FOR ASSESSMENTS	8
5.01 Creation of the Lien and Personal Obligation of Assessments.....	8
5.02 Purposes of Assessments.....	9
5.03 Regular Annual Assessments	9
5.04 Special Group Assessments.....	10
5.05 Special Individual Assessments and Individual Assessments and Fines	11
5.08 Effect of Non-Payment of Assessments; the Personal Obligation of the Owner; the Lien; and Remedies of Association	11
5.07 Power of Sale	13
5.08 Subordination of the Lien to Mortgages.....	14
5.09 Exempt Property.....	15
ARTICLE 6 GENERAL POWERS AND DUTIES OF THE BOARD AND THE ARC ..	15
6.01 The Board	15
6.02 Use of Assessments.....	15
6.03 Additional Rights, Powers and Duties	16
6.04 Powers of Declarant.....	17
6.05 Reserve Funds	17
6.06 Powers of ARC, Deemed Approval of the ARC.....	17
ARTICLE 7 INSURANCE, REPAIR, RESTORATION, MAINTENANCE.....	18
7.01 Right to Purchase Insurance.....	18
7.02 Insurance and Condemnation Proceeds	19
7.03 Association's Maintenance.....	19
7.04 Owner's Maintenance, Landscape	20
ARTICLE 8 GENERAL RESTRICTIONS	21
8.01 Construction of Improvements.....	21

8.02	Antennae and Signals	21
8.03	Insurance Rates.....	21
8.04	Subdividing.....	21
8.05	Signs	21
8.06	Rubbish and Debris	22
8.07	Noise	22
8.08	Lighting.....	22
8.09	Nuisance and Lateral Support.....	22
8.10	Repair of Improvements.....	22
8.11	Alteration or Removal of Improvements.....	22
8.12	Roofing Materials.....	22
8.13	Solar Equipment	22
8.14	Driveway	22
8.15	Underground Utility Lines.....	23
8.16	Drainage.....	23
8.17	Hazardous Activities.....	23
8.18	Mining and Drilling	23
8.19	Machinery and Equipment	23
8.20	Temporary Structures	23
8.21	Unightly Articles; Vehicles; Number of Occupants.....	23
8.22	Mobile Homes, Travel Trailers, Recreational Vehicles.....	24
8.23	Fences	24
8.24	Animals - Household Pets.....	24
8.25	Landscape Design.....	24
8.26	Construction and Sales Activities	24
8.27	Sight Lines	25
8.28	Garage Conversions.....	25
8.29	Compliance with Provisions of this Declaration	25
8.30	No Warranty of Enforceability.....	25
ARTICLE 9	RESIDENTIAL AND AGE RESTRICTIONS	26
9.01	Residential Use; Unrelated Occupants.....	26
9.02	Garages	26
9.03	Outbuildings	26
9.04	Building Height	26
9.05	Building Materials; Dwelling Size	26
9.06	Set-back Requirements.....	26
9.07	Sprinkler System.....	27
9.08	Age Restriction	27
ARTICLE 10	EASEMENTS.....	29
10.01	Reserved Easements.....	29
10.02	Installation and Maintenance	30
10.03	Surface Areas	30
10.04	Drainage Easements.....	30
10.05	Blanket Easement.....	30
10.06	Limited Owner Easement.....	30

ARTICLE 11 REGISTRATION	31
11.01 Registration with the Association	31
ARTICLE 12 THE PAVILION.....	31
12.01 Operations of Pavilion	31
12.02 Pavilion Rules	32
ARTICLE 13 GENERAL PROVISIONS.....	32
13.01 Power of Attorney	32
13.02 Further Development.....	32
13.03 Duration	32
13.04 Amendments	33
13.05 Enforcement	33
13.06 Validity.....	33
13.07 Proposals of Declarant.....	34
13.08 Service Mark	34
13.09 Headings.....	34
13.10 Notices to Resident/Member/Owner	34
13.11 Notices to Mortgagees.....	34
13.12 Disputes.....	35
13.13 Enforcement and Nonwaiver	35
13.14 Assignment by Declarant	35
13.15 Exemption of Declarant.....	35
13.16 Interpretation	35
13.17 Construction	36
ARTICLE 14 LIMITATION AND WAIVER OF LIABILITY.....	36

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
THE RETREAT IN LIVINGSTON**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE RETREAT IN LIVINGSTON ("Declaration") is made and effective as of August 14, 2003, by **CC Williams Group, LP**, a Texas limited partnership:

PREAMBLE

Declarant is the owner and developer of certain land described as The Retreat In Livingston ("The Retreat"). Declarant proposes to establish and implement plans for an age restricted residential living community at The Retreat in Livingston. The purpose of this Declaration is to create that community.

DECLARATION

The Declarant hereby declares that the Property, as that term is defined herein, and such additional property as may be annexed hereto as provided herein, are and shall be owned, held, mortgaged, transferred, sold, conveyed and occupied subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration.

**ARTICLE 1
DEFINITIONS**

The following words, when used in this Declaration or in any amended or supplementary declarations (unless the context shall otherwise clearly indicate or prohibit), shall have the following meanings:

Architectural Review Committee or ARC means the committee which is described in Article 6 of the Declaration.

Articles mean the Articles of Incorporation (and amendments thereto and restatements thereof) of the Association on file with the Secretary of State of Texas.

Association means The Retreat In Livingston Owners Association, Inc., a non-profit Texas corporation, which has the power, duty and responsibility of maintaining and administering the Common Properties, administering and enforcing the Covenants and otherwise maintaining and enhancing the quality of life within the Property.

Board means the Board of Directors of the Association.

Budget is defined in Section 5.03(d).

Bylaws mean the Bylaws of the Association, as adopted and amended from time to time.

Common Properties mean any and all areas of land within the Property which are known, described or designated as common areas, private streets, parks, recreational easements, perimeter fences and columns, off-site monuments and directional signs, landscape easement, greenbelts, open spaces, paths and trails, and the like including without limitation those shown on any recorded subdivision plat of portions of the Property as well as those not shown on a recorded subdivision plat but which are intended for or devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or that may hereafter be constructed thereon. The Pavilion is part of the Common Properties. The Common Properties will also include: (a) any and all public right-of-way lands within the Property for which the City of Livingston has required that the Declarant and/or the Association expend private, non-reimbursable time and monies to care for and maintain, such as but not limited to: street medians, streetscape, hike and bike trails, park areas and quasi-governmental service facilities; and (b) any and all facilities provided by the Declarant and/or the Association to or for the benefit of the local police, fire and similar governmental departments for which no reimbursement via public funds is requested or anticipated. Declarant may convey record title or easements to some or all of the Common Properties to the Association if, as and when deemed appropriate by Declarant or as may be required by governmental authorities, and Declarant shall at all times have and retain the right to effect minor redesigns or minor reconfigurations of the Common Properties and to execute any open space declarations applicable to the Common Properties which may be permitted in order to reduce property taxes, and to take whatever steps may be appropriate to lawfully avoid or minimize the imposition of federal and state ad valorem and/or income taxes.

Covenants mean all covenants, conditions, restrictions, easements, charges and liens set forth within this Declaration.

Declarant means CC Williams Group, LP, a Texas limited partnership, and any successor(s) and assign(s) of CC Williams Group, LP with respect to the voluntary disposition of all (or substantially all) of the assets and/or ownership interests of CC Williams Group, LP and/or the voluntary or involuntary disposition of all (or substantially all) of the right, title and interest of CC Williams Group, LP in and to the Property. However, no person or entity merely purchasing one or more Lots from CC Williams Group, LP in the ordinary course of business shall be considered a Declarant.

Deed means any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

Development Period means the period commencing on the date of the recording of this Declaration in the Real Property Records of Polk County, Texas and continuing thereafter until the earliest of the following to occur: (a) a date determined by Declarant to be the end of the Development Period, or ten (10) years from the date this Declaration is recorded in the Real Property Records of Polk County, Texas. Declarant shall provide notice of its election to end the Development Period by recording a notice thereof in the Real Property Records of Polk County, Texas, and by mailing a copy of the notice to all Owners.

Dwelling Unit means any building or portion of a building situated upon the Property which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons subject, however, to the age restrictions set out in Section 9.08

Easement Area means those areas which may be covered by an easement specified in Article 10 below.

Exempt Property means the following portions of the Property: (a) all land and Improvements owned by the United States of America, the State of Texas, Polk County, the City of Livingston or any instrumentality, political subdivision or agency of any such governmental entity acting in a governmental capacity; (b) all land and Improvements owned (including legal and beneficial ownership, whether now or in the future) by the Association or constituting a portion of the Common Properties; and (c) all Lots owned by Declarant.

Fiscal Year means each twelve (12) month period commencing on January 1 and ending on the following December 31, unless the Board shall otherwise select an alternative twelve month period.

Good Standing means that an Owner, Resident or Member is: (a) not in violation of any portion of these Covenants, or any rule or regulation promulgated by the Board; and (b) not delinquent in the full, complete and timely payment of any assessment, or any other fee, charge or fine which is levied, payable or collectible pursuant to the provisions of this Declaration, the Bylaws or any rule or regulation promulgated by the Board.

Improvement means any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or properties of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

Lot means each separately identifiable portion of the Property which is platted, filed and recorded in the Real Property Records of Polk County, Texas and which is not intended to be an "open space" or a portion of the Common Properties, and all Improvements located on the Lot.

Member is defined in Section 3.01.

Owner means the holder(s) of record title to the fee simple interest of any Lot whether or not such holder(s) actually reside(s) on any part of the Lot.

Pavilion means an open air covered structure designed for recreational use by Owners and Residents.

Payment and Performance Lien means the lien described in Article 5.

Property is defined in Article 2.

Qualified Occupant is defined in Section 9.08(b).

Resident means each person domiciled on any part of the Property.

Structure means: (a) any thing or device, other than trees, shrubbery (less than two feet high if in the form of a hedge) and landscaping (the placement of which upon any Lot shall not adversely affect the appearance of such Lot) including but not limited to any building, garage, porch, shed, greenhouse or bathhouse, cabana, coop or cage, covered or uncovered patio, swimming pool, play apparatus, clothesline, fence, curbing, paving, wall or hedge more than two feet in height, signboard or other temporary or permanent living quarters or any temporary or permanent Improvement to any Lot; (b) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; (c) any enclosure or receptacle for the concealment, collection and/or disposition of refuse; and (d) any change in the grade of any Lot of more than three (3) inches from that existing at the time of initial approval by the ARC.

Taxing Authorities mean Polk County, the Livingston Independent School District, the City of Livingston and the State of Texas and any and all other governmental entities or agencies which have, or may in the future have, the power and authority to impose and collect ad valorem taxes on real property estates.

Trustee means Cathie W. Williams and such other individual (s) or entity (ies) designated or appointed from time to time and at any time by the Association to perform the duties and responsibilities described in Article 5 below, and their respective heirs, successors and assigns.

Zoning Ordinance means City of Livingston zoning ordinances, governmental regulations, and all amendments thereto.

ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION

2.01 Property. The real property described as Tract Four (4) of the West Park Subdivision in Polk County, Texas, as said Subdivision is depicted upon the plat thereof recorded in Volume 11, Page 34 of the Plat Records, Polk County, Texas, to which plat and its recording reference is hereby made for all intents and purposes.

2.02 Additions to the Property. The Declarant may (without the joinder and consent of any person or entity) add or annex real property to the scheme of this Declaration by filing of record a notice describing the property to be annexed to this Declaration, or an appropriate enabling declaration, generally similar to this Declaration, which may extend the scheme of this Declaration to such property. Provided further however, such other declaration(s) may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept and purpose of this Declaration. Any additions made pursuant to this Section 2.02,

when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added and correspondingly subject the properties added to the covenants of the enabling declaration.

ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 Membership. Each and every Owner shall automatically be, and must at all times remain, a member of the Association in Good Standing. Each and every Resident (who is not otherwise an Owner) may, but is not required to, be a nonvoting member of the Association. All Owners and all Residents who are members of the Association are collectively referred to as the "Members" or "Member." During the Development Period, the Association shall have two (2) classes of Members: Class A and Class B. The Class A Members shall include: (a) all Owners (other than the Declarant during the Development Period); and (b) all Residents (not otherwise Owners) who have properly and timely fulfilled all registration and related requirements prescribed by the Association. The Class B Member shall be the Declarant.

3.02 Voting Rights. The two (2) classes of Members shall have the following voting rights during the Development Period:

Class A: The Class A Members shall not be entitled to vote.

Class B: The Class B Member shall have one (1) vote for each Lot it owns.

After the Development Period, the two (2) classes of Members shall have the following voting rights:

Class A: Each Owner shall be entitled to one (1) vote per Lot. If a Lot has more than one (1) Owner, the Owners may divide and cast portions of the one (1) vote as they decide, but in no event shall one (1) Lot yield more than one (1) vote. Residents who are not Owners shall not be entitled to vote.

Class B: The Class B Member shall not be entitled to vote.

The Board may make such rules and regulations, consistent with the terms of this Declaration and the Bylaws, as it deems advisable, for any meeting of Members; proof of membership in the Association; the status of Good Standing; evidence of right to vote; the appointment and duties of examiners and inspectors of votes; the procedures for actual voting in person or by proxy; registration of Members for voting purposes; and such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

3.03 Board of Directors. During the Development Period, the affairs of the Association shall be managed by a board of three (3) individuals elected by the Class B Member. After the Development Period, the Board shall consist of at least three (3) individual Directors elected by the Class A Members entitled to vote. The Directors need not be Members of the Association. Directors shall be elected for two (2) year terms of office and shall serve until their respective

successors are elected and qualified. During the Development Period, any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise, shall be filled by the Declarant. After the Development Period, any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise, shall be filled at any meeting of the Board by the affirmative vote of a majority of the remaining Directors. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position he or she was elected to fill.

3.04 Notice and Voting Procedures. Quorum, notice and voting requirements of and pertaining to the Association may be set forth within the Articles and Bylaws, as either or both may be amended from time to time, and shall be in accordance with permitted Texas law.

ARTICLE 4

RIGHTS OF ENJOYMENT IN THE COMMON PROPERTIES

4.01 Easement. Subject to the provisions of Sections 4.02 through 4.07, each and every Owner in Good Standing with the Association shall have a non-exclusive right and easement of enjoyment in and to all Common Properties, and such easement shall be appurtenant to and shall pass with every Lot, provided the conveyance and transfer is accomplished in accordance with this Declaration. All Residents, who are not also Owners, in Good Standing with the Association shall have a non-transferable, non-exclusive privilege to use and enjoy all Common Properties for so long as they are Members in good standing with the Association.

4.02 Extent of Easements. The rights and easements of use, recreation and enjoyment created hereby shall be subject to the following:

(a) The right of the Declarant or Association to prescribe reasonable regulations and policies governing, and to charge reasonable expense reimbursements and/or deposits related to, the use, operation and maintenance of the Common Properties;

(b) Liens or mortgages placed against all or any portion of the Common Properties with respect to monies borrowed by the Declarant to develop and improve the Property or Common Properties or by the Association to improve or maintain the Common Properties;

(c) The right of the Association to enter into and execute contracts with any party (including, without limitation, the Declarant or its affiliates) for the purpose of providing management, maintenance or such other materials or services consistent with the purposes of the Association and/or this Declaration;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(e) The right of the Association to enter into and execute contracts with the owner-operators of any community antenna television system ("CATV") or other similar operation for the purpose of extending cable or utility or security service on, over or under the Common Properties to ultimately provide service to one or more of the Lots;

(f) The right of the Association in accordance with the requirements of the Texas Property Code to suspend the voting rights of any Member and to suspend the right of any Member to use or enjoy any of the Common Properties for any period during which any assessment (including without limitation "fines") against a Lot resided upon by such Member remains unpaid, or during which non-compliance with this Declaration exists, and otherwise for any period deemed reasonable by the Association for any infraction of the then-existing rules and regulations and/or architectural guidelines;

(g) The right of the Association to dedicate or transfer all or any part of the Common Properties to any municipal corporation, public agency, governmental authority, or utility; and

(h) The right of the Association to grant permits, licenses and easements over the Common Properties for utilities, roads and other purposes necessary for the proper operation of the Property.

4.03 Restricted Actions. No Owner or Resident shall permit anything to be done on or in the Common Properties which would violate any applicable public law or Zoning Ordinance or which would result in the cancellation of or the increase of premiums for any insurance carried by the Association, or which would be in violation of any law or any rule or regulation promulgated by the Board, or, if applicable, the Declarant.

4.04 Damage to the Common Properties. Each Owner and Resident shall be liable to the Association for any damage to any portion of the Common Properties caused by the negligence or willful misconduct of the Owner or Resident or his respective family and guests.

4.05 Rules of the Board. All Owners and Residents shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner or Resident determined to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees.

4.06 Use of Common Properties. The Board shall have the power and authority to prescribe rules and regulations, which extend to and cover matters such as (but not limited to) the possession and consumption of alcoholic beverages, loud and obnoxious noises and behavior, and the supervision of children and animals. No person or entity (excluding the Declarant) shall use any portion of the Common Properties to (a) solicit, promote or conduct business, religious, political or propaganda matters; or (b) distribute handbills, newsletters, flyers, circulars or other printed materials without the prior written consent of the Board (which consent may be withheld in its sole and absolute discretion). The Board may, on its own motion, permit and allow reasonable activities to occur on the Common Properties in accordance with rules and regulations deemed reasonable and appropriate by the Association.

4.07 User Fees and Charges. The Board may levy and collect special charges and fees for any and all extraordinary operation and maintenance of the Common Properties and services, which the Board determines to be necessary for the advancement, benefit and welfare of the

Residents. Examples (by way of illustration, and not limitation) of these special charges and fees would include: extraordinary utility consumption; additional gate and/or security personnel for parties or special events; management overtime services; and additional insurance conditions or requirements. In establishing special user fees, the Board may formulate reasonable classifications of users. Such fees should be uniform within each class but need not be uniform from class to class. If a Resident shall fail to pay a charge or fee when due and payable, said unpaid charge or fee shall be delinquent and upon written notice to said Resident shall become a personal debt of said Resident. Failure of any Resident to pay said fee and charge when due and payable, in addition, shall be a breach of this Declaration.

4.08 Encroachments. If: (a) construction, reconstruction or repair activities which have been approved by the ARC; or (b) shifting, settlement or other movements of any portion of ARC approved improvements, results either in the Common Properties encroaching on a Lot or Dwelling Unit or in a Lot or Dwelling Unit encroaching on the Common Properties or on another Lot or Dwelling Unit, and unless otherwise directed by the ARC, a valid easement shall then and there exist to permit the encroachment and reasonable and necessary maintenance activities related thereto.

ARTICLE 5 COVENANTS FOR ASSESSMENTS

5.01 Creation of the Lien and Personal Obligation of Assessments. Declarant hereby covenants and agrees, and each subsequent Owner of any Lot, by acceptance of a Deed therefor, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot so as to have affected the purchase price) to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies):

- (a) Regular annual assessments;
- (b) Special group assessments for capital improvements or unusual or emergency matters, such assessments to be fixed, established and collected from time to time as hereinafter provided;
- (c) Special individual assessments levied against individual Owners to reimburse the Association for extra or unusual costs incurred for items such as (but no limited to): maintenance and repairs to portions of the Property caused by the willful or negligent acts of an Owner or Resident; to remedy, cure or minimizing of problems cause by, or as a result of, violations of this Declaration by an Owner, Member or Resident; and
- (d) Individual assessments and fines levied against an Owner, Member or Resident for violations of rules and regulations pertaining to the Association and/or the Common Properties.

The regular, special group, special individual and individual assessments, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made and shall also be the continuing personal obligation of the then-existing Owner, Member and Resident of such Lot at the time when the assessment fell due. Each Owner of each Lot shall be directly liable and responsible to the Association for the acts, conduct and omission of each and every Member and Resident associated with the Dwelling Unit (s) on such Owner's Lot.

5.02 Purposes of Assessments. The assessments levied by the Association shall be used for the purposes of promoting the comfort, health, recreation, safety, convenience, welfare and quality of life of the Owners and Residents and in supplementing services and facilities normally provided by or associated with governmental or quasi-governmental entities, and otherwise for the improvement and maintenance of walkways, recreational areas and other properties, services and facilities devoted and related to the use and enjoyment of the Common Properties and operation of the Association, including, but not limited to or for: the payment of taxes on the Common Properties and insurance in connection with the Common Properties; the payment for utilities and the repair, replacement and additions of various items within the Common Properties; paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Properties; carrying out the duties and obligations of the Board as set forth herein; maintenance, tax filing fees, accounting and auditing fees, liability insurance premiums, general and administrative fees, community maintenance including street landscaping, basic cable television service, monitored individual home security, complete front yard landscaping maintenance, refinishing front doors, reserve for sprinkler maintenance, reserve for painting the exterior of Dwelling Units, fence repair, and for any matter or thing designated by the City of Livingston in connection with any zoning, subdivision, platting, building, development or occupancy requirements. The items and areas described above are not intended to be exhaustive but merely illustrative.

5.03 Regular Annual Assessments.

(a) Regular annual assessments for any Lot shall commence to accrue on January 1 of the calendar year following the date upon which Declarant conveys the Lot to the first Owner, and shall accrue annually thereafter. Regular annual assessments shall be calculated, assessed and billed to Owners prior to January 1 of the year for which same are due. Regular annual assessments shall be payable upon receipt, and shall be delinquent if not paid by March 1 of the year for which same are due; provided that the failure of the Association to provide a written statement of assessments due on or before January 1 shall not invalidate such regular annual assessment or any of the rights of the Association regarding the collection of delinquent assessments, except that regular annual assessments billed after January 1 shall not become delinquent until sixty (60) days following the date the statement was mailed to the Owner. Notwithstanding the forgoing, upon the closing of the first sale of a Lot to an Owner, there shall be due and payable to the Association an amount equal to the Lot's regular annual assessment for the year in which the sale occurs determined as if the Lot was subject to regular annual assessments during such year prorated as of the date the closing of the sale occurs.

(b) The Owner of each Lot shall provide to the Association the name and address of each person or entity owning an interest in the Lot and of the mortgage holder (or mortgage servicing company if different than the mortgage holder) holding a mortgage secured by all or a portion of the Lot from time to time, within thirty (30) days following a change in such information.

(c) The Association shall send a written statement of regular annual assessment to the Owner as shown in the most recent records of the Association. The written statement shall set out (i) the amount of the regular annual assessment assessed against that Lot, and (ii) the date upon which the regular annual assessment shall be deemed delinquent.

(d) Each year the Board shall prepare and approve a budget (the "Budget") covering the estimated cost of operating the Association during the next year, of performing the duties and obligations of the Association as provided herein during the next year, and of maintaining reserves for capital expenditures (collectively, the "Association Expenses"). The Association Expenses shall include, but not be limited to, management, legal, accounting, auditing, general and administrative fees; real and personal property taxes; insurance premiums; community maintenance; basic cable service; monitored Dwelling Unit security; landscape maintenance; reserve for refinishing front doors; reserve for sprinkler maintenance; reserve for painting the exterior of Dwelling Units and for painting the Pavilion; and reserve for fence repair and replacement. The Budget may provide for an increase or a decrease over the previous year's Budget, provided, however, that the aggregate of all Controllable Association Expenses shall not be increased more than 15% over the aggregate of all Controllable Association Expenses reflected in the Budget for the previous year. The term "Controllable Association Expenses" means all Association Expenses except real and personal property taxes, assessments, and insurance premiums.

(e) After the Board has approved the Budget, the Board shall determine the regular annual assessment for each Lot for the year in which the Budget applies by dividing the total amount of the Association Expenses shown in the Budget by the number of Lots within the Property as that number may change from time to time. The resulting number shall be the regular annual assessment due with respect to each Lot for the year in which the Budget applies.

(f) Notwithstanding the foregoing, in the event the Board fails for any reason to approve a Budget and/or determine a regular annual assessment, then and until such time as a Budget has been determined and/or a regular annual assessment has been approved, as provided herein, the Budget and regular annual assessments in effect for the then current year shall continue for the succeeding year.

5.04 Special Group Assessments. The Association may levy in any Fiscal Year a special group assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement, including any necessary fixtures and personal property related thereto or for any unusual or emergency purpose(s) (including without limitation those matters arising out of litigation and/or judgments). The amount of the special group assessment with respect to each Lot shall be the total amount of the assessment divided by the number of Lots within the

Property as that number may change from time to time. The Association shall send a written statement of the special group assessment to the Owners as shown in the most recent records of the Association. The written statement shall set out (a) the amount of the special group assessment assessed against each Lot, and (b) that the special group assessment shall be deemed delinquent if not paid within 90 days from the date of the notice.

5.05 Special Individual Assessments and Individual Assessments and Fines. The Association may levy in any Fiscal Year (a) a special individual assessment for the purposes set out in Section 5.01(c), and (b) individual assessments and fines for the purposes set out in Section 5.01(d). The Association shall send a written statement of such assessments to the affected persons as shown in the most recent records of the Association. The written statement shall set out (a) the amount of the assessment, and (b) that the assessment shall be deemed delinquent if not paid within 90 days from the date of the notice.

5.06 Effect of Non-Payment of Assessments; the Personal Obligation of the Owner; the Lien; and Remedies of Association.

(a) Effective as of, and from and after the filing and recordation of this Declaration, there shall exist a self-executing and continuing contract Payment and Performance Lien and equitable charge on each Lot to secure the full and timely payment of each and all assessments and all other charges and monetary amounts and performance obligations due hereunder. Such lien shall be at all times superior to any claim of homestead by or in any Owner. If any assessment, charge or fine or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment, charge or fine shall (after the passage of any stated grace period) be considered delinquent and shall, together with any late charge and interest thereon at the highest lawful rate of interest per annum and costs of collection thereof, become a continuing debt secured by the self-executing Payment and Performance Lien on the Lot of the non-paying Owner/Member/Resident which shall bind such Lot in the hands of the Owner and Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Association shall have the right to reject partial payments of an unpaid assessment or other monetary obligation and demand the full payment thereof. The personal obligation of the then existing Owner to pay such assessment, however, shall remain the Owner's personal obligation and shall not pass to Owner's successors in title unless expressly assumed by them. However, the lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the Lot. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

(b) The Association may also give written notification to the holder(s) of any mortgage on the Lot of the non-paying Owner of such Owner's default in paying any assessment,

charge or fine, particularly where the Association has theretofore been furnished in writing with the correct name and address of the holder(s) of such mortgage, a reasonable supply of self-addressed postage prepaid envelopes, and a written request to receive such notification.

(c) If any assessment, charge or fine or part thereof is not paid when due, the Association shall have the right and option to impose a late charge (but only to the extent permitted by applicable law) to cover the additional administrative costs involved in handling the account. The unpaid amount of any such delinquent assessment, charge, or fine shall bear interest from and after the date when due at the lesser of 18% per annum, or the highest lawful rate of interest per annum until fully paid. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments, charges, fines and delinquent accounts, and there shall also be added to the amount of any unpaid assessment, charge, fine or any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

(d) The Association may, at its discretion and subject to all applicable debt collection statutes: (i) prepare and file a lien affidavit in the public records of Polk County, Texas which specifically identifies the unpaid assessments, charges or fines; and (ii) publish and post, within one or more locations within the Property, a list of those individuals or entities who are delinquent and, if applicable, their suspended use and enjoyment of the Common Properties until and unless the delinquency has been cured to the reasonable satisfaction of the Association. Each Owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association.

(e) All agreements between any Owner and the Association and/or Declarant, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Association and/or Declarant or for the payment of performance of any covenant or obligation contained herein or in any other document exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstances the Association and/or Declarant should ever receive an amount deemed interest by applicable law which shall exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the actual base assessment amount or principal amount owing hereunder and other indebtedness of the Owner to the Association and/or Declarant and not to the payment of interest if such excessive interest exceeds the unpaid balance of the actual regular annual assessment hereof and such other indebtedness, the excess shall be refunded to Owner. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association and/or Declarant shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread so that the interest charged, collected or received on account of such indebtedness is never more than the maximum amount permitted by applicable law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between any Owner and the Association and/or Declarant.

5.07 Power of Sale.

(a) The lien described within the preceding Section is and shall be a contract Payment and Performance Lien. Each Owner, for the purpose of better securing each and all monetary obligations described within these Covenants, and in consideration of the benefits received and to be received by virtue of the ownership of real estate within the Property has granted, sold and conveyed and by these covenants does grant, sell and convey unto the Trustee, such Owner's Lot. To have and to hold such Lot, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to its substitutes or successors, forever. And each Owner does hereby bind himself and/or herself, their heirs, executors, administrators and assigns to warrant and forever defend the Lot unto the said Trustee, its substitutes or successors and assigns, forever, against the claim, or claims of all persons claiming or to claim the same or any part thereof.

(b) This conveyance is made in trust to secure payment of each and all assessments and fines and other obligations prescribed by this Declaration to and for the benefit of the Association as the Beneficiary. In the event of default in the payment of any obligation hereby secured, in accordance with the terms thereof, then and in such event, Beneficiary may elect to declare the entire indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured due and payable (subject, however, to the notice and cure provisions set forth in Section 51.002 of the Texas Property Code), and in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or its successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the Lot then subject to the lien hereof, and mailing and filing notices as required by Section 51.002, Texas Property Code, as then amended and otherwise complying with that statute, then Trustee shall sell the Lot, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Lot as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the purchaser or purchasers, with general warranty binding upon the Owner, his heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including a reasonable commission to itself, which commission shall be due and owing in addition to the attorney's fees provided for, and then to Beneficiary the full amount of principal, interest, attorney's fees and other charges due and unpaid on said indebtedness secured hereby, rendering the balance of the sales price, if any, to the Owner, his heirs or assigns and/or to any other lienholders (if so required by applicable law); and the recitals in the conveyance to the purchaser or purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner, his heirs and assigns.

(c) It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or its substitute or successor, Beneficiary may at any time before the sale of said property direct the said Trustee to abandon the sale, and may then institute suit for the collection

of said indebtedness, and for the foreclosure of this contract Payment and Performance Lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this contract lien, that it may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, its substitute or successor to sell the Lot in accordance with the provisions of this section. Beneficiary, if it is the highest bidder, shall have the right to purchase at any sale of the Lot, and to have the amount for which such Lot is sold credited on the debt then owing. Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Lot is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein. In the event any sale is made of the Lot, or any portion thereof, under the terms of this Section, the Owner, his heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the purchaser at such sale, and in the event of his failure to do so he shall thereupon from and after the making of such sale be and continue as tenants at sufferance of such purchaser, and in the event of his failure to surrender possession of said property upon demand, the purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such property, or any part thereof, is situated. The foreclosure of the continuing contract lien on any one or more occasions shall not remove, replace, impair or extinguish the same continuing lien from securing all obligations arising from and after the date of foreclosure.

(d) Notwithstanding anything to the contrary contained in this Article 5, the Association's foreclosure of the Payment and Performance Lien shall be subject to the requirements of applicable law, including without limitation, Chapter 209, Texas Property Code, as amended or replaced from time to time. The terms and provisions of this paragraph shall control and supercede any contrary provisions in this Declaration.

5.08 Subordination of the Lien to Mortgages. The lien securing the payment of the assessments, fines and other obligations provided for herein shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Lot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

(a) Bona-fide first or second mortgage or deed of trust liens for purchase money and/or home improvement purposes placed upon a Lot, in which event the Association's lien shall automatically become subordinate and inferior to such lien;

(b) Liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and

(c) Such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien. Such subordination shall not apply where the first mortgage or deed of trust or tax lien is used as a device, scheme or artifice

to evade the obligation to pay assessments and/or to hinder the Association in performing its functions hereunder.

5.09 Exempt Property. The following property otherwise subject to this Declaration shall be exempted from any assessments, charges and liens created herein:

- (a) All property dedicated to and accepted by a local public or governmental authority;
- (b) Common Properties; and
- (c) Exempt Property.

ARTICLE 6 GENERAL POWERS AND DUTIES OF THE BOARD AND THE ARC

6.01 The Board. The affairs of the Association shall be conducted by the Board.

6.02 Use of Assessments. The Board, for the benefit of the Association, the Property and the Owners and the Members and Residents, may provide and may pay for, out of the assessment fund(s) provided for in Article 5 above, one or more of the following in any order of priority as determined by the Board in its sole discretion:

- (a) Care, preservation and maintenance of the Common Properties and the furnishing and upkeep of any personal property for use in or on the Common Properties;
- (b) Payment of any debt incurred by the Association;.
- (c) Recreational and social programs and activities for the general benefit of the Residents and Owners;
- (d) Supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Property traditionally provided by local governmental agencies;
- (e) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Properties;
- (f) The services of any person or firm (including the Declarant and any affiliates of the Declarant) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees. The Board is specifically authorized to engage personnel and equipment (such as

computers, software and electronic communication and transmission devices) for the administration of the Association and the collection of assessments described in Article 5; and

(g) Any materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration, including without limitation the cost of those maintenance items the Board is required to or elects to perform pursuant to Section 7.03 and any other section of this Declaration.

6.03 Additional Rights, Powers and Duties. The Board shall have the following additional rights, powers and duties:

(a) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;

(b) To enter into agreements or contracts with insurance companies, Taxing Authorities, the holders of first mortgage liens on the individual Lots and utility companies with respect to: (i) any taxes on the Common Properties; (ii) monthly escrow and impound payments by a mortgagee regarding the assessment, collection and disbursement process envisioned by Article 5; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the annual assessments and other obligations applicable to any Lot;

(c) To borrow funds (including, without limitation, the borrowing of funds from the Declarant and/or its affiliates) to pay costs of operation, secured by such assets of the Association as deemed appropriate by the lender and the Association

(d) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(e) To protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(f) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time;

(g) To prepare the Budget;

(h) To perform the Board's obligations in Article 7 and as otherwise provided herein;

(i) To enforce the provisions of this Declaration and any rules made hereunder and, subject to the requirements of applicable law, including without limitation, Chapter 209, Texas Property Code as amended and replaced from time to time, to enjoin and seek damages from any Owner, Resident or Member for violation of such provisions or rules. The Board is specifically

authorized and empowered to establish (and to revise and amend from time to time) a monetary "fines" system which may include component steps such as warning citations, ticketing, due process hearings and appeals and a flat rate or discretionary range or geometric progression of fine amounts, which, when pronounced, shall constitute a permitted individual Lot Owner assessment secured by the continuing Payment and Performance Lien herein established;

(j) To (i) borrow monies from the Declarant; (ii) lease equipment from the Declarant; and (iii) contract with the Declarant concerning the provision of any personnel, labor, supplies, materials and services, provided such contract terms and conditions are: generally comparable (in terms of price, quality and timeliness) with those that might be otherwise obtained from unrelated third parties; and, as to professional management contracts, terminable by the Association at any time for an reason whatsoever and without penalty upon furnishing at least ninety (90) days advance notice thereof to Declarant. The Board shall not be required to solicit bids from unrelated third parties before entering into any contract with the Declarant and the reasonable judgment and resolution of the Board to enter into any such contract with the Declarant (absent fraud, gross negligence or willful misconduct) shall be final and conclusive and binding upon the Association and all of its Members;

(k) To appoint the ARC which shall have at least three (3) members who serve at the pleasure of the Board. If the Board does not appoint an ARC, the Board shall serve as the ARC. Members of the ARC need not be Members of the Association;

(l) To adopt and amend procedural and substantive guidelines and criteria for the use by the ARC in exercising its authority provided herein;

(m) To contract with any Owner, Member or Resident (including, without limitation, the Declarant) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interests of the Association; and

(n) To exercise all other rights and powers and perform all other duties set out herein.

6.04 Powers of Declarant. In the event or if for any reason the Board is not deemed authorized to act for and on behalf of the Association and the Members, then the Declarant may act for and on behalf of the Association and the Members, and the Association shall reimburse the Declarant for any and all reasonable expenses incurred in so acting.

6.05 Reserve Funds. The Board may establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts or any other recognized bookkeeping or tax procedures in order to better demonstrate that the amounts deposited therein are capital contributions and not net or taxable income to the Association.

6.06 Powers of ARC; Deemed Approval of the ARC. This Declaration invests the ARC with certain approval authority. All requests for ARC approval must be submitted to the

ARC in writing and must be accompanied by such drawings, plans, specifications and other matters as the ARC may require. All decisions of the ARC must be in writing and no oral approval of the ARC or any of its members will be binding on the ARC or be deemed the approval of the ARC. In the event, however, that the ARC fails to approve or to disapprove a written request within sixty (60) days after the written request has been submitted to the ARC, ARC approval of the request will be deemed given without the necessity of any action or written approval by the ARC. A written request will not be considered "submitted" to the ARC until each member of the ARC has received the written request and such drawings, plans, specifications and other matters, which the ARC has required in connection with the written request. Any member of the ARC or any representative of the ARC shall have the right, during reasonable hours, to enter upon any Lot to inspect the Lot or any improvements thereon in the exercise of the authority of the ARC. Such person or persons shall not be deemed guilty of trespass by reason of such entry. The ARC may adopt rules of procedure, which are not inconsistent with this Section 6.07. The ARC may base its decision on any matter solely on aesthetic considerations. The ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring the quality of the materials used or their fitness for the purpose designed, nor for ensuring that all dwellings are of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners. If the ARC determines that it is necessary to hire experts or attorneys to assist or represent the ARC in connection with a request, the Owner or person submitting the request agrees to pay the fees and expenses of the experts or attorneys. The decision of the ARC is final and may not be appealed to the Board.

ARTICLE 7 INSURANCE; REPAIR; RESTORATION; MAINTENANCE

7.01 Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, any improvements thereon or appurtenant thereto, for the interest of the Association, the Board, officers, managers, agents and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as shall be deemed appropriate by the Board and/or as specifically required by the mortgagees or insurers. Such insurance may include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount, which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs;

(b) Comprehensive public liability and property damage insurance on a broad form basis, including coverage of personal liability (if any) of the Board, Owners, Residents and Members with respect to the Common Properties. The Association will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners, Residents and Members (and their respective family members and guests);

(c) Fidelity bonds for all officers and employees of the Association having control over the receipt or disbursement of funds; and

(d) Liability insurance regarding the errors and omissions of directors, officers, managers, employees and representatives of the Association.

7.02 Insurance and Condemnation Proceeds. The Association shall be the exclusive representative of the Residents, Owners and Members in any proceedings, negotiations, settlements or agreements concerning insurance or condemnation of the Common Properties. The Association may use the net insurance or condemnation proceeds to repair and replace any damage or destruction of Common Properties, real or personal, covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the Association, remaining after satisfactory completion of repair and replacement or after the Board has elected to waive the repair, restoration or replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special group assessment as provided for in Article 5 of this Declaration to cover the deficiency.

7.03 Association's Maintenance.

(a) Required Maintenance. The Association shall operate, maintain and keep in good repair (i) the Common Properties and Improvements thereon, and (ii) all fences installed by Declarant on the Property. The Association shall not be required to maintain streets within the Property. Street maintenance shall be the responsibility of the City of Livingston.

(b) Optional Maintenance. The Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit all Owners, and to perform the following on the Dwelling Units and on the Lots:

(i) Repainting of exterior of Dwelling Units (as needed in the Association's judgment which is anticipated to be approximately every eight 8 years) and repainting or refinishing of front doors of Dwelling Units (as needed in the Association's judgment which is anticipated to be every two (2) years);

(ii) To the extent accessible to the Association, the maintenance (generally limited to mowing, trimming and edging only) of the following portions of each Lot yard: the front yard and that part of the side yard area visible from the street, but excluding patios, courtyards and fenced areas.

(iii) To the extent accessible to the Association, clean gutters on Dwelling Units installed by Declarant;

(iv) Installation and maintenance of a sprinkler system for the front yard and the side yard visible from the street of each Lot, however the cost of the water shall be the

expense of each Owner (the water used in connection with the sprinkler system for each Lot will be metered by each Lot's individual water meter);

(v) Installation of a security system for each Dwelling Unit; and

(vi) Collection of normal household rubbish.

(c) Notice of Election to Perform Optional Maintenance. If the Association elects to perform some or all of the optional maintenance described in this Section, it shall give written notice to the Owners identifying which items of optional maintenance the Association will perform and the date when the Association will begin performing the maintenance. Until such time, the Owners will be responsible to perform each such item of optional maintenance for their respective Dwelling Units and Lots. Notwithstanding the forgoing, the Association will only perform those optional maintenance items it has elected to perform as provided in this Section and those items to which it has reasonable access. If reasonable access is blocked or denied, the Association will not perform such items.

(d) Notice of Election to Discontinue Optional Maintenance. If the Association elects to perform maintenance as provided in Section 7.03(b), it may in its sole discretion elect to discontinue performing one or more of the maintenance items by giving written notice of its decision to the Owners and specifying the date when the Association will cease maintenance.

7.04 Owner's Maintenance; Landscape. Each Owner is responsible to maintain his/her Dwelling Unit and Lot except to the extent that the Association elects to perform one or more of the optional maintenance items described in Section 7.03. Each Owner acknowledges that Declarant has installed landscaping in the front yard and side yards visible from the street of each Lot on which a Dwelling Unit is located. Unless the Association elects, as provided herein, to perform one or more of the following items of maintenance, each Owner, Member and Resident of any Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep and maintain all landscaping on the Lot, including landscaping installed by Declarant and installed by any Owner, Resident and/or Member, in a well maintained, safe, clean and attractive condition at all times. Such maintenance shall include (without limitation) (a) the proper seeding, consistent watering and mowing of all lawns, (b) the pruning and cutting of all trees and shrubbery, (c) prompt removal of all litter, trash, refuse and waste, (d) proper watering, (e) keeping exterior lighting and mechanical facilities in working order, (f) keeping lawn and garden areas alive, free of weeds and attractive, and (g) keeping driveways in good repair and condition. All maintenance items performed by Owners, Residents and/or Members shall be performed in full compliance with all governmental requirements and in a manner and with such frequency as is consistent with aesthetics, safety and good property management. The Association and its agents, during normal business hours, shall have the right (after five (5) days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this covenant and the action required to be taken, and if at the end of such time reasonable steps to accomplish such action have not been taken by the Owner), to enter on the subject premises (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) and to take the action(s) specified in the notice to remedy or abate said violation(s) or breach(es). The cost of such remedy or abatement will be paid to the Association

upon demand and if not paid within thirty (30) days thereof, shall become a lien upon the Lot affected subject to the requirements of Chapter 209, Texas Property Code. The Association, or its agent, shall further have the right (upon like notice and conditions), to trim or prune, at the expense of the Owner, any hedge, tree or any other planting that, in the written opinion of the Association, by reason of its location on the Lot, or the height, or the manner in which it is permitted to grow, is detrimental to the adjoining Lots, is dangerous or is unattractive in appearance. The lien provided under this section will constitute a lien retained against such property with the same force and effect as the Payment and Performance Lien for assessment set forth in these Covenants.

ARTICLE 8 GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

8.01 Construction of Improvements. No Improvements or Structures shall hereafter be constructed upon any of the Property without the prior written approval of the ARC.

8.02 Antennae and Signals. No antenna or other device for the transmission or reception of television signals, radio signals, or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure or otherwise, without the prior written approval of the ARC. No radio signals, television signals or any other form of electromagnetic radiation shall originate from any Lot so as to unreasonably interfere with the reception of television or radio signals on any other Lot. Notwithstanding the provisions of this paragraph to the contrary, it shall be permissible for the Owners of any Lot to have one small satellite dish no more than 18 inches in diameter for receipt of television signals provided it is not visible from any street. Notwithstanding the foregoing, the Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996 (the "Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

8.03 Insurance Rates. Nothing shall be done or kept on a Lot, which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

8.04 Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the ARC; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the ARC.

8.05 Signs. No sign of any kind shall be displayed to the public view on the Property without the prior written approval of the ARC, except for signs which are part of Declarant's overall marketing plan for the Property. The ARC may permit signs of any type advertising a portion of the Property for sale or lease or it may set standards for the same.

8.06 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon a Lot and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. If rubbish or debris accumulates upon any Lot in violation of this provision in the judgment of the Board, the Board may remove the rubbish or debris, and charge a special assessment to the Owner of the Lot.

8.07 Noise. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Property or to its occupants.

8.08 Lighting. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property, except for reasonable security or landscape lighting that has the prior written approval of the ARC.

8.09 Nuisance and Lateral Support. No noxious or offensive activity or work shall be conducted upon any Lot so as to impair the structural soundness or integrity of any Improvement of any other Lot, or which may be or may become an annoyance or nuisance to the neighborhood.

8.10 Repair of Improvements. All Improvements upon the Property, including any Lot, shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner except to the extent that the Association has elected to perform maintenance pursuant to Section 7.03.

8.11 Alteration or Removal of Improvements. Exclusive of normal maintenance, any construction or removal in connection with any Improvement, which in any way alters the exterior appearance of said Improvement, shall be performed only with the prior written approval of the ARC.

8.12 Roofing Materials. The surface of all roofs of principal and secondary structures shall be quality composition shingle. The ARC shall have authority to approve other roof treatments and materials when in its determination such treatments and materials in the form utilized will not be a detriment to the quality of the neighborhood.

8.13 Solar Equipment. In the event an Owner desires to use solar panels or other solar equipment in connection with the use of any Lot, the location and installation design thereof shall be submitted to the ARC and the written approval by the ARC of such design, including the aesthetics thereof, shall be required before construction may begin.

8.14 Driveway. The ARC shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or private driveways within the Property.

8.15 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices, for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on Improvements as approved in writing by the ARC; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the ARC. The installation method, including but not limited to location, type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utilities, shall be subject to review and approval by the ARC.

8.16 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved in writing by the ARC.

8.17 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on a Lot that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, and no open fires shall be lighted or permitted except within safe and well-designed interior or exterior fireplaces, or in contained barbecue units while attended and in use for cooking purposes.

8.18 Mining and Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

8.19 Machinery and Equipment. Without the prior written approval of the ARC, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or Common Properties; provided however, such machinery or equipment may be placed, operated or maintained by any governmental or quasi-governmental agency, or by a public utility, in the performance of its legitimate functions.

8.20 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon a Lot without the prior written approval of the ARC; provided however, that the Declarant may maintain or authorize temporary structures necessary for storage of tools and equipment, and for office space for architects, builders and foremen on the Property during any period of actual construction, which authorization, if given, shall include the nature, size, duration and location of such structure or structures.

8.21 Unsightly Articles; Vehicles; Number of Occupants. No trailer, recreational vehicle, tent, boat, or stripped down, wrecked, junked, or wholly inoperable vehicle shall be kept, parked, stored, or maintained on any portion of the driveway or front or side yards of the Dwelling Unit, and same shall be kept, parked, stored or maintained only within the garage of

the Dwelling Unit such that the garage door can be completely closed to block the view of such items from adjacent Lots and the street. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment shall be permitted in any driveway or in any portion of the Lot yard visible from a street.

8.22 Mobile Homes, Travel Trailers, Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time. No travel trailers or recreational vehicles may be kept on any Lot unless enclosed in a garage.

8.23 Fences. Declarant is responsible for the construction and maintenance of all perimeter and side fences on the Property. No Owner, Resident or Member can construct any type of fence on his/her Lot except fences within the back yard of the Lot which are not visible from the street or adjacent Lots and which have the prior written approval of the ARC.

8.24 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on the Property. No domestic household pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets shall be allowed on the Property other than on the Lot of its Owner, except when confined to a leash. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation shall be allowed. No domestic household pet shall be allowed to run at large and all of such pets shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans and specifications approved by the ARC, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property. No more than a total of two (2) dogs or cats, or a combination thereof, each weighing less than 40 lbs., may be kept on a single Lot. All domestic household pets shall be kept in strict accordance with all local laws and ordinances.

8.25 Owner Installed Landscaping. Declarant has installed landscaping in all front yards and side yards visible from the street on all Lots on which Dwelling Units are located. No Owner, Member or Resident may install additional landscaping in such areas or change the landscaping installed by Declarant in such areas which materially alters the design and/or appearance of the landscaping installed by Declarant with the prior written approval of the ARC. Approval of the ARC is not required for landscaping installed on that portion of any Lot not visible from the street, provided, however, that such landscaping shall be designed so as to protect and promote, as far as practicable, the natural local landscape environment through use of native materials, natural drainage, indigenous plant selection and site design, shall be compatible with the landscaping installed by Declarant on the Lot, and shall be maintained as required by Section 7.04.

8.26 Construction and Sales Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including

Declarant) upon any Lot within the Property, or the sale of any Lot thereafter. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. No building material of any kind shall be placed or stored upon any Lot until the Owner thereof is ready to commence Improvements, and then the material shall be placed within the property lines of the Lot upon which the Improvements are to be erected and shall not be placed on the street or on any other part of the Property. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the ARC, provided that such waiver shall be only for the reasonable period of such construction. At such time as the Declarant ceases using any portion of the Property as a model home or sales office, the affected Property shall be altered and/or remodeled, if necessary or desirable, to comply with the covenants and restrictions contained herein.

8.27 Sight Lines. No fence, wall, hedge, or shrub planting which obstructs sight lines from streets on the Property shall be placed or permitted to remain on any corner Lot within the area defined by a line drawn between two points located fifteen (15) feet from the point of intersection of the street right-of-way property lines immediately adjacent to the Lot, as reasonably located by the ARC. Measurement shall be by chord, not by arc. No tree shall be permitted to remain within such areas, unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

8.28 Garage Conversions. No garage, or any portion thereof, may be converted into enclosed living space

8.29 Compliance with Provisions of this Declaration. Each Owner shall comply strictly with the provisions of this Declaration as the same may be amended from time to time. Failure to comply with any of the covenants shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by any Owner. Declarant, for itself, its successors or assigns, reserves the right to enforce these restrictive covenants, though it may have previously sold and conveyed all Lots controlled by these covenants within the Property. The reservation of this right of enforcement shall not create an obligation of any kind to enforce the same.

8.30 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance upon one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE 9 RESIDENTIAL AND AGE RESTRICTIONS

9.01 Residential Use; Unrelated Occupants. All Lots shall be improved and used solely for residential purposes, inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use. No Owner shall occupy or use his Lot or any Improvements constructed thereon, or permit the same or any part thereof to be occupied or used for any purpose, including religious, other than as a private Dwelling Unit. All Lots within the Property shall be used and improved solely for single-family residential purposes, with no more than one (1) residential Dwelling Unit per Lot. Anything herein to the contrary notwithstanding, any Lot may be used or improved for greenbelt, open space and/or drainfield purposes. No Improvement may be constructed upon any Lot within ten feet (10') of an Improvement constructed on a neighboring Lot or that would unreasonably obstruct the view from other portions of the Property, and the positioning of all Improvements upon Lots within the Property is hereby expressly made subject to ARC review. The ARC may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any particular Lot. The ARC may consider the effect the Improvement will have on the Property as a whole, it being expressly understood that neither the ARC nor the members thereof shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from such Owner's Lot or Lots. All Residents of any Dwelling Unit on a Lot, except for one (1) person, shall be related within the second degree of consanguinity or affinity.

9.02 Garages. No Lot shall have improvements erected which do not provide for a minimum of a two-vehicle garage.

9.03 Outbuildings. No outbuildings shall be constructed on a Lot, including without limitation detached garages, storage buildings or greenhouses, without the prior written approval by the ARC.

9.04 Building Height. No Improvement greater than thirty-two (32) feet in height may be constructed on any Lot without the prior written approval of the ARC. For purposes of this paragraph, height shall be measured from the foundation slab of the proposed Improvement to the ridge line of the roof of the proposed Improvement.

9.05 Building Materials; Dwelling Size. The exteriors of all Dwelling Units (exclusive of doors, windows, and similar openings) shall be constructed of at least ninety percent (90%) Hardieplank, brick, rock, masonry or similar material specifically approved in writing by the ARC. Unless an exception is granted by the ARC, Dwelling Units shall contain not less than 1,200 square feet of heated enclosed living space, exclusive of porches (open or covered), decks, garages and carports.

9.06 Set-back Requirements. No building shall be located or erected nearer to any Lot line than the building line shown on the recorded plat of the Property. For purposes of these covenants, the eaves of buildings shall not be deemed to be part of a building or structure, but

steps and porches shall be deemed to be a part of a building or structure. This Section shall not be construed to allow any building or structure to encroach upon another Lot.

9.07 Sprinkler System. Declarant has installed an underground water sprinkler system in the front yard and side yards visible from the street of each Lot on which a Dwelling Unit is constructed. The Association will bear the reasonable cost of repairs to the sprinkler system if caused by the negligence of employees, agents or officers of the Association. No Owner, Resident or Member can extend, alter or improve the system installed by Declarant on his/or Lot without the prior written approval of the ARC.

9.08 Age Restriction. The provisions of this Section 9.08 are intended to comply with and be consistent with the provisions of the Fair Housing Act ("Act") and the exemption in such Act which exempts housing for older persons from the prohibition against discrimination based on familial status set forth in 42 U.S.C. §3607(b)(2)(C) or any successor statute.

(a) Fifty-five (55) Years of Age. The Retreat is intended to provide housing for persons fifty-five (55) years of age or older. The Property shall be operated as an age restricted community in compliance with all applicable state and federal laws. No person under nineteen (19) years of age shall reside in any Dwelling Unit for more than sixty (60) total days in any calendar year.

(b) Qualified Occupant. As provided in the exemption in the Fair Housing Act, at least 80% of all of the Dwelling Units in The Retreat if occupied, shall be permanently occupied by at least one person fifty-five (55) years of age or older. Such person shall be referred to in this Section as the "qualifying occupant." Once a Dwelling Unit is occupied by a qualifying occupant as such individual's legal residence, the members of his or her household over the age of nineteen (19) who occupy the Dwelling Unit with such person may continue to live there even if the qualifying occupant's residency terminates, so long as at least eighty percent (80%) of the Dwelling Units are occupied by one qualifying occupant. Members of a qualifying occupant's household nineteen (19) years of age or older shall have the right to use the Common Properties for as long as they reside in the Dwelling Unit, irrespective of their age and of whether the qualifying occupant dies or otherwise ceases to reside in the Dwelling Unit. At no time shall less than 80% of the Lots (and Dwelling Units located thereon) subject to this Declaration be occupied by at least one qualifying occupant. Notwithstanding anything to the contrary in this Declaration or unless prohibited by law, the restriction that no person under the age of nineteen (19) may be a permanent occupant of any Dwelling Unit shall be in perpetuity and shall not be subject to amendment.

(c) Policies and Procedures. The Board shall establish policies and procedures from time to time as necessary to maintain the status of the Retreat as an age restricted community under state and federal law.

(d) Responsibility for Children. Children shall be the direct responsibility of their parents or legal guardians, (or of the Owner or Resident of the Dwelling Unit if the parents or legal guardians are not the Owner or Resident) including full supervision of them while within the Property and including full compliance by them of these restrictions and all Rules of the

Association. All children under nineteen (19) years of age must be accompanied by a responsible adult when entering and/or utilizing any recreational facilities located on the Common Properties.

(e) No Restriction on Lot Ownership. This Section 9.08 shall in no way be deemed to restrict the ownership of any Lot; provided, however, no Owner may occupy a Lot nor permit occupancy of a Lot except in compliance with the requirements of this Section 9.08. Lot Owners shall be responsible for including the statement that the Lots within the Property are intended for the housing of persons fifty-five (55) years of age or older, as set forth above, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser or other potential occupant of the Lot. Every lease of a Lot shall provide that failure to comply with the requirements and restrictions of this Section 9.08 shall constitute a default under the lease. Lot Owners shall be responsible for enforcing compliance with any tenant under any such lease.

(f) Change in Occupancy. In the event of any change in occupancy of any Lot, as a result of transfer, sale, gift, lease, sublease, assignment, death, birth, marriage, separation, divorce, or otherwise, the Owner of such Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Lot and such other information as the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Lot for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Section 9.08, in addition to all other remedies available to the Association under this Declaration and Texas law. Any such monetary fines shall be deemed an individual assessment and may be collected and enforced as such.

(g) Exceptions. Any Owner may request in writing that the Board make an exception to the requirements of this Section 9.08 with respect to his or her Lot. The Board may, but shall not be obligated to, grant exemptions in its sole discretion, provided that the requirements for exemption from the Act would still be met. Any exemption granted by the Board shall automatically terminate upon transfer of ownership of the Lot, unless an earlier termination is provided for by the Board. Should a request for an exemption be denied, then the Owner making such request agrees that occupants not in compliance with this Section 9.08 must immediately vacate the Lot.

(h) Age Records. The Association shall be responsible for maintaining age records on all occupants of Lots. The Board shall adopt policies, procedures and rules to monitor and maintain compliance with this Section 9.08, the Act and any successor statute, including policies regarding visitors, conducting a census of the occupants of Lots, requiring copies of birth certificates or other proof of age for such occupant of the Lot to be provided to the Board on a periodic basis, updating the records by surveys or other means at least once every two (2) years, the granting of exemptions pursuant to this Section 9.08, and enforcement. The Association shall

periodically distribute such policies, procedures and rules to the Owners and make copies available to Owners, their tenants and mortgagees upon reasonable request.

(i) Authority of Board. The Board shall have the power and authority to enforce this Section 9.08 in any legal manner available, as the Board deems appropriate, including, without limitation, taking action to evict the occupants of any Lot which does not comply with the requirements and restrictions of this Section 9.08 and/or which results in the Retreat not complying with the exemption under the Act or any successor statute. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER LOT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION 9.08. This power-of-attorney shall be deemed to be coupled with an interest and shall be irrevocable for as long as such Owner owns a Lot and/or Dwelling Unit in the Community. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Lot, which in the judgment of the Board are reasonably necessary to monitor compliance with this Section 9.08.

(j) Responsibility of Owner. Each Owner shall be responsible for ensuring compliance of its Lots with the requirements and restrictions of this Section 9.08 and the rules of the Association adopted hereunder by itself and by its tenants and other occupants of its Lot. EACH OWNER, BY ACCEPTANCE OF TITLE TO A LOT, AGREES TO INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION, DECLARANT, AND THE EMPLOYEES AND AGENTS OF EACH HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES AND CAUSES OF ACTION WHICH MAY ARISE FROM FAILURE OF SUCH OWNER'S LOT TO SO COMPLY.

ARTICLE 10 EASEMENTS

10.01 Reserved Easements. All dedications, limitations, restrictions, and reservations shown on any plat covering all or any portion of the Property and all grants and dedications of easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most effectively, efficiently and economically developing and marketing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, Common Properties, rights-of-way and easements for public utility purposes (including, without limitation, gas, cable, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, any such easement having a maximum width of five (5) feet on each side of such Lot line.

10.02 Installation and Maintenance. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of the Property. Within these easements, if any, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities; or in the case of drainage easements, which may change the direction of flow of water through drainage channels in such easements. The Easement Area of each Lot, if any, and all Improvements in such area shall be maintained continuously by the Owner of the Lot, except for those Improvements for which a public authority or utility company is responsible. Neither Declarant nor any utility company using the easements herein or referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants to shrubbery, streets or flowers or other property of the Owners situated on the land covered by said easements.

10.03 Surface Areas. The surface of Easement Areas for underground utility services may be used for planting of shrubbery, trees lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any Easement Area shall be liable to any Owner, Resident or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity reasonably relating to the construction, maintenance, operation or repair of any facility in any such Easement Area.

10.04 Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the ARC thereon require. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and shown on the recorded plat of the Property. There shall be no construction of improvements, temporary or permanent, in any drainage easement, except as may be approved in writing by the ARC.

10.05 Blanket Easement. An easement is hereby retained in favor of the Association over all Lots and the Common Properties for the purpose of enforcing the Covenants in accordance with Section 10.05 hereof, and for the construction of a common cable television system, a common sprinkler system, maintenance of landscaping, or any other item for the common benefit of the Owners. An easement is further granted for the purpose of repairing and maintaining any such system so constructed. An entry upon any Lot or the Common Properties to effectuate the foregoing purposes shall not be deemed as trespass.

10.06 Limited Owner Easement. A limited easement is hereby granted to each Owner for the purposes of maintaining the Owner's Dwelling Unit and for the performance of pest control for the Owner's Lot and Dwelling Unit. The easement shall be located on the Lot which adjoins the Owner's Lot and on which a property line abuts the side wall of the Owner's Dwelling Unit. The easement shall be five (5) feet in width and parallel to the side wall of the Owner's Dwelling Unit which abuts the property line of the adjoining Lot. The Owner may use the easement only during daylight hours and only after giving telephonic or written notice to the Owner and/or Resident of the Lot burdened by the easement stating the time the Owner intends to use the easement and the purpose of the use. Use of the easement at the time given in the notice and for the purposes stated in the notice, so long as such purposes are the purposes permitted by this Section 10.06, shall not be considered a trespass. The Owner and/or Resident

of the Lot burdened by the easement may not place any Improvements on the easement which would unreasonably interfere with the use of the easement for the purposes set out in this Section 10.06. The Owner permitted to use the easement shall not place any Improvements on the easement, shall not remain on the easement longer than reasonably necessary to accomplish the purposes given in the notice, shall not permit any liens or judgments to attach to the easement, and shall fully indemnify the Owner and/or Resident of the Lot burdened by the easement from and against all claims, damages and causes of action of every kind or nature, including attorney's fees and litigation costs, arising out of or related to the Owner's use of or activities on the easement. The Owner permitted to use the easement is also granted a non-exclusive right of ingress and egress over the Lot burdened by the easement solely for the purpose of entering and exiting the easement.

ARTICLE 11 REGISTRATION

11.01 Registration with the Association. In order that the Declarant and the Association can properly acquaint every Lot purchaser and every Owner, Resident and Member with this Declaration and the day-to-day matters within the Association's jurisdiction, each and every Owner, Member and Resident shall have an affirmative duty and obligation to originally provide, and thereafter revise and update, within fifteen (15) days after a material change has occurred, various items of information to the Association such as (a) the full name, age and address of each Owner, Member and Resident, (b) the full name and age of each individual family member who resides within the Dwelling Unit of the Lot Owner, (c) the business address, occupation and telephone numbers of each Resident, (d) the description and license plate number of each automobile owned or used by a Resident and brought within the Property, (e) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Resident cannot be located) in case of an emergency, and (f) such other information as may be reasonably requested from time to time by the Association. In the event any Owner, Member or Resident fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner, Member and Resident shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

ARTICLE 12 THE PAVILION

12.01 Operations of Pavilion. The Declarant may, at its sole option, at any time, delegate the right and duty to operate, manage and maintain the Pavilion to the Association as herein provided. Until such time as the operation, management and maintenance of the Pavilion is delegated in writing as aforesaid, the Pavilion shall be under the complete supervision and control of the Declarant, even if Declarant has already conveyed the Pavilion to the Association. The Association agrees to accept the conveyance of the Pavilion whenever the Declarant elects to convey the same. When the Declarant delegates the right and duty to operate, manage, maintain, insure, etc. the Pavilion to the Association, the Association shall then have the sole responsibility and duty to operate, manage and maintain the Pavilion as part of the Common

Properties, for the benefit of the Owners. The Declarant agrees to delegate the right and duty to operate, manage and maintain the Pavilion to the Association no later than the end of the Development Period. All costs and expenses related to the operation of the Pavilion, including insurance premiums and taxes, shall be expenses paid by the Association regardless of who owns the Pavilion.

12.02 Pavilion Rules. If Declarant delegates the right and duty to operate, manage and maintain the Pavilion, the Board shall have the right to adopt rules and regulations governing the use of the Pavilion. Otherwise, the Declarant shall have the right to adopt such rules and regulations. Each Owner, Resident and Member shall comply with the provisions of all such rules and regulations promulgated concerning the use of the Pavilion.

ARTICLE 13 GENERAL PROVISIONS

13.01 Power of Attorney. Each and every Owner, Member and Resident hereby makes, constitutes and appoints Declarant as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following: (a) to exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and the Property, (b) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the terms within this Declaration, or any part hereof, with such clause(s), recital(s), covenant(s), agreement(s) and restriction(s) as Declarant shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing, and (c) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the subdivision plat(s) of the Property, or any part thereof, with any easements and rights-of-way to be therein contained as the Declarant shall deem necessary, proper and expedient under the conditions as may then be existing. The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall commence and be in full force upon recordation of this Declaration in the Polk County Clerk's Office and shall remain in full force and effect thereafter until conclusion of the Development Period.

13.02 Further Development. During the Development Period, each and every Owner, Resident and Member waives, relinquishes and shall not directly or indirectly exercise any and all rights, powers or abilities, and the Association shall not devote or expend any monies or personnel, regarding the following: to contest, object, challenge, dispute, obstruct, hinder or in any manner disagree with the proposed or actual development (including, without limitation, zoning or rezoning efforts or processes) pertaining to residential uses of any real property owned by the Declarant or by the affiliates, assignees or successors of the Declarant within a one mile radius of the Property.

13.03 Duration. The Covenants of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or Owner and Resident of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original fifty (50) year term expiring on the fiftieth (50th) anniversary of the date of recordation of this Declaration, after which time this

Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least fifty-one percent (51%) of all Lots within the Property and recorded in the Real Property Records of Polk County, Texas, which contains and sets forth an agreement to abolish these Covenants; provided, however, no such agreement where approved by less than seventy-five percent (75%) of the Owners of all Lots within this Property to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

13.04 Amendments.

(a) By Declarant. During the Development Period, this Declaration may be amended, but not terminated, by the Declarant, acting alone. No amendment by Declarant shall be effective until there has been recorded in the Real Property Records of Polk County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment. Notwithstanding the forgoing, Declarant does not have the authority to amend or modify Section 9.08 hereof.

(b) By Owners. After the Development Period, this Declaration may be amended, but not terminated, by the recording in the Real Property Records of Polk County of an instrument executed and acknowledged by the President and Secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least sixty percent (60%) of the number of votes entitled to be cast pursuant to Section 3.02 hereof. Notwithstanding the forgoing, the Owners do not have the authority to amend or modify Section 9.08 hereof.

13.05 Enforcement. Each Owner of each Lot shall be deemed, and held responsible and liable for the acts, conduct and omission of each and every Resident, Member, guest and invitee affiliated with such Lot, and such liability and responsibility of each Owner shall be joint and several with their Resident(s), Member(s), guests and invitees. The Payment and Performance Lien shall extend to, cover and secure the proper payment and performance by each and every Resident, Member, guest and invitee affiliated with each Owner. Each Owner may, upon appropriate application to and approval by the Association, impose greater or additional restraints and restrictions on the "Good Standing" qualifications of the Residents and Members of such Owner's Lot. Unless otherwise prohibited or modified by law, all parents shall be liable for any and all personal injuries and property damage proximately caused by the conduct of their children (under the age of nineteen (19) years) within the Property. Enforcement of this Declaration may be initiated by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by this Declaration; but failure by the Association or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

13.06 Validity. Violation of or failure to comply with this Declaration shall not affect the validity of any mortgage, bona fide lien or other similar security instrument, which may then be existing on any Lot. Invalidation of this Declaration, or any portions thereof, by a judgment or

court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of this Declaration conflicts with mandatory provisions of any ordinance or regulation promulgated by the City of Livingston (including, without limitation, the Zoning Ordinance), then such municipal requirement shall control.

13.07 Proposals of Declarant. The proposals of the Declarant, as set forth in various provisions hereinabove, are mere proposals and expressions of the existing good faith intentions and plans of the Declarant and shall not be deemed or construed as promises, solicitations, inducements, contractual commitments or material representations by the Declarant upon which any person or entity can or should rely. Nothing contained in or inferable from this Declaration shall ever be deemed to impose upon any other land owned or to be owned by the Declarant, or any related entity, any covenants, restrictions, easements or liens or to create any servitudes, negative reciprocal easements or other interests in any such land in favor of any person or entity other than the Declarant. Declarant makes no representations of any kind or character concerning any land parcels adjoining the Property. Each prospective Owner should make his/her own investigation concerning those parcels and what impact, if any, same may have on the ownership, use and enjoyment of the Property.

13.08 Service Mark. Declarant is exclusive licensee of a service mark for The Retreat in Livingston (referred to as the "Service Mark") in the Polk County, Texas area. Unless and until a written license agreement has been sought and obtained from Declarant (and in this connection Declarant may withhold consent in its sole and absolute discretion), no person or entity may at any and/or for any reason whatsoever use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Service Mark.

13.09 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise. Examples, illustrations, scenarios and hypothetical situations mentioned herein shall not constitute an exclusive, exhaustive or limiting list of what can or cannot be done.

13.10 Notices to Resident/Member/Owner. Any notice required to be given to any Resident, Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when: (i) deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the Resident, Member or Owner on the records of the Association at the time of such mailing; or when (ii) delivered by hand or by messenger to the last known address of such person within the Property; or when (iii) posted on the Association's bulletin board for at least thirty (30) consecutive calendar days.

13.11 Notices to Mortgagees. The holder(s) of a mortgage may be furnished with written notification from the Association of any default by the respective mortgagor/Member/Owner in the performance of such mortgagor's/Member's/Owner's obligation(s) as established by this Declaration, provided that the Association has been theretofore furnished, in writing, with the correct name and address of such mortgage holder(s)

and a request to receive such notification and a reasonable supply of self-addressed, stamped envelopes.

13.12 Disputes. Matters of dispute or disagreement between Owners, Residents or Members with respect to interpretation or application of the provisions (excluding architectural matters) of this Declaration or the Association Bylaws, shall be determined by the Board. Matters pertaining to architectural matters shall be determined by the ARC. These respective determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners, Residents and Members.

13.13 Enforcement and Nonwaiver.

(a) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, Declarant, and/or the Board shall have the right to enforce any and all of the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(b) Nonwaiver. The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(c) Liens. The Association shall have the right, when appropriate in its judgment and subject to Chapter 209, Texas Property Code, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

13.14 Assignment by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

13.15 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the ARC. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices, and similar facilities, and to post signs incidental to construction, sales, and leasing anywhere within the Property.

13.16 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration.

13.17 Construction.

(a) Restrictions Severable. The provisions of Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(b) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine, and neuter.

(c) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles.

(d) Deadlines on Business Day. If any deadline in this Declaration should fall on a Saturday, Sunday or a Texas or federal holiday, such deadline shall automatically be extended to the next business day.

(e) Choice of Law. This Declaration shall be construed in accordance with the laws of the State of Texas.

ARTICLE 14 LIMITATION AND WAIVER OF LIABILITY

(a) NEITHER DECLARANT, THE OWNERS, THE RESIDENTS, THE MEMBERS, THE ARC AND THE DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES AND AGENTS OF THE ASSOCIATION, NOR THEIR RESPECTIVE HIERS, SUCCESSORS AND ASSIGNS, SHALL BE LIABLE FOR DEBTS CONTRACTED FOR OR OTHERWISE INCURRED BY THE ASSOCIATION OR FOR ANY TORTS COMMITTED BY OR ON BEHALF OF THE ASSOCIATION OR FOR A TORT OF ANOTHER PERSON OR ENTITY, WHETHER SUCH OTHER PERSON OR ENTITY WAS ACTING ON BEHALF OF THE ASSOCIATION OR OTHERWISE.

(b) NEITHER DECLARANT, THE OWNERS, THE RESIDENTS, THE MEMBERS, THE ASSOCIATION, THE BOARD, THE ARC, NOR THEIR RESPECTIVE HEIRS, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE IN DAMAGES TO ANYONE (A) SUBMITTING PLANS OR SPECIFICATIONS FOR ANY IMPROVEMENT TO BE CONSTRUCTED, REMODELED OR MOVED ONTO ANY LOT TO THE ASSOCIATION, BOARD OR ARC, OR (B) SUBMITTING ANY OTHER REQUEST TO THE ASSOCIATION, BOARD OR ARC FOR ANY OTHER ACTION, BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE ANY SUCH PLANS OR SPECIFICATIONS OR REQUEST OR THE FAILURE OF ANY OF SUCH INDEMNIFIED PARTIES TO ENFORCE ANY OF THE REQUIREMENTS OF THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS OR OTHER REQUESTS TO THE ASSOCIATION, BOARD OR ARC

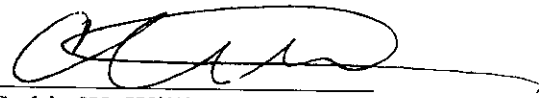
FOR APPROVAL AGREES BY SUBMISSION OF SUCH PLANS OR REQUIST, AND EVERY OWNER AND RESIDENT AGREES BY ACCEPTING A DEED OR OTHER COVEYANCE TO A LOT OR INTEREST THEREIN, THAT IT WILL NOT BRING ANY ACTION OR SUIT AGAINST SUCH PARTIES TO RECOVER ANY SUCH DAMAGES, AND THAT IF IT VIOLATES THIS AGREEMENT NOT TO BRING ANY SUCH SUIT OR ACTION, IT WILL PAY ALL COSTS AND EXPENSES, INCLUDING BUT NOT LIMITED TO, COURT COSTS AND ATTORNEYS' FEES INCURRED BY ANY PARTY DEFENDING ANY SUCH ACTION OR SUIT.

Witness the hand of an authorized representative of Declarant on the acknowledgment date noted below.

CC WILLIAMS GROUP, LP, a Texas limited partnership

By: **CC WILLIAMS OPERATING GROUP, LLC**, a Texas limited liability company

By:


Cathie W. Williams, Member

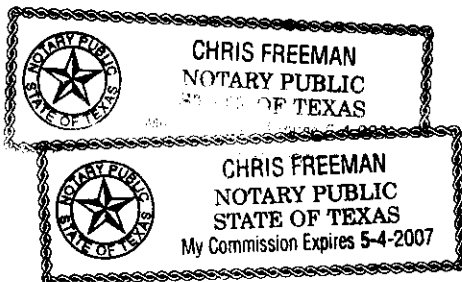
By:



Cleve E. Williams, Member

THE STATE OF TEXAS

COUNTY OF POLK

This instrument was acknowledged before me on the 14 day of August, 2003, by Cathie W. Williams and Cleve E. Williams, Members of CC Williams Operating Group, LLC, a Texas limited liability company, the general partner of CC Williams Group, LP, a Texas limited partnership, on behalf of said partnership.




Notary Public, State of Texas

2003-1342-667

State of Texas }
County of Polk }

I, BARBARA MIDDLETON hereby certify that this instrument was FILED in the file number sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records in Volume and Page of the named RECORDS of Polk County, Texas as stamped hereon by me.

AUG 14 2003



Barbara Middleton
COUNTY CLERK
POLK COUNTY, TEXAS

FILED FOR RECORD

2003 AUG 14 PM 4:02

Barbara Middleton
BARBARA MIDDLETON
POLK COUNTY CLERK

✓ Return To
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