

Alamo Title 4

P56

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BAYOU TIMBERS**

After Recording Return To:

Marc D. Markel
Roberts Markel Guerry, P.C.
2500 City West Blvd., Suite 1350
Houston, TX 77042

Copyright © 2005 by Roberts Markel Guerry, P.C., all rights reserved.

TABLE OF CONTENTS

ARTICLE I. DEFINITION OF TERMS..... 2

ARTICLE II. PURPOSE AND INTENT..... 5

ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS..... 5

 A. PROPERTY INITIALLY ENCUMBERED..... 5

 B. ANNEXATION OF ADDITIONAL PROPERTY..... 6

 C. DE-ANNEXATION OF PROPERTY 6

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS 6

 A. ELIGIBILITY 6

 B. MEMBERSHIP 6

 C. VOTING RIGHTS 7

 1. *Class A Membership* 7

 2. *Class B Membership* 7

 D. VOTING PROCEDURES 8

ARTICLE V. EFFECTIVE DATE OF DECLARATION 8

ARTICLE VI. USE RESTRICTIONS..... 9

 A. RESIDENTIAL USES PERMITTED 9

 B. NON-PERMITTED USES 10

 C. PARKING AND PROHIBITED VEHICLES..... 11

 D. SCREENING 12

 E. OUTSIDE STORAGE AND TRASH COLLECTION 13

 F. NOTICES AND EASEMENTS..... 14

 1. *Utilities and General*..... 14

 2. *Easements for Green Belt, Pond Maintenance, Flood Water and Other Landscape Reserves.* 15

 3. *Easements to Serve Additional Property* 16

 4. *Monuments and Fences*..... 16

 5. *Lake/Detention Pond Reserve*..... 18

 6. *Chocolate Bayou*..... 19

 7. *Landscape/Open Space Easement* 19

 8. *Drainage Easements*..... 20

 9. *Flood Plain Area*..... 21

 G. SIGNS..... 22

 H. COMMON AREAS..... 23

 I. WINDOW TREATMENTS..... 24

 J. DEED RESTRICTION ENFORCEMENT 24

 1. *Authority to Promulgate Rules and Regulations* 24

 2. *Attorney's Fees and Fines* 24

 3. *Remedies* 25

 4. *Enforcement by Owners*..... 25

 K. ANTENNAS..... 25

L. GENERAL NUISANCES	26
M. ANIMALS AND PETS	27
N. SWIMMING POOLS/SPAS.....	28
O. OUT BUILDINGS/ACCESSORY BUILDINGS	28
P. WINDOW AIR CONDITIONING UNITS.....	28
Q. PONDS AND OTHER WATER BODIES	29
R. EXTERIOR HOLIDAY DECORATIONS.....	29
S. BASKETBALL GOALS AND BACKBOARDS	29
ARTICLE VII. ARCHITECTURAL RESTRICTIONS.....	30
A. ARCHITECTURAL REVIEW COMMITTEE - "ARC"	30
B. ARC APPROVAL REQUIRED.....	31
C. BUILDING SETBACKS	33
D. LANDSCAPING.....	33
E. GRADING AND DRAINAGE.....	33
F. SEPTIC AND WATER SYSTEMS.....	34
G. TEMPORARY STRUCTURES.....	34
H. GARAGES.....	34
I. MINIMUM SQUARE FOOTAGE.....	34
ARTICLE VIII. MAINTENANCE.....	35
A. GENERAL MAINTENANCE	35
B. LANDSCAPING.....	35
C. DWELLING EXTERIOR	35
D. OTHER HAZARDS.....	36
E. LIABILITY, COST AND APPROVAL	36
ARTICLE IX. STANDARDS AND PROCEDURES.....	37
ARTICLE X. VARIANCES.....	37
ARTICLE XI. LIMITATION OF LIABILITY	38
ARTICLE XII. ASSESSMENTS.....	38
A. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS	38
B. PURPOSE OF ASSESSMENTS.....	39
C. ANNUAL ASSESSMENT	40
1. <i>Creation</i>	40
2. <i>Rate</i>	40
3. <i>Commencement</i>	40
4. <i>Proration</i>	41
5. <i>Levying of the Assessment</i>	41
D. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS	41
E. COLLECTION AND REMEDIES FOR ASSESSMENTS.....	42
F. SUBORDINATION OF THE LIEN TO FIRST MORTGAGES.....	44
G. EXEMPT PROPERTIES	44
H. NOTICE OF DELINQUENCY	44
ARTICLE XIII. MODIFICATION AND TERMINATION OF COVENANTS	44

ARTICLE XIV. ALTERNATE DISPUTE RESOLUTION.....	45
A. DISPUTE RESOLUTION.....	45
B. OUTSIDE MEDIATOR	46
C. MEDIATION IS NOT A WAIVER	46
D. ASSESSMENT COLLECTION AND LIEN FORECLOSURE.....	46
E. TERM	47
ARTICLE XV. GENERAL PROVISIONS.....	47
A. SEVERABILITY	47
B. COMPLIANCE WITH LAWS	47
C. GENDER AND NUMBER	47
D. HEADLINES	48
E. GOVERNING LAW.....	48
F. FINES FOR VIOLATIONS.....	48
G. BOOKS AND RECORDS.....	48
H. NOTICES.....	48
I. MERGERS.....	49
J. CURRENT ADDRESS AND OCCUPANTS	49
K. SECURITY.....	49
L. SERVICE MARK.....	50

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BAYOU TIMBERS**

STATE OF TEXAS :
 :
COUNTY OF BRAZORIA :

THIS DECLARATION is made on the date hereinafter set forth by Bayou Timber, Ltd. a Texas limited partnership, hereinafter referred to as the "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Brazoria County, Texas known as Bayou Timbers, a subdivision of 54.540 acres and containing 30 lots, 1 block, and 1 Reserve, known as Tracts 76-A, 76-B and 76-C being in the Stephen F. Austin Survey, Abstract No. 37, according to the map or plat thereof, filed on the _____ day of _____, 20__ under Clerk's File No. _____ of the Plat Records of Brazoria County, Texas (the "Property"); and

WHEREAS, Declarant desires to develop the Property as a residential subdivision, and to provide and adopt a uniform plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control and preserve the values and amenities of the Property for the development, improvement, aesthetic considerations, sale, common welfare of the community, use and enjoyment of the Property as a residential subdivision; and

WHEREAS, Declarant desires to subject the Property, together with additional land as may hereinafter be made subject hereto, to the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, for the benefit of the Property, additions thereto, and each Owner of any part thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the amenities in said Subdivision and enforcement of this Declaration, to create an Association (hereinafter defined) to which shall be delegated and assigned the power of administering and

enforcing these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the assessments; and

WHEREAS, there has been or will be incorporated one or more non-profit corporations created under the laws of the State of Texas, including the first being Bayou Timbers Community Association, Inc. Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. The Directors of which Association either have or will establish certain By-Laws by which the Association shall be governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the By-Laws and/or other Dedicatory Instruments as that term is defined in the Texas Property Code. No more than one such non-profit corporation shall be in existence at any one time.

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

ARTICLE I. DEFINITION OF TERMS

The following words when used herein shall have the following meanings when capitalized (unless the context requires otherwise and the term is then not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in Article VII, Section A.
- B. "Assessment" means the assessment levied against all Lots for the purposes set out in Article XII, Section B, or for any other charge authorized by this Declaration, the By-laws, or Rules and Regulations.

- C. "Association" means BAYOU TIMBERS COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, its successors, assigns, or replacements which has jurisdiction over all properties located within the land encumbered under this Declaration, as same may be amended from time to time as additional property is annexed into the Subdivision (as herein defined) as allowed under this Declaration.
- D. "Board" means the duly elected Board of Directors of the Association as provided within the By-laws.
- E. "Builder" means an individual or entity that purchases one or more Lots from the Declarant for the purpose of constructing Dwellings thereon, which Dwellings will be offered for sale to purchasers. "Builder" shall not include an individual or entity constructing additions onto a Dwelling already in existence, performing repairs or maintenance or re-constructing or replacing a Dwelling after demolition or destruction, either partial or complete.
- F. "By-Laws" means the By-Laws of Bayou Timbers Community Association, Inc., as they may be amended from time to time.
- G. "Common Area" means all real property owned in fee or held in easement by the Association for the common use and/or enjoyment of the Owners and shall include areas designated by Declarant to be conveyed by deed or easement to the Association.
- H. "Declarant" means Bayou Timbers, Ltd., its successors and assigns, as may be evidenced by a written instrument recorded in the public records of the Brazoria County Clerk's office.
- I. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Bayou Timbers or any other property brought under the control of this document, or any supplemental declaration and/or amendment thereto.
- J. "Dwelling" means a structure or structures intended for residential use.

- K. "Guidelines" means general, architectural, and/or builder guidelines, if any, published by the Association, ARC, or Declarant that may set forth various standards relating to exterior harmony of any and all improvements placed upon or constructed on any Lot, and/or construction types and aesthetics which publication may be amended without notice to Owners. There shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive.
- L. "Hardscape" shall include but not be limited to such items as rocks, landscape timbers, railroad ties, fountains, statuary, sculpture, terracing materials, lawn swings, yard art.
- M. "Homesite" means one or more Lots upon which a single family Dwelling may be erected subject to this Declaration.
- N. "Lot" means a parcel of Property as defined by the recorded plat and/or any replat thereof as one lot in the Map Records of Brazoria County, Texas, and encumbered by this Declaration. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association. There shall be an assessment due for each Lot owned as defined by the then plat of record.
- O. "Member" means an Owner, as defined in this article, subject to the limitations set forth in Article IV, Section A, "Eligibility".
- P. "Owner" means an owner of any portion of the Property. Persons or entities holding title only as a lienholder shall not be an Owner for purposes of this Declaration.
- Q. "Property" means all of the property subject to this Declaration as same may be amended and/or supplemented from time to time as additional property is annexed into the Subdivision as allowed under this Declaration.
- R. "Recreational Sites" means Common Area Property that is set aside for use as recreational facilities, reserves, or green space and is encumbered by this Declaration, a recorded plat, or both.

- S. "Special Assessment" means an assessment levied under Article XII, Section D for a specific purpose.
- T. "Bayou Timbers" and/or the "Subdivision" means Bayou Timbers Subdivision, located in Brazoria County, Texas. The Subdivision is more particularly described in the Plat recorded under Clerk's File No. _____ in the Plat Records of Brazoria County, Texas, which may be amended and/or supplemented as additional land is annexed into the Subdivision by the recording of a Supplemental Amendment.
- U. "Supplemental Amendment" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant (and the Owner of the property) which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Association pursuant to Article III, Section B, of this Declaration to subject additional property to this Declaration.

ARTICLE II. PURPOSE AND INTENT

The Subdivision, as initially planned, is intended to be a residential development that is planned to feature residential uses.

This Declaration shall serve as the means by which design, maintenance and use of the Property and eligible property anticipated to be a part of the Subdivision will be established.

ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS

A. Property Initially Encumbered

The Property that is initially encumbered by this Declaration and is therefore a part of the Subdivision is more particularly described in the map or plat thereof, filed under Clerk's File No. _____ of the Real Property Records of Brazoria County, Texas. Owners of Property are Members of the Association and have executed this Declaration.

B. Annexation of Additional Property

Without the joinder of any other Owners or Members, the Declarant reserves the exclusive right for twenty-five (25) years following the execution of this Declaration to annex any additional property. Such annexation shall be accomplished by the execution and filing for record of a Supplemental Amendment setting forth the land being annexed and/or the specific restrictions relating to such property, if different, provided the maintenance fee provision shall be uniform as to all Lots.

Subject to the provision of Article IV, Section C.2., the right of the Declarant to annex land under this Section shall pass to the Association upon the expiration of the twenty-five (25) year term granted above or upon the termination of Class "B" Membership pursuant to Article IV, Section C, whichever occurs first.

C. De-annexation of Property

For so long as Class "B" Membership exists, the Declarant, without the joinder of any other Owners or Members, may de-annex from the Subdivision any property owned by the Declarant.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

A. Eligibility

Eligibility to vote or serve as a representative, director or officer, after the expiration of the term of the initial Board of Directors, shall be predicated upon a Member being a Member in Good Standing with the Association. No Member shall be allowed to vote or hold office if that Member is noted of record (or within the records of) the Association to have a deed restriction violation on one or more Lots in the Subdivision.

B. Membership

The sole criteria to become a Member of the Association is to hold title to a Lot within the Subdivision. This is not to imply that any holder of a mere security interest (such as a

mortgagee, or holder of any other lien against property) would be a Member, unless that holder of the security interest foreclosed and thereby became the Owner of the Lot(s). Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Multiple Owners of any single Lot must vote in agreement (under any method they devise among themselves), but in no case shall such multiple Owners cast portions of votes. The vote attributable to any single Lot must be voted in the same manner (i.e. all votes for, or all votes against a particular issue) but in no event can there be more than one vote cast per Lot.

All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership shall begin with the execution of this Declaration and pass with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members.

In consideration for payment of Assessments, all Owners of Lots in the Subdivision and subsequently annexed sections if any, shall have the right to the use and enjoyment of recreational facilities in the Subdivision.

C. Voting Rights

The Association shall have two classes of membership, Class A and Class B, as follows:

1. Class A Membership

Class A Members shall be all Members with the exception of Class B Members, if any. Each Class A Member's voting rights shall be based on the number of Lots owned and shall be determined as follows:

One (1) vote shall be granted to Class A Members for each Lot owned.

2. Class B Membership

Class B Members shall include the Declarant and such Owners as the Declarant may, in its sole discretion, confer Class B Membership status upon. Each Class B

Member's voting rights shall be based on the number of Lots owned, and shall be determined as follows:

Ten (10) votes shall be granted to Class B Members for each Lot owned.

Declarant shall retain its Class B membership and retain control and authority to appoint all members of the Board of Directors of the Association until the earlier to occur of the following:

1. Declarant has sold one hundred percent (100%) of the platted lots, or
2. The Declarant desires to release such control and authority to the Association as evidenced by an instrument recorded in the Real Property Records of Brazoria County, or
3. January 1, 2030.

At such time, any remaining Class B Members shall be converted to Class A Members and elections shall be held to elect the Members of the Board of Directors of the Association pursuant to the provisions of the Articles of Incorporation and the By-Laws of the Association. In the event Class B membership terminates pursuant to the above provisions, and thereafter additional property is annexed into the jurisdiction of the Association, which results in the Declarant owning more Lots in the Subdivision, Declarant's Class B Membership shall be restored until it again terminates as specified above.

D. Voting Procedures

Class A and Class B members shall exercise their votes as set out in the By-Laws.

ARTICLE V. EFFECTIVE DATE OF DECLARATION

This Declaration shall be effective as of the date this document is recorded in the Real Property Records of Brazoria County, Texas.

ARTICLE VI. USE RESTRICTIONS

A. Residential Uses Permitted

Homesites within the Subdivision shall be used exclusively for single-family residential purposes. The term "Single Family" as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single Family shall mean the use of, and improvement to, a Lot with no more than one building designed for and containing facilities for living, sleeping, cooking, and eating therein. In no case may a Lot contain more than one Dwelling. No multi-family Dwellings may be constructed on any Residential Lot. No building, outbuilding or portion thereof shall be constructed for income property, such that tenants would occupy less than the entire Lot and/or Homesite. It is permitted for tenants to lease a residence in the Subdivision, so long as tenants are leasing the entire land and improvements comprising the Homesite.

No residence shall be occupied by more than one single family. By way of illustration the following charts each depict an example of an approved single family:

For the purposes of these examples, the Owner(s) are considered the control level which establishes the other approved residents.

EXAMPLE NO. 1

No more than a total of 2 parents of the control level		
<u>Control Level:</u> Husband & Wife	One Person Not So Related	One Household Employee
Children of Husband and/or Wife		

EXAMPLE NO. 2

No more than a total of 2 parents of the control level	
<i>Control Level:</i> Roommate One Roommate Two	One Household Employee
Children of either or both Roommates	

It is not the intent of this provision to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this definition is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

B. Non-Permitted Uses

1. No trade or business may be conducted in or from any Dwelling or Homesite, except such use within a Dwelling where (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (c) the business activity does not involve visitation of the Dwelling or Homesite by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Subdivision; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Board. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, or barber shop or other similar facility is expressly prohibited.

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 that involves the manufacture or provision of goods for or to persons other than the provider’s family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefore.

Notwithstanding the above, the leasing of a Dwelling shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant or by a builder with approval of the Declarant with respect to its development and sale of the Property. Garage sales or yard sales (or any similar vending of merchandise) conducted on any Homesite more than once per year shall be considered business activity and therefore prohibited.

No business vehicles displaying commercial signs or advertising shall be permitted to be parked within public view in residential sections of the Subdivision, other than service vehicles contracted by Owners of Homesites to perform specific services. No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twelve (12) hours per week in a residential section of the Subdivision, without prior written permission of the Association, whose approval will be issued at its sole and absolute discretion.

2. No livestock, domestic or wild animals, nor plants or crops shall be raised on any Homesite or the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

C. 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, easement or right-of-way, unless such vehicle or object is completely concealed from public view. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) are qualified by current vehicle registration and inspection stickers; (c) are in daily use as motor vehicles on the streets and highways of the State of Texas; (d) do not exceed six feet ten inches (6'10") in height, or eight feet (8') in width and (e) have no commercial advertising located thereon, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block a sidewalk or be parked on a grassy area. The restriction concerning commercial advertising shall not apply to any vehicles, machinery, or equipment temporarily parked and in use for the construction, repair

or maintenance of a house or houses in the immediate vicinity. Storage of any vehicles in the street is prohibited. Storage shall mean the parking of a vehicle for more than seven (7) days in any calendar month.

No more than three (3) vehicles (passenger cars or non-commercial trucks or vans consistent with the residential use of a Homesite) may be parked on the driveway of a Homesite at any time. Such vehicles to be parked on a Homesite must meet the restrictions of this Declaration and at all times be operable, unless otherwise completely concealed in an enclosed garage, have current license tags, state inspection stickers, and comply with current mandatory insurance under the laws of the State of Texas. Any vehicle not in daily use as a motor vehicle on the streets and highways of the State of Texas and not in compliance with the foregoing shall be considered stored on the property and such storage is strictly prohibited unless same is completely concealed in an enclosed garage. A vehicle that cannot physically fit within the designed garage of the Dwelling with the door closed will be construed as a vehicle not incident to residential use of a Homesite. Additional rules and regulations for the use, maintenance, and parking on private and/or public streets may be promulgated by the Association.

Recreational vehicles, such as mobile homes, campers, and boats are not considered vehicles incident to the residential use of a Homesite. Recreational vehicles may be stored on Homesites provided the vehicles are located behind the residence and are appropriately screened so that they are not visible from any street. No recreational vehicle may be stored on a Homesite prior to the completion of the residence. A recreational vehicle with not more than two (2) axles may be parked in front of or on the Homesite for up to seventy-two (72) hours for loading, and unloading only.

Parking of any vehicle other than in a driveway or within an enclosed garage of a Homesite or other paved area provided for parking is expressly prohibited.

D. Screening

No Member or occupant of any portion of the Property shall permit the keeping of articles, goods, materials, utility boxes, refuse, trash, storage tanks, or like equipment on the Property which may be considered a nuisance or hazard in the sole opinion of the Board of

Directors. Air conditioners, garbage containers, antennas to the extent reasonably possible and pursuant to Article VI, Section K. Antennas, or like equipment, shall not be kept in the open, exposed to public view, or exposed to view from adjacent Homesites. Air conditioners, utility boxes, garbage containers, and antennas to the extent reasonably possible and pursuant to Article VI, Section K. Antennas, or like equipment must be screened from view and placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from grade view from adjacent Dwellings. Utility boxes must be screened so that they are not visible from the street and as may be set out in the Guidelines. A combination of trees, hedges, shrubs or fences should be used as screening material, as same may be set out in the Guidelines. All screening designs, locations, and materials are subject to prior ARC approval. Any such screening installed must be maintained in a clean and neat manner at all times, and may not detract from the appearance of the Property.

E. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward of the fence at the front wall of the house situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of the Dwelling or Homesite. All equipment, machinery, and materials shall be properly stored out of sight of every other Homesite immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite, or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection.

F. Notices and Easements

1. Utilities and General

There are hereby reserved unto Declarant, so long as the Declarant owns any Property, the Association, and the designees of each (which may include, without limitation, Brazoria County and any utility) access and maintenance easements upon, across, over, and under all of the Property to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any or all of the following which may exist now or in the future: cable television systems, master television antenna systems, monitoring and similar systems, roads, walkways, bicycle pathways, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing on Property that Declarant owns or within easements designated for such purposes on recorded plats of the Property. Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling; any damage to a Homesite resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person or entity exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Homesite.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company, cable company and natural gas supplier easements across all the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters boxes, installation equipment, service equipment, and any other device, machinery or equipment necessary for the proper functioning of the utility; however, the exercise of this easement shall not extend to unauthorized entry into the Dwelling on any Homesite, except in an emergency. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Board of Directors or Declarant.

2. Easements for Green Belt, Pond Maintenance, Flood Water and Other Landscape Reserves

Declarant and Association reserve for themselves and their successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the green belts, and other landscape reserves, ponds, and other bodies of water located within the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to construct, maintain and repair any fountain, wall, dam, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall be transferred to the Association at such time as Declarant shall cease to own Property subject to the Declaration, or such earlier time as Declarant may decide, in its sole discretion, and transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the green belts, ponds, or other bodies of water to the extent reasonably necessary to exercise their rights and responsibilities under this Section.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Homesites (but not the Dwellings thereon) extending from the rear Lot line of Lots bordering any ponds or other bodies of water a distance of sixteen feet (16') in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Property; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, or other bodies of water within the Common Areas; (c) to maintain and landscape the slopes and banks pertaining to such ponds or other bodies of water; and (d) to enter upon and across such portions of the Property for the purpose of exercising rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any

other person or entity liable for damage resulting from flood due to hurricanes, heavy rainfall, or other natural disasters.

There is further reserved for the Declarant, the Association and/or their designees an easement for the overspray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision located adjacent to any landscape/open space reserves and/or greenbelts.

3. Easements to Serve Additional Property

The Declarant and Association and its duly authorized agents, representatives, and employees, as well as its designees, successors, assignees, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of any annexed property, whether or not such Property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on any annexed property.

Declarant agrees that if an easement is exercised for permanent access to any annexed property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors, or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance to any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio that the number of Dwellings or buildings on that portion of the property that is served by the easement and is not made subject to this Declaration bears to the total number of Dwellings and buildings within the Properties and on such portion of the property.

4. Monuments and Fences

The Association is hereby granted an easement to place, maintain and repair a monument or marker at any entrance to the Subdivision. The Declarant is further granted an easement to place a perimeter fence (without the obligation to do so) within the Landscape/Open Space Easement described in Paragraph 8, below.

In the event the Declarant and/or the Association installs a perimeter fence in the Landscape/Open Space Easement, the Declarant and/or the Association shall be responsible for the maintenance, repair and/or replacement of the perimeter fence. In addition, the Declarant and/or the Association and their duly authorized agents, representatives, and employees, as well as their designees, successors, assignees, licensees, and mortgagees, shall have and there is hereby reserved an access and maintenance easement upon, across, over and under the Landscape/Open Space Easement and surrounding property so that the Declaration and/or the Association may effect repairs, maintenance and/or replacement of all or any portion of one (1) or both sides of any such fence constructed on such portions of the Property. Owners shall not attach anything to this fence, including landscaping and hardscaping materials, and the Declarant and/or the Association shall not be liable for damages to anything attached to the fence that is damaged while maintaining, repairing or replacing the fence.

On all Lots, side and rear fencing may be installed but is not required. All fencing that is installed shall be in a location and of a material and design as required by this Section, the Guidelines and as approved by the ARC. No chain link or barbed wire fences are permitted, except that subject to the above requirements, the Owner of Lot 16 shall be required to install fencing in the event horses are kept on Lot 16, and such fencing may be barbed wire. The fencing shall be no closer than one hundred feet (100') to the Lot line between Lot 16 and Lot 15.

Owner shall be responsible for the maintenance, repair and/or replacement of all fences in existence at time of transfer from Builder to Owner. Replacement fences shall be of a similar material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots shall be the joint responsibility of each Lot Owner on whose property the fence lies between. In the event an Owner fails to repair, replace or maintain said fence in a manner consistent with the Subdivision in the sole discretion of the Board of Directors, the Association shall have the right, but not the obligation, to enter such property for the repair and/or replacement of such fence after notice to the Owner. Any expense incurred by the Association in effectuating such

repairs/replacement shall be the responsibility of the Owner and shall be secured by the continuing lien on the Lot.

5. Lake/Detention Pond Reserve

Owners of Lots within the Subdivision are advised that Restricted Reserve "A" is restricted to lake/detention pond as shown on the recorded plat of the Property ("Reserve A"). The Declarant and/or the Association shall have the obligation to maintain Reserve A. Owners hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for the existence, placement, and/or maintenance of Reserve A and agree to indemnify the parties released from any damages they may sustain. Owners acknowledge that there may be incidental noise, lighting, odors, and/or traffic which may occur due to the existence and/or normal operation of Reserve A and Owners expressly grant to the Association, an easement for incidental noise, lighting, odors and/or traffic which may occur due to the existence and/or normal operation of Reserve A.

Owners further acknowledge that the Association, its directors, officers, managers, agents, or employees, the 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, relative to water level variances and/or any future change in use of Reserve A.

Owners whose Lots are adjacent to or abut Reserve A shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate Reserve A. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore Reserve A to its condition immediately prior to said infiltration.

6. Chocolate Bayou

Owners of Lots within Bayou Timbers are advised that Chocolate Bayou runs along the southern perimeter of the Subdivision. No efforts are being made to protect Owners, or the licensees and invitees of Owners as to the existence of Chocolate Bayou. It should be noted that Declarant knows of dangerous conditions that may currently exist in or along Chocolate Bayou such as, by way of illustration and not limitation, the following: holes, roots, stumps, ditches, gullies, erosion and/or instability of natural topography, insects, snakes, and animals and variable water depth.

Owners hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for maintenance and/or flooding of Chocolate Bayou and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental effect, visibility of water, noise, odor, and/or traffic created in the normal operation, flooding, and/or maintenance of Chocolate Bayou.

Owners whose Lots abut Chocolate Bayou shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate Chocolate Bayou. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore Chocolate Bayou to its condition immediately prior to said infiltration.

7. Landscape/Open Space Easement

Owners of Lot 1 and Lot 30 are advised that inside the northeast boundary line of their Lots, adjacent to State Farm Market Highway No. 2917, there exists a fifteen foot (15') Landscape/Open Space Easement which easement is restricted in its use to landscaping and open space. In addition, the Declarant is granted an easement to place a fence within this Landscape/Open Space Easement as described in Paragraph 5, above.

Owners of Lot 1 and Lot 30 are further advised that there exists a thirty-five foot (35') side building line set-back for Lot 1 and Lot 30 along the northeast boundary line of

their Lots; which includes the fifteen foot (15') Landscape/Open Space Easement. Owners of Lots within the Property hereby agree to hold harmless the Declarant and the Association, and their successors and assigns, and release them from any liability for the placement, construction, design, operation, or maintenance in said Landscape/Open Space Easement, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic which may occur in the normal operation of the Landscape/Open Space Easement. The Declarant, its successors and assigns, and/or the Association have the right to promulgate rules and regulations governing the use of the Landscape/Open Space Easement.

Owners of Lots 1 and Lot 30 shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Landscape/Open Space Easement. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Landscape/Open Space Easement to their condition immediately prior to said infiltration.

Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the 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, relative any future change in use of the Landscape/Open Space Easement.

8. Drainage Easements

Owners of Lots within the Subdivision are advised that located between Lot 23 and Lot 24 and continuing along the rear lot-lines of Lot 17 through Lot 23, there exists a sixty foot (60") drainage easement. Owners of Lots within the Subdivision are further advised that along the southern boundary of Lot 16, there exists a one hundred foot (100') drainage easement. These easements are restricted to drainage use as shown on the recorded plat of the Property (the "Drainage Easements"). Neither the Declarant nor the Association shall have the obligation to maintain the Drainage Easements. Owners

hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for the existence, placement, and/or maintenance of the Drainage Easements and agree to indemnify the parties released from any damages they may sustain. Owners acknowledge that there may be incidental noise, lighting, odors, and/or traffic which may occur due to the existence and/or normal operation of the Drainage Easements and Owners expressly grant to the Association, an easement for incidental noise, lighting, odors and/or traffic which may occur due to the existence and/or normal operation of the Drainage Easements.

Owners further acknowledge that the Association, its directors, officers, managers, agents, or employees, the 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, relative to water level variances and/or any future change in use of the Drainage Easements.

Owners whose Lots are adjacent to or abut the Drainage Easements shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Drainage Easements. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Drainage Easements to their condition immediately prior to said infiltration.

9. Flood Plain Area

Owners of Lots within the Subdivision are advised that certain portions of the Subdivision lie within Zone X, Zone X Shaded, Zone AE and within Floodway Areas in Zone AE as designated by the Nation Flood Insurance Program, Flood Insurance Rate Map for Brazoria County, Texas. Those areas designated as Zone X Shaded, Zone AE and within Floodway Areas in Zone AE lie in an area designated as the approximate limits of the 100 year flood plain by Federal Emergency Management Agency ("FEMA") flood maps and are partially within the 100 year floodplain. Owners of Lots within the Subdivision acknowledge and understand that the Association, its Board of Directors, and/or the Declarant, their successors and assigns, are not insurers and that each Owner

and occupant of any Lot in the Subdivision and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons as a result of portions of the Subdivision being located in the 100 year flood zone. Owners further acknowledge that the Association, its Board of Directors, and/or the Owner, their successors and assigns, have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied as to the flood zone.

G. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view except the following:

1. For Sale Signs.

An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more that three (3') feet above the surface of such Lot advertising the property for sale.

2. Political Signs.

Not more than two political signs, not exceeding 2' x 3' in area, 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 three (3) days after such election.

3. School Spirit Signs.

Signs containing information about one or more children residing in the Dwelling and the school they attend shall be permitted so long as the sign is not more than 36" x 36" and is fastened only to a stake in the ground. There shall be no more that one sign for each child under the age of eighteen (18) residing in the Dwelling, and said signs may

not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.

4. Security Signs/Stickers.

Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than six (6) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for the "Child Find" program or a similar program sponsored by a local police and/or local fire department.

All signs within the Subdivision are subject to the Guidelines and Bulletins promulgated by the ARC.

A Builder and/or the Declarant may place certain information and advertising signs on Lots without the prior permission of the ARC, so long as such signs are similar to those listed as acceptable for Builder use in the Guidelines promulgated by the ARC and so long as such signs do not otherwise violate this Declaration.

If any sign is placed within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to enter upon any Lot or Homesite and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

H. Common Areas

The Association, subject to the rights of the Members set forth in this Declaration and any amendments or Supplemental Amendments, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive and sanitary condition. No Member may appropriate any portion of the Common Areas or any improvement thereon for his or her own exclusive use. Any Member or

his or her guests, family or invitees that causes damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Member (within thirty [30] days) shall be assessed against the Member's Homesite and secured by the continuous lien set forth in Article XII, Section A of this Declaration.

I. Window Treatments

Within three (3) months of occupying a Dwelling on any Homesite, an Owner shall install appropriate window treatments in keeping with the aesthetics of the Subdivision. Appropriate window treatments would include, by way of illustration, curtains and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. No other window treatment color may be visible from the exterior of the Dwelling.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the aesthetics of the Subdivision, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for window coverings in a residential subdivision of the same caliber as the Subdivision.

J. Deed Restriction Enforcement

1. Authority to Promulgate Rules and Regulations

The Board of Directors has the authority to promulgate reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration, any Supplemental Amendment and/or amendments concerning the use and enjoyment of Common Areas.

2. Attorney's Fees and Fines

In addition to all other remedies that may be available, after notice and an opportunity to be heard as required by §209 of the Texas Property Code as same may be amended, the Association has the right to collect attorney fees and/or fines as set by the

Board from any Owner that is in violation of this Declaration, any applicable Supplemental Amendment or amendments, any Guidelines, the "Guidelines", or any other rule or regulation promulgated by the Association. Said attorneys fees and fines shall be secured by the continuing lien on the Lot.

3. Remedies

Every Owner shall comply with all provisions of this Declaration, the By-Laws, and the rules and regulations of the Association, all other dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. 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. In addition, the Association may avail itself of any and all remedies provided in this Declaration, any amendment, Supplemental Restriction, the By-Laws or any other dedicatory instruments.

4. Enforcement by Owners

Each Lot Owner is empowered to enforce the covenants.

K. Antennas

No exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property, including any Homesite, which is visible from any street, common area or other Lot unless it is impossible to receive signals from said location. In that event the receiving device may be placed in a visible location as approved by the ARC. The ARC may require as much screening as possible while not substantially interfering with reception. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Property. No satellite dishes shall be permitted which are larger than one (1) meter in diameter. No broadcast antenna mast may exceed the height of the center ridge of the roofline. No Multichannel Multipoint Distribution Service ("MMDS") antenna mast may exceed the height of

twelve feet (12') above the center ridge of the roofline. No exterior antennas, aerials, satellite dishes, or other apparatus shall be permitted which transmit television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996 ("the 1996 Act"), as may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the 1996 Act.

In the event that it is impossible to receive a signal from a non-visible location, the installation of antennas shall be subject to rules and regulations which may be promulgated by the Association setting out preferred alternate locations for antennas.

L. General Nuisances

No portion of the Property 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 substance, thing, animal, or material be kept upon any portion of the Property 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 Homesites, Recreational Sites, or Common Areas.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be maintained any plants, animals, 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 Property. No outside burning of trash, garbage or household refuse shall be permitted within the Property. The outside burning of wood and leaves shall be permitted provided that all such burning shall be located on the portion of the Lot behind the residence and shall be conducted according to all applicable governmental ordinances and under the appropriate safety measures. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for residential monitoring purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Property.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Homesite. The pursuit of hobbies or other visible activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. 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.

M. Animals and Pets

No animals, livestock (including swine of any kind or livestock kept for FFA or other school projects), or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets, not to exceed a total of five (5) pets, may be permitted in a Dwelling. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. If, in the sole discretion of the Association, any pet endangers the health, makes objectionable noise, or constitutes a nuisance or inconvenience to the Owners of other Dwellings or the Owner of any portion of the Property it shall be removed upon request of the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times whenever they are outside a Dwelling and/or fence be confined on a leash held by a responsible person.

Notwithstanding anything contained herein to the contrary, up to a total of four (4) horses may be kept on Lot Sixteen (16) provided that the appropriate fences, as described in Article VI, Section F(6), shall be installed prior to any such horse being placed on the Lot. Owners of Lots within the Subdivision hereby agree to hold harmless the Declarant and the Association, and their successors and assigns and release them from any liability for the existence, placement, and/or stabling of horses on Lot Sixteen (16) and agree to indemnify the parties released from any damages they may sustain. Owners acknowledge that there may be incidental noise,

lighting, odors, and/or other nuisances appurtenant to the stabling of horses, which may occur due to the existence of the horses, and Owners expressly grant to the Association an easement for incidental noise, lighting, odors, and/or other nuisances appurtenant to the stabling of horses which may occur due to the existence of the horses.

Owners further acknowledge that the Association, its directors, officers, managers, agents, or employees, the 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, relative to the safe stabling of the horses, including, but not limited to, all risks inherent with the stabling of horses.

N. Swimming Pools/Spas

No above ground swimming pools are permitted. All swimming pools and spas require architectural approval as set out in Article VII herein.

O. Out Buildings/Accessory Buildings

No out building and/or accessory building (including, but not limited to sheds, greenhouses, gazebos, play houses, shade trellis) shall be constructed or placed on a Lot within the Subdivision without the prior written approval of the Association. The Association shall have the right without the obligation to promulgate rules, regulations and guidelines regarding the size, quality, location and type of these structures.

P. Window Air Conditioning Units

No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building on the Lots, with the exception that window or wall type air conditioners shall be permitted for the benefit of a garage if such air conditioning unit is located at the rear of the garage unit, is screened from public view, and is screened from view by any other Lot, Common Area or Dwelling. All window air conditioning units require architectural approval as set out in Article VII herein.

Q. Ponds and Other Water Bodies

Swimming, fishing, boating, or other similar activities shall not be permitted within the ponds, or other bodies of water within the Subdivision. The Board of Directors has the right to promulgate rules and regulations governing the use of the ponds, and other bodies of water. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of ponds, or other bodies of water within or adjacent to Property.

Notwithstanding the foregoing, the Association, and the Declarant (for so long as the Declarant owns property that is or may be subjected to this Declaration) may use and regulate the use of any ponds or other bodies of water within the Subdivision for the irrigation of the Common Areas, for any other purpose deemed appropriate by the Board or Declarant, subject to the terms of any easement agreement affecting such use. The Declarant's rights under this Section shall be superior to any rights of the Association.

R. Exterior Holiday Decorations

The display of exterior holiday decorations, by way of illustration but not limited to lights, banners, flags, wreaths, shall be subject to reasonable rules and regulations promulgated by the association. Such rules shall address the appearance and length of time of such display. Such display shall be maintained and kept in good condition at all times. If any exterior holiday decorations are placed, or remain, within the Subdivision in violation of this declaration, the association or its agents shall be authorized to enter upon any Lot or Homesite and remove and/or dispose of any such exterior holiday decoration, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the association or its agent be liable for any accounting or other claim for such action.

S. Basketball Goals and Backboards

No basketball goal, net and/or backboard may be kept, placed or mounted upon any Lot or kept, placed, attached or mounted to any fence or Dwelling without prior approval by the ARC. All basketball goals and/or backboards are subject to the Guidelines and Bulletins, and

reasonable Rules and Regulations as to type, location, and hours of use promulgated by the ARC. All basketball goals and/or backboards shall at all times be maintained and kept in good condition. If any basketball goal, net and/or backboard is placed within the Subdivision in violation of this declaration, the association or its agents shall be authorized to enter upon any Lot or Homesite and remove and/or dispose of any such basketball goal, net and/or backboard violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the association or its agent be liable for any accounting or other claim for such action.

ARTICLE VII. ARCHITECTURAL RESTRICTIONS

A. Architectural Review Committee - "ARC"

The initial ARC shall be composed of three (3) individuals designated by Declarant, one of whom may be designated as representative to act on behalf of the ARC. The Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment until the first to occur of the following:

1. the Declarant no longer owns any Lots in the Subdivision, or
2. the Declarant so desires to relinquish its authority over ARC appointment, or
3. January 1, 2030.

At such time, the Board of Directors of the Association shall have the right to replace such ARC members by duly appointing three Owners in good standing with the Association. The Board of Directors reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. Such removal and/or appointment shall be at the sole discretion of the Board of Directors.

The Board of Directors shall have the right to review any action or non-action taken by the ARC and shall be the final authority.

At any time prior to the happening of (1), (2), or (3) above, the Declarant may, without obligation, assign to the Board of Directors the responsibility for review and approval of modifications to existing Dwellings.

The ARC shall have the right, but not the obligation, to promulgate Guidelines as to construction types and aesthetics as set by the ARC, which may be changed at any time by the ARC without notice to the Owners.

B. ARC Approval Required

No buildings, hardscape, additions, modifications or improvements shall be erected, placed or performed on any Homesite until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color that may be used when building each design. The ARC or Board of Directors may, at their sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board of Directors, experienced or qualified to review same, who may then render an opinion to the ARC or Board of Directors. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion and to the extent wherein not expressly prohibited by this Declaration and any amended or Supplemental Amendment, is hereby permitted to approve in writing deviations in the general use restrictions set forth in Article VI in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. The approval of a deviation in the general use restrictions by the ARC does not obligate the ARC to approve a similar deviation at a later time. Notwithstanding any other provision contained herein, any Dwellings, additions, or improvements erected or placed on any Homesite shall be

deemed to comply with the building requirements of the ARC and related covenants contained in the Declaration unless the ARC so notifies the Owner otherwise in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the ARC or Declarant to enforce the continuing restriction of use contained herein.

The ARC shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Homesite, where such actions have not first been reviewed and approved, constitute a violation of the Declaration, the Guidelines or any other documents promulgated by the ARC. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Homesite into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for construction on that Homesite. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided in Article XV, Section F and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved. Each Owner acknowledges that it may not always be possible to identify objectionable features of proposed construction or alteration of improvements until such construction and/or alteration is completed, in which case it may be unreasonable to require changes to the improvements involved; however, the ARC may refuse to approval similar proposals in the future.

Written notice may be delivered to Owner or any agent or contractor with apparent authority to accept same and notice shall be binding on Owner as if actually delivered to Owner.

The ARC or its agents or assigns shall have the right, but not the obligation, to enter any Homesite to determine if violations of this Declaration, the Guidelines, or any other documents promulgated by the ARC exist. In so doing, the ARC shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and twelve (12) months to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved.

The ARC has the right to charge a review fee, to be established by the Board of Directors, for review of any plans or specifications submitted for approval to the ARC.

C. Building Setbacks

No Dwelling or other structure shall be erected nearer to any street or property line than that allowed by the applicable plat or other recorded documents, provided that a minimum rear setback equal to the greater of twenty-five feet (25') or equal to the drainage easement as shown on the applicable plat of the Property shall be observed on all Lots; and, provided further that a minimum side setback equal to ten feet (10') shall be observed on all Lots, save and except Lot One (1) and Lot Thirty (30) which have a thirty-five foot (35') side building line set-back along the northeast boundary line of their Lots; and Lot Sixteen (16) which has a special fence set-back of no closer than one hundred feet (100') to the Lot line between Lot Sixteen (16) and Lot Fifteen (15) should horses be kept on the property. Driveways shall be permitted to be placed within a setback as approved by the ARC.

D. Landscaping

All open, unpaved space in the front and at the sides of a Homesite, shall be planted and landscaped. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Dwelling constructed on the Property.

Any significant changes in the existing landscaping on any Homesite must have written approval from the ARC.

E. Grading and Drainage

Topography of each and every Homesite must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation)

does not cause undue erosion of the subject Homesite itself or any other Homesites, whether adjacent to the subject Homesite or not, or the Common Areas. Owners causing (either directly or indirectly) erosion or other incident damage to personal or real property due to inadequate or defective grading or drainage measures on their own Homesite, or because of excess runoff shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owner shall be responsible for ensuring that all local, state and federal rules and regulations regarding drainage and run-off are met.

F. Septic and Water Systems

Each Lot Owner must install, at the Owner's expense, his own private water well and septic system, in accordance with Brazoria County specifications and all other applicable government regulations.

G. Temporary Structures

Temporary Structures may only be erected on undeveloped Property by builders or the Declarant with the prior approval of the ARC. Even temporary structures shall be maintained in good condition and all construction debris shall be contained to the site. Time limitations for such structures are limited to the period of active and exclusive construction and sales within the Subdivision.

H. Garages

Dwellings must at all times have either attached or detached garages capable of housing a minimum of two (2) full size vehicles. Garages are required to maintain fully operational overhead doors which are in good condition at all times. No garages may be used for a living area.

I. Minimum Square Footage

All one-story Dwellings must contain a minimum of Two Thousand (2,000) square feet of living area which shall not include porches, garages or non-air conditioned areas.

Notwithstanding anything contained herein to the contrary, the Declarant hereby reserves the unilateral right to develop the Subdivision, and/or any additional property which may be subjected to this Declaration, in any manner consistent with residential use, including but not limited to Dwellings which may contain less than the square footage set forth in this Section.

ARTICLE VIII. MAINTENANCE

A. General Maintenance

Each Owner shall maintain and keep in good repair his or her Dwelling and all structures, parking areas and other improvements, including mail box, driveway and its apron portion forward of the building line comprising the Homesite. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked or damaged in any manner. Grass, vegetation and weeds on each Homesite shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. Grass growing onto or over sidewalks, driveways, and curbs shall be presumed to be unattractive.

B. Landscaping

In the event any Owner of any Homesite within the Property fails to maintain the landscaping, grass or vegetation of a Homesite in a manner consistent with the overall standard established within the Property and satisfactory to the Board of Directors of the Association, the Association, after ten (10) days' notice to the Owners of the Homesite setting forth the action intended to be taken by the Association and after approval by a two-thirds (2/3) vote of the Board of Directors, shall have the right but not the obligation, through its agent, contractors and/or employees, to enter upon said Homesite and to maintain, cut, trim and/or restore such landscaping, grass or vegetation at the Owner's expense.

C. Dwelling Exterior

In the event any Owner of any Homesite fails to maintain the exterior of the Homesite, including the exterior of the Dwelling or other structures and the parking areas, in a manner consistent with the overall standard established within the Property as solely determined by the

Board of Directors of the Association, the Association, after thirty (30) days' notice to the Owner of the Homesite setting forth the action intended to be taken by the Association and after approved by a two-thirds (2/3) vote of the Board of Directors, shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter upon said Homesite and to repair, maintain, or restore the exterior of the Dwelling, sidewalks, other structure or parking areas at the Owner's expense.

D. Other Hazards

To the extent necessary to prevent rat infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Dwelling, or other improvement located upon such Homesite, without notice to take the action necessary to prevent such rat infestation, diminish such fire hazards or diminish hazards caused by structural damage at the Owner's expense.

E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance, landscaping or other work authorized in this Article. The cost of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Homesite on which it was performed and shall become part of the Assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Homesite may bring an action at law or in equity to cause the Owner to bring said Homesite into compliance with these restrictions.

All Members' replacement, repair and restoration practices as to the improvements on Property within the Subdivision are subject to the prior approval of the ARC and must comply with all Builder and/or Guidelines which may change from time to time, as found necessary and appropriate in the ARC's sole discretion.

ARTICLE IX. STANDARDS AND PROCEDURES

The ARC may establish and promulgate the Guidelines, which the ARC may modify or amend as it deems necessary and appropriate for the orderly development of the Property and the Subdivision, including, but not limited to, those portions of the Guidelines regarding workmanship, materials, building methods, living area square footage, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. The Guidelines may be amended by the ARC without notice, but they shall not be applied retroactively to reverse a prior approval granted by the ARC or the Association to any Owner or prospective purchaser of any Homesite. Subject to the provisions of this Article, there shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. The rules, standards, and procedures set forth in the Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner as any other restriction set forth in this Declaration.

ARTICLE X. VARIANCES

The Board, upon the recommendation of the ARC, or its duly authorized representative, may authorize variances from compliance with any of the architectural provisions of this Declaration, any amendment, Supplemental Amendment, "Guideline", or Guidelines, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be approved by at least a majority of the Board, and shall become effective upon execution of the variances which variance shall be signed by a member of the Board. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration. Action of the ARC or Board of Directors in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

ARTICLE XI. LIMITATION OF LIABILITY

Neither Declarant, the Association, the ARC, the Board, nor any of the respective officers, managers, partners, directors, members, successors or assigns of the above, shall be liable in damages or otherwise to anyone who submits matters for approval to any of the above-mentioned parties, or to any Owner affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any matters requiring approval hereunder. Approval by the ARC, the Board, or the Association, nor any of their respective officers, partners, directors, agents, managers, members, successors or assigns, is not intended as any kind of warranty or guarantee as to the integrity or workability of the plans nor the contractors used.

ARTICLE XII. ASSESSMENTS

A. Creation of the Lien and Personal Obligation of Assessments

The Owners of any Lot or Homesite, by virtue of ownership of Property within the Subdivision, covenant and agree to pay to the Association:

1. Annual Assessments; and
2. Special Assessments; and

The Annual and Special Assessments together with attorney's fees, late fees, interest and costs shall be a charge and continuing lien upon the Homesite and Lot against which each such assessment is made. Each such assessment, together with attorney's fees, late fees, interest and costs, shall also be the personal obligation of the person or entity who was the Owner of the land at the time when the assessment became due. The personal obligation for delinquent

assessments shall not pass to successors in title unless expressly assumed by them. All payments shall be applied first to costs and attorney fees, then to interest, and then to delinquent assessments. No diminution or abatement of assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or the Board under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, the obligation to pay assessments being a separate covenant on the part of each Owner of a Lot.

B. Purpose of Assessments

Annual and Special Assessments levied by the Association shall be used for any legal purpose for the benefit of the Subdivision as determined by the Association and, in particular, may, by way of example and not limitation or obligation, include maintenance, repair or improvement of any Common Area, sidewalks, fountains, parkways, private streets and roads, boulevards, esplanades, setbacks and entryways, patrol service, fire protection, emergency medical service, street cleaning, street lighting, mosquito control, other services as may be in the Property's and Owner's interest and for promotion of the recreational interests of the Members which may include payment for recreational improvements on recreational sites, reserves and/or Common Area. Parkway, fountains, private streets, roads, esplanades, setbacks and entryways that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. Such share agreements for maintenance and improvement shall require the consent of a majority of the total number of directors of the Association. Additionally, assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for maintenance costs for the participation in any agreement among other property owners associations (whether residential, multi-family, commercial or mixed use) in the area and for consolidated programs that provide consistency and economics of scale. Approval to enter such agreements shall require a majority vote of the Board.

C. Annual Assessment

The Property shall be subject to the Annual Assessment, as follows:

1. Creation

Payment of the Annual Assessment shall be the obligation of each Owner and the Declarant and shall constitute a lien on the Homesite, or Lot(s), binding and enforceable as provided in this Declaration.

2. Rate

The initial Annual Assessment established by the Association shall not exceed Three Hundred and 00/100 Dollars (\$300.00) per Lot. Declarant shall elect annually in writing to either subsidize the approved budget for the subsequent year by paying the difference between the total approved budget for the year less the total amount due by Class A Members, or elect to pay assessments at the rate of fifty percent (50%) of the amount assessed other Class A Members for each Lot owned. Declarant is required to provide written notice to the Board each year by September 1 of the elected option. Failure to provide such written notice will result in Declarant being billed in the manner of the last option taken by Declarant. A Builder shall be responsible to pay the same assessment of other Lot Owners for the period of time that the Builder owns a Lot.

3. Commencement

For purposes of calculation, the initial Annual Assessment shall commence on the first day of the first month following the date of the first sale of a Lot to a Builder or to an Owner other than the Declarant.. Annual Assessments shall be due in advance on January 1 for the coming year and shall be delinquent if not paid in full as of January 31 of each year.

4. Proration

An Owner's initial Annual Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above. The Annual Assessment for any year after the first year shall be due and payable on the first day of January. Any Owner who purchases a Lot or Lots after the first day of January in any year shall be personally responsible for a pro-rated assessment amount for that year.

5. Levying of the Assessment

The Annual Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then current Annual Assessment to reasonably meet the expenses for providing services and capital improvements in the Subdivision and may, at its sole discretion and without a vote by the Members, increase the annual Assessment in an amount up to ten percent (10%) annually. The Annual Assessment may only be increased by more than ten percent (10%) annually if such increase is approved by Members in good standing who represent a majority of the votes in the Subdivision present at a meeting called for said purpose at which a quorum is present in person or by proxy. The Annual Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Members representing a majority of the votes subject to such assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

D. Special Assessments for Capital Improvements

In addition to the Annual Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement in the Common Area or any unusual, infrequent expense benefiting the Association, provided that any such assessment shall have the approval of both a majority of the Class A Members and a majority of the Class B Members present at a meeting duly called for this purpose at which a

quorum is present. Such Special Assessments will be due and payable as set forth in the resolution authorizing such assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth in Section C hereof and shall be pro rated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Members benefited by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner.

E. Collection and Remedies for Assessments

1. The assessments provided for in this Declaration, together with attorneys' fees, interest, late fees and costs as necessary for collection, shall be a charge on and a continuing lien upon the land against which each such assessment is made. Each such assessment, together with attorney's fees, interest and costs, shall also be the personal obligation of the Owner of the land at the time the assessment became due. This personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.
2. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by reason of non-use or abandonment.
3. In order to secure the payment of the assessments hereby levied, an assessment lien is hereby reserved in each deed from the Declarant to the Owner of each parcel of Property in the Subdivision, which lien may be foreclosed upon by non-judicial foreclosure pursuant to the provisions of Section 51.002 of the Texas Property Code (or any successor statute); each Owner grants a power of sale to the Association to sell such property upon default in payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.

The President of the Association or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

Although no further action is required to create or perfect the lien, the Association may, as further evidence give notice of the lien, by executing and recording a document setting forth the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. The Association shall also have the right but not the obligation to notify a delinquent Owner's lender, in writing, of such Owner's delinquency and default.

In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 (or any successor statute) and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale no less than twenty one (21) days prior to the date of the proposed foreclosure sale, postage prepaid, registered or certified mail, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association or by hand delivery. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner, shall have the right to bid for such Property at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period Property is owned by the Association following foreclosure, 1) no right to vote shall be exercised on its behalf; and, 2) no assessment shall be levied on it. Out of the proceeds of such sale, there shall be paid all expenses incurred by the Association in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each occupant of any such tract foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

F. Subordination of the Lien to First Mortgages

The lien for assessments, including interest, late charges, costs and attorney's fees, provided for herein shall be subordinate to the lien of any first mortgage on any Lot or Homesite. The sale or transfer of any Lot or Homesite shall not affect the assessment lien. The sale or transfer shall not relieve such Lot or Homesite from lien rights for any assessments thereafter becoming due. Where the mortgagee holding a first mortgage of record or other purchaser of a Lot or Homesite obtains title pursuant to judicial or non-judicial foreclosure of the mortgage, it shall not be liable for the share of the assessments or other charges by the Association chargeable to such Lot or Homesite that became due prior to such acquisition of title. However, from the date of foreclosure forward, such assessments shall again accrue and be payable to the Association.

G. Exempt Properties

All properties dedicated to any accepted use by a municipal county, federal, or other governmental authority and all properties owned by charitable or non-profit organizations that are exempt from taxation by federal laws shall be exempt from the assessments created herein and the Owners thereof shall have no voting rights with respect thereto.

H. Notice of Delinquency

The Association or its agent or designee shall be required to give a written notice of the assessment to any Owner who has not paid an assessment that is due under this Declaration. Such notice must be mailed to the Owner's last known address. The address of the Lot, Homesite or Building Site shall be presumed to be the address for proper notice unless written notice of another address shall be provided by the Owner to the Association.

ARTICLE XIII. MODIFICATION AND TERMINATION OF COVENANTS

This Declaration may be amended, modified, or terminated by the filing of a recorded instrument executed by the Association or its legal representatives, successors or assigns. So long as Class B membership exists, approval of two-thirds (2/3) of the combined total votes of Class A and Class B Membership shall be required to amend, modify or terminate this

Declaration. However, the Declarant may unilaterally amend this Declaration at any time without the joinder or consent of any Owners, entity, Lender or other person to amend this Declaration if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on Lots and Homesites; (c) 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 Lots or Homesites; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on Lots or Homesites; or (e) for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing.

After the termination of Class B membership, approval by the Owners of a majority of the Lots shall be required to amend, modify or terminate this Declaration. Upon approval of the Owners, as set out above of said amended declaration (as evidenced by the President's or Vice-President's signature) the amended declaration shall be recorded in the Real Property Records of Brazoria County, Texas, whereupon to the extent of any conflict with this Declaration, the amended declaration shall control.

ARTICLE XIV. ALTERNATE DISPUTE RESOLUTION

A. Dispute Resolution

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

B. Outside Mediator

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager ("P.C.A.M.") as certified by the Community Associations Institute, or a Certified Property Manager ("C.P.M.") as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of no less than five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

D. Assessment Collection and Lien Foreclosure

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of assessments and/or the foreclosure of the Assessment Lien by the Association as set out in the Declaration.

E. Term

This Article XIV, Alternative Dispute Resolution, shall be in full force and effect for an initial period of three (3) years from the date of execution of this Declaration. However, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of the Board of Directors votes to terminate the provisions of this Article XIV, Alternative Dispute Resolution.

ARTICLE XV. GENERAL PROVISIONS

A. Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof.

B. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Homesite and any improvements thereon. If any provision contained in this Declaration or any supplemental declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

C. Gender and Number

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 applicable either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

D. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

E. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas. Any and all obligations performable hereunder are to be performed in Brazoria County, Texas.

F. Fines for Violations

The Association may assess fines for violations of the restrictive covenants contained in this Declaration, other than non-payment or delinquency in assessments, in amounts to be set by the Board of Directors, which fines shall be secured by the continuing assessment lien set out in this Declaration.

G. Books and Records

The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, for any proper purpose. The Articles of Incorporation, By-Laws, and this Declaration shall likewise be available, upon written request, for inspection, by appointment during normal business hours by any Member at the office of the Association, for any proper purpose as set forth in the By-Laws.

H. 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, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

I. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

J. Current Address and Occupants

Owners are required to notify the Association in writing of their current address if other than the physical address of the Lot or Homesite at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot or Homesite as the current address. If Owner leases the property, he shall supply the name of the tenant present upon the execution of any lease.

K. Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT 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, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND TO THE CONTENTS OF DWELLINGS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES 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 PROPERTY.

L. Service Mark

Declarant is the prior and exclusive owner and proprietor of, and reserves all rights with respect to the service mark for Bayou Timbers (“Service Mark”). Unless and until a written license agreement has been sought and obtained from Declarant (and in this connection Declarant may withhold consent in its sole and absolute discretion), no person or entity may at any time and/or for any reason whatsoever, use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Service Mark.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 26th day of October, 2005.

Bayou Timber, Ltd., a Texas limited partnership:

By: its general partner, MINKOFF DEVELOPMENT, LLC, a Texas limited liability company

By: [Signature]
Print Name: Jeffrey L. Minkoff
Print Title: President

STATE OF TEXAS §
COUNTY OF Brazoria §

BEFORE ME, the undersigned authority, on this day personally appeared Jeffrey L. Minkoff, the President of Minkoff Development, LLC, the general partner of Bayou Timber, Ltd., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 26th day of October 2005.

[Signature]
Notary Public – State of Texas



R:\REAL\DEVELOP\BayouTimber\CCRFinal.doc

IN WITNESS WHEREOF, the undersigned Lien Holder has executed this Declaration this 1st day of NOVEMBER, 2005.

First National Bank of Alvin

Mark E. Ferguson

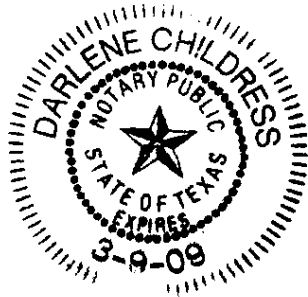
By: Mark E. Ferguson *MEF*
Title: Executive Vice President

STATE OF TEXAS

COUNTY OF BRAZORIA

This instrument was acknowledge before me on the 1st day of NOVEMBER, 2005 by Mark E. Ferguson, Executive Vice President of First National Bank of Alvin a Texas Corporation, on behalf of said Corporation.

Given under my hand and seal of office this 1st day of NOVEMBER, 2005.



Darlene K Childress
Notary Public, State of Texas

DARLENE K CHILDRESS
Printed Name of Notary

3-09-2009
Commission Expires:

Doc# 2005063817
Pages 56
11/07/2005 4:04PM
Official Records of
BRAZORIA COUNTY
JOYCE HUDMAN
COUNTY CLERK
Fees \$236.00

Joyce Hudman

Declaration of Covenants, Conditions,
& Restrictions Bayou Timbers