

**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**PARKWAY OAKS, a subdivision in Fort Bend County, Texas**

## TABLE OF CONTENTS

### ARTICLE I

#### DEFINITIONS

Section 1.	Association .....	1
Section 2.	Builder .....	1
Section 3.	Common Area .....	2
Section 4.	Declarant .....	2
Section 5.	Lot .....	2
Section 6.	Member .....	2
Section 7.	Owner .....	2
Section 8.	Properties .....	2
Section 9.	Street .....	2

### ARTICLE II

#### ARCHITECTURAL REVIEW COMMITTEE

Section 1.	Creation .....	2
Section 2.	Number; Appointment of Members .....	2
Section 3.	Powers of the Committee .....	3
Section 4.	Limitation of Liability .....	4

### ARTICLE III

#### PARKWAY OAKS HOMEOWNERS ASSOCIATION

Section 1.	Organization .....	4
Section 2.	Board of Directors .....	4
Section 3.	Membership .....	4
Section 4.	Voting Rights .....	4
Section 5.	Conversion Date .....	5
Section 6.	Termination of Membership .....	5

### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1.	Creation of the Lien and Personal Obligation for Assessments .....	5
Section 2.	Purpose of Annual Assessments .....	6
Section 3.	Maximum Level of Annual Assessments .....	7
Section 4.	Transfer Fee .....	7
Section 5.	Special Assessments for Capital Improvements .....	7
Section 6.	Notice and Quorum .....	8
Section 7.	Rates of Assessments .....	8
Section 8.	Date of Commencement and Determination of Annual Assessment .....	8

Section 9.	Effect of Nonpayment of Assessments; Remedies .....	8
Section 10.	Subordination of the Lien to Mortgages .....	9
Section 11.	Exempt Property .....	10
Section 12.	Security Services .....	10

## ARTICLE V

### COMMON AREA

Section 1.	Owner's Right of Enjoyment .....	11
Section 2.	Delegation of Use .....	12
Section 3.	Insurance .....	12
Section 4.	Damage and Destruction .....	12
Section 5.	Annual Review of Policies .....	12

## ARTICLE VI

### USE RESTRICTIONS

Section 1.	Residential Use .....	12
Section 2.	Animals and Livestock .....	13
Section 3.	Nuisances .....	14
Section 4.	Storage and Repair of Vehicles .....	14
Section 5.	Permitted Hours for Construction Activity .....	15
Section 6.	Disposal of Trash .....	15
Section 7.	Hazardous Substances .....	15
Section 8.	Building Materials .....	16
Section 9.	Mineral Production .....	16
Section 10.	Rights of Declarant .....	16

## ARTICLE VII

### ARCHITECTURAL RESTRICTIONS

Section 1.	Type of Residence .....	16
Section 2.	Living Area Requirements .....	17
Section 3.	Location of Residence on Lot .....	17
Section 4.	Temporary Buildings .....	17
Section 5.	Driveways .....	17
Section 6.	Roof Pitch; Roof Material/Roof Stacks .....	18
Section 7.	Walls and Fences .....	18
Section 8.	Landscaping .....	19
Section 9.	Signs .....	19
Section 10.	Traffic Sight Areas .....	20
Section 11.	Exterior Antennae .....	21
Section 12.	Decorations and Lighting .....	21
Section 13.	Air Conditioning .....	21
Section 14.	Private Utility Lines .....	21
Section 15.	Clothes Drying .....	21

Section 16.	Enforcement of Lot Maintenance .....	22
Section 17.	Damage and Destruction of Improvements .....	22

## ARTICLE VIII

### EASEMENTS

Section 1.	General.....	23
Section 2.	Easements for Association .....	23
Section 3.	Maintenance Easement.....	23

## ARTICLE IX

ENFORCEMENT .....	23
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## ARTICLE X

### GENERAL PROVISIONS

Section 1.	Term .....	24
Section 2.	Amendment .....	24
Section 3.	Severability .....	24
Section 4.	Gender and Grammar .....	24
Section 5.	Titles .....	24
Section 6.	Replatting .....	25
Section 7.	Annexation .....	25
Section 8.	Merger; Dissolution.....	25

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR PARKWAY OAKS, SECTION ONE (1) and SECTION TWO (2)**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKWAY OAKS, SECTION ONE (1) and SECTION TWO (2) (this "Declaration"), made as of the date hereinafter set forth by D.R. HORTON – EMERALD, LTD., a Texas limited partnership (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the tracts of land which have been platted as Parkway Oaks, Section One (1) and Parkway Oaks, Section Two (2), subdivisions of land in Fort Bend County, Texas according to the plats thereof recorded in Film Code Nos. 20010603 and 20010604, respectively, of the Map Records of Fort Bend County, Texas; and

WHEREAS, it is the desire of the Declarant to provide a common plan as to the use, permissible construction, and common amenities of Parkway Oaks, Section One (1) and Section Two (2) (hereinafter referred to Parkway Oaks) and, to this end to subject the Lots (hereinafter defined) in Parkway Oaks to the covenants, conditions and restrictions hereinafter set forth for the benefit of all present and future owners thereof;

NOW, THEREFORE, Declarant hereby declares that the Lots in Parkway Oaks, Section One (1) and Section Two (2) and in any other property hereafter annexed into the jurisdiction of the Association (as hereinafter defined) in accordance with the provisions hereof and made subject to this Declaration, if any, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with said Lots and shall be binding upon all parties having any right, title or interest in said Lots or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

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

**SECTION 1.** "Association" shall mean and refer to Parkway Katy Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

**SECTION 2.** "Builder" shall mean and refer to any person or entity undertaking the construction of a residence on a Lot to be offered for sale.

SECTION 3. "Common Area" shall mean and refer to all properties, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members (hereinafter defined) of the Association.

SECTION 4. "Declarant" shall mean and refer to D.R. Horton –Emerald, Ltd., its successors or assigns, provided that an assign is designated in writing by the Declarant as an assign of all, or part, of its rights under this Declaration.

SECTION 5. "Lot" shall mean and refer to any of the numbered lots shown on the recorded plats of the subdivision or subdivisions within the Properties intended for the construction of a residence, excluding all reserve tracts shown on a plat, but including Lots created by a replat of a reserve tract.

SECTION 6. "Member" shall refer to every person or entity which holds a membership in the Association.

SECTION 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 8. "Properties" shall mean and refer to the real property within the jurisdiction of the Association being (i) the property within Parkway Oaks, Section One (1) and Section Two (2) and (ii) any additional property hereafter annexed to the jurisdiction of the Association as provided herein.

SECTION 9. "Street" shall refer to any publicly dedicated street, drive, boulevard, road, alley, lane, avenue, or thoroughfare.

## ARTICLE II ARCHITECTURAL REVIEW COMMITTEE

SECTION 1. CREATION. There is hereby created the Parkway Oaks Architectural Review Committee (herein referred to as the "ARC" or "Committee") which shall have exclusive jurisdiction over all original construction on the Lots in the Properties and over all modifications, additions or alterations made on or to the residences and other improvements on the Lots within the Properties. No person serving on the ARC shall be entitled to compensation from the Association for services performed in such capacity, however, the ARC may employ, at the expense of the Association or the party requesting the services of the ARC, one or more architects, engineers, attorneys, or other consultants to assist the ARC in carrying out its duties hereunder.

SECTION 2. NUMBER AND APPOINTMENT OF MEMBERS. The ARC shall consist of three (3) members. The Declarant shall have the right to appoint all members of

the ARC as well as the right to remove any member until the Declarant has sold and conveyed all of its Lots in the Properties and is no longer a Member of the Association. Prior to such date, in the event of the death, or removal or resignation of any person serving on such ARC, the Declarant, by recorded written instrument, shall designate a successor, or successors, who shall have all of the authority and power of his or their predecessor(s). Until such successor member or members shall have been so appointed, the remaining member or members shall have full authority to exercise the powers herein granted to such Committee. After the date on which the Declarant has sold and conveyed all of its Lots within the Properties, the Board of Directors of the Association may perform the functions of the ARC, or from time to time, appoint and remove members of such Committee.

**SECTION 3. POWERS OF THE COMMITTEE.** The ARC shall have the power to preserve the architectural and aesthetic appearance of the Properties. No construction of improvements, or modifications, additions, or alterations to existing improvements, shall be commenced or maintained by an Owner on any Lot, including, without limitation, the construction or installation of sidewalks, driveways, drainage facilities, landscaping, mail boxes, decks, patios, courtyards, swimming pools, greenhouses, playhouses, playground equipment, awnings, walls, fences, and exterior lights, nor shall any exterior addition to or change or alteration be made to any improvements (including, without limitation, painting or staining of any exterior surface), until the site plan and the final working plans and specifications therefor have been submitted to and approved in writing by majority vote of the ARC as to conformity with the restrictions herein contained, such Builder Guidelines as adopted by the ARC from time to time, and harmony of external design and location in relation to existing structures and topography.

The ARC shall have the right to specify architectural and aesthetic requirements for Lots, minimum setback lines, the location, height, and extent of fences, walls, or other screening devices, the orientation of structures with respect to Streets, walks, paths and structures on adjacent property and shall have the right to limit the number of acceptable exterior materials and finishes that may be utilized in construction or repair of improvements. The ARC shall have the power to adopt specific building guidelines and specifications (the "Builder Guidelines") as the ARC determines is appropriate and to change and modify same from time to time. The ARC shall have full power and authority to reject any site plan or final working plans and specifications that do not comply with the restrictions herein contained or that do not meet its minimum construction or architectural design requirements or that, in the sole and uncontrolled discretion and opinion of the ARC, will not be compatible with the overall character and aesthetics of the Properties.

The ARC shall have the right, exercisable at its sole discretion, to grant variances to the restrictions of this Declaration and the Builder Guidelines in specific instances where the ARC in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Properties. The ARC may require the submission of such documents and items as it shall deem appropriate in connection with its consideration

of a request for a variance. If the ARC shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the property relative to which such variance has been requested, describing the applicable restriction(s) and the particular variance requested, expressing the decision of the ARC to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of disapproval from the ARC or (b) failure by the ARC to respond to the request for variance.

**SECTION 4. LIMITATION OF LIABILITY.** The ARC has no liability or obligation whatsoever in connection with any plans and/or specifications and no responsibility for the adequacy thereof or for the construction of any improvements contemplated by any such plans and/or specifications. The ARC has no duty to inspect any improvements; and, if the ARC should inspect any improvements, it shall have no liability or obligation to any party arising out of such inspection. The ARC expressly shall have no liability or responsibility for defects in or omissions from any plans and/or specifications or for defects in or omissions from the construction of any improvements. Notwithstanding any covenant, condition or term contained in this Declaration or provision of the By-Laws of the Association to the contrary, the ARC shall not have any liability to any Owner arising or resulting from any act or omission of the ARC taken or omitted pursuant to this Declaration or the By-Laws of the Association. Each Owner by accepting a conveyance of any Lot or of any portion of the Properties conclusively shall be deemed to have unconditionally and irrevocably waived all claims against the ARC arising or resulting from acts or omissions pursuant to this Declaration or the By-Laws of the Association.

### **ARTICLE III**

#### **PARKWAY KATY HOMEOWNERS ASSOCIATION**

**SECTION 1. ORGANIZATION.** The Association has been or will hereafter be organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictive covenants contained herein, and architectural control of the Lots in the Properties.

**SECTION 2. BOARD OF DIRECTORS.** The Association shall act through a Board of Directors (the "Board") consisting of a minimum of three (3) and a maximum of five (5) members. The Board shall manage the affairs of the Association as specified in this Declaration and the By-Laws of the Association.

**SECTION 3. MEMBERSHIP.** Every Owner of a Lot in the Properties shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.



SECTION 4. VOTING RIGHTS. The Association shall initially have two (2) classes of membership as follows:

Class A. Class A Members shall be all persons or entities who own a Lot in the Properties with the exception of the Declarant. After the Conversion Date (as hereinafter defined), the Declarant shall become a Class A Member with respect to the Lots it owns.

Class B. The Class B Member shall be the Declarant. The Class B membership shall cease and become converted to Class A membership on the Conversion Date.

Class A Members shall be entitled to one (1) vote for each Lot owned within the Properties and the Class B Member shall be entitled to three (3) votes for each Lot owned within the Properties. When two or more persons or entities hold undivided interests in any Lot, all such persons or entities shall be Members, and the vote for the Lot owned by such Members shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to each Lot in which such Members own undivided interests.

SECTION 5. CONVERSION DATE. The Class B Membership in the Association shall terminate on the date (the "Conversion Date"):

- (i) The date on which the number of Class A votes equal the number of Class B votes; or
- (ii) Such earlier date as may be established by Declarant in a written instrument recorded by Declarant in the Official Public Records of Real Property of Ft. Bend County, Texas.

SECTION 6. TERMINATION OF MEMBERSHIP. The membership of a person or entity in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, except that such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. The Declarant, for each Lot within the Properties, hereby covenants and each Owner of any Lot within the Properties, by acceptance of a deed therefor, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to

covenant and agree to pay the Association (i) annual assessments or charges and (ii) special assessments for capital improvements, such assessments or charges to be fixed, established and collected as hereinafter provided. These assessments and charges, together with interest thereon as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which such assessments or charges are made. Each such assessment or charge, together with such interest, late charges, costs of collection, and reasonable attorney's fees shall also be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property. The personal obligation for delinquent assessments and charges shall not pass to successors in title unless expressly assumed by them. However, successors in title shall nonetheless acquire title to the land subject to the lien securing the assessments and charges.

**SECTION 2. PURPOSE OF ANNUAL ASSESSMENTS.** The annual assessments levied by the Association shall be used for carrying out the purposes of the Association as stated in its Articles of Incorporation, this Declaration and all other restrictive covenants instruments administered by the Association. Except as otherwise hereinafter specified, the judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. Such funds may be used to pay costs incurred with respect to all or any of the following:

- i. Operation, maintenance, repair, and improvement of the Common Area as well as fences, entryways, road esplanades, cul de' sacs and easement areas within, adjacent to or in the vicinity of the Properties;
- ii. Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;
- iii. Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees required for management and supervision of the Common Area;
- iv. Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;
- v. Maintaining or replacing any landscaping in the Common Area;
- vi. Designing, purchasing and installing any improvements to the Common Area;

- vii. Mowing and routine maintenance of the Common Area;
- viii. Removing debris from the Common Area;
- ix. Contracting for street lights in the Properties;
- x. Collecting and disposing of trash, garbage, ashes, rubbish and other similar materials;
- xi. Payment of legal fees and expenses incurred to collect assessments and enforce this Declaration;
- xii. Employing policemen or watchmen and/or a security service;
- xiii. Contracting for insect and pest control such as mosquito fogging;
- xiv. Carrying out the duties of the Board of Directors of the Association;
- xv. Creation and funding of such reserve funds as the Board of Directors of the Association deems necessary; and
- xvi. Carrying out such purposes of the Association as generally benefit the Members of the Association.

As stated hereinabove, the Association shall not be obligated to perform all of the foregoing functions or any particular function and the judgment of the Board of Directors of the Association in establishing annual assessments and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

**SECTION 3. MAXIMUM LEVEL OF ANNUAL ASSESSMENTS.** The annual assessment by the Association for the initial year of assessment shall be \$450.00. The annual assessment in any year thereafter may be increased by the Board of Directors of the Association, at its sole discretion, by an amount equal to a fifteen percent (15%) increase over the assessment for the previous year without a vote of the Members of the Association. The annual assessment in any year may be increased above fifteen percent (15%) of the annual assessment for the previous year only with the approval by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy, at a meeting duly called for this purpose. After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

**SECTION 4. TRANSFER FEES.** The Board may from time to time adopt a transfer fee to be paid by the purchaser of a Lot or a home at the time of such purchase.

SECTION 5. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any year, a special assessment against the Lots applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or repair or replacement of a capital improvement located upon the Common Area, including fixtures and personal property related thereto; provided, however, any special assessment must be approved by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments may be collected on a monthly basis at the Board's election.

SECTION 6. NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 5 above shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast ten percent (10%) of the votes of the Association's membership shall constitute a quorum. If the required quorum is not present or represented, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 7. RATES OF ASSESSMENT. Both annual and special assessments on all Lots shall be fixed at uniform rates and all Lots in the Properties shall commence to bear their assessment simultaneously; provided, however, Lots owned by the Declarant or by a Builder shall be assessed at the rate of fifty percent (50%) of the assessment on the Lots owned by the Owners other than the Declarant and the Builders. The assessment for an individual Lot, within a calendar year, shall change as the ownership of such Lot passes from the Declarant or Builder, and the assessment for such Lot shall be prorated according to the applicable rate during each type of ownership. There shall also be no assessments on any portion of the Properties which has not been platted into Lots.

SECTION 8. DATE OF COMMENCEMENT AND DETERMINATION OF ANNUAL ASSESSMENT. The annual assessment provided for herein shall commence as to all Lots in the Properties on the first day of the month following the conveyance of the first Lot in the Properties with a residence to an individual Owner, or on such later date as the Board determines. The assessment for such year shall be adjusted according to the number of months remaining in the calendar year and shall be due and payable thirty (30) days after notice of the assessment is sent to every Owner whose Lot is subject to assessment. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner whose Lot is subject to the payment thereof. Each annual assessment shall be due and payable in advance on the first day of January of each calendar year; provided, however, assessments on Lots owned by the Declarant may be accrued and paid upon conveyance

by the Declarant to an individual Owner or Builder. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer or authorized representative of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a particular Lot is binding upon the Association as of the date of its issuance.

**SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES.** Any assessments or charges which are not paid when due shall be delinquent. If an assessment or charge is not paid within thirty (30) days after the due date, it shall bear interest at the rate of eighteen percent (18%) per annum or such other rate as the Board may establish from the due date until the date paid. The Association may bring an action at law against the Owner personally obligated to pay the assessment, or to foreclose the lien herein retained against the property. Interest as above specified, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge.

The lien in favor of the Association is created by the recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring a Lot, an Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of Directors of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision(s), amendment(s), or recodifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the Owner's debt. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the Lot sold at foreclosure. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Lot under Chapter 32, Tax Code, shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use of the Common Area or abandonment of his Lot.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. As herein above provided, the title to each Lot shall be subject to a lien securing the payment of all assessments and charges due the Association, but the lien shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the lien in favor of the Association provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien securing such assessment or charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or the Owner thereof from liability for any charges or assessments thereafter becoming due or from the lien thereof. In addition to the automatic subordination provided for hereinabove, the Association, in the sole discretion of its Board of Directors, may subordinate the lien securing any assessment provided for herein to any other mortgage lien or encumbrance, subject to such limitations, if any, as the Board of Directors may determine.

SECTION 11. EXEMPT PROPERTY. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas shall be exempt from the assessments and charges created herein. Notwithstanding the foregoing, no Lot which is used as a residence shall be exempt from said assessments and charges.

SECTION 12. SECURITY SERVICES. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED, TO ENTER INTO CONTRACTS FOR PATROL SERVICES WITHIN THE PROPERTIES OR MAINTAIN OR SUPPORT CERTAIN ACTIVITIES DESIGNED TO MAKE THE PROPERTIES SAFER. NOTHING CONTAINED HEREIN IS A REPRESENTATION AS TO WHAT SERVICES WILL OR WILL NOT BE PROVIDED AND THE ASSOCIATION IS NOT OBLIGATED TO PROVIDE PATROL SERVICES OR OTHER SECURITY SERVICES. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER, AND NEITHER THE 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, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE COMMITTEES 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 THE DECLARANT, THE COMMITTEES OR OTHER PROVIDER 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 BURGLAR 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, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, THE COMMITTEES, THE DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT 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 ASSOCIATION, THE BOARD OF DIRECTORS, THE COMMITTEES, THE DECLARANT, OR ANY SUCCESSOR DECLARANT AND THEIR AGENTS 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.

## ARTICLE V COMMON AREA

SECTION 1. OWNER'S RIGHT OF ENJOYMENT. Subject to the provisions herein stated, every Member shall have a right of enjoyment in the Common Area, and such right shall be appurtenant to and shall pass with the title to every Lot, subject the following rights of the Association:

- (a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.
- (b) The Association shall have the right to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.
- (c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.
- (d) The Association shall have the right to suspend the voting rights and enjoyment rights of any Members for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.
- (e) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common

Area, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.

- (f) The Association shall have the right, with the approval by a two-thirds (2/3rds) vote of each class of the Members who are voting in person or by proxy at a meeting duly called for this purpose, to sell or convey all or any part of the Common Area and the right, without the approval of the Members, to grant or dedicate easements in portions of the Common Area to public or private utility companies.
- (g) The Association shall have the right to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his right of enjoyment to the Common Area to the members of his family and to such other persons as may be permitted by the Association.

SECTION 3. INSURANCE. The Association's Board of Directors shall, as an expense of all Members payable from annual assessments, obtain blanket all-risk casualty insurance for all insurable improvements on the Common Area for the full replacement cost thereof, or if blanket all-risk coverage is not reasonably available, an insurance policy providing fire and extended coverage. The Board may also obtain (i) worker's compensation insurance, and the Board shall obtain such insurance if and to the extent required by law, (ii) directors' and officers' liability coverage, (iii) a fidelity bond or fidelity insurance on directors, officers, employees, and other persons handling or responsible for the Association's funds, and (iv) a public liability policy covering the Common Area, insuring the Association and its Members for all damages or injury caused by the negligence of the Association.

SECTION 4. DAMAGE AND DESTRUCTION. Immediately after damage or destruction by fire or other casualty of all or any part of the property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and the repair or reconstruction of the damaged or destroyed property, to the extent insurance proceeds are available for such purpose. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition which existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. If insurance proceeds are insufficient to cover a repair or reconstruction, the Board may levy a special assessment to cover the shortfall, subject to the requirements of Section 4 of Article IV above. In the event that insurance proceeds are unavailable to repair or reconstruct the Common Area, the damaged or destroyed property shall be restored to its natural state.



SECTION 5. ANNUAL REVIEW OF POLICIES. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

## ARTICLE VI USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE. Each and every Lot in the Properties is hereby restricted to one (1) single family residence and related outbuildings and improvements, and use for single family residential purposes only. For purposes hereof, the term "single family residential purposes" shall 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 or 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. No Lot 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 probation.

No trade or business may be conducted in or from any Lot, except that an Owner or occupant may conduct business activities within the single family 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 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 (c) 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. The Board is authorized to promulgate rules and regulations to insure that home businesses comply with the above standards and to make factual determinations regarding the impact of a home business on the residential character of the Properties. If, in the judgment of the Board, a home business has a detrimental impact on the residential quality of the Properties or otherwise constitutes a nuisance, it is authorized to require that the Owner cease the home business or alter it to the Board's satisfaction. The terms "business" and "trade", as used in this provision, 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 single family residence shall not be considered a trade or business within the meaning of this Section and an Owner may conduct a garage sale or yard sale not more than two (2) times in a single twelve (12) month period. This Section shall not apply to any activity conducted by the Declarant or by a Builder with the approval of the Declarant, with respect to the development and sale of the Lots and single family residences in the Properties.

**SECTION 2. ANIMALS AND LIVESTOCK.** No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of a maximum of three (3) dogs, cats or other usual and common household pets (excluding in such maximum number, fish and birds); provided, however, those pets which are permitted to roam free, or which in the sole discretion of the Board, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or occupants within the Properties may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a single family residence be on a leash or otherwise confined in a manner acceptable to the Board. Without prejudice to the Board's right to remove any such household pet, the owner of a pet that has caused damage to property shall be responsible for compensating the owner of the damaged property, but the Association shall have no obligation to enforce such obligation. Animal control authorities shall be permitted to enter the Properties to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

**SECTION 3. NUISANCES.** No noxious or offensive trade or activity shall be carried on within the Properties nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Properties.

**SECTION 4. VEHICLES.** The term "vehicles", as used herein, shall refer to all motorized vehicles including, without limitation, automobiles, trucks, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, campers, buses, and vans.

(a) **Passenger Vehicles.** Except as hereinafter provided, no Owner, lessee, tenant or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on any Lot which is visible from any Street in the Properties or any neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding twenty-four (24) consecutive hours. For purposes hereof, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas and a sport utility vehicle used as a family vehicles (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate) and the term "pick-up truck" is limited to a one (1) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger

vehicle or pick-up truck owned or used by the residents of a Lot shall be permitted to be parked overnight on any Street in the Properties. No guest of an Owner, lessee or other occupant of a Lot shall be entitled to park on any Street in the Properties overnight or on the driveway of a Lot for a period longer than twenty-four (24) consecutive hours.

(b) Other Vehicles. No mobile home trailers, recreational vehicles, trailers or boats shall be parked, kept or stored on the Properties if visible from any Street or any neighboring Lot; provided that, a mobile home trailer, recreational vehicle, trailer or boat may be parked in the garage on a Lot or other structure approved by the Architectural Review Committee so long as the mobile home trailer, recreational vehicle, trailer or boat is completely screened from view from any Street and any neighboring Lot; if parked in the garage, there must be adequate space in the garage for all passenger vehicles used or kept by the Owner, lessee, tenant or occupant of the Lot.

(c) Vehicle Repairs. Vehicle repair work on a Lot that is visible from the Street or any neighboring Lot is permitted as long as the repair work is being performed on a vehicle owned by the occupant of the Lot and does not exceed seventy-two (72) hours in any calendar month; otherwise, the vehicle repair work must be conducted in the garage, out of view from any Street adjacent to the Lot and all neighboring Lots. For purposes of this Section, a vehicle is "owned by the occupant of the Lot" if the vehicle is (a) owned by any person who resides on the Lot and is regularly used by that person, (b) owned by any person who resides on the Lot and is regularly used by another person who resides on the Lot, or (c) provided to any person who resides on the Lot by that person's employer and is regularly used by the person. All other vehicle repair work is prohibited. No vehicle repair work shall create unreasonable noise or cause the Lot to become unsanitary, unsightly, offensive and/or detrimental to any other Lot or its occupants.

SECTION 5. PERMITTED HOURS FOR CONSTRUCTION ACTIVITY. Except in an emergency or when other unusual circumstances exist, as determined by the Board of Directors of the Association, after the initial construction of residences by the Builders, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 7:00 P.M.

SECTION 6. DISPOSAL OF TRASH. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened by planting or fencing so as not to be visible from the Street. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the Owner of each Lot shall remove such prohibited

matter from his Lot at regular intervals at his expense. Trash cans shall be kept in the garage except on trash pickup days.

**SECTION 7. HAZARDOUS SUBSTANCES.** No on-site storage of gasoline, heating or other fuels shall be permitted on any Lot except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools of equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment. No gasoline, motor oil, paint, paint thinner, pesticide, or other product considered to be a contaminant or a hazardous substance under applicable federal or state laws and regulations shall be disposed of on any Lot nor shall any such material be deposited into a storm sewer, sanitary sewer manhole, drainage channel or detention pond within the Properties, but rather all such materials shall be handled and disposed of in compliance with all applicable laws and regulations and the recommendations of the manufacturer of the applicable product or a governmental entity with jurisdiction.

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

**SECTION 9. MINERAL PRODUCTION.** No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

**SECTION 10. RIGHTS OF DECLARANT.** Notwithstanding any provisions contained in this Declaration to the contrary, until the Builder(s) have sold all of the residences and Lots within the Properties, it shall be expressly permissible for Declarant and any Builders approved by Declarant to maintain and carry on, upon such portion of the Properties as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Builder's development, construction, and sales activities related to their properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to carry on sales and promotional activities in the Properties; the right to place signs in the Common Area and in road rights-of-way within the Properties; and the right to construct and operate business offices, model residences and sales offices.

## ARTICLE VII ARCHITECTURAL RESTRICTIONS

All new construction, subsequent modifications and additions, and other items contained in this Article shall comply with the Builder Guidelines adopted by the ARC and the provisions contained herein.

**SECTION 1. TYPE OF RESIDENCE.** Only one detached single family residence not more than two (2) stories in height shall be built or permitted on each Lot. Except for the window and door areas, the exterior of the front and the first floor of both sides of the residence on each Lot shall be brick, brick veneer, or stone veneer. Concrete or other masonry type construction (including Hardi-board, Hardi-plank and similar products) may be added to the front elevations of the residences if specifically approved in writing by the ARC. Each residence shall have a garage for a minimum of two (2) automobiles. All structures shall be of new construction and no structure shall be moved from another location onto any Lot. All residences must be kept in good repair and must be painted when necessary to preserve their attractiveness.

**SECTION 2. LIVING AREA REQUIREMENTS.** The total living area of each single family dwelling, exclusive of open porches, garages, and carports or parking spaces shall be the more restrictive of the square footages specified in the Builder Guidelines for each lot size program as defined therein, and not less than One Thousand Two Hundred (1200) square feet.

**SECTION 3. LOCATION OF RESIDENCE ON LOT.** The location of each residence on a Lot will be approved by the ARC with its approval of the site plan and the final working plans and specifications. No building shall be located on any Lot nearer to a Street than the minimum building setback lines shown on the plat containing such Lot and no building shall be located on any utility easement. Unless otherwise approved by the ARC, no building shall be located nearer than twenty-five (25) feet from the front lot line or nearer than five (5) feet to an interior lot line, except a detached garage or other permitted accessory building located sixty (60) feet or more from the front lot line may be located within three (3) feet of an interior lot line. Unless otherwise approved by the ARC, no residence shall be located nearer than ten (10) feet from the rear lot line, and no garage or other permitted accessory building shall be located nearer than seven (7) feet from the rear lot line. For the purposes of this section, roof overhangs, steps, patios and driveways shall not be considered as a part of a building.

Subject to the approval by the ARC, an Owner of one or more adjoining Lots or portions thereof may consolidate or re-subdivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting building sites, in which case the side setback lines shall be measured from the resulting side property lines rather than from the Lot lines indicated on the plat. Any such resulting

building site must have a width at the front building setback line of not less than the minimum width of the Lots in the same block.

**SECTION 4. TEMPORARY BUILDINGS.** All temporary buildings or structures must be approved by the ARC. However, the Declarant may permit temporary toilet facilities, sales and construction offices and storage areas to be used by Builders in connection with the construction and sale of residences without such approval. With the Declarant's approval, Builders may use garages as sales offices for the time during which such Builders are marketing homes. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be reconverted to a garage or a garage must be added to such residence.

**SECTION 5. DRIVEWAYS.** On each Lot the Builder shall construct and the Owner shall maintain at his expense the driveway from the Street to the garage and the Builder shall repair at his expense any damage to the Street occasioned by connecting the driveway thereto.

**SECTION 6. ROOF PITCH; ROOF MATERIAL/ROOF STACKS.** The roof pitch of each residence shall have a minimum of five (5) feet of vertical rise for each twelve (12) feet of horizontal length unless otherwise approved by the ARC. The roofs of all buildings shall be constructed or covered only with materials specifically approved by the ARC, which approval must be obtained in writing before commencement of roof construction, covering or recovering. The ARC shall specify the quality, color, appearance and weight of roofing materials to be used and the use of any other material must be specifically approved in writing by the ARC. Unless otherwise approved by the ARC, all roof stacks must be painted to match the roof color.

**SECTION 7. WALLS AND FENCES.**

(a) **Fences.** In no event shall any fence or wall be constructed of chain link or wire. In those instances in which privacy fences are installed, in no case may the privacy fence extend beyond the front of the residence. No wall, or hedge shall be erected, grown or maintained on any part of the Lot which is in excess of six (6) feet in height. Fences are generally prohibited from extending above the ground by more than six (6) feet; however, the ARC is authorized to approve fences which extend up to a maximum of eight (8) feet above the ground when deemed necessary or appropriate for aesthetic or privacy purposes. The type of materials utilized for (including the color thereof) and the location of all fences, walls, hedges, and other structures must be approved by the ARC.

(b) **Maintenance of Fences.** Ownership of any wall or fence erected on a Lot shall pass with title to such Lot and it shall be the Lot Owner's responsibility to maintain such wall or fence. The maintenance and repair of a fence located on a property line shall be the joint responsibility of the Owners of the adjacent Lots. In the event the Owner or occupant of any Lot fails to maintain a wall or fence and such failure continues after thirty

(30) days written notice thereof from the Association, Declarant, its successors or assigns, or the Association, may, at their option, without liability to the Owner or occupant in trespass or otherwise, enter upon said Lot and cause the fence or wall to be repaired or maintained or to do any other thing necessary to secure compliance with this Declaration and to place said wall or fence in a satisfactory condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or occupancy of such Lot, to pay such charge immediately upon receipt of the corresponding statement. Payment of such charges, plus fifty percent (50%) of such costs for overhead and supervision, shall be secured by the lien created in Article IV of this Declaration. Interest thereon at the rate of eighteen percent (18%) per annum shall begin to accrue on such sum on the thirtieth (30th) day after a written invoice is delivered to Owner.

(c) Fences Erected by Declarant. Declarant shall have the right, but not the obligation, to construct fences or walls within or around the Properties which are deemed by the Declarant to enhance the appearance of the Properties. An Owner shall be responsible for any damage to a fence or wall constructed by or at the direction of the Declarant which is caused by such Owner or his family members, guests, agents and invitees.

#### SECTION 8. LANDSCAPING.

(a) No grading, excavation or fill work of any nature should be implemented or installed by an Owner on any Lot unless and until plans therefor have been submitted to and approved by the ARC in accordance with the provisions of Article II of this Declaration.

(b) All landscaping for a Lot shall be completed by the Builder prior to the occupancy of the residence situated thereon. All landscaping in a Lot must be maintained at all times in a neat and attractive manner.

(c) No hedge or shrubbery planting which obstructs sight-lines of Streets and roadways shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sight-lines for roadways within the Properties. The determination of whether any such obstruction exists shall be made by the Board of Directors, whose determination shall be final, conclusive and binding on all Owners.

(d) No rocks, rock walls or other substances shall be placed on any Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. Unless specifically approved in writing by the ARC, no bird baths, foundations, reflectors, flag poles, statues, lawn sculptures, artificial plants, rock gardens, rock walls, free-standing bird houses or other fixtures and accessories shall be placed or installed within the front or side yards of any Lot.

(e) No vegetable, herb or similar gardens or plants shall be planted or maintained in the front or side yards of any Lot.

(f) Seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall be promptly removed from each Lot or Properties within a reasonable period of time (as determined by the Board of Directors) after such holiday passes.

**SECTION 9. SIGNS.** No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any single family residence, fence or other improvement upon such Lot so as to be visible from public view except the following:

(a) **For Sale Signs.** An Owner may erect one (1) sign on his Lot, not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of such Lot advertising the property for sale.

(b) **Declarant's Signs.** Declarant may erect and maintain a sign or signs deemed reasonable and necessary for the construction, development, operation, promotion, leasing and sale of the Lots.

(c) **Builder's Signs.** Any Builder may utilize one professional sign (of not more than eight (8) square feet in size) per Lot for advertising and sales promotion of the residence on such Lot, and one (1) "Model Home" (of not more than thirty-two (32) square feet in size), unless otherwise approved by Declarant.

(d) **Political Signs.** Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal, provided that such signs shall not be erected more than thirty (30) days in advance of the election to which they pertain and shall be removed within ten (10) days after such election.

(e) **School Spirit Signs.** Signs containing information about one or more children residing in the single family residence and the school they attend shall be permitted so long as the sign is not more than 36" x 36". There shall be no more than one sign for each child under the age of eighteen (18), residing in the single family residence. Banners are not permitted.

(f) **Security Signs/Stickers.** Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the single family residences shall be permitted so long as the sign is not more than 12" x 12" or the sticker is no more than 4" x 4". There shall be no more than one sign per Lot and



stickers on no more than fifty percent (50%) of the windows and one on the front door or front entry area.

No sign permitted by this Section shall be lighted. In addition to any other remedies provided for in this Declaration, the Board of Directors or its duly authorized agent shall have the power to enter upon a Lot to remove any sign which violates this Section provided the violating Owner has been given forty-eight (48) hours written notice by the Board of Directors of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of Assessments.

**SECTION 10. TRAFFIC SIGHT AREAS.** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above the Street shall be permitted to remain on any corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

**SECTION 11. EXTERIOR ANTENNAE.** No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. The Board is empowered to adopt rules governing the types of antennae that are permissible in the Properties and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of an acceptable signal would not be impaired, an antenna permissible pursuant to the rules of the Board may only be installed in a side or rear yard location, not visible from a Street, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations.

**SECTION 12. DECORATIONS AND LIGHTING.** No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any Street, unless such specific items have been approved in writing by the ARC. All exterior lighting on all houses and on all Lots shall be approved by the applicable Committee. No exterior lighting may shed light onto other Properties or into residential dwellings in such a manner that creates a nuisance. Sodium vapor and mercury vapor lights, except for subdivision streetlights, are prohibited. 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 by the ARC.

**SECTION 13. AIR CONDITIONERS.** No window or wall type air conditioners shall be permitted in any improvements within the Properties, but the Declarant and Builders

may install and use such air conditioners in sales offices and construction offices within the Properties, provided such air conditioners are removed when such facilities cease to be used. The exterior component of the heating/air-conditioning for a residence shall be screened from view from the Street or adjacent property with landscaping.

SECTION 14. PRIVATE UTILITY LINES. All electrical, telephone, and other utility lines and facilities which are located on a Lot and are not owned by a governmental entity or a public utility company shall be installed underground unless otherwise approved in writing by the ARC.

SECTION 15. CLOTHES DRYING. No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot if visible from any other Lot, nor shall clothing or household fabric or any other article be hung, dried or aired on any Lot in such a way as to be visible from other Lots, the Streets, or the Common Area.

SECTION 16. ENFORCEMENT OF LOT MAINTENANCE. Each Owner of a Lot shall at all times be obligated to maintain his property and all improvements thereupon (and the area between the boundary lines of adjacent property and adjacent Streets if such area is not otherwise maintained), so as to keep same in a clean, sightly and safe condition and to conform with any specific standards which the Board of Directors may adopt by resolution for the Properties. An Owner's maintenance obligation shall include, but not be limited to: the maintenance of all visible exterior surfaces of all buildings and other improvements; the prompt removal of all paper, debris, and refuse; the removal and replacement of dead and diseased trees and plantings; the removal of all snow and ice from paved areas; the repair, replacement, cleaning and re-lamping of all signs and lighting fixtures; the mowing, watering, fertilizing, weeding, replanting and replacing of all approved landscaping; and, during construction, the cleaning of dirt, construction debris and other construction-related refuse from Streets and storm drains and inlets.

In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with these restrictions and restore such Lot to a neat, attractive, healthful and sanitary condition. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work including an administrative fee of twenty percent (20%). The Owner or occupant agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as such annual charge. The Association, or its agents and employees shall not be liable,

and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

**SECTION 17. DAMAGE AND DESTRUCTION OF IMPROVEMENTS.** Owners are bound and obligated through the purchase of a Lot to maintain the Lot and all improvements thereon in a neat and habitable manner. In the event of damage to any 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 to be suitably landscaped, subject to the approval of the ARC, so as to present a pleasing and attractive appearance. Such Lot will be properly mowed, cleaned and maintained after the removal of such improvement.

## **ARTICLE VIII EASEMENTS**

**SECTION 1. GENERAL.** Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plats or as dedicated by separate instruments. No utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

**SECTION 2. EASEMENTS FOR ASSOCIATION.** There is hereby granted a general right and easement to the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours.

**SECTION 3. MAINTENANCE EASEMENT.** There is granted to the Association, its successors and assigns, a five-foot wide construction and maintenance easement adjacent and parallel to each of the rear and side lot lines of all Lots that abut a landscape reserve,

perimeter boundary of the Properties or Street where the Declarant has constructed or intends to construct a fence or wall, together with the right of ingress and egress for the purposes, without liability to the Owner for damages arising from the use of the easement, of constructing, repairing, and/or reconstructing the fence or wall. The easement area shall remain unobstructed of any structures or plantings that would prohibit access to the fence or wall for construction and maintenance purposes.

#### ARTICLE IX ENFORCEMENT

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, the covenants, conditions, restrictions, and liens contained herein. Failure of the Association or any Owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE X GENERAL PROVISIONS

SECTION 1. TERM. These covenants shall run with the land and shall be binding upon all parties and all persons claiming under until December 31, 2043, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of a majority of the Lots covered by this Declaration has been recorded, agreeing to change or terminate the covenants herein, in whole or in part.

### SECTION 2. AMENDMENT.

A. By Declarant. This Declaration may be amended unilaterally at any time and from time to time by the Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the property subject to this Declaration; (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration; or (d) if such amendment is necessary to correct a conflict or clarify and ambiguity herein.

B. By Owners. This Declaration may be amended at any time by an instrument executed by the Owners of a majority of the Lots covered by this Declaration and by the Declarant, as long as the Declarant owns any Lot in the Properties. Any such amendment shall become effective when an instrument is filed for record in the Official Public Records of Real Property of Ft. Bend County, Texas, with the signatures of the requisite number of the Owners of the Lots and the Declarant, if applicable.

SECTION 3. SEVERABILITY. Invalidity of any one of these covenants by judgment or other court order shall in no wise affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

SECTION 4. GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

SECTION 5. TITLES. The titles of this Declaration of Articles and Sections contained herein are included for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

SECTION 6. REPLATTING. The Declarant shall have the right to subdivide any reserve tracts contained within the Properties into single family residential lots, by recorded plat or in any lawful manner. Lots created by the subdivision of a reserve tract within the Properties shall be subject to these restrictions as if such Lots were originally platted as lots.

SECTION 7. ANNEXATION.

A. By Declarant. The Declarant shall have the unilateral right, privilege, and option at any time to annex additional property to the jurisdiction of the Association by filing for record a declaration of annexation in respect to the property being annexed which subjects such property to all of the provisions of this Declaration. Any such annexation by the Declarant shall not require approval by the Association or the Members and shall be effective upon the filing for record of such declaration. The rights reserved by Declarant herein to annex additional land shall not and shall not be implied or construed so as to impose any obligation upon a Declarant to annex additional land it owns.

B. By Other Owners. Upon request by an owner of land other than the Declarant, the Association may annex real property to its jurisdiction. Any such annexation shall require the affirmative vote of Members representing a majority of the Association's votes present at a meeting duly called for such purpose and, as long as the Declarant owns any portion of the Properties, the written consent of such Declarant. Annexation of land not owned by a Declarant shall be accomplished by filing of record in the public records of Harris County, Texas, an annexation agreement describing the property being annexed. Such annexation agreement shall be signed by the President and the Secretary of the Association, by the owner of the property being annexed, and, as long as a Declarant owns any portion of the Properties, by the Declarant.

C. Effect of Annexation. The Owners of Lots in property annexed into the jurisdiction of the Association shall be entitled to the use and benefit of all Common Area of the Association, provided that the annexed property shall be impressed with and subject to an annual maintenance assessment imposed by the Association on a uniform, per Lot basis with the annual assessment on all other property within the jurisdiction of the Association.

SECTION 8. MERGER; DISSOLUTION. The Association may be merged with another non-profit corporation or dissolved only with (i) the assent given in writing by not less than two-thirds (2/3's) of the Class A Members and (ii) the Declarant, as long as it owns any Lots within the Properties. In the event of a merger of the Association with another non-profit corporation organized for the same purposes, the Association's

properties, rights, and obligations may be transferred to the surviving association, or alternatively, the properties, rights and obligations of the other association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving association shall administer the covenants, conditions and restrictions established by this Declaration, together with the covenants, conditions and restrictions applicable to the properties of the other association as one scheme. In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, this Declaration is executed effective as of the 24<sup>th</sup> day of November, 2003.

D. R. HORTON –EMERALD, LTD.,  
a Texas limited partnership

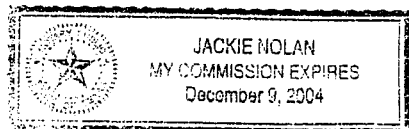
By: D. R. Horton Inc.,  
a Delaware Corporation,  
Its Authorized Agent

By: Brian W. Binash  
Its: Division President

THE STATE OF TEXAS ☐  
COUNTY OF HARRIS ☐

This instrument was acknowledged before me on Nov. 24, 2003 by Brian W. Binash, Division President of D. R. Horton Inc., a Delaware corporation which is the authorized agent of D. R. HORTON – EMERALD, LTD., a Texas limited partnership, on behalf of said limited partnership.

(SEAL)



Jackie Nolan  
Notary Public in and for  
the State of Texas