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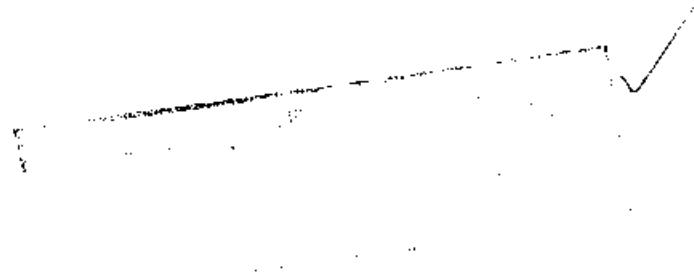
RECORDED AT THE REQUEST OF
FIRST AMERICAN TITLE

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

VILLAGE OF EMERALD BAY



RETURN TO:
FIRST AMERICAN TITLE INS. CO.
11 GREENWAY PLAZA #2116
HOUSTON, TEXAS 77046

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subject to the Master CCR's, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof. For purposes of this Declaration, it shall be deemed as if Declarant is the owner of all of the real property described on Exhibit "A" hereto. Pearland Investments Limited Partnership has consented to the encumbering of all of the real property described on Exhibit "A" with this Declaration and has further consented to the granting of all of the rights herein to Declarant by its execution hereof.

ARTICLE I

Definitions

Section 1. Specific Definitions.

"Annual Assessment" shall mean the assessment levied pursuant to Article X, Section 2 hereof.

"Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which, by the terms of this Declaration, a Supplemental Declaration or by contract or agreement with any Person, become the responsibility of the Association, including but not limited to the entrance areas into the Property or Association Manager or maintenance personnel, and all landscape amenities and/or signage associated therewith. The office of any property or Association manager or maintenance personnel employed by or contracting with the Association, whether or not located on the Properties (if determined by the Board), or any public rights-of-way within or adjacent to the Properties (except right-of-way adjacent or contiguous to Lots or Tracts), or easements (pipeline, power, utility, etc.) may be part of the Area of Common Responsibility. The Area of Common Responsibility shall also include the Project Brick Fence or Wall and may also include other property, even if not owned by the Association, if the Board of Directors determines that such maintenance is necessary or desirable.

"Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Village of Emerald Bay Homeowners Association, Inc., as filed with the Secretary of State of the State of Texas.

"Assessment" shall mean an Annual Assessment, a Special Assessment, or a Reimbursement Assessment.

"Assessments" shall mean the Annual Assessment, the Special Assessment and the Reimbursement Assessment, collectively.

"Association" shall mean and refer to Village of Emerald Bay Homeowners Association, Inc., a Texas non-profit corporation, its successors or assigns.

"Board of Directors" or "Board" shall mean the elected body of the Association having its normal meaning under Texas law pertaining to non-profit corporations.

"Bylaws or By-Laws" shall mean and refer to the By-Laws of Village of Emerald Bay Homeowners Association, Inc. which may be amended from time to time.

"Common Area" shall mean all real property and improvements within the Properties, if any, owned acquired or leased by the Association, dedicated for the common use of the Owners and Declarant, which may include any detention ponds serving the Properties, and may include, but is not limited to, walkways and walking trails, and recreational facilities, if determined by Declarant and/or the Association.

"Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of Lot Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and/or the Articles of Incorporation.

"Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties, which may be more specifically determined by the Board of Directors and the Architectural Review Committee.

"Declarant Annexation Property" shall mean any real property in a five (5) mile radius of the property described on Exhibit "A."

"Improvement to Property" includes, without limitation: (a) the construction, installation or erection of any building, structure, fence, Residence or other Improvement, including utility facilities; (b) the demolition or destruction, by voluntary action, of any building, structure, fence, or other Improvements; (c) the grading, excavation, filling, or similar disturbance to the surface of any Lot, including, without limitation, change of grade, change of ground level, change of drainage pattern, or change of stream bed; (d) installation or changes to the landscaping on any Lot (including but not limited to removal of any trees); and (e) any exterior modification, expansion, change or alteration of any previously approved Improvement to Property, including any change of exterior appearance, color, or texture not expressly permitted by this Declaration, Architectural Guidelines, or Rules and Regulations.

"Improvements" shall mean all structures and any appurtenances thereto of every type or kind, which are visible on a Lot, including, but not limited to: a Residence, buildings, outbuildings, swimming pools, spas, hot tubs, patio covers, awnings, painting of any exterior surfaces of any visible structure, additions, sidewalks, walkways, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences of any type (other than Project Brick Fence or Wall), screening, walls, retaining walls, stairs, decks, fixtures, windbreaks, basketball goals, flagpoles, or any other type of pole, signs, exterior tanks, exterior air conditioning fixtures and equipment, water softener fixtures, exterior lighting, recreational equipment or facilities, radio, conventional or cable or television antenna or dish, microwave television antenna, and landscaping that is placed on and/or visible from any Lot.

"Lot" shall mean and refer to any plot or tract of land shown upon any recorded map(s) or plat(s) of the Properties, as same may be amended from time to time, which is designated as a lot therein and which is or will be improved with a single Residence in conformity with the building restrictions set forth herein. A Lot may include the legal description for a condominium unit.

"Maintenance Fund" or "Reserve Fund" shall mean any accumulation of the Assessments collected by the Association in accordance with the provisions of this Declaration and any Supplemental Declaration together with interest, attorneys' fees, penalties and other sums and revenues collected by the Association pursuant to the provisions of this Declaration and any Supplemental Declaration.

"Master Association" shall mean and refer to the Shadow Creek Ranch Maintenance Association, which Master Association was formed pursuant to the Master CCR's.

"Master CCR's" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, Charges and Liens for Shadow Creek Ranch Maintenance Association, which is recorded under Brazoria County Clerk's File No. _____, Harris County Clerk's File No. _____, and Fort Bend County Clerk's File No. _____, and which encumbers the entire 3,300 ± acres of the Shadow Creek Ranch development, of which the Subdivision is a part. The Subdivision is a "Village Association" under the Master CCR's, as that term is defined therein.

"Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

"Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed affecting a Lot.

"Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

"Mortgagor" shall mean and refer to any Owner who gives a Mortgage.

"Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot or Tract, including any Sub-developer of a Lot or Tract, and including Declarant, but excluding in all cases any Mortgagee or other party holding an interest merely as security for the performance of an obligation. For the purpose of exercising all privileges of membership in the Association, privileges of ownership are exclusive to each Owner unless otherwise conveyed to a specific Person in writing, with a copy of such written authority given to the Association.

"Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Plans" shall mean the final construction plans and specifications (including a related site plan) of any Residence, building or improvement of any kind to be erected, placed, constructed, maintained or altered on any Lot.

"Project Brick Fence or Wall" shall mean the brick fence or wall located predominantly around the perimeter of the Property, and on such other locations as determined by Declarant and/or the Board, which is in the nature of a community identify fence or wall, and which is referred to and further identified and for which an easement is granted pursuant to Article XI, Section 5, hereof.

"Property" or "Properties" shall mean the real property in Brazoria County, Texas, described on Exhibit "A" attached hereto and made a part hereof, together with any Improvements thereon or appurtenances thereto and will include such additional property as is hereafter subjected to this Declaration by a Supplemental Declaration, commonly known as Village of Emerald Bay.

"Reimbursement Assessment" shall mean a charge against a particular Owner and his Tract or Lot for the purpose of reimbursing the Association for expenditures and other costs of the Association incurred in curing any violation, directly attributable to the Owner, of this Declaration or the Rules and Regulations, pursuant to Article X, Section 6, hereof.

"Residence" shall mean a portion of the Properties intended for development, use, and occupancy as an attached or detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted Lots, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of any Lot owned as well as any structure thereon. In the case of a townhouse or condominium structure or other specifically included structure which contains multiple dwellings, each dwelling shall be deemed to be a separate Residence. Buildings containing apartments shall not (nor shall the individual apartments) be included as single family Residences hereunder.

"Rules and Regulations" shall mean those rules and regulations which may be established from time to time by the Board of Directors pursuant to this Declaration.

"Special Assessment" shall mean a charge against a particular Owner and his Lot representing a portion of the cost to the Association for the purpose of funding major capital repairs, maintenance, and replacement of Improvements, as more particularly described in and imposed by Article X, Section 4, hereof.

"Sub-developer" shall mean and refer to any and every homebuilding company who purchases a Lot or Lots (or Tract to plat into Lots) from Declarant for the purposes of constructing or selling single family Residences thereon and selling such Lot and Residence to the general public or a developer who purchases a Tract from Declarant for the purpose of developing the Tract into Lots and selling such Lots to a homebuilding company.

"Supplemental Declaration" shall mean any amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

"Tract" shall mean any unimproved portion of the Property, which is separately described by survey description or metes and bounds, and owned by Declarant or conveyed to an Owner by Declarant, but which has not yet been platted.

Section 2. Other Defined Terms. Other terms which are defined herein shall have the meanings given in this Declaration.

ARTICLE II.

Easement of Enjoyment

Section 1. Use of Common Area. Each Owner shall have a nonexclusive right and easement of enjoyment to the Common Area which shall be appurtenant to and shall pass with the title to every Lot or Tract, subject to the following:

- (i) This Declaration, and the Master CCR's, as each may be amended from time to time;
- (ii) Any restrictions or limitations contained in any deed conveying such Common Area to the Association;
- (iii) The right of the Board to limit the number of guests who may use the Common Area, and to adopt other Rules and Regulations regulating the use and enjoyment of the Common Area;
- (iv) The right of the Board to suspend the right of an Owner to use any recreational facilities within the Common Area (i) for any period during which any Assessment or portion thereof owed by such Owner remains delinquent, and (ii) for a period not to exceed sixty (60) days for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, By-Laws, or Rules and Regulations of the Association;
- (v) The right of the Association, with the consent of the Class B member as long as such Class B membership exists, acting through the Board, to dedicate or transfer all or any part of the Common Area;
- (vi) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees (which fees shall be separate from Assessments) for the use of any recreational facility situated upon the Common Area;

(vii) The right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of user fees established by the Board;

(viii) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval of sixty-seven percent (67%) of the votes of all Members eligible to vote;

(ix) The right of the Association to grant easements pursuant to Article IV, Section 11 hereof; and

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

Section 2. Delegation. Any Owner may delegate his or her right of use and enjoyment of Common Area to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Lot must provide written notice to the Association conveying such privileges of use to Common Areas, however such Owner shall remain fully responsible for the actions of such persons.

Section 3. Conveyances to the Association. Declarant may retain, for as long as it deems necessary or convenient, the legal title to easements or fee simple parcels designated as Common Area. Declarant may, at any time after the date hereof, convey legal title to all or a portion of such Common Area to the Association, which conveyance shall be on an "AS IS, WHERE IS" basis. The Association shall be obligated to accept title to, operate and maintain the Common Area conveyed to the Association as elsewhere provided in this Declaration.

ARTICLE III

Establishment of General Plan

Section 1. General Plan and Declaration. This Declaration is hereby established pursuant to and in furtherance of a common and general plan for the improvement and sale of Tracts and then Lots within the Properties, and for the purpose of enhancing and protecting the desirability and attractiveness of the Properties. The undersigned Owners, for themselves, their heirs, executors, administrators, legal representatives, successors, and assigns hereby declare that the Properties and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in this Declaration, for the duration thereof. The Tracts, Lots and Common Areas in the Properties shall be subject to the jurisdiction of the Association.

Section 2. Equitable Servitudes. The covenants, conditions, restrictions, limitations, reservations, easements, and exceptions of this Declaration hereby are imposed as equitable servitudes upon each Tract and each Lot, and the Common Areas within the Properties, as a servient estate, for the benefit of each and every other Tract and every other Lot and parcel of Common Area within the Properties, as the dominant estate.

Section 3. Covenants Appurtenant. The covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in this Declaration shall be binding upon and inure to the benefit of: (a) the Properties; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all Persons (including Owners) having, or hereafter acquiring, any right, title, or interest in all or any portion of the Properties and their heirs, executors, successors, and assigns.

ARTICLE IV.

Management and Operation of Properties

Section 1. Management by Association.

(i) Generally. The affairs of the Properties shall be administered and managed by the Association, subject, however, to the authority of the Master Association pursuant to the Master CCR's. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Properties as herein provided for and as provided for in the Articles of Incorporation, Bylaws, and the Rules and Regulations. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the event of a conflict between the Articles of Incorporation or the Bylaws and the provisions of the Declaration, the provisions of the Declaration shall control. The principal purposes of the Association are the collection, expenditure, and management of the Maintenance Fund, enforcement of the restrictions contained herein and in Supplemental Declarations, providing for the maintenance and presentation of the Area of Common Responsibility and the facilities of the Association, ensuring architectural control of the Tracts and Lots, and establishing a method for the administration, maintenance, preservation, use and enjoyment of the Properties.

(ii) Additional Powers of the Association. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Properties and Area of Common Responsibility as the Board deems reasonably necessary or appropriate to maintain and operate the Properties in accordance with the Declaration, including without limitation, the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest. The Association, acting through its Board of Directors, shall also have the power to make and to enforce Rules and Regulations governing the use of the Properties and Area of Common Responsibility, including but not limited to Rules concerning traffic and parking

matters, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. The Rules and Regulations shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, canceled or modified in a regular or special meeting of the Association by two-thirds of the total eligible Class "A" and Class "B" votes of the Association.

(iii) Area of Common Responsibility and Common Area. The Association, subject to the rights of Declarant and the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and Area of Common Responsibility and all Improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

(iv) Personal Properties and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by Declarant pursuant to the terms of this Declaration.

(v) Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, the By-Laws or by statute, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 2. Board of Directors. The business and affairs of the Association shall be managed by and the decisions and actions of the Association shall be made or taken by the Board of Directors, unless otherwise reserved to the Members of the Association by law, the terms of the Declaration, Articles of Incorporation, or the Bylaws. During the existence of the Class B membership, the Declarant shall be entitled to appoint the Directors.

Section 3. Membership in Association. Each Owner, whether one person or more, of a Tract or Lot shall upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until ownership of the Tract or Lot ceases for any reason, at which time the membership in the Association shall also automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Tract or Lot and may not be separated from such ownership. Prior to changing the name of the Owner of any Tract or Lot on the membership rolls of the Association, the Association or its managing agent (if authorized by the Board of Directors) may charge a transfer fee or processing fee when ownership to any Tract or Lot changes, however, there shall be no charge when Declarant conveys a Tract or Lot to a Sub-developer. There will be a charge when a Sub-developer conveys a Tract to another Sub-developer or a Lot and Residence to the first homebuyer. Membership in the Association shall not include Mortgagees or other persons having an interest merely as a security for the performance of an obligation. Each Owner is required to provide and maintain at all times with the Association, or its designated management agent,

current information regarding such Owner's address and phone number and the name, address and phone number of the occupant or property manager, if any, of each Lot or Tract owned.

Section 4. Voting and Membership Limitations. The Association shall have two (2) classes of Members:

(i) Class "A". Class "A" Members shall be all Owners, with the exception of Declarant. Each Class "A" Member shall be entitled to one (1) vote for each Lot and two (2) votes per acre for each Tract owned by such Member in the Properties; provided, however, when more than one person holds an interest in any Lot, all such persons shall be Members, and the vote for such Lot or Tract shall be exercised by them as they among themselves determine but in no event shall more than one (1) vote be cast with regard to any Lot or two (2) votes per acre for any Tract owned by a Class "A" Member. With respect to the votes for a Tract, if the total acreage includes a portion of an acre, it shall be rounded up if the portion is .5 or over and shall be rounded down if the portion is .49 or below, to the nearest higher or lower whole number.

(ii) Class "B". The Class "B" Member shall be Declarant. The Class "B" Member shall have 5,000 votes, until the Class "B" membership and Class "B" votes cease to exist as set forth below. All Class "B" and the Class B membership votes shall cease to exist and automatically be converted to Class "A" votes and the Class B membership shall no longer exist on the happening of any of the following events, whichever occurs earlier:

(a) When 100% of the Lots and Tracts on the Property (including Property added hereto by annexation) planned for development has been sold to and occupied by Class A Members that are not Sub-developers;

(b) December 31, 2030; or

(c) At such earlier time as the holder of the Class "B" votes may, in its sole discretion, elect, as evidenced by a document recorded in the real property records of Brazoria County, Texas.

(iii) Reinstatement of Class "B" Votes. Notwithstanding the prior provisions of Section 4(b) or 4(c) above, if additional property is made subject to the jurisdiction of the Association pursuant to a Supplemental Declaration, or if Declarant repurchases any Lots and/or Tracts, such that Declarant again owns any Lots or Tracts in the Property, then the provisions regarding Class "B" votes in this Section 4, shall be automatically reinstated ipso facto.

Section 5. Voting. Unless otherwise stated herein, in the Articles, in the By-Laws, or required by law, any action which requires the approval of the Members of the Association shall require the approval of a majority of the total eligible votes of all Members represented in person or by proxy at any duly called meeting. Any action of the Board shall require the approval of a majority of the total

members thereon. Any Owner who is delinquent in the payment of any Assessment shall not be entitled to vote during any period in which any such Assessment is delinquent.

Section 6. Compensation of Board. No person serving on the Board shall be entitled to compensation for services performed; however, (a) any member of the Board may be reimbursed for his actual expenses incurred in the performance of his duties, and (b) the Board may employ one or more architects, engineers, land planners, landscape architects, management companies, accountants, bookkeepers, collection agencies, attorneys or other consultants to assist the Board in carrying out its duties hereunder, and the Association shall pay such consultants for services rendered to the Board, such payment to be made out of the Assessments.

Section 7. Power to Enforce Declaration and Rules and Regulations. The Association and the Master Association shall have the power to enforce the provisions of this Declaration and any Rules and Regulations and shall take such action as the Board of each deems necessary or desirable to cause compliance by each Member and each Member's family, guests, or tenants. Without limiting the generality of the foregoing, the Association and the Master Association shall have the power to enforce the provisions of this Declaration and of the Rules and Regulations of the Association by any one or more of the following means: (a) by entry upon any Tract or Lot within the Properties after notice (unless a bona fide emergency exists in which event this right of entry may be exercised without notice [written or oral] to the Owner, but in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use, or enjoyment of the Improvements situated thereon by the Owner or any other Person), without liability by the Association to the Owner, tenant, or guest thereof, for the purpose of enforcement of this Declaration or Rules and Regulations; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by exclusion, after notice, of any Member or Member's family, guests, or tenants from use of any recreational facilities in the Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants, unless the breach is a continuing breach in which case, such exclusion shall continue for so long as such breach continues; (e) by suspension, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or Member's family, guests, or tenants, of this Declaration or such Rules and Regulations unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after notice, a Reimbursement Assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants; and (g) by levying and collecting, after notice, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, which fines and penalties shall be deemed Reimbursement Assessments to be collected as such, from any Member or Member's family, guests, or tenants, for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants.

Section 8. Limitation on Liability. The officers of the Association and Master Association and Board members of each shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and/or Master Association. Further, a member of the Board of either Association shall not be liable to either Association, any Member, or any other person for any action taken or not taken as a member of the Board if he acts in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner he reasonably believes to be in the best interests of the respective Association. The officers of the Association and Master Association and the members of the Board of each shall also be entitled to the benefit of any provision limiting their liability provided by the By-Laws and the Texas Non-Profit Corporation Act.

Section 9. Intentionally Deleted

Section 10. Indemnification.

(i) Generally. Except as provided in Subsection (f) of this Section 10, to the greatest extent permitted by Texas law, the Association shall defend, protect, indemnify and hold harmless every officer, member of the Board and committee member and their respective agents, managers or administrators (each, an "Indemnified Party") from and against any and all liabilities and expenses, including legal fees, incurred by or imposed upon such Indemnified Party in connection with any action, claim, demand, suit, or other proceeding (each a "Proceeding") to which he or she may be a party by reason of being or having been an officer, Board member, agent or committee member. This indemnification shall also apply to any liability and expense incurred with the settlement of any Proceeding, if such settlement is approved in advance by the then Board of Directors. The Association shall also indemnify and forever hold each Indemnified Party free and harmless against any and all personal liability to others on account of any contract or commitment made by them, in good faith, on behalf of the Association.

(ii) Continuation. Indemnification under this Section 10 shall continue as to each Indemnified Party who has ceased to serve in the capacity which initially entitled such Indemnified Party to the indemnity hereunder. The rights granted pursuant to this Section 10 shall be deemed contract rights, and no amendment, modification or repeal of this Section 10 shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment, modification or repeal.

(iii) Advance Payment. The right to indemnification conferred in this Section 10 shall include the right to be paid or reimbursed by the Association the reasonable expenses incurred by an Indemnified Party who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding and without any determination as to the Indemnified Party's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any Indemnified Party in advance of the final disposition of a Proceeding, shall be made only upon delivery to the Association of a written affirmation by such Indemnified Party of his or her good faith belief that he has met the standard of conduct necessary for indemnification

under this Section 10 and a written undertaking, by or on behalf of the Indemnified Party, to repay all amounts so advanced if it shall ultimately be determined that the Indemnified Party is not entitled to be indemnified under this Section 10 or otherwise.

(iv) Appearance as a Witness. Notwithstanding any other provision of this Section 10, the Association may pay or reimburse expenses incurred by an Indemnified Party in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

(v) Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Section 10 shall not be exclusive of any other right which an Indemnified Party may have or hereafter acquire under any law.

(vi) Limitation on Indemnification. No indemnification shall be provided under this Section 10 to any Indemnified Party with respect to any Proceeding in which an Indemnified Party shall be determined not to have acted in good faith with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner which he does not believe to be in the best interests of the Association. However, it is the intent of this Section 10 not to subject an Indemnified Party to standards of any professional background they may have and therefore not subject such Indemnified Party to any professional liability. An Indemnified Party is intended to serve as a volunteer regardless of their professional background.

Section 11. Power to Grant Easements. Declarant, while Declarant owns the Common Area and thereafter the Association, shall have the power to grant access, utility, drainage, water, facility, telephone, cable television, security systems, and other easements, in, on, over, or under the Common Area.

Section 12. Inspection of Records. The Members shall have the right to inspect the books and records of the Association at reasonable times during normal business hours by appointment.

Section 13. Right of Entry: Enforcement by Self Help. The Association shall have the right, but not the obligation, in addition to and not in limitation of all the rights it may have under this Declaration, to enter upon any unoccupied, vacant or abandoned Tract or Lot, including any Improvements located thereon, if deemed reasonably necessary by the Board of Directors of the Association for emergency, health, safety and/or security purposes to make repairs to Improvements, secure the Properties or abate or remove things or conditions which are potentially hazardous or which violate any provisions of this Declaration. Such right may be exercised by the Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, the Association shall first attempt to provide reasonable notice to the last known Owner of the Tract or Lot. All costs of such efforts, including reasonable attorneys' fees actually incurred, shall be assessed against the Owner of the Tract or Lot and shall be collected as provided for herein for the collection of the Assessments.

ARTICLE V.

Maintenance

Section 1. Association's Responsibility.

(i) Generally. The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements, including the Project Brick Fence or Wall, situated upon the Common Areas or on any easement area which easement runs to the Declarant and/or Association, landscaped medians within public rights-of-way throughout the Properties (but not right-of-way contiguous to or adjacent to Lots or Tracts), landscaping and other flora on any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto), and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement for maintenance thereof by the Association. The Association shall maintain such facilities and equipment in continuous operation, except for reasonable periods as necessary to perform required maintenance or repairs, unless Members holding seventy-five percent (75 %) of all Class A and B (as long as Class B exists) votes agree in writing to discontinue such operation. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(ii) Maintenance Easements. There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill the Association's maintenance responsibility described in Section 1 of this Article V or elsewhere in this Declaration.

(iii) Maintenance Expenses. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Tracts and Lots as part of the Assessment, notwithstanding that the Association may be entitled to reimbursement from the owner(s) of certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

(iv) Additional Maintenance Responsibility. The Association shall also be responsible for maintenance, repair and replacement of any property within the Properties to the extent designated in any Supplemental Declaration affecting the Association. The Association may also assume maintenance responsibilities with respect to any Common Area that may be designated by any Supplemental Declaration. This assumption of responsibility may take place either by agreement or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard of the Properties.

Section 2. Owner's Responsibilities.

(i) Generally. Each Owner shall maintain his or her Tract or Lot and all structures, yards, landscaping, parking areas and other improvements on the Tract or Lot in a neat, orderly condition, including any fencing located on a Tract or Lot (except any Project Brick Fence or Wall located on a Lot or Tract), including, but not limited to, side and back fences, and fences adjacent to a road or backing up to a lake or a detention pond. Owners of Tracts or Lots which are adjacent to any portion of the Common Area on which walls, or fences, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the Common Area lying within such a fence or wall. Owners of Tracts or Lots adjacent to any roadway within the Properties shall maintain driveways serving their respective Tracts or Lots, whether or not lying within the Lot or Tract boundaries, and shall maintain landscaping on that portion of the Common Area, if any, on right-of-way between the Lot or Tract boundary and the back-of-curb of the adjacent or contiguous street.

(ii) Standard of Maintenance by Owner. All maintenance required by this Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or pursuant to any Supplemental Declaration affecting such Lot or Tract.

(iii) Enforcement of Owner's Responsibilities. In addition to any other enforcement rights available to the Association and/or the Master Association, in the event of violation of any covenant or restriction herein by any Owner or occupant of any Tract or Lot and the continuance of such violation after ten (10) days' written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association and/or Master Association shall have the right (but not obligation), through its agents or employees, to repair, maintain and restore the Tract or Lot and/or the exterior of the Residence, not limited to include gutters, siding, broken windows, fencing, mowing, etc., and any other existing Improvements located thereon, to the extent necessary to prevent rat infestation, diminish fire hazards, protect property values and accomplish necessary repairs, maintenance and/or restoration. The Association and/or Master Association may render a statement of charge to the Owner or occupant of such Tract or Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Tract or Lot to pay such statement immediately upon receipt. Any and all related costs, including but not limited to legal fees, plus interest thereon at the lesser of 18% per annum or the maximum rate permitted under the laws of the State of Texas, shall become a part of a Reimbursement Assessment payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration and/or the Master CCR's. The Association, and/or the Master Association and their respective agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

Section 3. Party Fences.

(i) General Rules of Law to Apply. Each fence built which shall serve and separate any two (2) adjoining Residences shall constitute a party fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(ii) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party fence shall be shared by the Owners who the fence serves in equal proportions.

(iii) Damage and Destruction. If a party fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and therefore not repaired out of the proceeds of insurance, any Owner who the fence serves may restore it, and all other Owners who the fence serves shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

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

(v) Arbitration. In the event of any dispute arising concerning a party fence, or under the provisions of this Section, each party shall appoint one (1) arbitrator. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a majority of all three (3) arbitrators shall be binding upon the parties and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof located in Brazoria County, Texas.

ARTICLE VI.

No Partition

Except as is permitted in the Declaration or any Supplemental Declaration, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE VII.

Architectural Approval

Section 1. Architectural Review Committee. As used in this Declaration, the term "Architectural Review Committee" or "ARC" shall mean a committee of three (3) members. The Board shall have the right to appoint all members of the Architectural Review Committee. Members of the Architectural Review Committee may, but need not be, Members of the Association. Members of the Architectural Review Committee may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. Notwithstanding the foregoing, any removal by the Board of a member of the Architectural Review Committee must be approved in writing by the Declarant as long as Declarant owns one (1) or more Lots or Tracts.

Section 2. Approval of Improvements Required. The approval of a majority of the members of the Architectural Review Committee shall be required for any Improvement to Property on any of the Properties before commencement of construction of such Improvement to Property, other than an Improvement to Property made by Declarant.

Section 3. Address of Committee. The address of the Architectural Review Committee shall be at the principal office of the Association.

Section 4. Submission of Plans. Before commencement of work to accomplish any proposed Improvement to Property, or any modification to any existing Improvement, the Owner proposing to make such Improvement (or modification to an existing Improvement) to Property (the "Applicant") shall submit to the Architectural Review Committee at its offices, copies of such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications, and samples of materials and colors as the Architectural Review Committee reasonably shall request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property, as may be more particularly described from time-to-time in any minimum construction standards and/or architectural guidelines adopted by the Architectural Review Committee (the "Village Architectural Guidelines" and/or the Neighborhood Guidelines imposed pursuant to the Master CCR's). The Architectural Review Committee may require submission of additional plans, specifications, or other information before approving or disapproving the proposed Improvement to Property. Until receipt by the Architectural Review Committee of all required materials in connection with the proposed Improvement to Property, the Architectural Review Committee may postpone review of any materials submitted for approval.

Section 5. Criteria for Approval. The Architectural Review Committee shall approve any proposed Improvement to Property only if it determines in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Properties as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Properties, including, without limitation, quality and color of materials and location with respect to topography and finished grade elevation; that

the Improvement to Property will comply with the provisions of this Declaration and any applicable plat, ordinance, governmental rule, or regulation; that the Improvement to Property will not detract from the beauty, wholesomeness, and attractiveness of the Property or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association. The Architectural Review Committee is specifically granted the authority to disapprove proposed Improvements because of the unique characteristics or configuration of the Lot or Tract on which the proposed Improvement would otherwise be constructed, even though the same or a similar type of Improvement might or would be approved for construction on another Lot or Tract. The Architectural Review Committee may condition its approval of any proposed Improvement to Property upon the making of such changes thereto as the Architectural Review Committee may deem appropriate.

Section 6. Village Architectural Guidelines/Neighborhood Guidelines. The Architectural Review Committee from time to time may supplement or amend the Village Architectural Guidelines. The Village Architectural Guidelines serve as a guideline only and the Architectural Review Committee may impose other requirements in connection with its review of any proposed Improvements. If the Village Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall control. In addition to the Village Architectural Guidelines the Neighborhood Guidelines imposed pursuant to the Master CCR's shall apply, which Neighborhood Guidelines may be supplemented and/or amended from time to time.

Section 7. Decision of Committee. The decision of the Architectural Review Committee shall be made within thirty (30) days after receipt by the Architectural Review Committee of all materials required by the Architectural Review Committee. The decision shall be in writing and, if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Architectural Review Committee promptly shall be transmitted to the Applicant at the address furnished by the Applicant to the Architectural Review Committee. The Owner, however, is responsible under all circumstances to conform to the provisions of these restrictions in their entirety.

Section 8. Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved by the Architectural Review Committee, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Architectural Review Committee within thirty (30) days after the date of receipt by the Architectural Review Committee of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines. The Architectural Review Committee shall at all times retain the right to object to any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines.

Section 9. Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement to Property in the materials submitted to the Architectural Review Committee. Failure to complete the proposed

Improvement to Property within nine (9) months after the date of approval or such other period of time as shall have been designated in writing by the Architectural Review Committee (unless an extension has been granted by the Architectural Review Committee in writing) or to complete the Improvement to Property in strict conformity with the description and materials furnished to the Architectural Review Committee, shall be a breach of the obligations of the Owner under this Declaration and shall operate automatically to revoke the approval by the Architectural Review Committee of the proposed Improvement to Property. No Improvement to Property shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Residence, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

Section 10. Inspection of Work. The Architectural Review Committee or its duly authorized representative shall have the right, but not the obligation, to inspect any Improvement to Property before or after completion.

Section 11. Notice of Noncompliance. If, as a result of inspections or otherwise, the Architectural Review Committee finds that any Improvement to Property has been constructed or undertaken without obtaining the approval of the Architectural Review Committee, or has been completed other than in strict conformity with the description and materials furnished by the Owner to the Architectural Review Committee, or has not been completed within the required time period after the date of approval by the Architectural Review Committee, the Architectural Review Committee shall notify the Owner in writing of the noncompliance ("Notice of Noncompliance"). The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy or remove the noncompliance within the period of time set forth therein.

Section 12. Correction of Noncompliance. If the Architectural Review Committee finds that a noncompliance continues to exist after such time within which the Owner was to remedy the noncompliance as set forth in the Notice of Noncompliance, the Association may, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the Tract or Lot on which the noncompliance exists in the Office of the County Clerk of Brazoria County, Texas; (b) remove the noncomplying Improvement to Property; (c) levy a fine for noncompliance; and/or (d) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question), and, if the Board elects to take any action with respect to such violation, the Owner shall reimburse the Association upon demand for all expenses incurred therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board may levy a Reimbursement Assessment for such costs and expenses and/or fines against the Owner of the Lot or Tract in question. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Association to take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise.

Section 13. No Implied Waiver or Estoppel. No action or failure to act by the Architectural Review Committee shall constitute a waiver or estoppel with respect to future action by the Architectural Review Committee or the Board of Directors, with respect to any Improvement to Property. Specifically, the approval by the Architectural Review Committee of any Improvement to Property shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement to Property by such Person or otherwise.

Section 14. Power to Grant Variances. The Architectural Review Committee may authorize variances from compliance with any of the provisions of Article VIII of this Declaration (except for the provisions of Article VIII, Section 2 relating to single family residential construction and use, for which no variances may be granted by the ARC), including restrictions upon placement of structures, the time for completion of construction of any Improvement to Property, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Review Committee. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Architectural Review Committee other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot or Tract concerned. Any request for a variance which is not responded to within thirty (30) days of its receipt shall be deemed denied.

Section 15. Reimbursement of Architectural Review Committee. The members of the Architectural Review Committee shall be entitled to reimbursement by the Association for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

Section 16. Delegation of Authority. It is understood that the Architectural Review Committee may delegate all or part of its authority hereunder to review the documents submitted to it and that the Architectural Review Committee may retain the services of architects, engineers and others (and Owners shall pay all fees) from time to time for the purpose of reviewing such documents and making recommendations as to approval, disapproval or modification thereof.

Section 17. Authority to Charge Fees. The Architectural Review Committee may charge and collect a reasonable fee for processing an application submitted to the Architectural Review Committee for approval. Such charges shall be payable at the time and place and in the manner prescribed by the Architectural Review Committee. The Architectural Review Committee also may charge and collect such other fees or deposits as are reasonable and necessary, including but not limited to inspection fees. All fees and deposits are subject to change by the Architectural Review Committee without prior notice.

Section 18. Non-liability for Architectural Review Committee Action. None of the members of the Architectural Review Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Committee. In reviewing any matter, the Architectural Review Committee shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes, or other governmental laws or regulations. Furthermore, none of the members of the Architectural Review Committee, any member of the Board of Directors, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Review Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Review Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements, or portion thereof, or for failure to repair or maintain the same.

Section 19. Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Architectural Review Committee may temporarily suspend certain provisions of this Declaration as to the Tract or Lot upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Properties.

Section 20. Master CCR's Architectural Review. All Owners are hereby advised that there are architectural review procedures also in the Master CCR's, which also must be complied with prior to construction of any Proposed Improvement to Property.

ARTICLE VIII.

Architectural Restrictions

Section 1. Residence Size. Each Residence constructed on a Lot shall contain the minimum number of total square feet of living area (exclusively of porches and garages), as required by the City of Pearland.

Section 2. Height and Character of Residence. No Residence shall be erected, altered, or permitted to remain on any Lot other than one Residence used for single family residential purposes only, not to exceed three (3) stories in height, and a fully enclosed garage as provided in Section 7.

Section 3. Location of Residence. Except as may be authorized in writing by the Architectural Review Committee, no Residence or Improvement shall be located nearer to the front Lot line nor

nearer to any rear or side Lot line than as permitted by the recorded Plat of the Properties, and in compliance with all regulations, rules or ordinances of the City of Pearland, unless a variance has been granted by the Architectural Review Committee and the City of Pearland.

Section 4. Exterior Walls. No Residence shall have exterior wall construction which is other than what is required in the Architectural Guidelines. Any construction materials used other than brick or masonry concrete or other approved material must have Architectural Review Committee approval.

Section 5. Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, shed, or other outbuilding shall be maintained or used on any Lot or Tract at any time as a Residence, or for any other purpose, either temporarily or permanently; provided, however, that Declarant reserves the exclusive right to erect, place, and maintain such facilities in or upon any portion of the Property as in its sole discretion may seem necessary or convenient while selling Tracts and Lots, selling or constructing Residences, or constructing other Improvements within the Property. The right to use temporary structures in connection with the construction of Improvements may be assigned from time-to-time, in whole or in part, by Declarant to Sub-developers. All permitted temporary structures shall be reasonably maintained at all times.

Section 6. Drainage. Without the prior written consent of the Architectural Review Committee, no Owner of a Lot or Tract shall be permitted to construct Improvements on such Lot or Tract or grade such Lot or Tract or permit such Lot or Tract to remain in or be placed in such condition that surface water on such Lot or Tract drains to any other Lot or the Common Area.

Section 7. Carports/Garages. No carports shall be constructed on any Lot or Tract, unless approved by the ARC. All garages shall be: (a) fully operable; (b) capable of housing at least two (2) automobiles; and, (c) enclosed by fully functional and operational garage doors which must be kept in the closed position when the garage is not being used by the Owner or occupant. The garage portion of any model home may be used by Sub-developers for sales purposes, storage purposes, and other related purposes. Upon (or before) the sale of any such model home to the first purchaser thereof, the garage portion of the model home shall be converted to a fully enclosed garage capable of housing not less than two (2) automobiles, with fully functional and operational garage doors. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles below that originally approved by the Architectural Review Committee, nor may any portion of a garage be diverted to any use other than the parking of vehicles and other generally accepted and customary uses of a garage. In particular, but not in limitation of the foregoing, no portion of any garage may be used as a residence, game room or for any similar use as living quarters.

Section 8. Roofs. Unless otherwise approved, the roof of all buildings on the Lot or Tract shall be covered with composition shingles with a life of twenty (20) years or better, or comparable to minimum specifications as defined by the Federal Housing Authority. The color of any composition shingles shall be subject to written approval by the Architectural Review Committee prior to installation. Any other type roofing material may be used only if approved in writing prior to installation.

Section 9. Grass, Shrubbery and Landscaping. The Owner of each Lot with a Residence thereon shall solid sod with grass the area between the Residence and the curb line(s) of the abutting street(s) within thirty (30) days of a certificate of occupancy being issued for such Residence. All grass, plants, and shrubs shall be maintained by the Owner of the Lot or Tract. The grass, plants, shrubs and trees shall be of a type and within standards approved by the Architectural Review Committee. No front yard of any Lot (nor any side yard of a corner Lot) may be landscaped entirely with cactus and/or crushed rock; crushed rock and/or cactus shall only be used in planting beds and the front (and side on corner Lots) yards must be sodded with grass. The landscaping requirements of the Architectural Review Committee may be revised from time-to-time.

Section 10. Satellite Dishes and Antennas.

(a) Antenna or Satellite Dish in Excess of One Meter (39 inches). No antenna or satellite dish which exceeds one meter (39 inches) in diameter is permitted on any Lot or Tract.

(b) Antenna or Satellite Dish of One Meter (39 inches) or Less, and Other Antennas and Related Masts. An antenna or satellite dish of one meter (39 inches) or less, and other antennas and related masts are permitted to be placed on a Lot or Tract provided any such item must comply with all of the below set forth minimum conditions. Further, the Association must receive written notification at its then current address from the Owner of the applicable Lot or Tract, on or before the installation of any antenna, satellite dish and related mast provided for in this Section 10(b). Such notification must include the type and color of antenna, satellite dish, and any related mast to be installed, and the method, manner, site of installation and relationship to all Improvements on such Lot or Tract. The site must be shown in a plot plan. If more than one location meets all of the minimum conditions below, then the ARC must approve the choice of locations.

If the Owner of a Lot or Tract proposes to install an antenna, satellite dish and any related mast provided for in this Section 10(b) in any manner whatsoever which does not strictly comply with the below set forth minimum conditions, such Owner must submit an application to the Architectural Review Committee and obtain the written approval of the Architectural Review Committee prior to commencing such installation. In connection with the Architectural Review Committee's decision, the Architectural Review Committee shall consider such factors as it deems appropriate, in its reasonable discretion. The application to the Architectural Review Committee must be made on a form approved by the Architectural Review Committee and contain such information as may be required by the Architectural Review Committee, including a statement which specifically describes the manner in which it is proposed that such antenna, satellite dish and related mast will vary from such minimum conditions. The Architectural Review Committee shall endeavor to make its decision regarding the proposed antenna, satellite dish and any related mast on an expedited basis within seven (7) days after receipt by the Architectural Review Committee of the completed application and all information required therein. The granting of a variance from such minimum conditions shall in no way affect the Owner's obligation to comply with all governmental laws and regulations and other regulations affecting the Lot or Tract concerned.

(c) Minimum Conditions. In addition to the foregoing requirements, no antenna, satellite dish, or any related mast shall be erected, constructed, placed, or permitted to remain on any Lot or Tract unless such installation strictly complies with the following minimum conditions (however, each minimum condition shall not apply if it unreasonably delays installation of the applicable antennae, satellite dish, and any related mast, or unreasonably increases the cost of such items or their installation, or precludes reception of an acceptable quality signal):

(i) The antenna, satellite dish and any mast must be located to the rear one-half (½) of the Lot or Tract and must serve only improvements on the particular Lot or Tract in which it is located.

(ii) To the extent feasible, the antenna, satellite dish and any mast, including its base and anchoring structure, shall not extend above the roof line of the house located on the Lot or Tract and shall not be visible from the frontage street or any adjoining street.

(iii) To the extent feasible, no antenna, satellite dish or mast shall be constructed or placed or permitted to remain on any utility easement or other easement or right-of-way located on any Lot or Tract.

(iv) The antenna, satellite dish and any mast must be securely mounted to a base, so as to be able to withstand the effects of high winds or other extraordinary weather conditions; however, no guy wires or similar mounting apparatus will be allowed.

(v) No advertising slogans, logos, banners, signs or any other printing or illustration whatsoever shall be permitted upon or be attached to the antenna, satellite dish or mast.

(vi) No satellite dish or antenna shall ever be used for the transmission of any signal whatsoever and said antenna or satellite dish shall be for the purpose of receiving only normal signals through airwaves for television viewing or internet access purposes only.

(vii) No antenna or satellite dish shall be permitted to cause any distortion or interference whatsoever with respect to any other electronic device in the Subdivision.

(viii) The antenna, satellite dish and any mast shall be one solid color only, either white or black or shades of either brown, gray or tan.

(ix) Each Lot or Tract shall be permitted to have no more than one antenna or satellite dish and any related mast, as applicable, for each category of the following categories of video programming providers, to-wit: direct broadcast satellites, multi-

channel multi-point distribution (wireless cable) providers, and television broadcast stations.

(x) Any antenna, satellite dish, or related mast installed hereunder shall be installed in a manner that complies with all applicable laws and regulations and manufacturer's instructions.

(xi) If any provision of the guidelines in this Section 10 is ruled invalid, the remainder of such guidelines shall remain in full force and effect.

Section 11. Flagpoles. No free standing flagpole shall be permanently erected on any Lot or Tract. A temporary flagpole approved by the Architectural Review Committee may be erected on a Lot with a model home until such time that the Lot on which the model home is situated is sold.

Section 12. Exterior Lighting. All exterior lighting must first be approved by the Architectural Review Committee. No exterior lighting may shed light onto other Properties or into residential dwellings in such a manner that creates a nuisance.

Section 13. Sound Devices. No external horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect the Residence, shall be placed or used on any Lot or Tract or Improvements. This paragraph shall not preclude the use of outdoor speakers, stereos, home entertainment systems, or radios if the sound level is maintained at a reasonably low level with respect to adjoining property.

Section 14. Window Treatment. No window in any Residence or other Improvement that is visible from any other Lot or Tract or a street may be covered with any aluminum foil or other reflective material. Window coverings must be compatible with the design of the Residence and the overall appearance of the Properties and from the exterior must be neutral or white if visible from the street. The Architectural Review Committee shall have the sole authority to determine whether particular window coverings are compatible with the design and color of the Residence and the overall appearance of the Properties. Permanent window coverings must be installed within ninety (90) days of a conveyance of a Residence from a Sub-developer to a homeowner.

Section 15. Air Conditioners. No window, roof or wall-type air conditioner that is visible from any street or any other Lot or Tract, shall be used, placed or maintained on or in any Residence, garage or other Improvement.

Section 16. Tents, Mobile Homes and Temporary Structures. Except for Declarant's marketing and construction trailers and temporary buildings and except as may be permitted by the Architectural Review Committee during initial construction within the Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Lot or Tract or any part of the Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior approval of the

Architectural Review Committee, as appropriate, in accordance with Article VII hereof. All permitted structures shall be properly maintained at all times and positioned on the Lot so as to not be visible from the fronting street and/or side street in the event of a corner lot. Additionally, all permitted structures shall be limited to a maximum height of eight (8') feet at the highest point of said roof, and shall be no more than one hundred twenty square feet (120') of floor space. Materials, color and design of all permitted structures must be the same as the primary dwelling. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

Section 17. Drainage. Catch basins and drainage areas are for the purposes of natural flow of water only. No obstructions or debris shall be placed in these areas. Provided, however, the Association hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, storm sewer, sanitary sewer, stream, or pond within the Properties.

Section 18. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 19. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation, permanent flagpoles or temporary flagpoles shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article VII of this Declaration. No such decorative embellishment or similar items shall be permitted on the front portion of any or Tract Lot or yard. However, notwithstanding the foregoing, flags mounted on the front of the primary dwelling with a bracket shall be allowed for one (1) week before a nationally recognized holiday and one (1) week after such holiday only.

Section 20. Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Lot or Tract without prior written approval of the Architectural Review Committee in accordance with Article VII hereof. These items shall be positioned on the Lot so as not to be visible from any street. These items must be placed on the rear of the Lot no closer to the side than ten feet (10'), and shall be no taller than twelve feet (12'). Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 21. Walls, Fences and Hedges. No hedge in excess of three feet (3') in height, shall be erected or maintained nearer to the front Lot or Tract line than the building set-back line adjacent to the walls of the dwelling existing on such Lot or Tract. No side or rear fence or wall shall be more than eight feet (8') nor less than four (4') in height. All fences and walls shall be constructed and located as described in the Architectural Guidelines or as described by the Architectural Review Committee.

Unless approved by the Architectural Review Committee, no chain link, chicken wire, or other wire fence will be permitted on any Lot or Tract. No fence or wall shall be erected on any Lot or Tract nearer to the street than the building setback lines as shown on the Plat. The Architectural Review Committee has the right to deviate its approval for the style and materials and/or placement to be used based on the location within the Properties. It is the intent to maintain visual continuity especially along entryways and/or main thoroughfares and/or adjacent to common area properties. Title to any wall, fence, or hedge shall pass ownership with title to the Lot or Tract, and it shall be the Owner's responsibility to maintain said wall, fence or hedge thereafter in the manner prescribed by the Association.

Section 22. Exterior Paint. The exterior surfaces of buildings(including doors), fences or walls located in the Properties shall not be painted or stained unless the Architectural Review Committee gives its prior written approval of the color of paint or stain to be used; even when repainting with the existing color. The purpose of this covenant is to maintain harmony of the exterior paint colors of the buildings throughout the Properties. Iridescent and/or pastel colors or tones considered to be brilliant are not permitted. Any fence shall be maintained in its natural state, or in compliance with the Architectural Guidelines if such Architectural Guidelines apply to the wall or fence in question, except the Project Brick Fence or Wall.

ARTICLE IX.

Use Restrictions

Section 1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by Declarant or the Association). Any Supplemental Declaration imposed on the Properties may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

Section 2. Single Family Residential Use. Each Owner shall use its Tract only to develop into Lots, unless another use is approved by the Board. Each Owner shall use his Lot and the Residence on his Lot, if any, for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multifamily use or for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his Residence as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the Residence or any structure or Improvement upon such Lot and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise, odor, or traffic (vehicular or pedestrian) is generated and (e) such use in all respects complies with the laws of the State of Texas, any applicable ordinances, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage or adoption, which may include only parents, their children (including foster

children and wards), their dependent brothers and sisters, their grandparents and domestic servants; and (b) no more than two unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their grandparents and their domestic servants.

Section 3. Occupants Bound. All provisions of the Declaration, By-Laws and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners shall also apply to all occupants, guests and invitees of any Lot or Tract. Every Owner shall cause all occupants of his or her Lot or Tract to comply with the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot or Tract are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto.

Section 4. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any structure, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. The use and discharge of firecrackers and other fireworks is prohibited within the Properties.

Section 5. Business Use. No garage sales, moving sales, rummage sales or similar activity (provided, however, an Owner of a Lot may have one of the following types of sales: (i) garage, (ii) moving, (iii) rummage, lasting no more than one (1) full weekend no more than one time during each one (1) year period of ownership) and no trade or business may be conducted in or from any Lot or Tract, except that an Owner or occupant residing in a Residence on a Lot may conduct business activities within the Residence, so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Section 6. Definition of "Business" and "Trade". The terms "business" and "trade", as used herein, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the

provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot pursuant to Section 8 of this Article IX shall not be considered a trade or business within the meaning of this Section. The definition of "business" and "trade" shall not apply to any activity conducted by Declarant with respect to its development and sale of any and all Tracts and Lots and Residences located thereon.

Section 7. Unightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot or Tract. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Section 8. Leasing of Lots or Tract.

i. Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot or Tract by any person or persons other than the Owner for which the Owner received any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

ii. Leasing Provisions. Lots or Tracts may only be leased for single family residential purposes as defined in this Declaration. No Owner shall be permitted to lease his Lot or Tract for hotel or transient purposes, which for purposes of this Section is defined as a period of less than thirty (30) days. No Owner shall be permitted to lease less than the entire Lot or Tract. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner under this Declaration. The Owner making such lease shall not be relieved from any of such obligations. Upon the execution of a lease agreement, the Owner shall notify the Association in writing of the Owner's designated address and the name of Owner's lessee. No lessee shall be entitled to use the recreational facilities or Common Area of the Association until the information specified in this Section is provided to the Association in writing and the Owner further notifies the Association in writing that the Lessee has been granted the authority to use the recreational facilities and Common Area of the Association by such Owner. The use of the Common Areas and/or recreational facilities is limited to the benefit of one (1) family per Residence and the granting of such rights to a tenant excludes the right of the Owner during such period.

Section 9. Compliance with Declaration, By-Laws and Rules and Regulations. Every Owner shall cause all occupants of his or her Lot or Tract to comply with the Declaration, By-Laws, and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations and losses

to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot or Tract are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and Rules and Regulations adopted pursuant thereto.

Section 10. Laws and Ordinances. Every Owner and occupant of any Lot or Tract, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 11. Subdivision of Lots or Tracts. Declarant hereby expressly reserves the right to replat any Lot or Lots or Tracts owned by Declarant in accordance with all applicable subdivision and zoning regulations.

Section 12. Parking and Prohibited Vehicles. No motor vehicles or non-motorized vehicle, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery, or equipment of any kind may be parked or stored on any part of any Lot or Tract, easement, or right-of-way, unless such vehicle or object is completely concealed from public view inside a garage or enclosure approved by the Architectural Review Committee. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) have current license plates and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; and (d) which do not exceed six feet six inches (6'6") in height, or eight feet (8') in width, or twenty-four feet (24') in length or have more than six (6) wheels, may be parked in the driveway on a Lot or Tract; however, no vehicle shall be parked so as to obstruct or block a sidewalk, if any, and no vehicle shall be parked upon any portion of the grassed areas or yard. For purposes hereof "stored" shall mean longer than five (5) days. No vehicle may be repaired on a Lot or Tract unless the vehicle being repaired is concealed from view inside a garage or other approved enclosure unless permitted pursuant to Section 7 above. This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a house or houses in the immediate vicinity; provided, however, Owners or occupants of Lots or Tracts may seek a temporary variance from these restrictions for their guests; however, any such request for a variance must receive the prior approval of the Board of Directors of the Association. The Board of Directors of the Association may adopt additional Rules and Regulations regulating parking on the streets in the Properties.

Section 13. No Hazardous Activities. No activity shall be conducted on and no Improvements shall be constructed on any property within the Properties that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior or exterior fireplace.

Section 14. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Lot or Tract for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 15. Removal of Trash and Debris During Construction. During the construction, repair, and restoration or remodeling of Improvements, each Owner shall remove and haul (or cause to be removed and hauled) from the Lot or Tract all tree stumps, tree limbs, branches, underbrush, and all other trash or rubbish cleared from the Lot or Tract to permit construction of the Improvements, including landscaping. No burning of trash or other debris is permitted on any Lot or Tract, and no materials or trash hauled away from any Lot may be placed elsewhere within the Properties, unless approved in writing by the Architectural Review Committee. Additionally, each Owner, during construction or remodeling of the Improvements, shall continuously keep (or cause to be kept) the Lot or Tract in a reasonably clean and organized condition, papers, rubbish, trash, scrap, and unusable building materials are to be kept, picked up, and hauled from the Lot or Tract on a regular basis. Other useable building materials are to be kept stacked and organized in a reasonable manner. No trash, materials, or dirt shall be placed in the street. Any such trash, materials, or dirt inadvertently spilling or getting into the street or street gutter shall be removed, without delay. Notwithstanding the above, during the initial construction of Residences, a Sub-developer shall only be required to use reasonable efforts to comply with this section. For purposes of this section, unless otherwise determined by the ARC, "reasonable efforts" shall mean the typical practice during construction of homebuilding companies in the general area for similarly priced houses.

Section 16. Lighting. Except for traditional holiday decorative lights, which may be displayed for one (1) month prior to and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article VII of this Declaration.

Section 17. Excavation and Tree Removal. The digging of dirt or the removal of any dirt from any Lot or Tract is expressly prohibited except as may be necessary in conjunction with the landscaping of or construction on such Lot or Tract and except in compliance with all ordinances of the City of Pearland. No trees shall be cut or removed except to provide room for construction of Improvements or to remove dead or unsightly trees; provided, however, that removal of any tree in excess of a four inch (4") caliper requires the approval of the Architectural Review Committee and the replacement, one for one, of such tree with a tree of equal or greater caliper. Any void, depression or hole created by the removal of dirt or a tree must be filled in accordance with the requirements of the Architectural Review Committee.

Section 18. Damage or Destruction of Improvements. Owners are bound and obligated through the purchase of a Lot or Tract to maintain the Lot or Tract and all Improvements thereon in a neat and habitable manner. In the event of damage to any Improvement, the Owner shall have the shorter of the period permitted by applicable laws or sixty (60) days to begin repairing or demolishing the destroyed

or damaged portion, and, once timely commenced, such repairs or demolition must be pursued diligently to completion. If, however, damage to the Improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the Improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board within sixty (60) days from the date of such destruction or damage. The Board shall rule on the Owner's application for a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a hardship extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed Improvement to be demolished and the Lot or Tract to be suitably landscaped, subject to the approval of the Architectural Review Committee, so as to present a pleasing and attractive appearance. Such Lot or Tract will be properly mowed, cleaned and maintained after the removal of such Improvement.

Section 19. Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot or Tract except within an enclosed container of a type, size and style approved by the Board and appropriately screened from view, except that any such container may be placed in a designated area for garbage or trash pickup no earlier than six o'clock p.m. on the day preceding trash pickup of such garbage and trash and shall be returned to an enclosed structure or an area appropriately screened from view no later than midnight of the day of pickup of such garbage or trash.

Section 20. Clothes Drying. No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot or Tract, if visible from the street or any other Lot or Tract, nor shall clothing or household fabric or any other article be hung, dried or aired on any Lot or Tract in such a way as to be visible from other Tracts/Lots/streets or the Common Area.

Section 21. Animals. No animals of any kind shall be raised, bred, or kept on any Lot or Tract except in compliance with all ordinances of the City of Pearland.

Section 22. Signs and Billboards. No signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or Tract except one (1) sign of not more than five (5) square feet which is used to: (a) advertise the property for sale or lease; (b) identify the builder or contractor while construction is in progress on such Lot or Tract; or (c) promote a political candidate, party or issue for a two (2) week period starting no earlier than two (2) weeks prior to the date of the election or referendum and which must be removed no later than the day after the date of the election or referendum. Additionally, the right is reserved by Declarant (and any Sub-developer, with Declarant's prior consent) to construct and maintain signs, billboards, and advertising devices as is customary in connection with the development of the Subdivision and the sale of newly constructed Residences. Declarant and the Association shall also have the right to erect identifying signs at each entrance to the Properties. In no event shall any sign, billboard, poster or advertising device of any character, other than as specifically prescribed in the first sentence of this Section be erected, permitted or maintained on any Lot or Tract without the express prior written consent of the Architectural Review

Committee. The Association shall have the right to enter any Lot or Tract and remove any sign, billboard, poster or advertising device which is not permitted by this Section and in so doing will not be subject to any liability for trespassing or other tort in connection therewith or arising from such removal.

Section 23. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any of the Property, nor shall any walls, tanks, tunnels, mineral excavations or shafts be permitted upon any of the Property. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any of the Property.

Section 24. Treatment Facilities. No Lot or Tract shall be used for the operation of a boarding or rooming house, a residence for transients, a "group home", "family home", "community home", "half-way house", day-care center, rehabilitation center, treatment facility, or Residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicap, or illness, or other similar matters, unless otherwise allowed by the terms of any law specifically negating the provisions of restrictive covenants prohibiting same.

ARTICLE X.

Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments. The undersigned Owners hereby covenant, and each Owner of any Lot or Tract by acceptance of a deed from Declarant therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (i) Annual Assessments;
- (ii) Special Assessments; and
- (iii) Reimbursement Assessments.

The Annual, Special, and Reimbursement Assessments (collectively the "Assessments"), together with interest, costs and reasonable attorney's fees, shall also be a charge on the Lot or Tract and shall be a continuing lien upon the Properties and Lots and Tracts against which the Assessments are made. Each such assessment and other charges, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of the Lot or Tract at the time when the assessments fell due and shall not be affected by any change in the ownership thereof.

Each Owner is also subject to assessment pursuant to the Master CCR's. The assessments pursuant to the Master CCR's may be billed and collected by the Association (at the election of the Master Association), along with the Association's billing and collecting of Assessments hereunder. Any assessments collected for the Master Association shall be paid to the Master Association out of the first funds available.

Section 2. Annual Assessments.

(i) Generally. Each Lot and Tract in the Properties is hereby subjected to an annual assessment (the "Annual Assessment"), commencing for such Lot and/or Tract on the date upon which the Declarant conveys the record fee title to Lot or Tract to another Person. Such amount will be prorated based on the number of days remaining in the calendar year. Unless otherwise decided by the Board, the Annual Assessment will be paid by the Owner or Owners of each Lot or Tract within the Properties to the Association on an annual basis, on the dates determined by the Board of Directors, unless the board determines otherwise.

The rate at which each Tract will be assessed will initially be \$300.00 per acre per year, subject to adjustment by the Board in subsequent years. The rate at which each Lot will be assessed will be determined annually and may be adjusted from year to year by the Association, as hereinafter provided, or as the needs for the Properties may, in the judgment of the Association, require. The Annual Assessment shall be assessed on a per Lot or per Tract basis, except as hereinafter provided for Declarant. A Tract shall change to Lots, and each of the Lots that originally comprised the Tract shall thereafter be individually assessed on a per Lot basis, when a plat is recorded for the Tract by anyone other than Declarant.

At such time as a plat is recorded changing a Tract into Lots, those Lots will be assessed at ½ the full Annual Assessment for Lots until such time as the Lot and Residence is sold to the general public. Currently this ½ Annual Assessment is \$85.00 per Lot. At the time any Lot and Residence is sold to the general public, the full Annual Assessments for a Lot as determined by the Board shall apply to such Lot. Such full Annual Assessment is currently set at \$170.00 per Lot.

It shall be the obligation of the Owner of each Lot and/or Tract to promptly notify the Association (or its managing agent) in writing, at such time as a plat is recorded for any Lot or Tract, and again at the time any Lot is sold to the general public. Upon any such notification, the Association (or its managing agent) may re-assess such Owner for the increased Annual Assessments due the Association, resulting from the change of status of the Lot or Tract, prorated for the number of days remaining in the year, having given credit for the amount already paid.

(ii) Uses. The Association may accumulate any portion of the Annual Assessments for the Maintenance Fund and may use the Maintenance Fund for any purpose provided by this Declaration, including by way of clarification and not limitation, at its sole option, any or all of the following: constructing and maintaining, any paths, parks, landscape reserves, parkways, easements, detention ponds, esplanades, fences, cul-de-sac and street medians, play courts, recreational facilities,

meeting rooms, swimming pool and other common areas, payment of all legal and other expenses incurred in connection with the enforcement of all charges, Assessments, covenants, restrictions and conditions affecting the Properties, payment of all reasonable and necessary expenses in connection with the collection and administration of the Assessments, employing patrol services, instructors, and operators, caring for vacant Tracts or Lots, garbage collection, and doing other things necessary or desirable, in the opinion of the Board of Directors to keep the Properties neat and in good order or which is considered of general benefit to the Owners or occupants of the Properties. It is understood that the judgment of the Board of Directors in the expenditure of the Maintenance Fund shall be final and conclusive so long as said judgment is exercised in good faith. Nothing herein shall constitute a representation or obligation that any of the above will, in fact, be provided by the Association.

(iii) Rendition and Notice. Annual Assessments shall be payable monthly, unless the Board of Directors decides otherwise. The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum, and shall fix the amount of the Annual Assessment against each Lot and Tract by December 1 preceding the Annual Assessment period. The Annual Assessment period shall begin on January 1 of each year. Written notice of the Annual Assessment and the monthly due dates shall be sent to every Owner subject thereto at the address of each Lot or Tract or at such other address provided to the Association in writing. Annual Assessments shall be considered delinquent if not received within ten (10) days of the date for which the monthly payment of the Annual Assessment pertains.

(iv) Declarant's Obligations. So long as the Declarant owns any Tracts or Lots, even though Annual Assessments shall not commenced as to such Tracts or Lots, the Declarant shall have three (3) options with respect to funding the Association, which may be exercised singly or in combination: (1) the Declarant may annually elect either to pay Annual Assessments on the Tracts and Lots it owns or (2) the Declarant may elect to pay to the Association the difference between the amount of assessments collected on all other Tracts and Lots subject to assessment and the amount of expenditures required to operate the Association during the fiscal year, or (3) Declarant may require the Board (whether the Board is the same as Declarant, his agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) to execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant or loaned to the Association by Declarant for and on behalf of the Association for obligations of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Area conveyed by Declarant to the Association.

The Declarant shall be given preliminary budget numbers for the next fiscal year no later than August 1st of each year, so that it may evaluate its decisions under this paragraph. Upon Declarant's sale of all Assessable Tracts owned by it, Declarant shall have no further obligation to pay Assessments to, or fund any deficits of, or make any contributions to, the Association.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

So long as the Declarant owns any Assessable Tracts, the Declarant may elect on an annual basis, but shall not be obligated, to reduce the resulting Assessment Rate for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant above); provided, any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future year.

Section 3. Maximum Annual Assessments.

(i) Without Vote of Members. The maximum Annual Assessment for Lots for calendar year 2001 shall be in the amount set by the Declarant. Beginning with Annual Assessment for calendar year 2002, the maximum Annual Assessment for Lots may be increased once a year by the Board of Directors of the Association, by an amount not to exceed twenty-five percent (25%) over the prior year's Annual Assessment, without a vote of the Members of the Association. In the event the Association becomes indebted to the Declarant in any manner, the Board of Directors will be required to assess the Owners the maximum assessment provided for in this Section 3(i) of Article X each year to provide for the repayment to the Declarant until the Declarant has been paid in full.

(ii) With Vote of Members. The Annual Assessment may be increased above that allowed by Section 3(i) of this Article X, if, and only if, the increase is approved by the affirmative vote of two-thirds (2/3) of the total Class A and Class B eligible votes of the Association at a meeting duly called for that purpose. In lieu of notice to and a meeting of Members as provided in the By-Laws of the Association, a door-to-door canvas of Members eligible to vote may be made to secure the required two-thirds (2/3) approval. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U.S. mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvas.

Section 4A. Special Assessments for Capital Improvements. In addition to the Annual Assessments, the Board of Directors may, upon the affirmative vote of two-thirds (2/3) of the total Class A and Class B eligible votes of the Association at a meeting duly called for this purpose, levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Voting may also be handled by mail ballot as long as the ballots contain the name, property address, certification by the Secretary of the Association, alternate address of the Member, if applicable, and the date and signature of the Member. Ballots may be returned by U. S. First Class Mail in envelopes specifically marked as containing ballots for the election, or may be collected by door-to-door canvas. Upon the levying of any Special Assessment pursuant to the

provisions of this Section, the Association shall cause the Class A Members to be notified of, among other items that may be appropriate, the total number of eligible votes of the Association as of the date of the voting, the quorum required, the number of votes voting "For" and "Against" the Special Assessment, the amount of the Special Assessment authorized, and the date by which the Special Assessment must be paid in order to avoid being delinquent.

Notwithstanding the foregoing, if an emergency exists such that the Board of Directors determines that the repair of a capital improvement upon the Common Area is necessary to eliminate or reduce the risk of injury to third parties and there is not enough money held by the Association, in reserve or otherwise, to repair the capital improvement to reduce or eliminate this risk, the Board of Directors may levy a Special Assessment to sufficiently repair the capital improvement to reduce or eliminate such risk without the affirmative vote of two-thirds (2/3rds) of the total eligible Class A and Class B vote of the Association.

Section 4B. Capitalization Fee. Each Owner of a Tract or Lot other than Declarant (whether one or more Persons) at the time it purchases a Tract or Lot, shall be obligated to pay to the Association a fee of \$100.00 per Tract or Lot, at the time of sale, as a Capitalization Fee. Such funds from the Capitalization Fee collected at each sale shall initially be used to defray initial operating costs and other expenses of the Association, and later used to ensure that the Association shall have adequate funds to meet its expenses and otherwise, as the Declarant (and later the Association) shall determine in its sole discretion (hereinafter "Capitalization Fee"). Such Capitalization Fee shall be non-refundable and shall not be considered an advance payment of any Assessments levied by the Association pursuant to the Declaration. The amount of the Capitalization Fee may be changed prospectively (but not retrospectively) by the Association from time to time in its discretion. Such Capitalization Fee will be collected from the Owner directly at the purchase of the Tract or Lot. If any Tract or Lot is subdivided and/or platted into multiple Tracts or Lots, then the multiple Tracts or Lots will thereafter be subject to the Capitalization Fee at the time of each sale. Such Capitalization Fee shall be deemed an Assessment hereunder, and may be collected in the same fashion.

Section 4C. Conveyance Fee. In connection with the creation of the Association and the development of the Village of Emerald Bay and the construction of the Common Area, the Declarant has expended substantial sums in connection with developing the master plan, helping finance and plan the development, the credit enhancement necessary to obtain the necessary construction financing and financially subsidizing the maintenance and operations of the Association and its Common Areas. In particular, the Declarant has personally guaranteed the construction financing obtained to construct all of the Common Area improvements and other infrastructure in the Village of Emerald Bay. Therefore, each Owner of a Tract or Lot other than Declarant (whether one or more Persons) at the time it purchases a Tract or Lot, shall be obligated to pay to the Declarant a fee of \$25.00 per a Tract or Lot as a Conveyance Fee, regardless of the size or projected usage of such a Tract or Lot at the time of sale. This Conveyance Fee shall be collected on every sale of a Tract or Lot for twenty (20) years from the date of recording of this Declaration, at which time this Conveyance Fee shall expire and shall no longer be collected. Such Conveyance Fees from each sale shall reimburse the Declarant for expenses involved in the creation of the Association, funds expended by Declarant to subsidize the operations

of the Association and unreimbursed construction and other expenses involving the Association. Such Conveyance Fee shall also compensate the Declarant for the financial obligations and risks it undertook in its development activities and guarantees of financial obligations. Such Conveyance Fee shall be non-refundable and shall not be considered an advance payment or offset of any past or future Assessments levied by the Association nor shall the Conveyance Fee be considered partial payment of the Capitalization Fee. Such Conveyance Fee will be billed to the Owner directly at the time of the purchase of the Tract or Lot. If any Tract or Lot is subdivided and/or platted into multiple Tracts or Lots, then each of the multiple Tracts or Lots will thereafter be subject to the Conveyance Fee at the time of each sale of each of the multiple Tracts or Lots.

Notwithstanding anything to the contrary contained herein the provisions of this Declaration regarding this Conveyance Fee may not be amended, modified, repealed, terminated or waived. Without the prior written agreement of the Declarant.

Section 5. Notice and Quorum of any Action Authorized. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and proper form of notice of any meeting for the purposes set forth in Section 3(b) or Section 4, as applicable, of this Article X, and to ascertain the presence of a quorum at such meeting.

Section 6. Reimbursement Assessments. The Board of Directors, subject to the provisions hereof, may levy a Reimbursement Assessment against any Member if the failure of the Member or the Member's family, guests, or tenants to comply with this Declaration, the Articles of Incorporation, the Bylaws, Minimum Construction Standards, or the Rules and Regulations shall have resulted in the expenditure of funds or the determination that funds will be expended by the Association to cause such compliance. Further, any fines and/or penalties levied pursuant to this Declaration or pursuant to the Rules and Regulations shall be deemed Reimbursement Assessments to be collected in the same manner as other Reimbursement Assessments. The amount of the Reimbursement Assessment shall be due and payable to the Association ten (10) days after notice to the Member of the decision of the Board of Directors that the Reimbursement Assessment is owing.

Section 7. Estoppel/Resale Certificates. The Association or its agent shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association or its agent setting forth whether the Assessments on a specified Lot or Tract have been paid, however the Declarant shall not be charged for any such certificate when selling to a Sub-developer or an Owner. A properly executed certificate of the Association as to the status of assessments on a Lot or Tract is binding upon the Association as of the date of its issuance.

Section 8. Attribution of Payments. If any Owner's Assessment payment is less than the amount assessed and the payment does not specify whether it should be applied against a Annual Assessment, Special Assessment, or Reimbursement Assessment, the payment received by the Association from the Owner shall be credited in the following order of priority: (a) Reimbursement Assessment until the Reimbursement Assessment has been satisfied; (b) Special Assessment until the Special Assessment has been satisfied; and (c) Annual Assessment until the Annual Assessment has been satisfied. In each

of the foregoing cases, payments received shall be credited first to interest, attorney's fees, and other costs of collection, and then to Assessment reduction, satisfying the oldest obligations first, followed by more current obligations, in accordance with the foregoing order of priority.

Section 9. Effect of Nonpayment of Assessments. Any of the Assessments which are not paid within thirty (30) days after the due date shall be delinquent and shall be subject to the following:

(i) interest at the rate of eighteen percent (18%) per annum from the due date or the maximum rate of interest allowed by law, if less than eighteen percent (18%), and all costs of collection, including reasonable attorney's fees;

(ii) all rights of the Owner as a Member of the Association (but not such Owner's responsibilities as a Member of the Association), including usage of the Common Area, shall be automatically suspended until all Assessments and related costs are paid in full, and during such suspension, such Owner shall not be entitled to vote upon any matters on which Members are entitled to vote; and

(iii) an action at law against the Owner personally obligated to pay the same, and/or foreclose on the lien herein retained against the Lot or Tract. Interest, costs of court, and reasonable attorneys' fees (when placed with an attorney for collection, whether with or without suit) incurred in any such action shall be added to the amount of such Assessment or charge.

Section 10. Contractual Lien.

(i) Generally. Assessments (together with interest, any fines assessed, and reasonable attorney's fees if it becomes necessary for the Association to enforce collection of any amount in respect of any Lot or Tract) shall be a charge on each Lot or Tract, and shall be secured by a continuing lien upon each Lot or Tract against which such assessment is made until paid.

(ii) Notice of Lien. Additional notice of the lien created by this Section may be effected by recording in the Office of the County Clerk of Brazoria County, Texas, an affidavit, duly executed, sworn to and acknowledged by an officer of the Association, setting forth the amount owed, the name of the Owner or Owners of the affected Lot or Tract, according to the books and records of the Association, and the legal description of such Lot or Tract.

(iii) Creation of Lien. Each Owner, by his acceptance of a deed to a Lot or Tract, hereby expressly grants to the Association and to the Master Association a lien for the purpose of securing payment of Assessments upon such Lot or Tract. The Association, acting by and through the Board of Directors may, but shall not be obligated to, prepare and record in the Real Property Records of Brazoria County, Texas, a notice of such lien which will constitute further evidence of the lien for Assessments against a Lot or Tract. In addition to and in connection therewith, by acceptance of the deed to his Lot or Tract, each Owner expressly GRANTS, BARGAINS, SELLS and CONVEYS to the President and/or Vice President or agent of the Association from time to time serving, as Trustee (and

to any substitute or successor trustee as hereinafter provided for) and to the Master Association such Owner's Lot or Tract, and all rights appurtenant thereto, in trust, for the purpose of securing the Assessments levied hereunder, and other sums due hereunder remaining unpaid hereunder from time to time. The Trustee herein designated may be changed for any reason and at any time and from time to time by execution of an instrument in writing signed by the President or a Vice-President of the Association and attested to by the Secretary or an Assistant Secretary of the Association and filed in the Office of the County Clerk of Brazoria County, Texas.

(iv) Enforcement of Lien. The Association and/or the Master Association shall have the right to enforce the aforesaid lien by all methods available for the enforcement of such liens, both judicially and by nonjudicial foreclosure pursuant to Section 51.002 of the Texas Property Code (as may be amended or revised from time to time hereafter). In the event of the election by the Board of Directors of the Association or the Master Association to foreclose the lien herein provided for non-payment of sums secured by such lien, then it shall be the duty of the Trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such request Lot or Tract, and all rights appurtenant thereto in accordance with Section 51.002 of the Texas Property Code (as said statute shall read at the time of enforcement) and to make due conveyance to purchaser or purchasers by deed binding upon the Owner or Owners of such Lot or Tract, and his heirs, executors, administrators and successors. The Trustee shall give notice of such proposed sale as required by Section 51.002 of the Texas Property Code (as said statute shall read at the time notice is given).

(v) Additional Matters Pertaining to Foreclosure. At any foreclosure, judicial or nonjudicial, the Association and/or Master Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association and/or Master Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot or Tract shall be required to pay a reasonable rent for the use of such Lot or Tract, and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and further, shall be entitled to sue for recovery of possession of such Lot or Tract by forcible detainer without further notice.

Section 11. Non-Use, Etc. No Owner may waive or otherwise escape said lien and liability for the assessments provided for herein by non-use of the Common Area, or abandonment, non-use or divestiture of ownership of a Lot or Tract for any Assessment which became due and payable during the time when such Owner owned the Lot or Tract.

Section 12. Exempt Portions of the Properties. All portions of the Properties dedicated to, and accepted by, a local public authority exempt from taxation by the laws of the State of Texas, and all Common Area shall be exempt from the Assessments and other charges created herein. Notwithstanding the foregoing, no Lot or Tract which is used, or is intended for use, as a Residence or other approved use shall be exempt from Assessments and charges and the lien herein securing payment thereof.

Section 13. No Offsets. The Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, (a) any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration, (b) any claim by the Owner of non-use of the Common Areas or abandonment of his Lot or Tract, (c) any claim by the Owner of inconvenience or discomfort arising from the making of repairs or Improvements to Common Area, or (d) any claim by the Owner of inconvenience or discomfort arising from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

Section 14. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the liens created in the Master CCR's and to any first priority lien mortgages relating to the Lots or Tracts or liens relating to construction upon the Lots or Tracts. Sale or transfer of any Lot or Tract shall not affect the lien of the Assessment; however, the sale or transfer of any Lot or Tract pursuant to the foreclosure of a first priority lien mortgage or any proceeding in lieu thereof, shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Tract from liability for the Assessments thereafter becoming due or from the lien thereof. A selling Owner of a Lot shall not be relieved of personal liability for any Assessments accruing on such Lot or Tract prior to the date of sale or transfer.

ARTICLE XI.

Easements and Utilities

Section 1. Title to Utility Lines. The title conveyed to any Lot or Tract within the Properties shall be subject to any easement affecting same for utility or other purposes and shall not be held or construed to include the title to the water, gas, electricity, telephone, cable television, security, storm sewer, or sanitary lines, poles, pipes, conduits, or other appurtenances or facilities constructed upon, under, along, across, or through such utility easements. No Lot or Tract Owner shall own the pipes, wires, conduits, or other service lines running through his Lot or Tract that are used for or serve other Lots or Tracts, but each Lot or Tract Owner shall have an easement to use such facilities to the extent necessary for the use, maintenance, and enjoyment of his Lot or Tract.

Section 2. Association Easements. The Association, its agents, servants, and employees and the Master Association and its agents, servants and employees shall have and be entitled to all easements specifically referenced throughout this Declaration.

Section 3. Easements for Utilities, Etc.

(i) Generally. Declarant hereby reserves unto Declarant (so long as Declarant owns any portion of the Properties), and the designees of Declarant, a blanket easement upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, alarm monitoring systems, and similar systems, roads, walkways, bicycle pathways, drainage systems, street lights, signage, and all utilities,

including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Lot or Tract and, except in an emergency, entry onto any Lot or Tract shall be made only after reasonable notice to the Owner thereof.

The Owners (other than Declarant) hereby acknowledge that all rights to provide bundled telecommunication services are reserved exclusively to the Declarant under the Master CCR's, and the Association shall not attempt to provide nor enter into any type of competing contract to provide similar services as those being provided by Declarant, nor enter into or attempt to enter into any bulk rate arrangements for cable, telephone or security.

(ii) Specific Easements. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

(iii) Dedications to Public. The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to the City of Pearland or to any other local, state, or federal governmental entity.

Section 4. Easement Regarding Electric Service Cables. Declarant hereby reserves for itself an easement for access to easement area occupied and centered on electric company service wires immediately adjacent to the Owner's Lot or Tract for the purpose of installing, repairing, and maintaining the underground service cables each Owner is obligated to furnish, install, own, and maintain pursuant to Article XII, Section 2 below.

Section 5. Easement Regarding Project Brick Fence or Wall. Declarant hereby reserves for itself and for the Association a non-exclusive right-of-way and easement for the purpose of constructing, maintaining, operating, repairing, removing and re-constructing an entry way and identifying Subdivision community identify perimeter fence (the "Project Brick Fence or Wall") under, across and through a 5' strip of certain Lots or Tracts that are adjacent to certain of the outer perimeter streets of the Property, as well as a 5' strip in such other locations as determined by Declarant or the Association, on which 5' strip such Project Brick Wall or Fence is constructed. Prior to construction of such entry way and such Project Brick Fence or Wall, the Declarant and/or the Association shall have the right to go over and across the portions of the Lots or Tracts that are adjacent to such to such 5' easement strip for the purpose of performing surveys and other such necessary pre-construction work. After the construction of the entry way and such Project Brick Fence or Wall, Declarant and/or the Association, from time to time, and at any time, shall have a right of ingress and egress over, along, across and adjacent to said 5' easement strip for purposes of maintaining, operating, repairing, removing, re-constructing, and/or inspecting the fence. The Owners of the Lots or Tracts shall have all other rights in and to such 5' easement strip located on each Owner's respective Lot or Tract; provided however, such Owner shall not damage, remove or alter the Project Brick Fence or Wall or any part

thereof without first obtaining written approval from the Declarant and/or the Association with respect to any such action, such approval to be at the Declarant's and/or the Association sole discretion.

However, this Section shall not apply to, and the Association shall not be responsible to, install or maintain any fencing located along Lot or Tract lines which separate individual Lots or Tracts from one another, nor any fencing located along interior boundary lines of the Property, or at the rear of Lots or Tracts and which is constructed of wood or tubular steel, which is not Project Brick Fence or Wall.

Section 6. Intentionally Deleted.

Section 7. Intentionally Deleted.

Section 8. Additional and Other Services. The Association may elect to provide services and facilities for the Properties and shall be authorized to enter into contracts with other entities to provide such services and facilities. In addition to Assessments, the Board shall be authorized to charge additional use and consumption fees for selected services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance and pest control services. The Board shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein is a representation as to what services and facilities will or will not be provided.

ARTICLE XII.

Underground Electrical Distribution System

Section 1. Generally. An underground electrical distribution system (the "System") will be installed within that part of the Properties which, according to the Plat, contain Lots (the "Underground Residential Subdivision"). The System shall embrace all Lots in the Underground Residential Subdivision. The System shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available to the Lots. For so long as underground service is maintained in the Underground Residential Subdivision the electric service to each Residence shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

Section 2. Owner's Responsibility. The Owner of each Lot containing a Residence shall, at his own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electric Code) the underground service cable and appurtenances from the point of the electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of

attachment and at the meter. In addition, the Owner of each Lot containing a Residence shall, at his own cost, furnish, install, own, and maintain a meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation on the meter of such electric company for the Residence constructed on such Owner's Lot.

Section 3. Conditions. The electric company has installed the System in the Underground Residential Subdivision (except for certain conduits, where applicable and except as hereinafter provided). As used in this Declaration, the term "Residences" excludes mobile homes. Should this Declaration be amended to permit erection of one or more mobile homes within the Underground Residential Subdivision, the electric company shall not be obligated to provide electric service to any such mobile homes unless (a) there has been paid to the electric company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the System over the cost of equivalent overhead facilities to serve the Underground Residential Subdivision, or (b) the Owner of each affected Lot, or the applicant for services to any mobile home, shall pay to the electric company the sum of (i) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the System to serve such Lot or Residence over the cost of equivalent overhead facilities to serve such Lot or Residence, plus (ii) the cost of rearranging and adding any electric facilities serving such Lot, which arrangement and/or addition is determined by electric company to be necessary.

Section 4. Applicability to Reserves. The provisions of this Article XII shall also apply to any future residential development in reserve(s), if any, shown on the Plat. Specifically, but not by way of limitation, if an Owner in a former reserve undertakes some action which would have invoked the per front lot foot payment referenced in Section 3 of this Article XII if such action had been undertaken in the Underground Residential Subdivision, such Owner or applicant for service shall pay the electric company as described in Section 3 of this Article XII. The provisions of this Article XII do not apply to any future non-residential development in such reserve(s).

Section 5. Easement Grants. Declarant has either by designation on the Plat, this Declaration, or by separate instrument granted the necessary easements to the electric company providing for the installation, maintenance, and operation of the System and has also granted to the various Owner's reciprocal easements providing for access to the area occupied by and centered on the service wires of the various Owners to permit installation, repair, and maintenance of each Owner's owned and installed service wires.

Section 6. Rights to Build on Easement Area. Easements for the System may be crossed by driveways and walkways provided the Sub-developer or Owner makes prior arrangements with the utility company furnishing electric service and provides and installs the necessary electric conduit of approved type and size under such driveways or walkways prior to construction thereof. The easement for the System shall be kept clear of all other Improvements, including buildings, patios, or other pavings, and the utility company using the easements shall not be liable for any damage done by it, its assigns, agents, employees, or servants, to shrubbery, trees, or Improvements (other than crossing

driveways or walkways provided the conduit has been installed as outlined above) of the Owner and located on the land covered by said easements.

ARTICLE XIII.

Annexation

Section 1. Annexation. Additional residential property (other than the Declarant Annexation Property) and Common Area may be annexed into the jurisdiction of the Association (only after being first annexed into the Master Association) upon the favorable vote of two-thirds (2/3) of the membership votes entitled to be cast by each membership class at a meeting of the Members or otherwise. Provided, however, for so long as there is a Class "B" membership and Class B voting status, additional residential property (if a part of the Declarant Annexation Property) or Common Area may be unilaterally annexed by Declarant without approval by Members of the Association, however, if such property is not owned by Declarant, only with the consent of the owner thereof. Further, additional real property may be annexed hereto from time to time by the Board (only after being annexed first into the Master Association) without the consent of the Owners. In addition to the foregoing, any annexation of additional real property (other than the Declarant Annexation Property) into the jurisdiction of the Association shall require the submission to and approval by the Federal Housing Administration or the Veterans Administration. Annexation of additional property shall encumber said property with all of the covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration and shall become effective on the date a Supplemental Declaration is signed and acknowledged by the owner of said annexed property and the appropriate annexing authority (either Declarant or the Association), is filed for record in Brazoria County, Texas, evidencing the annexation. Each such instrument evidencing the annexation of additional property shall describe the portion of the property comprising the Lots or Tracts and Common Area. The funds resulting from any assessment, whether annual or special, levied against any property hereinafter annexed to the Properties may be combined with the funds collected from the Owners of Lots or Tracts within the Properties and may be used for the benefit of all property and all Owners in the manner hereinabove provided.

Section 2. Withdrawal of Property. Declarant reserves the unilateral right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 1 above, for the purpose of removing unimproved portions of the Property from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Association Property, the Association shall consent to such withdrawal by majority vote of the Board. For purposes of this Section 2, the term "unimproved" means no above ground, vertical improvements located on such property.

ARTICLE XIV.

General Provisions

Section 1. Duration and Amendment. The covenants, conditions, restrictions, reservations, liens, and charges set forth in this Declaration shall run with the land and shall be binding upon and inure to the benefit of the Association, all owners, their respective legal representatives, heirs, successors, and assigns for a term of sixty (60) years from the date this Declaration is filed with the County Clerk of Brazoria County, Texas, after which time said covenants, conditions, restrictions, reservations, liens, and charges shall be automatically extended and renewed for successive periods of ten (10) years each, unless prior to said renewal date an instrument signed by the then Owners of not less than seventy-five percent (75%) of the total number of Lots within the Properties is filed for record with the County Clerk of Brazoria County, Texas, altering, rescinding, or modifying said covenants and restrictions, in whole or in part, as of said renewal date. Notwithstanding anything to the contrary herein contained, it is expressly understood and agreed that the Owners of seventy-five percent (75%) of the total number of Lots or Tracts within the Properties shall always have the power and authority to amend this Declaration and such amendment shall become effective on the date any instrument signed by the then Owners of not less than seventy-five (75%) of the total number of Lots within the Properties is filed for record in Brazoria County, Texas, so amending this Declaration. In addition, Declarant shall have the right at any time and from time-to-time, without the joinder or consent of any other party, to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record in Brazoria County, Texas, for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency appearing herein, or for the purpose of complying with any statute, regulation, ordinance, resolution, or order of the Federal Housing Administration, the Veterans Administration, or any federal, state, county, or municipal governing body, or any agency or department thereof or for any other purpose; provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and any Supplemental Declaration taken collectively, and shall not impair or effect the vested rights of any Owner or Mortgagee.

Section 2. HUD and VA Approval. Annexation of additional property other than Declarant Annexation Property, dedication of Common Area, and amendment of this Declaration, requires the prior approval of the United States Department of Housing and Urban Development or the Veterans Administration for so long as there is a Class "B" membership.

Section 3. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 4. Cumulative Effect; Conflict. The covenants, conditions, restrictions, and provisions of this Declaration shall be cumulative with any others pertaining to the Properties (the "Additional Covenants") and the Association may, but shall not be required to, enforce the Additional Covenants;

provided, however, in the event of conflict between or among (a) the covenants, conditions, and restrictions of this Declaration; and (b) the terms of the Additional Covenants, and provisions of any articles of incorporation, By-Laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, the Additional Covenant shall be subject and subordinate to those of this Declaration. The foregoing priorities shall apply, but not be limited to, the lien for Assessments created in favor of the Association.

Section 5. Compliance. It shall be the responsibility of each Owner or occupant of a Residence to obtain copies of and become familiar with the terms of the Master CCR's, this Declaration, Articles of Incorporation, Bylaws, Rules and Regulations, and Minimum Construction Standards. Every Owner of any Lot or Tract shall comply with all lawful provisions of the Master CCR's, this Declaration, the By-Laws, and Rules and Regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Lot or Tract Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws, including, but not limited to, the right to assess fines for failure to comply.

Section 6. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE MASTER ASSOCIATION, ASSOCIATION, ITS DIRECTORS, OFFICERS, AND AGENTS, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE MASTER ASSOCIATION, ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT OR TRACT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE MASTER ASSOCIATION, ASSOCIATION, AND ITS BOARD OF DIRECTORS, ITS AGENTS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL REVIEW COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLARS ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED, EACH OWNER AND OCCUPANT OF ANY LOT OR TRACT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE MASTER ASSOCIATION, ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND

OCCUPANT OF ANY RESIDENCE AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS, AND FURTHER ACKNOWLEDGES THAT THE MASTER ASSOCIATION, ASSOCIATION, ITS BOARD OF DIRECTORS, ITS DIRECTORS, OFFICERS AND AGENTS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 7. Assignment of Declarant's Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, in whole or in part, provided the transfer shall neither reduce an obligation nor enlarge a right beyond that contained herein or in the By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the County Clerk of Brazoria County, Texas. This Section may not be amended without the express written consent of Declarant.

Section 8. Additional Restrictions Created by Those Other Than Declarant. No Person shall record any covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, including but not limited to any Neighborhood Association CCR's, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by Declarant.

Section 9. Severability. In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

Section 10. Number and Gender. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 11. Delay in Enforcement. No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

Section 12. Enforceability. This Declaration shall run with the Properties and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner of a Lot or Tract

in the Properties, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce this Declaration is initiated against an Owner or occupant of a Lot or Tract by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorneys' fees from the Owner or occupant of a Lot or Tract who violated this Declaration.

Section 13. Remedies. In the event any person shall violate or attempt to violate any of the provisions of the Declaration, the Association, each Owner of a Lot or Tract within the Properties, or any portion thereof, may institute and prosecute any proceedings at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

Section 14. Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any Lot or Tract hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 15. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association or its agents or employees in connection with any portion of the Properties, or any Improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

Section 16. Captions for Convenience. The titles, headings, captions, articles and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to Articles and Sections are to articles and sections of this Declaration.

Section 17. No Condominium. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann. §81.001-81.210 (Vernon 1983).

Section 18. Governing Law. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 19. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage pre-paid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

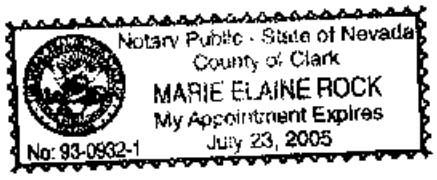
Title: President

THE STATE OF Nevada

§
§
§

COUNTY OF Clark

This instrument was acknowledged before me on the 30 day of August, 2001 by W M Collins, W M Collins of **Pearland Investments Limited Partnership**, general partner of M.M.L.B. Corporation, a Nevada corporation, on behalf of such entities.



Marie Elaine Rock
Notary Public - State of Nevada

AFTER RECORDING, RETURN TO:

Sarah Ann Powers
Hoover, Bax & Slovacek, L.L.P.
5847 San Felipe, Suite 2200
Houston, TX 77057
File No. 122153-02

JOINDER OF ADDITIONAL PARTIES (EB)

The undersigned Lienholders, Benjamin F. Weems, Tierra Negra Corporation, Heart-Eye Land Company and Sturgis and Company, Inc., join herein for the sole purpose of subordinating the liens they hold on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 99 015971, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

By: *Benjamin F. Weems*
BENJAMIN F. WEEMS

TIERRA NEGRA CORPORATION

By: *Benjamin F. Weems*
Name: _____
Title: *President*

HEART-EYE LAND COMPANY

By: *Benjamin F. Weems*
Name: _____
Title: *President*

STURGIS AND COMPANY, INC.

By: *Benjamin F. Weems*
Name: _____
Title: *President*

JOINDER OF ADDITIONAL PARTIES (EB)

The undersigned Lienholders, Benjamin F. Weems, Tierra Negra Corporation and Mildendo Land Company, Inc., join herein for the sole purpose of subordinating the liens they hold on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 99 015977 and recorded under Fort Bend County Clerk's File No. 1999028629, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

By: *Benjamin F. Weems*
BENJAMIN F. WEEMS

TIERRA NEGRA CORPORATION

By: *Benjamin F. Weems*
Name: _____
Title: *President*

MILDENDO LAND COMPANY, INC.

By: *Benjamin F. Weems*
Name: _____
Title: *President*

THE STATE OF Colorado
COUNTY OF Boulder

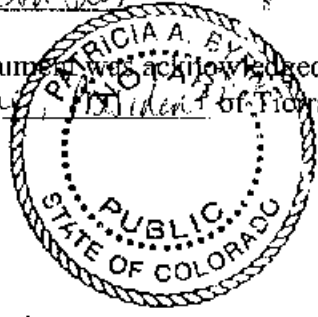
This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, lienholder.



Patricia A. Byrne
Notary Public - State of Colorado

THE STATE OF Colorado
COUNTY OF Boulder

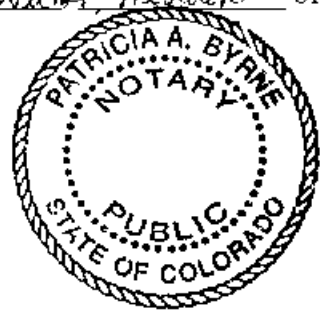
This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, President of Tierra Negra Corporation, on behalf of said lienholder.



Patricia A. Byrne
Notary Public - State of Colorado

THE STATE OF Colorado
COUNTY OF Boulder

This instrument was acknowledged before me on the 7th day of July, 2001, by Benjamin F. Weems, President of Mildendo Land Company, Inc., on behalf of said lienholder.



Patricia A. Byrne
Notary Public - State of Colorado

My Commission Expires 11/05/2003

JOINDER OF ADDITIONAL PARTIES (EB)

The undersigned Lienholder, Pam Properties, Inc., a Texas Corporation, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 038054, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

PAM PROPERTIES, INC.

By: *E. M. Hardcastle*
Name: *E. M. HARDCASTLE*
Title: *PRESIDENT*

THE STATE OF *Texas* §
 §
COUNTY OF *Harris* §

This instrument was acknowledged before me on the *8* day of *June*, 2001, by *Em Hardcastle Pres* of Pam Properties, Inc., on behalf of said lienholder.

Kelli Karisch
Notary Public - State of _____



JOINDER OF ADDITIONAL PARTIES (EB)

The undersigned Lienholder, Maura Ann Hardcastle Heritage Trust, joins herein for the sole purpose of subordinating the liens it holds on a portion of the property described on Exhibit "A" pursuant to Deed of Trust recorded under Brazoria County Clerk's File No. 98 038058, to the covenants, conditions and restrictions hereby imposed by Shadow Creek Ranch Development Company Limited Partnership (herein "Declarant") with, however, the stipulation that such subordination does not extend to any lien or charge imposed by or provided for in the Declaration.

LIENHOLDER:

MAURA ANN HARDCASTLE HERITAGE TRUST

By: E.M. Hardcastle
Name: E.M. HARDCASTLE
Title: TRUSTEE

THE STATE OF TEXAS §
 BRAZORIA §
COUNTY OF TEXAS §

This instrument was acknowledged before me on the 8th day of June, 2001, by E.M. Hardcastle of Maura Ann Hardcastle Heritage Trust on behalf of said lienholder.

Angela Kim Dittlinger
Notary Public -- State of TEXAS

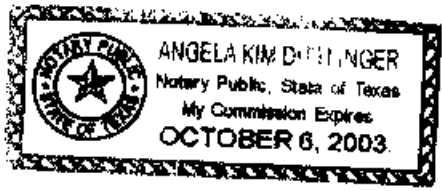


EXHIBIT "A"

Legal Description of Property

DESCRIPTION OF
648.218 ACRES
SHADOW CREEK RANCH
VILLAGE OF EMERALD BAY

Being 648.218 acres of land located in the William Morris Survey, Abstract 344, T.C.R.R. Co. Survey, Section 3, Abstract No. 678, T.C.R.R. Co. Survey, Section 4, Abstract No. 675 and H.T. & B.R.R. Co. Survey, Section 82, Abstract No. 565, all Brazoria County, Texas, said 648.218 acres being more particularly described by metes and bounds as follows (all bearings referenced to the Texas State Plane Coordinate System, South Central Zone);

COMMENCING for reference at the southeast corner of that certain called 48-acre tract conveyed to Pearland Investments Limited Partnership by instrument of record under File No. 98-050039, Official Records, Brazoria County, Texas, (B.C.O.R.), same being on the common line of aforementioned T.C.R.R. Co. Survey, Section 4 and the H.T. & B.R.R. Co. Survey, Section 81, Abstract No. 300, Brazoria County, Texas, also being on the centerline of County Road 92 (40 feet wide);

Thence, leaving said centerline and said common survey line with the east line of said 48-acre tract, North 03° 14' 22" West, 47.14 feet to a point for corner on the northeasterly line of an unrecorded Houston Lighting and Power Company easement, 80 feet wide, date January 15, 1951 and the POINT OF BEGINNING;

Thence, with the northeasterly line of said 80 foot easement, North 62° 33' 00" West, 1946.82 feet to a point for corner on the south line of that certain 20 foot wide Pan American Gas Company easement of record in Volume 973, Page 816, Deed Records, Brazoria County, Texas (B.C.D.R.);

Thence, leaving said northeasterly line, with the south line of said 20 foot easement and the south line of that certain 20 foot wide Pan American Gas Company easement of record in Volume 978, Page 889 of said B.C.D.R., the following two courses:

- 1) South 87° 09' 58" West, 443.93 feet to a point for corner;
- 2) South 87° 25' 30" West, 303.80 feet to a point for corner;

Thence, South 03° 15' 46" East, 1046.99 feet to a point for corner on the centerline of aforementioned County Road 92, same being on the common line of aforementioned H.T. & B.R.R. Co. Survey, Section 82 and the H.T. & B.R.R. Co. Survey, Section 80, Abstract 564, Brazoria County, Texas;

Thence, with said centerline and said common survey line, South $86^{\circ} 46' 15''$ West, 917.93 feet to a point for corner;

Thence, leaving said centerline and said common survey line, North $03^{\circ} 14' 17''$ West, 443.44 feet to a point for corner;

Thence, South $87^{\circ} 44' 52''$ West, 457.62 feet to a point for corner;

Thence, North $03^{\circ} 13' 45''$ West, 729.13 feet to a point for corner;

Thence, North $86^{\circ} 46' 15''$ East, 99.90 feet to a point for corner;

Thence, North $03^{\circ} 13' 45''$ West, 371.89 feet to a point for corner;

Thence, South $86^{\circ} 46' 15''$ West, 650.00 feet to a point for corner;

Thence, North $04^{\circ} 02' 37''$ West, 2425.04 feet to a point for corner;

Thence, North $36^{\circ} 57' 26''$ East, 262.80 feet to a point for corner;

Thence, South $71^{\circ} 12' 33''$ East, 509.14 feet to a point for corner;

Thence, North $66^{\circ} 57' 47''$ East, 697.63 feet to a point for corner;

Thence, North $02^{\circ} 23' 39''$ East, 574.50 feet to a point for corner;

Thence, North $32^{\circ} 12' 08''$ East, 277.72 feet to a point for corner;

Thence, North $06^{\circ} 59' 36''$ West, 355.44 feet to a point for corner;

Thence, North $35^{\circ} 13' 32''$ West, 700.00 feet to a point for corner, the beginning of a curve;

Thence, 418.63 feet along the arc of tangent curve to the right having a radius of 1500.00 feet, a central angle of $15^{\circ} 59' 26''$ and a chord that bears North $27^{\circ} 13' 50''$ West, 417.27 feet to a point for corner;

Thence, North 19° 14' 07" West, 126.40 feet to a point for corner, the beginning of a curve;

Thence, 336.98 feet along the arc of a tangent curve to the right having a radius of 1200.00 feet, a central angle of 16° 05' 22" and a chord that bears North 11° 11' 26" West, 335.87 feet to a point for corner;

Thence, North 81° 00' 36" East, 755.80 feet to a point for corner;

Thence, North 06° 23' 47" West, 947.69 feet to a point for corner on the arc of a curve on the southerly right-of-way line of F.M. 2234;

Thence, with said southerly right-of-way line of F.M. 2234, the following four (4) courses;

- 1) 660.62 feet along the arc of a non-tangent curve to the left having a radius of 1989.86 feet, a central angle of 19° 01' 18" and a chord that bears North 70° 34' 17" East, 657.59 feet to a point for corner;
- 2) North 61° 03' 38" East, 371.20 feet to a point for corner;
- 3) South 61° 08' 21" East, 35.45 feet to a point for corner;
- 4) North 61° 03' 38" East, 1.32 feet to a point for corner;

Thence, leaving said southerly line, South 03° 52' 53" East, 163.95 feet to a point for corner, the beginning of a curve;

Thence, 51.28 feet along the arc of a tangent curve to the left having radius of 115.00 feet, a central angle of 25° 32' 47" and a chord that bears South 16° 39' 17" East, 50.85 feet to a point for corner, the beginning of a reverse curve;

Thence, 172.93 feet along the arc of a tangent curve to the right having radius of 370.00 feet, a central angle of 26° 46' 43" and a chord that bears South 16° 02' 19" East, 171.36 feet to a point for corner, the beginning of a reverse curve;

Thence, 79.91 feet along the arc of a tangent curve to the left having radius of 115.00 feet, a central angle of $39^{\circ} 48' 45''$ and a chord that bears South $22^{\circ} 33' 20''$ East, 78.31 feet to a point for corner, the beginning of a reverse curve;

Thence, 64.33 feet along the arc of a tangent curve to the right having radius of 85.00 feet, a central angle of $43^{\circ} 21' 40''$ and a chord that bears South $20^{\circ} 46' 52''$ East, 62.80 feet to a point for corner;

Thence, South $00^{\circ} 53' 58''$ West, 141.68 feet to a point for corner, the beginning of a curve;

Thence, 53.74 feet along the arc of a tangent curve to the right having radius of 85.00 feet, a central angle of $36^{\circ} 13' 35''$ and a chord that bears South $19^{\circ} 00' 45''$ West, 52.85 feet to a point for corner, the beginning of a reverse curve;

Thence, 72.71 feet along the arc of a tangent curve to the left having radius of 115.00 feet, a central angle of $36^{\circ} 13' 35''$ and a chord that bears South $19^{\circ} 00' 45''$ West, 71.51 feet to a point for corner;

Thence, South $00^{\circ} 53' 58''$ West, 406.52 feet to a point for corner;

Thence, North $81^{\circ} 00' 36''$ East, 1846.33 feet to a point for corner;

Thence, North $76^{\circ} 58' 31''$ East, 691.95 feet to a point for corner;

Thence, South $02^{\circ} 45' 40''$ East, 1958.91 feet to a point for corner;

Thence, South $02^{\circ} 29' 12''$ East, 120.09 feet to a point for corner;

Thence, South $03^{\circ} 31' 58''$ East, 1966.29 feet to a point for corner;

Thence, South $86^{\circ} 52' 04''$ West, 238.83 feet to a point for corner;

Thence, South $03^{\circ} 14' 20''$ East, 367.34 feet to a point for corner on the south line of that certain called 202.51 acre tract conveyed to Pearland Investments Limited Partnership by instrument of record under File No. 98-022936, B.C.O.R.;

648.218 Acres

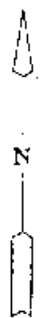
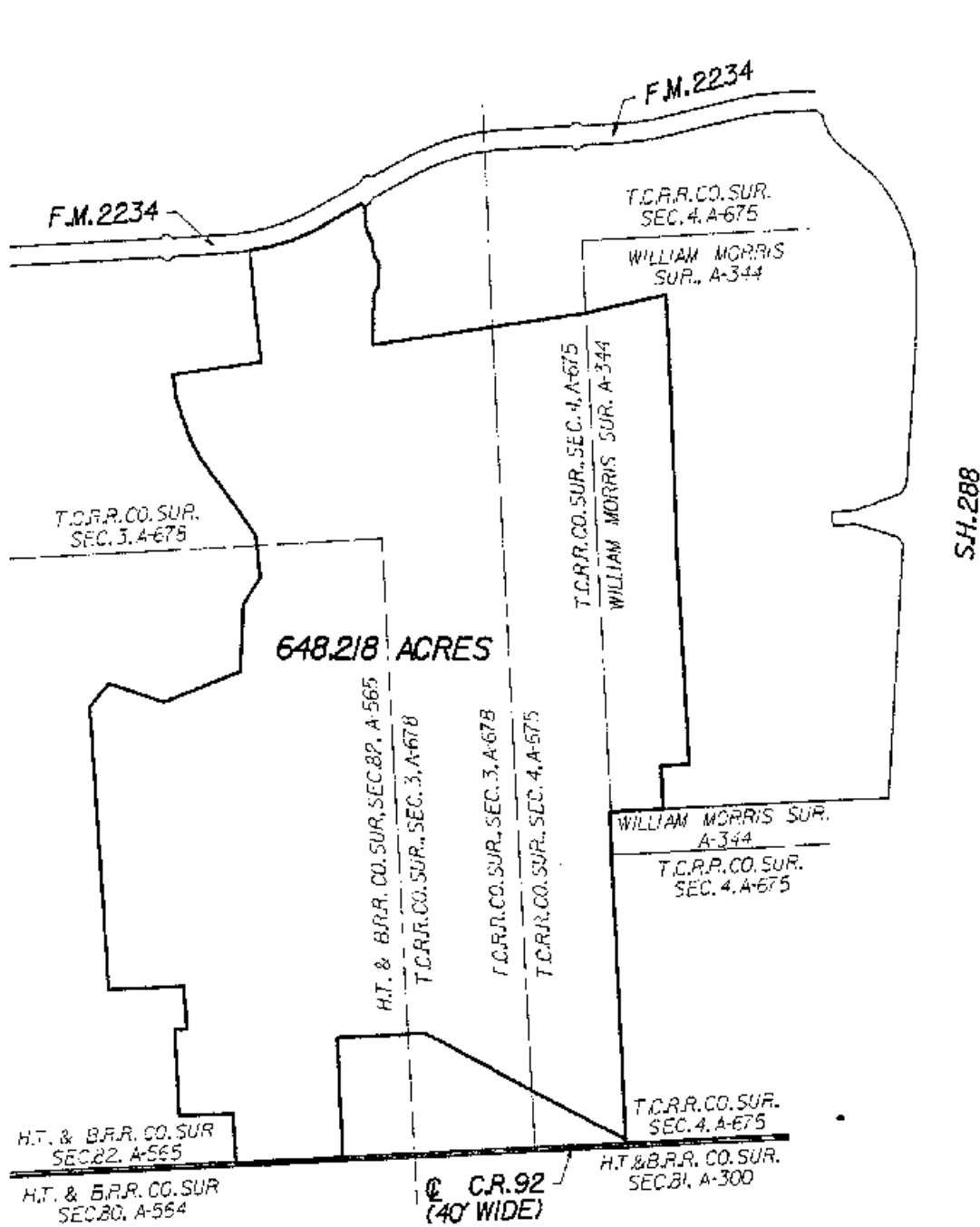
April 3, 2001
Job No. 1545-0000-101

Thence, with the south line of said 202.51 acres, South $86^{\circ} 45' 40''$ West, at 449.84 feet pass the southwest corner of said 202.51 acres and continue with the westerly extension of said south line, in all a distance of 468.75 feet to a point for corner on the east of that certain called 18.155 acre tract of land conveyed to Pearland Investments Limited Partnership by instruments of record under File Nos. 98-041753 and 98-041754 of said B.C.O.R.:

Thence, with the east line of said 18.155 acre tract, South $03^{\circ} 15' 09''$ East, 700.96 feet to a point for corner, same being the southeast corner of said 18.155 acre tract, said point also being on the west line of Block 21 of the Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, a subdivision of record in Volume 2, Page 99, Plat Records, Brazoria County, Texas;

Thence, with the west line of said Block 21 and Block 20 of said Allison-Richey Gulf Coast Home Co's Part of Suburban Gardens, South $03^{\circ} 14' 22''$ East, 2119.96 feet to the POINT OF BEGINNING and containing 648.218 acres of land.

LJA Engineering and Surveying, Inc.



Scale: 1" = 1500'

Exhibit A
EXHIBIT OF
SHADOW CREEK RANCH
VILLAGE OF EMERALD BAY
648.218 ACRES
 LOCATED IN
 WILLIAM MORRIS SURVEY, A-344
 T. C. R. R. CO. SURVEY, SEC. 3, A-678
 T. C. R. R. CO. SURVEY, SEC. 4, A-675
 H. T. & B. R. R. CO. SURVEY, SEC. 82, A-565
 BRAZORIA COUNTY, TEXAS
 APRIL 2001 JOB NO. 1545-0000-101

LJA Engineering & Surveying, Inc.
 2929 Briarpark Drive Suite 500 Houston, Texas 77042-3703
 Phone 713.953.5200 Fax 713.953.5026

FILED FOR RECORD
2001 SEP 25 PM 1:39
COUNTY CLERK
BRAZORIA COUNTY TEXAS



County Clerk of Brazoria Co., TX
Joyce Hudson

STATE OF TEXAS
COUNTY OF BRAZORIA
I, JOYCE HUDMAN, Clerk of the County Court and for Brazoria
County, Texas do hereby certify that this instrument was FILED
FOR RECORD and RECORDED in the OFFICIAL RECORD at the
time and date as stamped hereon by me.

RECEIVED
NOV 08 2001
PCMI

01 043210

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