

121
121

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
HERON LAKES TOWN HOMES
HARRIS COUNTY, TEXAS**

535-74-0630

WHEREAS, FURLONG ASSOCIATES, LTD , a Texas limited partnership, is the current sole owner of that certain real property described as follows

HERON LAKES TOWN HOMES, a subdivision in Harris County, Texas according to the Plat thereof filed for record under Clerk's File No U641642 Official Public Records of Real Property of Harris County, Texas, and recorded in Vol. Page , Map Records of Harris County, Texas (the "Property"), and

WHEREAS, the Property is to be developed as a townhome neighborhood to have its own Neighborhood Association and Neighborhood assessments; and

WHEREAS, FURLONG ASSOCIATES, LTD , desires to establish a uniform plan for the further development, improvement, and sale of the Property to ensure the preservation of such uniform plan for the benefit of both the present and future owners of the Property

ARTICLE 1
DEFINITIONS

As used in this instrument, the capitalized terms shall have the meanings set forth below

Section 1.1. Articles of Incorporation means the articles of incorporation of the Association

Section 1.2. Association means Heron Lakes Townhome Association, a Texas non-profit corporation, its successors and/or assigns

Section 1.3. Assessment or Assessments refer to a General Assessment, a Special Assessment, or a Reimbursement Assessment

Section 1.4. Board or Board of Directors means the board of directors of the Association serving in accordance with the Articles of Incorporation and the Bylaws

Section 1.5. Bylaws means the bylaws of the Association, as same may be amended from time to time

Section 1.6. Cash Reserve Account means the fund created pursuant to Section 9 9 to meet unforeseen expenditures or to purchase any additional equipment or services for the Property

Section 1.7. Common Area means the private streets and such other areas of Heron Lakes Town Homes Subdivision as are conveyed to or otherwise acquired by the Association, from time to time

Section 1.8. General Assessment or General Assessments means the assessments levied pursuant to Article X

Section 1.9. Declarant means and refers to FURLONG ASSOCIATES, LTD and its successors and assigns so designated in writing by FURLONG ASSOCIATES, LTD No person or entity merely providing loans to or purchasing one or more Lots from FURLONG ASSOCIATES, LTD shall be considered a "Declarant".

Section 1.10. Declaration means the covenants, conditions, restrictions, easements, reservations, and stipulations that shall be applicable to and govern the improvement, use, occupancy, and conveyance of the Lots or the Property set out in this instrument or any amendment hereto

Section 1.11. Director means any member of the Board of Directors

Section 1.12. Committees means and refers to the New Construction Committee and the Modifications Committee

Section 1.13. Documents means the Articles of Incorporation, Bylaws, Declaration, and Rules and Regulations, as amended from time to time

Section 1.14. Election Date means the earliest of the following dates (a) four (4) months after Declarant shall have conveyed seventy-five percent (75%) of the Lots to Owners, (b) three (3) years after the conveyance of the first Lot to an Owner other than Declarant, or (c) the date upon which Declarant gives the Board written notice of its election to cause the Election Date to occur

Section 1.15. Eligible Mortgagee means mortgagees who have submitted to the Association a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of Eligible Mortgagees

Section 1.16. Lot or Lots means and refers to any one or more of the lots reflected on the Plat

Section 1.17. Maintenance Fund means any accumulation of the Assessments collected by the Association and interest, penalties, fines, and other sums and revenues collected by the Association pursuant to the provisions of the Declaration, the Bylaws, or Rules and Regulations

Section 1.18. Member or Members means any member or members of the Association as provided in Section 3.3 of this Declaration

Section 1.19. Mortgage means a security interest, mortgage, deed of trust, or lien instrument covering a Lot voluntarily granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the Real Property Records of Harris County, Texas, and creating a lien or security interest encumbering a Lot and some or all improvements thereon.

Section 1.20. Mortgagee means a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the insurer, guarantor or assignees of any such mortgage or beneficiary.

Section 1.21. Notice means a written notice from or on behalf of the Board of Directors in the manner provided in this Declaration, the Bylaws, or the Rules and Regulations

Section 1.22. Owner means any Person, including Declarant, who is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation

Section 1.23. Person means a natural person, a corporation, a partnership, or any other legal entity

Section 1.24. Plat means the plat of Heron Lakes filed of record under Clerk's File No U641642 among the Official Public Records of Real Property of Harris County, Texas

Section 1.25. Property means all the real property described in the Plat

Section 1.26. Rear Yard means that portion of the Lot located behind the rear wall of a Unit

Section 1.27. Reimbursement Assessment means a charge against a particular Owner and Lot for the purpose of reimbursing the Association for expenditures and other costs incurred by the Association in curing any violation of the Documents, directly attributable to the Owner pursuant to Section 3.10 hereof

Section 1.28. Rules and Regulations means such rules and regulations as the Board may promulgate from time to time with respect to the Lots and/or the Common Area and/or the Property, which may include reasonable provisions for the fines for violation of such rules and regulations

Section 1.29. Special Assessment means a charge against each Owner and Lot representing a portion of anticipated or actual costs incurred by the Association for the purpose of funding major capital repairs, maintenance, and replacement of improvements, imposed pursuant to Section 10.6 hereof

Section 1.30. Unit means a residential unit on a Lot designed for, limited and restricted to, occupancy by a single family

ARTICLE II

ESTABLISHMENT OF GENERAL PLAN

Section 2.1. General Plan and Declaration This Declaration hereby is established pursuant to and in furtherance of a common and general plan for the improvement and sale of Lots within the Property Declarant, for itself, its successors, and assigns, hereby declares that the Property and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, set forth in this Declaration, for the duration thereof Unless otherwise specified herein, the terms of the Documents shall apply equally to all Owners, including Declarant

Section 2.2. Equitable Servitude The covenants, conditions, restrictions, limitations, reservations and easements of this Declaration are hereby imposed as equitable servitude upon each Lot and the Common Areas within the Property as a servient estate for the benefit of each and every other Lot, as the dominant estate

Section 2.3. Covenants Appurtenant. The covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in this Declaration shall run with, and shall inure to the benefit of and shall be binding upon, all of the Property, each Lot and the Common Area, and shall be binding upon and inure to the benefit of (a) a Declarant and its successors and assigns, (b) the Association and its successors and assigns; and (c) all Persons having, or hereafter acquiring, any right, title, or interest in all or any portion of the Property and their heirs, executors, successors, and assigns

ARTICLE III

MANAGEMENT AND OPERATION OF THE PROPERTY

Section 3.1. Management by Association. The affairs of the Property shall be administered by the Association The Association shall have the right, power and obligation to provide for the management, construction, maintenance, repair, replacement, administration, and operation of the Common Area and the enforcement of this Declaration with respect to the use of the Property as provided in the Documents. In the event of a conflict between the Articles of Incorporation, Bylaws and Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall control In the event of any conflict between the Articles of Incorporation, Bylaws, and Rules and Regulations, the Articles of Incorporation shall control In the event of any conflict between the Bylaws and the Rules and Regulations, the Bylaws shall control The business and affairs of the Association shall be managed by the Board of Directors, unless any particular power or prerogative is otherwise reserved to the Members by law or the

terms of the Documents. It shall be the responsibility of each Owner or occupant of a Unit to obtain copies of and become familiar with the terms of the Documents.

The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Property as the Board deems reasonably necessary or appropriate to maintain and operate the Property in accordance with the Declaration, including without limitation, the right to grant utility, access and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, courtesy patrol, operation of recreational facilities, or other matters of mutual interest. The Board of Directors shall also have the power to create procedures for resolving disputes between Owners or occupants of Units, including appointment of committees to consider or reconsider resolutions of any disputes.

Section 3.2. Board of Directors The number, term, and qualifications of the members of the Board of Directors shall be governed by the Articles of Incorporation and the Bylaws.

Section 3.3. Membership in Association Each Owner, whether one Person or more, of a Lot shall, upon and by virtue of becoming an Owner, automatically become and remain a Member of the Association until ownership of the Lot ceases for any reason, at which time the membership in the Association shall also automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

Section 3.4. Unit Owner Information Not later than the 30th day after the date of acquiring an interest in a Lot or granting a Mortgage against a Lot, the Owner shall provide the Association with

- (a) The Owner's mailing address, telephone number and driver's license number, if any,
- (b) The name and address of the holder of any Mortgage against the Lot, and any loan number
- (c) The name and telephone number of any person occupying the Lot other than the Owner, and
- (d) The name, address, and telephone number of any person managing the Lot as agent of the Owner

Section 3.5. Notice of Change Each Owner shall notify the Association not later than the 30th day after the date the Owner has notice of a change in any information required by Section 3.4 above, and shall provide the information on request by the Association from time to time.

Section 3.6. Notice in Writing Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given when delivered personally at the appropriate address provided by Owner under Section 3 4 above, or 72 hours after deposit in any United States post office box, postage prepaid, addressed to the appropriate address provided by Owner under Section 3 4 above

Section 3.7. Transfer Fee. Prior to changing the name of the Owner of any Lot or the name of the Mortgagee holding a lien covering any Lot on the records of the Association incident to any sale, resale, financing or refinancing of any Lot, other than sales of Lots by Declarant and sales by builders who have purchased Lots for development and resale, the Association or its managing agent (if authorized by the Board of Directors) may charge a transfer or processing fee.

Section 3.8. Voting of Members. The Association shall have two classes of membership

Class A Class A Members shall be all Owners with the exception of Declarant prior to the Election Date and all Owners thereafter Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership in Section 3 3 When more than one Person holds an interest in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot

Class B The only Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Lot it owns, provided, however, that the Class B membership shall cease and be converted to Class A membership on the Election Date

Section 3.9. Power to Adopt Rules and Regulations The Association, through its Board of Directors, may adopt, amend, repeal, and enforce the Rules and Regulations, fines, levies, and enforcement provisions as it deems necessary or desirable with respect to the interpretation and implementation of the Declaration, Articles of Incorporation, and Bylaws, the operation of the Association, the use and enjoyment of the Common Areas, and, the use of any other property within the Property, including Lots. Any such Rules and Regulations shall be reasonable and uniformly applied to all Members and their family, tenants, and guests Such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration

Section 3.10. Power to Enforce Documents The Association shall have the power to enforce the provisions of the Documents and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and each Member's family, guests or tenants. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Documents by any one or more of the following means: (a) by entry upon any Lot after Notice (unless a bona fide emergency exists in which event this right of entry may

be exercised without notice [written or oral] to the Owner, but in such manner as to avoid any reasonable or unnecessary interference with the lawful possession, use, or enjoyment of the improvements situated thereon by the Owner or any other Person), without liability by the Association to the Owner thereof or any other person, for the purpose of enforcement of the Documents or Rules and Regulations, (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of the Documents, by mandatory injunction or otherwise, (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Documents, (d) by exclusion, after Notice, of any Member or Member's family, guests, or tenants from use of the Common Area during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations relating to the Common Area by such Member or Member's family, guests, or tenants, unless the breach is a continuing breach in which case, such exclusion shall continue for so long as such breach continues, (e) by suspension, after Notice, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or Member's family, guests, or tenants, of the Documents, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after Notice, a Reimbursement Assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants, and (g) by levying and collecting, after Notice, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Member's family, guests, or tenants, for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests or tenants

Section 3.11. Board Actions in Good Faith Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party

Section 3.12. Property Rights of Owners

(a) Owner's Easements of Enjoyment Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title of every Lot subject to the following provisions

1. The right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to regulate the time and circumstances by which Owners may use the facilities,

2. The right of the Association to limit the number of guests of Members and to make provisions for use by fee-paying third parties who are not Members,

3. The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, located in the Common Area, by an Owner as provided in Section 3 10,

4 The right of the Association to grant or dedicate easements in, on, under, or above the Common Area or any part of the Common Area to any public or governmental agency or authority or to any utility company for any service to the Property or any part of the Property

5 The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purposes and subject to conditions that may be agreed to by the Board. No dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members, agreeing to dedication or transfer, has been recorded except that easements for utility purposes may be approved solely by the Board of Directors

(b) Delegation of Use Any Owner may delegate, in accordance with the Bylaws, the Owner's right of enjoyment to the Common Area and facilities to the members of the Owner's family, tenants, or contract purchasers who reside on the Property

(c) Waiver of Use No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot owned from the liens and charges of the Declaration, by waiver of the use and enjoyment of the Common Area or by abandonment

Section 3.15. Management Agreements. Each Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association (i) shall provide the management agreement may be canceled, with or without cause, with thirty (30) days written notice, and, (ii) shall not provide for any penalty due to cancellation or termination. In no event shall such management agreement be canceled prior to the negotiation by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the termination date of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type.

Section 3.16. Condemnation If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each Owner shall be entitled to participate in the condemnation proceedings at their own expense. The Association shall give timely written notice of the existence of these proceedings to all Owners and to all holders of first Mortgages known to the Association by notice to the Association to have an interest in any property subject to assessment. The expense of participation in such proceedings by the Association shall be borne by the Association. The Association is authorized to obtain and pay for assistance from attorneys, appraisers, architects,

engineers, expert witnesses, and other persons that the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to these proceedings

All damages or awards for any taking shall be deposited with the Association, and damages or awards shall be applied as provided in this Declaration. If an action in eminent domain is brought against a portion of the Common Area, the Association, as attorneys-in-fact for all Owners, in addition to its general powers, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement of such proceedings, or to convey such portion of the Property to the condemning authority in lieu of the proceeding. With respect to any taking, all damages and awards shall be determined for the taking as a whole and not for each Owner's interest in the portion sought to be condemned. After the damages or awards for the taking are determined, the damages or awards shall be paid to the Association, which may use the funds in the manner determined by the Board. Alternatively, the Board, if it deems advisable, is authorized to call a meeting of the Members, at which meeting the Members, by a majority vote, shall decide whether to replace or restore, as far as possible, the Common Area so taken or damaged. If it is determined that the Common Area should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners.

ARTICLE IV INSURANCE AND CASUALTY

Section 4.1. Insurance.

(a) The Board or its authorized agent shall obtain and maintain at all times, to the extent obtainable, policies of insurance consistent with the then current specific requirements of the Federal National Mortgage Association for a development of the size and type of the Property, written with financially responsible companies licensed to do business in Texas, covering, without limitation, the risks set forth below. The type of coverage's to be obtained and risks to be covered are, at a minimum, as follows, to-wit:

(1) Insurance against loss or damage by fire and lightning, and such other hazards ("casualty damage") as are customarily covered in townhome projects in Harris County, Texas, under extended coverage and all risk endorsements. Said casualty insurance shall insure the entire Property and all completed Units (the builder of each Unit being responsible for maintaining builder's risk insurance during the course of construction or each Unit) thereon, together with all equipment contained therein, in an amount equal to the full replacement value, without deduction for depreciation, subject to reasonable deductible.

(2) Bodily injury and property damage insurance in such limits as the Board may from time to time determine, but not in an amount less than \$1,000,000.00 per occurrence covering all claims for bodily injury or death, and \$100,000.00 per occurrence for property damage. Coverage shall include, without limitation, liability for personal injuries,

operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Property All liability insurance shall name the Association, the Board, the Declarant, the Owners, the managing agent and the officers of the Association as insureds thereunder

(3) Worker's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association, in the amounts and on the forms now or hereafter required by law or deemed reasonable and necessary by the Board.

(4) Directors and officers liability insurance with respect to the actions of the Board and officers of the Association

(5) Insurance against such other risks of similar or dissimilar nature as the Board may deem appropriate with respect to the Property, including insurance for any personal property of the Association located thereon

(b) All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to all Owners, Eligible Mortgagees and the Association Certificates evidencing such insurance coverage shall be promptly delivered to any Eligible Mortgagees upon request. All casualty insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners and Eligible Mortgagees, as their interests may appear.

(c) Owners may carry other insurance for their benefit and at their expense, provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Owner

(d) It shall be the duty of each Owner to obtain personal liability insurance, and casualty insurance, and coverage for the Owner's personal property

Section 4.2 Damage or Destruction.

(a) Attorney-in-fact All Owners irrevocably constitute and appoint the Board as their attorney-in-fact for the purpose of dealing with the repair or reconstruction of damage or destruction to any Unit, by fire or other disaster A claim for any loss covered by the policy under Section 4 1, (a) must be submitted by and adjusted with the Board, as attorney-in-fact As attorney-in-fact, the Board, by its president and secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interests of an Owner, which is necessary and appropriate to exercise the powers herein granted The proceeds of any insurance collected shall be available to the Association for the purpose of repair, reconstruction or replacement Maintenance assessments shall not be abated during the period of insurance adjustment and repair and reconstruction.

(b) **Duty to Rebuild** Any Unit that is damaged or destroyed by fire or other disaster shall be promptly repaired or reconstructed by the Association. Repair and reconstruction of the damaged or destroyed Units shall be to substantially the same condition to which they existed prior to the damage. If insurance proceeds are insufficient to complete the necessary repair or reconstruction, they shall be allocated to the repair of each damaged Unit based upon its percentage damage interest. The cost of repair and replacement to any Unit in excess of the insurance proceeds shall be paid by the Owner(s) of the damaged Unit(s).

(c) **Owner Liability** Notwithstanding anything set out above, each Owner shall be liable to the Association for all costs incurred by the Association in excess of insurance proceeds (including the full amount of any deductible payable to the Association) if the loss was caused by the negligence of the Owner, his tenants, guests or invitees.

ARTICLE V

ARCHITECTURAL REVIEW COMMITTEES

Section 5.1. Creation There is hereby created a Heron Lakes New Construction Committee (herein referred to as the "New Construction Committee") which shall have exclusive jurisdiction over all original construction on the Lots in the Property. The Modifications Committee will have exclusive jurisdiction over modifications, additions or alterations made. There is hereby created a Modifications Committee (herein referred to as the "Modifications Committee") (the New Construction Committee, the Modifications Committee being collectively referred to herein as the ("Architectural Review Committees" or the "Committees"). No person serving on a Committee shall be entitled to compensation from the Association for services performed in such capacity, however, the Committees may employ, at the expense of the Association, one or more architects, engineers, attorneys, or other consultants to assist the Committees in carrying out their respective duties hereunder.

Section 5.2. Number and Appointment of Members Each of the Committees shall consist of three (3) members. The initial members and all successor members of the Committees shall be appointed by the Board of Directors which also shall have the power to remove any member at any time.

Section 5.3. Powers of the Committees No building, structure, fence, patio, patio cover, pool, spa, trellises, deck, wall or other improvements (including landscaping of Rear Yards) shall be commenced or constructed on any Lot, and no exterior addition or alteration to Unit or other improvements shall be made until the site plan and the final working plans and specifications have been submitted to and approved in writing by majority vote of the applicable Committee as to conformity with the restrictions herein contained and harmony of external design and location in relation to existing structures and topography.

The Committees shall have the right to specify architectural and aesthetic requirements for improvements on the Lots, including structures, patios, patio covers, pools, spas, trellises, and

decks, the location, height, and extent of fences, walls, or other screening devices, the orientation of structures with respect to streets, walks, paths, golf course fairways and structures on adjacent property and shall have the right to limit the number of acceptable exterior materials and finishes that may be utilized in construction or repair of any Unit or other improvements. The Committees shall have full power and authority to reject any site plan or final working plans and specifications that do not comply with the restrictions herein contained or that do not meet its minimum construction or architectural design requirements or that, in the sole and uncontrolled discretion and opinion of the applicable Committee, will not be compatible with the overall character and aesthetics of the Property

The Committees shall have the right, exercisable at their sole discretion, to grant variances to the restrictions of this Declaration in specific instances where the applicable Committee in good faith deems that such variance does not adversely affect the architectural and environmental integrity of the Property. A Committee may require the submission of such documents and items as it shall deem appropriate in connection with its consideration of a request for a variance. If the Committee shall approve such request for a variance, it shall evidence such approval, and grant its permission for such variance, only by written instrument addressed to the Owner of the Lot or Unit relative to which such variance has been requested, describing the applicable restriction(s) or guideline(s) and the particular variance requested, expressing the decision of the Committee to permit the variance, and describing (when applicable) the conditions on which the variance has been approved. Any request for a variance shall be deemed to have been disapproved in the event of either (a) written notice of disapproval from the Committee or (b) failure by the Committee to respond to the request for variance

Section 5.4. Rules and Regulations The Board may from time to time adopt, amend, and repeal Rules and Regulations interpreting and implementing the provisions of this Article V

Section 5.5. Limitation of Liability The Committees have no liability or obligation whatsoever in connection with any plans and/or specifications and no responsibility for the adequacy thereof or for the construction of any improvements contemplated by any such plans and/or specifications. The Committees have no duty to inspect any improvements, and, if a Committee should inspect any improvements, it shall have no liability or obligation to any party arising out of such inspection. The Committees expressly shall have no liability or responsibility for defects in or omissions from any plans and/or specifications or for defects in or omissions from the construction of any improvements. Notwithstanding any covenant, condition or term contained in this Declaration or provision of the By-Laws of the Association to the contrary, a Committee shall not have any liability to any Owner arising or resulting from any act or omission of the Committee taken or omitted pursuant to this Declaration or the By-Laws of the Association. Each Owner by accepting a conveyance of any Lot or of any portion of the Property conclusively shall be deemed to have unconditionally and irrevocably waived all claims against the Committees arising or resulting from acts or omissions pursuant to this Declaration or the By-Laws of the Association

ARTICLE VI
EXTERIOR MAINTENANCE

Section 6.1. Owner Maintenance Owners shall maintain and keep in good repair the interior of their Units as well as enclosed porches, if any, interiors of chimneys, if any, all glass surfaces and doors, including all fixtures, framing, and related hardware, air conditioning equipment, utility company meters, circuit breakers and switch panels, sanitary sewer lines, gas and electric power service lines, and Rear Yards (including the landscaping inside the Rear Yard, if any) Such maintenance to be performed by Owners of Units shall also include the structural supports for roofs and walls, as well as the foundations of Units All fixtures and equipment installed on the Lot for the exclusive use of the Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Lot, shall also be maintained and kept in repair by the Owner thereof All improvements made to the Rear Yards must not interfere with or disturb the proper functioning of the drainage system of adjoining Lots Replacement of light bulbs in light fixtures under the exclusive control of an Owner shall also be the responsibility of the Owner

In the event an Owner is responsible for certain exterior maintenance and such Owner shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and any improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the Assessments to which such Lot is subject

Section 6.2. Maintenance by Multiple Owners In the event that the responsibility for certain maintenance described in Section 6.1 extends to more than one Owner (for example, by way of illustration only, foundation or slab repairs affecting more than one Lot) any one of the affected Owners may repair or provide for the needed maintenance, with or without the consent of (but with prior written notice to) the other affected Owners, and the cost of reasonable repair and maintenance of such item shall be shared by the Owners of the affected Lots in proportion to the effect on such Lots The right of any Owner to contribution from any other Owner under this Section 6.2 shall be appurtenant to the land and shall pass to such Owner's successors in title

Section 6.3. Association Maintenance The Association shall provide exterior maintenance upon each Unit, as follows paint, repair, replacement (but not in the event of fire or other casualty loss normally covered by insurance on the premises) of exterior surfaces including care of roofs (shingles and decking only), gutter, downspouts, if any, private streets, curbs, curbcuts, driveways and any other improvement in the Common Area or the right of way of any private street within the Property, sidewalks and walkways, gates and fencing Such exterior maintenance provided by the Association shall not, however, include any of those items described as Owner maintenance in Section 6.1 The Association shall not be responsible for any alterations made to any Unit or Lot by an Owner The Association shall also be responsible for installing and maintaining all landscaping on each Lot located outside the Rear Yard and any sprinkler systems

installed by Declarant or the Association outside the Rear Yard. The Association is granted an easement over, across and under all areas on each Lot for the purpose of maintaining the grounds and other site improvements. In the event that the need for maintenance or repair of a Lot, Unit, Common Area, or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the Assessments to which such Lot is subject.

Section 6.4. Maintenance of Roadways All roads and esplanades within the Property designated as private roads or esplanades on the Plat and deeded to the Association shall be maintained and regulated by the Association. The Association shall have the right to establish rules and regulations concerning all such private streets and esplanades including, without limitation, speed limits, curb parking rules, fire lanes, no parking areas, stop signs, other traffic directional signals and signs, security gates and entrances, speed bumps, cross walks, traffic directional flow, striping, signage, landscaping and other matters relating thereto and their usage by Owners, their family members, guests and invitees.

Section 6.5. Maintenance Dispute In the event of any dispute between Owners, or any Owner(s) and the Association as to maintenance responsibilities of any Lot or any improvements thereon, the decision of the Board shall control and be final.

ARTICLE VII **PARTY WALLS**

Section 7.1. General Rules of Law to Apply Each wall which is built as a part of the original construction of the Units upon the Property and placed on or next to the boundary line between Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 7.2. Sharing of Repair and Maintenance The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

Section 7.3. Destruction by Fire or Other Casualty If a party wall is destroyed or damaged by fire or other casualty, it shall be the responsibility of the Owners who make use of the wall to restore it. Any Owner who has used the wall may restore the party wall, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission. In the event of a casualty and a party wall(s) is damaged and the Owners thereof are unable to agree to the terms of repair of such party wall(s) within thirty (30) days following such casualty then the Association shall have the right to negotiate the repair thereof with the insurance company and contractors and all Owners shall be bound by the settlement made by the Association.

Section 7.4. Waterproofing Notwithstanding any other provision of this Article, an Owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements

Section 7.5. Right to Contribution Runs with Land The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title

ARTICLE VIII **GOLF COURSE**

Section 8.1. Golf Course Each Owner acknowledges that the Property, and some of the Units adjoin or are in close proximity to a golf course and that from time to time errant golf balls may come land on the Property, and the Units

Section 8.2. Waiver and Release of Liability Each Owner and the Association hereby expressly agrees to a waiver of any and all liability for errant golf balls. By acceptance of a deed to a Lot, the Association and each Owner, for him or herself and on behalf of such Owner's family, guest and tenants, releases the Association and Declarant from all claims, demands, expenses, damages, costs, causes of action, obligations and liabilities, including, without limitation, damage to Owner's Unit and damages for personal injury or death, which in any way arise from or relate to any golf ball which enters upon the Property, the Common Areas or within any Unit from the golf course property, whether or not the golf balls is struck in a negligent manner

ARTICLE IX **USE RESTRICTIONS**

Section 9.1. General No Owner shall use the Common Area, or use or permit such Owner's Lot or Unit to be used for any purpose that would (a) void any insurance in force with respect to the Property, (b) make it impossible to obtain any insurance required by this Declaration, (c) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion, (d) constitute a violation of the Documents or any applicable law, or (e) unreasonably interfere with the use and occupancy of the Property by other Owners

Section 9.2. Single Family Residential Use Each Owner shall use his Lot and the Unit on his Lot for single family residential purposes only. As used herein the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his residence as a personal office for a profession or occupation, provided (a) the public is not invited, permitted, or allowed to enter the Unit or any structure or improvement upon such Lot and conduct business therein, (b) no signs advertising such profession or business are permitted, (c) no on-site employees are

permitted, (d) no offensive activity or condition, noise and/or odor are permitted, and (e) such use in all respects complies with the , the laws of the State of Texas, and the laws, rules, and regulations of any other regulatory body or governmental agency having authority and jurisdiction over such matters. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents, their dependent grandparents, and their domestic servants, or (b) no more than three (3) unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, their dependent grandparents, and their domestic servants, provided, however, in no event, shall any single family residence be occupied by more persons than the product of the total number of bedrooms contained in the single family residence as originally constructed multiplied by two and one-half (2 %)

Section 9.3. Animals No animals of any kind shall be raised, bred, or kept on any Lot, except as hereinafter provided. A total of two (2) dogs, cats, or other household pets may be kept on a Lot (except for fish of a type customarily kept within normal home aquariums, with respect to which there shall be no limitation on amount) provided that (a) they are not kept, bred, or maintained for commercial purposes, (b) they do not make objectionable noises, create any objectionable odor, or otherwise constitute an unreasonable nuisance to other Owners, (c) they are kept within the Unit, an enclosed patio on the Lot occupied by the Owner of such pets, or on a leash being held by a Person capable of controlling the animal; and (d) they are not in violation of any other provision of this Declaration and such other limitations as may be set forth in the Rules and Regulations. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal that, in the sole opinion of the Board, is not being maintained in accordance with the foregoing restrictions. Each Owner, tenant or guest of an Owner shall have the absolute duty and responsibility to clean up after such animals to the extent they have used any portion of the Lot of another Owner or any Common Area.

Section 9.4. Signs, Advertisements, Billboards No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of the Property except one sign for each Lot may be permitted, provided it is approved by the Architectural Review Committee. Such sign may have one maximum dimension of twenty-four inches (24") and a maximum area of 576 square inches for the purpose of advertising the Unit located on the Lot for sale or rent.

Section 9.5. Antennae No television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or upon any structure specifically covered by the regulations promulgated under the Telecommunications Act of 1996, and amended January 5 and 22 and February 16, 1999 as amended from time to time. The Board is empowered to adopt rules governing the types of antennae that are permissible in the Properties and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of

an acceptable signal would not be impaired, an antenna permissible or pursuant to the rules of the Board may only be installed in a side or rear yard location, not visible from a Street, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations.

Section 9.6. Visible Storage All clothesline, equipment, service yards, or storage piles shall be kept within screened areas, so as to conceal them from view of neighboring Lots, streets, and adjacent golf course property.

Section 9.7. Restrictions on Garbage and Trash No refuse, garbage, trash, or debris of any kind shall be kept stored, or allowed to accumulate on any Lot except within an enclosed container. All rubbish, trash, and garbage shall be kept in containers and within areas designated by the Association for collection purposes.

Section 9.8. No Noxious or Offensive Activity No noxious or offensive activity shall be carried on upon any Lot within the Property nor shall anything be done or placed thereon that is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to others.

Section 9.9. No Hazardous Activities No activity shall be conducted on any Lot that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property (except as allowed by law for the protection of persons or property) and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit (located a safe distance from the Unit while attended and in use for cooking purposes) or within an interior fireplace, which is a part of the original construction or has been approved for installation by the Architectural Review Committee.

Section 9.10. Leasing Lots may only be leased for single family residential purposes as defined in Section 9.2. No Owner shall be permitted to lease his Lot for hotel or transient purposes, which for purposes of this Section is defined as a period of less than seven (7) days. No Owner shall be permitted to lease less than the entire Lot. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner in the Documents. The Owner making such lease shall not be relieved from any of such obligations. Copies of all leases entered into by Owners for occupancy of a Unit shall be deposited with the managing agent of the Association prior to the tenant taking occupancy of the Unit.

Section 9.11. Window Treatment No window in any Unit or other improvement that is visible from any other Lot or street may be covered with paper, cardboard, newspaper, boards, aluminum foil, or any other reflective material. Portions of window treatments facing streets must be shades of white or beige, unless otherwise approved by the Board.

Section 9.12. Parking On-street parking is restricted to approved deliveries, pick-ups, and short term guests. Lots shall not, without express written permission of the Association, be

used for storage of boats, trailers, campers, unused or inoperable automobiles or any other items which the Association deems unsightly or inappropriate. Parking on streets in, along, adjacent to the Property and on Lots, shall be subject to further restrictions in the Rules and Regulations.

Section 9.13. Fences Rear Yards must at all times be completely enclosed by a fence, which has been approved in writing by the Declarant or the Architectural Review Committee pursuant to Article V, provided, however Lots adjacent to golf course property may be enclosed only by open iron or metal fencing not exceeding four (4) feet in height, the design of which shall have been approved by the Association.

Section 9.14. Declarant Exemptions For so long as Declarant owns a Lot, notwithstanding any provisions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant to maintain upon the Property such facilities (as in the sole opinion of the Declarant) may be reasonably required, convenient or incidental to the sale of any Lot, including, but not without limitation, a business office, storage area, construction yards, model units, sales offices and advertising signs of any size.

ARTICLE X

COVENANTS FOR ASSESSMENTS

Section 10.1. Creation of the Lien and Personal Obligation for Assessments Each Owner (except the Declarant), by acceptance of a deed to any Lot, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association the General Assessments and Special Assessments fixed, established, and collected from time to time as hereinafter provided. The General Assessments and Special Assessments, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon each Lot and any rents or insurance proceeds with respect to each Lot. Such Assessments, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment becomes due. The personal obligation shall not pass to an Owner's successor in title unless expressly assumed by the successor.

Section 10.2. General Assessments The General Assessments levied by the Association shall be used for the improvement and maintenance of the Common Area and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and for the performance of such other duties as are given to the Association by this Declaration. The purposes of the General Assessments shall include, but are not limited to, the payment of the expenses of the Association, and the establishment of adequate reserves for, insurance, insurance deductibles, such repair, replacement and maintenance of the Property for which the Association is responsible pursuant to this Declaration, and other uses that the Board shall determine to be necessary to meet the primary purposes of the Association.

Section 10.3. Amount of General Assessment After consideration of the current maintenance and operating costs and future needs of the Association, the Board shall fix the

General Assessment in an amount necessary to fund the anticipated revenue needs of the Association, including an adequate reserve fund for the purposes set forth in Section 10.2 above. The Board may adjust the amount of the General Assessment not more than one time during any calendar year. Written notice of any adjustment in the amount of the General Assessment shall be sent to every Member at least thirty days prior to the effective date of the adjustment, provided that the failure of the Association to provide such notice shall not release or relieve the Owner of the duty to pay the General Assessment.

Section 10.4. Uniform Rate of Assessments General Assessments shall be a uniform rate for all Lots, and shall be due and payable monthly in advance without notice on the first day of each calendar month.

Section 10.5. Date of Commencement of General Assessments General Assessments shall commence to accrue against each Lot on the first day of the first calendar month following the date of closing of the sale of that Lot from the Declarant to another Owner.

Section 10.6. Special Assessments for Capital Improvements. In addition to the General Assessment authorized above, the Association may levy Special Assessments from time to time in an amount necessary and for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements in the Common Area or private streets or esplanades within the Property, or other capital or operating expenditures deemed necessary. Any Special Assessment shall require the consent of sixty-seven percent (67%) of the Members voting at a meeting duly called for such purpose, written notice of which shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting, setting forth the purposes of the meeting. Special Assessments levied in accordance with this Section shall be a uniform sum for each Lot, and shall be due and payable on the date or dates and in the manner determined by the Board and specified in a statement mailed to the Members.

Section 10.7. Application of Payments All Assessment payments received from Owners shall be applied by the board first to the payment of accrued fines, legal fees, court costs and costs of collection, then to accrued late charges and interest, then to delinquent Special Assessments, and finally to those General Assessments with the longest delinquency.

Section 10.8. Declarant Payment. Until the Election Date, Declarant shall make a monthly payment to the Association equal to (i) the cost of all operating expenses for which the Association is liable less the operational expense portion of the Assessments levied against the Owners, plus (ii) for each Lot on which General Assessments have not commenced to accrue, an amount determined by the Board to be deposited into a reserve fund for the replacement of improvements to the Common Area. Commencing on the Election Date, General Assessments shall commence to accrue against any Lot, which has not been sold by Declarant to another Owner.

Section 10.9. Cash Reserve Account In addition to any required escrow deposit for General Assessments, each purchaser of a Lot agrees, at the closing of the Lot purchase, to pay to

the Association's cash reserve account an amount equal to two times the monthly General Assessment for the Lot being purchased Neither the cash reserve account nor the portion of the General Assessments allocated to reserves as referenced in Section 10.2 shall be used to pay operational expenses until the Election Date

Section 10.10. Effect of Nonpayment of Assessments If any Assessment is not paid on or before ten (10) days following the due date, same shall be delinquent and shall, at the option of the Board, bear interest from the date of delinquency at the rate established by the Board from time to time but not to exceed the highest legal rate as may be permitted under the laws of the State of Texas The defaulting Owner shall also be assessed a late charge in the amount of \$25.00 or such greater amount as may be imposed by the Board from time to time, to cover the extra cost and expense involved in handling delinquent assessments. The Association is authorized to impose a charge of \$15 or more for checks which are returned unpaid. The Association may bring an action at law against the Owner personally obligated to pay the delinquent General or Special Assessments to recover the delinquent amount and all accrued interest and late charges thereon, and/or to foreclose the lien against the Lot securing such assessment In any such action, the Association shall be entitled to recover its costs incurred in the proceeding, including reasonable attorney's fees, all of which shall be secured by the lien securing payment of assessment. Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents, the right and power to bring an action against such Owner personally for the collection of delinquent assessments and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure in a like manner as a mortgage or deed of trust lien on real property. Each Owner hereby expressly grants to the Association a power of sale in connection with said lien, same to be exercised in compliance with the terms of the applicable Texas Civil Statutes relating to the foreclosure of deed of trust or other contractual liens (Texas Property Code Section 51.002) The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners The Association, acting on behalf of the Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire, hold, lease and mortgage same No Owner may waive or otherwise escape liability for any Assessments by non-use of any Common Area or other services or facilities, or abandonment of his Lot No Owner may offset liability for any Assessment for any reason.

Section 10.11. Certificate The Association shall upon request at any time furnish a certificate in writing, signed by an officer or agent of the Association, setting forth whether the Assessments on a specified Lot have been paid A reasonable charge may be made by the Board for the issuance of a certificate, which shall be conclusive evidence of payment of any Assessment therein stated to have been paid

Section 10.12. Subordination of the Lien to Mortgage The lien of the Assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages imposed on a Lot to secure debt incurred for the purchase price thereof or for improvements thereto. Sale, transfer or other disposition of any Lot shall not affect the Assessment lien However, the sale or transfer of any mortgaged Lot pursuant to a decree of foreclosure under such mortgage shall extinguish the Assessment lien as to payments which became due prior to such sale or transfer No

sale or transfer of any Lot, including foreclosure sale or transfer by deed in lieu of foreclosure, shall release such Lot from liability for any assessments thereafter becoming due or from the lien provided in this Declaration

ARTICLE XI
UTILITIES AND EASEMENTS

Section 11.1. Utility Easements The rights and duties of the Owners of Lots within the Property with respect to sanitary sewer and water, electricity, gas and telephone, security system and cable television lines and drainage facilities shall be governed by the following

(a) Permanent easements are hereby created upon, across, over and under those portions of the Property as may be reasonably necessary for the installation, maintenance and repair of all utilities, including, but not limited to, water, sewers, gas, telephone, electricity and a master or cable television system, security system and drainage facilities, which easements shall run to and be administered by the Association. Declarant reserves the right to grant (without necessity for consent from any Owner) such additional utility easements as may, in its sole judgment, be necessary to properly serve the Property's utility requirements

(b) Wherever sanitary sewer house connections and/or water house connections or electricity, gas or telephone and cable television lines, security system, or drainage facilities are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon land owned by the Association or persons other than the Owner of a Lot served by these connections, lines or facilities, the Owners of Lots served shall have the right, and are granted an easement to the full extent necessary, to enter upon the Lots and/or on land owned by the Association within the Property in or upon which the connections, lines, or facilities, or any portion of them, lie to repair, replace, and generally maintain the connections as and when repair, replacement, and maintenance may be necessary

(c) Wherever sanitary sewer house connections and/or water house connections or electricity, gas, telephone, security system and cable television lines or drainage facilities are installed within the Property, and the connections, lines or facilities serve more than one Lot, the Owner of each Lot served by the connections, lines or facilities shall be entitled to the full use and enjoyment of the portions of the connections, lines, or facilities which service that Owner's Lot

Section 11.2. Emergency and Service Vehicles An easement is granted to all police, fire protection, ambulance, and other emergency vehicles and other service vehicles to enter upon the Common Area in the performance of their duties

Section 11.3. Ingress and Egress Easement of Owner Each Owner is granted an unrestricted right of ingress and egress to his Lot

Section 11.4. Sprinkler System Declarant or the Association may install an underground sprinkler system on the Lots and Common Area for the general benefit of all Owners. If installed,

the Association shall maintain the sprinkler system and pay for all costs related to same and is hereby granted an easement for the maintenance (and relocation, if necessary) of the sprinkler system as the Board may deem necessary from time to time

Section 11.5. Association Easements The Association, its agents, servants, and employees shall have all other such easements necessary to perform those duties, tasks or rights as referenced throughout this Declaration

Section 11.6. Easements for Encroachments Should any part of a Unit or driveway providing access to a Unit ever encroach upon the Common Area or another Lot, or the Common Area upon a Lot or Unit, due to construction, reconstruction, repair, shifting, settlement, or other movement of any portion of said improvements, a valid easement is hereby granted for both the encroachment and its repair and maintenance, provided the physical boundaries of any such Unit after construction, reconstruction, repair, shifting, settlement, or other movement is in substantial accord with the description of the boundaries of the Unit as referenced in the Plat

Section 11.7. Easements for Repairs and Maintenance Each Owner shall have such easements as are reasonably necessary to perform the repair and maintenance responsibilities set forth in Section 6 1 of this Declaration.

Section 11.8. Easements for Shared Walkways "Shared walkway" shall mean each of those walkways situated, in whole or in part, on two adjacent Lots which provide access to the front entry doors of the Units on each such adjacent Lot Each Owner of a Lot upon which a shared walkway is located shall have an easement over and across that portion of the adjacent Lot upon which the shared walkway is constructed for the use of the shared walkway

ARTICLE XII **MORTGAGES**

Section 12.1. Notice to Association An Owner who mortgages his Lot shall notify the Association in accordance with Section 3 4 of this Declaration

Section 12.2. Notice to Default The Association shall notify a first Mortgagee in writing, upon request of such Mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within thirty (30) days

Section 12.3. Examination of Books The Association shall permit first Mortgagees to examine the books and records of the Association during normal business hours

Section 12.4. Annual Audits. The Association shall furnish each first Mortgagee, upon request of such Mortgagee and at the expense of such Mortgagee, an annual audited financial statement of the Association within one hundred twenty (120) days following the end of each fiscal year of the Association

Section 12.5. Notice to Mortgagees. The Association shall give the Mortgagee timely written notice of

- (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its Mortgagee,
- (b) any 60-day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the Mortgage,
- (c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association, and
- (d) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees

Section 12.6. Consent of Mortgages Required Unless at least fifty-one percent (51%) of all of the Eligible Mortgagees have given their approval, the Association shall not be entitled to change any of the provisions of the Declaration governing

- (a) voting rights in the Association,
- (b) increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens,
- (c) reductions in reserves for maintenance, repair and replacement of Common Area;
- (d) responsibility for maintenance and repairs,
- (e) reallocation of ownership interest in the Common Area or rights to its use,
- (f) redefinition of any Unit boundaries,
- (g) convertibility of Units into Common Area or vice versa,
- (h) expansion or contraction of the Property, or the addition, annexation, or withdrawal of land areas to or from the Property,
- (i) hazard or fidelity insurance requirements,
- (j) imposition of any restrictions on the leasing of Units,
- (k) imposition of any restrictions on an Owner's right to sell or transfer a Unit,

- (1) a decision by the Association to establish self-management,
- (m) restoration or repair of the Property (after damage or partial condemnation) in a manner other than that specified in the Documents,
- (n) termination of the legal status of the Association and/or the Property as a planned unit development after substantial destruction or condemnation occurs (provided, however, in the event of termination of the Association or the Property as a planned unit development for reasons other than substantial destruction or condemnation, sixty-seven percent (67%) of the Eligible Mortgagees must agree), or
- (o) any provisions that expressly benefit Mortgagees.

The approval of a Mortgagee may be implied by the failure of the Mortgagee to respond to any written proposal for an amendment of the Declaration for the matters set forth above within thirty (30) days after the Mortgagees receive proper notice of the proposal by certified or registered mail, return receipt requested

Section 12.7. Deed to Common Area Declarant shall deed all real property it owns in the Property, save and except the Lots, to the Heron Lakes Community Association, Inc.. The Common Area may not be subject to a lease between the Owners or the Association and any other party

Section 12.8. Insurance Proceeds With respect to substantial damage to or destruction of any Lot or any part of the Common Area, nothing herein or in any other document establishing the Association will entitle the owner of a Lot or other party to priority over a Mortgagee with respect to any distribution to such Owner of any insurance proceeds

ARTICLE XIII **AMENDMENT AND DURATION OF DECLARATION**

Section 13.1. Amendment by Owners The terms of this Declaration may be amended at any time for legal reasons (including termination of the Declaration) by those Owners representing at least sixty-seven percent (67%) of the Lots within the Property and the approval of Mortgagees as required by Section 12.6 No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed of record in the Real Property Records of Harris County, Texas

Section 13.2. Amendment by Declarant Notwithstanding anything in this Declaration to the contrary, Declarant may amend this Declaration at any time and from time to time, without the joinder of any Owner, Mortgagee or other party, (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith, (b) if such amendment is required by an institutional or governmental lender, or purchaser of mortgage loans, including, for example, the

Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration, (c) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the property subject to this Declaration, (d) to correct any mistake or errors of a clerical nature resulting from typographical or similar errors; or (e) for any other purpose, provided that the amendment has no material adverse effect upon any right of any Owner or that the Owner or Owners so affected have consented thereto. Any amendments by Declarant under this Section must be by written instrument executed by Declarant and duly recorded in the Real Property Records of Harris County, Texas

Section 13.3. Duration This Declaration shall remain in full force and effect until December 31, 2021, and shall be extended automatically for successive ten (10) year periods; provided however, that this Declaration may be amended at any time, as set forth in Sections 13.1 and 13.2.

ARTICLE XIV MISCELLANEOUS

Section 14.1. Severability In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

Section 14.2. Number and Gender Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 14.3. Delay in Enforcement No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

Section 14.4. Enforceability The documents shall run with the Property and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner against the Association or any Owner violating the terms thereof, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce the Documents is initiated against an Owner or occupant of a Lot by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorney's fees from the Owner or occupant of a Lot who violated the Documents

Section 14.5. Remedies In the event any Person shall violate or attempt to violate any of the provisions of the Documents, the Association, each Owner of a Lot within the Property, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt

or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation

Section 14.6. Right of Entry; Enforcement by Self Help The Association shall have the right, in addition to and not in limitation of all the rights it may have under this Declaration, to enter upon any Lot, including the Unit located thereon, for emergency, security, maintenance, repair, or safety purposes, which right may be exercised by the Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of the Lot. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any improvements or any portion of a Lot to abate or remove, using such force as reasonably may be necessary, any improvement to Property, other structure, or thing or condition that violates the Documents. Unless an emergency situation exists, such self-help shall be preceded by written notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of the Assessments. All such entries shall be made with as little inconvenience to the Owner as is practicable in the judgment of the Association and any damages caused thereby (as distinguished from repairs with respect to which the Association is entitled to a Reimbursement Assessment) shall be borne by the Maintenance Fund of the Association. Notwithstanding anything contained in the Declaration to the contrary, prior to altering or demolishing any items of construction in or affixed to a Unit, the Association shall file judicial proceedings through which the Association has been granted the right to demolish or alter items of construction in or affixed to a Unit.

Section 14.7. Violations of Law Any violation of any federal, state, municipal or local law, ordinance rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Property hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 14.8. Remedies Cumulative Each remedy provided under this Declaration is cumulative and not exclusive.

Section 14.9. No Representations or Warranties No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Property, or any improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the Property, sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing. NEITHER THE ASSOCIATION, THE BOARD, THE DECLARANT, MANAGING AGENT, NOR THEIR OFFICERS, DIRECTORS, OR EMPLOYEES SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY AND SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF ALLEGED

FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY

Section 14.10. Limitation on Liability Neither the Association, the Board, Declarant, or any officer, agent, or employee of any of the same acting within the scope of their respective duties described in this Declaration shall be liable to any Person for any reason or for any failure to act if the action or failure to act was in good faith and without malice

Section 14.11. Captions for Convenience The titles, headings, captions, article and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

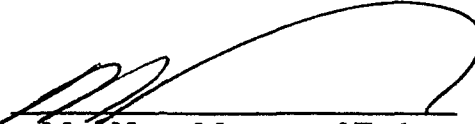
Section 14.12. Governing Law This Declaration shall be constructed and governed under the laws of the State of Texas

Section 14.13. Arbitration All disputes and controversies concerning the performance, breach, construction or interpretation of this Declaration, or in any manner arising out of this Declaration, shall be submitted to arbitration before a panel of three arbitrators upon written demand by either party setting forth the name of the arbitrator selected by such party. All arbitrators selected pursuant to this Declaration shall be former judges of state or federal courts who are not affiliated with either party and who have no conflict which would inhibit their providing unbiased decisions Within thirty (30) days after receipt of the demand for arbitration, the other party shall notify the demanding party of the name of the arbitrator selected by it Within thirty (30) days thereafter the two arbitrators so selected shall select a third arbitrator and the decision of any two shall be binding upon the parties If either party fails to name an arbitrator as required above, an arbitrator shall be chosen for such party by the American Arbitration Association, or other independent third party arbitration organization mutually selected by the parties, and the two arbitrators thus designated shall choose a third. If the arbitrators fail to designate the third arbitrator within thirty (30) days after the date of the initial demand for arbitration, they shall upon application by either party, designate the third arbitrator The arbitrators American Arbitration Association, or other independent third party arbitration organization mutually selected by the parties; shall reasonably fix their own compensation, unless otherwise provided by agreement All costs of arbitration shall be born equally by the parties, provided that the prevailing party shall be awarded such sums as the arbitrator shall deem proper as compensation for the time and expense incident to the proceeding All arbitration proceedings held in connection with this Declaration shall be held in Harris County, Texas in accordance with the Rules of Practice and Procedure for Arbitration of Commercial Disputes of the American Arbitration Association then in effect, The decision of such arbitration shall be binding on both parties Exclusive jurisdiction over entry of judgment on any arbitration award rendered pursuant thereto or over any dispute, action or suit arising therefrom shall be in any court of appropriate subject matter jurisdiction located in Harris County, Texas, and all Owners expressly subject

themselves to the personal jurisdiction of such court for the entry of any judgment and for the resolution of any dispute, action or suit arising in connection with the entry of such judgment.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed the foregoing instrument on this 7 day of Nov, 2000

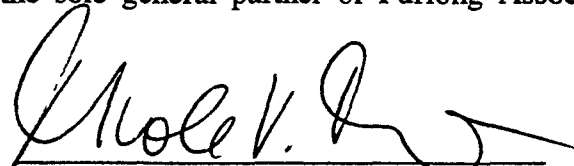
FURLONG ASSOCIATES, LTD ,
a Texas limited partnership

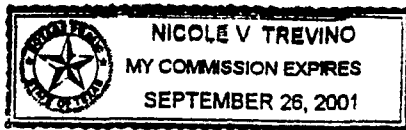
By: 
Moe Nasr, Manager of Furlong
Management, L.L C , its sole
general partner

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on 7/11, 2000 by Moe Nasr, Manager of Furlong Management, LLC, the sole general partner of Furlong Associates, Ltd., a Texas limited partnership

(SEAL)


Notary Public in and for the
State of Texas



Acting by and through its duly authorized officer, owner and holder of a lien against the Subdivision, said lien being evidenced by an instrument of record among the official public records of real property of Harris County, Texas, under Clerk's File No. U64142, does hereby in all things subordinate its interest in the Subdivision to these Covenants, Conditions and Restrictions for Heron Lakes Town Homes and confirm that it is the present owner of said lien and has not assigned the same or any party thereof

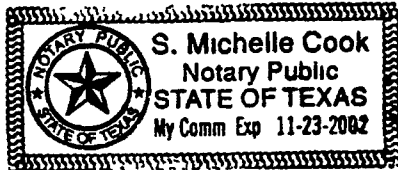
LIENHOLDER:

COASTAL BANC, S.S.B

By James R. Franer
Name: James R. Franer
Title Vice President

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 8th day of November, 2000, by James R. Franer, who is Vice President for Coastal Banc ssb



S. Michelle Cook
Notary Public
State of Texas

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas on

NOV 13 2000



Brendy B. Kayman
COUNTY CLERK
HARRIS COUNTY, TEXAS

FILED
2000 NOV 13 PM 12:59
Beau...
HARRIS COUNTY, TEXAS

RECORDERS MEMORANDUM
ALL BLACKOUTS, ADDITIONS AND CHANGES
WAS PRESENT AT THE TIME THE INSTRUMENT
WAS FILED AND RECORDED.

RYLAND TITLE COMPANY
4700 W. SAM HOUSTON PKWY
SUITE 150
HOUSTON, TX 77041

**Access Easement
Heron Lakes Townhomes**

Being an Access Easement containing 6,324 square feet of land out of Heron Lakes Townhomes. A subdivision of 18 4763 acres out of the W C R R Co Survey A-924 being a partial Replat of Restricted Reserve "C" of Heron Lakes Estates as recorded in Volume 438, Page 2 of the Map Records of Harris County Texas Said Heron Lakes Townhomes recorded in Film Code No 457022 of the Map Records of Harris County Texas Said 6,324 square feet of land being more particularly described by metes and bounds as follows

BEGINNING at a point for the most southeast corner of aforementioned Heron Lakes Townhomes and also being the southeast corner of Lot 50 in Block 1 of Heron Lakes Townhomes and the most southeast corner of the herein described tract;

THENCE S 76°45'16" W with the most southerly line of Heron Lakes Townhomes and the north line of Heron Lakes Estates Restricted Reserve "C" as recorded in Volume 438, Page 2 of the Map Records in Harris County Texas, a distance of 1086 86' to a point in the easterly right-of-way line of Gessner Road (100' R O W) and the southwest corner of said subdivision and a point for corner and intersecting a curve to the right;

THENCE following a curve to the right having a radius of 1950 00', sustaining a delta of 13°21'09" and an arc length of 454 44' along said easterly right-of-way line of Gessner Road (100' R.O.W.) to a point of tangent in the westerly line of Restricted Reserve "C"

THENCE N 9°13'47" W with the easterly right-of-way line of said Gessner Road and the easterly line of Restricted Reserve "C" of said heron Lakes Town Homes a distance of 23 14' to the most westerly northwest corner of the herein described tract,

THENCE N 37°41'21" E along a cut-back in the southerly right-of-way line of Loyel Pointe Drive (Private Street - 50' R O.W) a distance of 4 11' to a point for the most northerly northwest corner of the herein described tract,

THENCE S 9°13'47" E over and across Restricted Reserve "C" of said Heron Lakes Townhomes a distance of 25 95' to a point and the beginning of a curve to the left;

THENCE following said curve to the left having a radius of 1947 00', sustaining a delta of 13°16'39" and an arc length of 451.19' over and across aforementioned Restricted Reserve "C" and Lots 1 through 12 in Block 1 of said subdivision to a point for corner,

THENCE N 76°45'16" E over and across Lots 12 and 13 in Block 1 of said subdivision a distance of 328.90' to a point for corner,

THENCE N 31° 09'10" W over and across Lots 13 through 15 in Block 1 of said subdivision a distance of 148 63' to a point for corner,

THENCE N 15°01'43" W over and across Lots 16 through 23 in Block 1 of said subdivision a distance of 260.37' to a point in the southerly right-of-way line of said Loyel Pointe Drive (Private Street) and a point for corner;

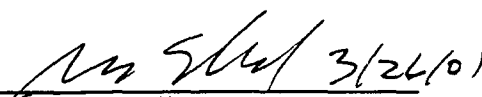
THENCE N 84°36'29" E along the southerly right-of-way line of aforementioned Loyel Pointe Drive a distance of 406' over and across a portion of Lots 23 and 24 in Block 1 of said subdivision to a point for corner;

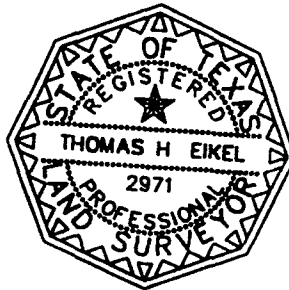
THENCE S 15°01'43" E over and across Lots 24 through 30 in Block 1 and a portion of Lot 31 in Block 1 a distance of 259.13' to a point for corner;

THENCE S 31°09'10" E over and across a portion of Lot 31 in Block 1 and across Lot 32 in Block 1 a distance of 149.36' to a point for corner,

THENCE N 76°45'16" E over and across Lots 33 through 50 in Block 1 of said subdivision a distance of 751.27' to a point in the easterly line of Lot 50 in Block 1 and a point for corner,

THENCE S 11°57'38" E with the easterly line of Lot 50 in Block 1 of said subdivision a distance of 3.00' to the POINT OF BEGINNING containing 6,324 square feet of land, more or less


Thomas H Eikel
R P L S. No. 2971



**Access Easement
Heron Lakes Townhomes**

Being an Access Easement containing 514 square feet of land out of Heron Lakes Townhomes A subdivision of 18 4763 acres out of the W C R R Co Survey A-924 being a partial Replat of Restricted Reserve "C" of Heron Lakes Estates as recorded in Volume 438, Page 2 of the Map Records of Harris County Texas Said Heron Lakes Townhomes recorded in Film Code No 457022 of the Map Records of Harris County Texas Said 514 square feet of land being more particularly described by metes and bounds as follows

COMMENCING at a point for the most southeast corner of aforementioned Heron Lakes Townhomes and also being the southeast corner of Lot 50 in Block 1 of Heron Lakes Townhomes,

THENCE N 11°57'38" W with the most easterly line of Heron Lakes Townhomes and the easterly line of Lot 50 in Block 1 a distance of 58 20' to the southeast corner of the herein described tract and the POINT OF BEGINNING,

THENCE N 74°31'17" W over and across Lot 50 in Block 1 a distance of 130 18' to a point in the southerly right-of-way line of Glenn Cliff Drive (Private Street-50' R O W) and the most westerly northwest corner of the herein described tract,

THENCE with the southerly right-of-way line of Glenn Cliff Drive, along a curve to the left having a radius of 50 00' and an arc length of 4 11', which bears a chord of N 28°48'32" E a distance of 4 11', passing at an arc length of 2 05' having a radius of 50 00' the most northerly corner of Lot 50 in Block 1 and the southwest corner of Lot 51 in Block 1, to a point for the most northerly northwest corner of the herein described tract,

THENCE S 74°31'17" E, leaving said Glenn Cliff Drive, over and across Lot 51 in Block 1 a distance of 127 15' to a point in the easterly line of Lot 51 in Block 1 and the most easterly southeast corner of the herein described tract,

THENCE S 11°57'38" E with the easterly line of Lot 51 in Block 1, passing at 2 25' the southeast corner of Lot 51 and the northeast corner of Lot 50 in Block 1, a total distance of 4 51' to the most southerly southeast corner of the herein described tract and the POINT OF BEGINNING, containing 514 square feet of land, more or less

Thomas H. Eikel 4/18/01

Thomas H. Eikel
R P L S No 2971

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE RENTAL OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped herein by me and was duly RECORDED in the Official Public Records of Real Property of Harris County Texas on



FILED
APR 23 12:12

APR 23 2001

Page 1 of 1

4/17/01



Brendy B. Kaufman
COUNTY CLERK
HARRIS COUNTY TEXAS