

1000684

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR LEGENDARY OAKS**

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WALLER §

THAT THIS AMENDED AND RESTATED DECLARATION is made on the date hereinafter set forth by Legendary Oaks Development Corporation (hereinafter referred to as "**Declarant**") to amend, supersede and restate the Declaration of Reservations, Legendary Oaks dated December 14, 1999 and filed of record under Clerk's File No. 997701 in Volume 0538, Page 939 *et. seq.* of the Records for Waller County, Texas and amended by document dated the 18th day of June, 2002 and filed, for record under Clerk's File No. 024121 in Volume 0735, Page 221 *et. seq.* of the Records for Waller County, Texas.

WITNESSETH:

WHEREAS, Section 5.2 of the 1999 Declarations provides for amendment of the Declaration by an instrument of amendment which shall be in writing and shall be executed and acknowledged by the then Owners of a majority in interest of the fee title of the Subdivision Land (as defined therein) (excluding the portion of the Subdivision Land included in roads and streets) and shall be filed of record in Waller County, Texas; and

WHEREAS, the undersigned, Legendary Oaks Development Corporation, a Texas Corporation, is, as of the date of execution and recording of this Amended and Restated Declaration, the Declarant and Owner of a majority in interest of the fee title of the Subdivision Land (excluding the portion of the Subdivision Land included in roads and streets); and

WHEREAS, the Declarant executes this Amendment for the purpose of amending and restating the Declaration as set forth herein, with the intent of correcting, improving and reforming the Declaration; and

WHEREAS, as provided in Section 5.2 of the 1999 Declarations this Amended and Restated Declaration shall be effective on the date that it is recorded in Waller County, Texas; and

WHEREAS, Declarant desires to hold, sell and convey said Subdivision Land and any subsequently Annexed Property (if any) (collectively referred to as the "Property") subject to the following covenants, conditions, restrictions, reservations and easements, which are for the purpose of establishing a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both present and future owners of the residential subdivision lots and commercial properties within said lands; and

WHEREAS, this Amended and Restated Declaration grants Declarant the right and privilege to impose additional covenants, conditions and restrictions on particular portions of the Property subject to this Declaration.

NOW, THEREFORE, Declarant hereby adopts the following covenants, conditions, restrictions, reservations and easements which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (hereinafter defined) and which shall be

applicable to all of the Property from time to time subject hereto (including, without limitation, the Subdivision Land), and shall run with the land and title to the Property and shall bind all parties having or acquiring any right, title, or interest therein or any part thereof, their heirs or successors in title and assigns, and shall inure to the benefit of each owner thereof. The covenants, conditions, restrictions, easements, charges and liens hereinafter set forth are covenants running with the Property at law as well as in equity.

ARTICLE I DEFINITIONS

1.01. "**Assessable Tract**" shall mean and refer to any Lot or Building Plot or Residential Unit (as hereinafter defined) from and after the date on which paved public street access and water and sanitary sewer service have been extended thereto, except for exempt property as described in Article III.

1.02. "**Assessments**" shall mean and refer to any or all of the Base Annual Assessments (as defined below).

1.03. "**Association**" shall mean and refer to the non-profit corporation homeowners association which may be subsequently incorporated by Declarant or its successors or assigns under the laws of the State of Texas.

1.04. "**Base Annual Assessments**" shall mean and refer to the assessment made against Assessable Tracts as determined solely by Declarant or its successors or assigns.

1.05. "**Builder**" shall mean and refer to any entity approved by the Declarant to build the original improvements on a Lot or Building Plot.

1.06. "**Common Property**" shall mean and refer to all property, real or personal, owned, held or maintained by the Declarant (or subsequently approved association) for common use and enjoyment of the Owners, including, but not limited to, access easements, lakes, ponds, creeks, or other bodies of water as may be so designated, reserves designated on the Plat, storm sewer lines, common sanitary sewer lines, common water lines, streets, and any paved parking area that may be utilized by the Owners or residents of more than one Lot.

1.07. "**Conveyance**" shall mean and refer to transfer of a fee simple title to a portion of the Property.

1.08. "**Declarant**" shall mean and refer to Legendary Oaks Development Corporation, a Texas Corporation, its successors and, to the extent in compliance with Article XI hereof, its assigns. All references hereafter to "Declarant" shall include its successors in interest.

1.09. "**Declaration(s)**" shall mean and refer collectively to the covenants, conditions, restrictions, supplemental restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration of Covenants, Conditions and Restrictions for Legendary Oaks, as supplemented and/or amended.

1.10. "**Lot Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot or tract of land which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.11. "**Party Wall**" shall mean and refer to any common wall that is built or exists as a part of the original construction between two Residential Units.

1.12. "**Plats**" shall mean and refer to all subdivision plats from time to time filed of record by Declarant (or with Declarant's approval as and when herein required) in the Map or Plat Records of Waller County, Texas, with respect to Properties covered by this Declaration, as the same may be amended in accordance with the terms hereof.

1.13. "**Property**" or the "**Properties**" shall mean and refer to the Subdivision Land described and defined in these Amended Declarations, together with such additional lands as and when they are from time to time (if ever) made subject to these Declarations pursuant to the annexation provisions hereof. All of the Property may sometimes be commonly known and referred to as "Legendary Oaks".

1.14. "**Residential Lot**" shall mean and refer to any Lot, shown on the Plats, which is restricted to Residential use.

1.15. "**Residential Unit**" shall mean and refer to any property commonly recognized as a single family home, a townhome, or an apartment.

1.16. "**Shared Improvement**" shall mean and refer to each improvement on a Residential Unit Site, which is also an improvement shared by the adjacent Residential Unit. By way of example, without limitation, the following items are Shared Improvements: entry ways serving more than one Residential Unit, exterior lighting, roofs, decking beneath the roofs, foundations, and walls on shared property lines which are Party Walls, exterior facia and common walls of Residential Units.

1.17. "**Supplemental Declaration**" shall mean and refer to any supplemental declaration of annexation executed and filed of record by Declarant, its successors or assigns, bringing additional property within the scheme of this Declaration under the authority provided in the Declaration.

1.18. "**Townhome**" or "**Townhomes**" shall mean a single-family residential unit, constructed on one or more Residential Lots, which shares one or more common walls with another residential structure.

1.19. "**Townhome Site**" or "**Townhome Sites**" shall mean the platted Property reserved for the construction of townhomes.

ARTICLE II HOMEOWNERS ASSOCIATION

THE FOLLOWING PROVISIONS WILL APPLY TO A HOMEOWNERS ASSOCIATION IF AND WHEN A HOMEOWNERS ASSOCIATION IS ESTABLISHED. ANY HOMEOWNERS ASSOCIATION WHICH HAS OR MAY HAVE BEEN PREVIOUSLY FORMED NO LONGER HAS ANY AUTHORITY, FORCE OR EFFECT AS PERTAINS TO THE PROPERTY.

2.01. **Creation of Homeowners Association (Association).** A Homeowners association may be created at any time at the sole discretion of the Declarant. At such time as a homeowners association is created, all of the rights, powers and duties of the Declarant set out in these Declarations as may be amended, other than rights specifically reserved to Declarant herein, shall pass to the Association, which shall be governed and operated under the laws of non-profit associations in the State of Texas.

2.02. **Duties and Powers.** In addition to the legal duties and powers enumerated in its Articles of Incorporation and Bylaws, any homeowners association established shall support and enforce the rules promulgated by the Declarant and keep and maintain the property in the manner intended by the Declarant to provide for the upkeep, development and aesthetic appearance of the Common Areas and the Property as a whole and to enforce this Declaration for the common benefit of Legendary Oaks and all or some of the Members of the Association.

2.03. **Membership.** Every person or entity who is an Owner of any of the Properties which are subject to assessment by the association (See 2.05) (including Declarant, whether or not it is obligated to pay Assessments thereon) shall be a Member of the Association. The foregoing description is not intended to include persons or entities that hold an interest in a Lot merely as security for the performance of an obligation. No Owner shall have more than one Membership in the Association, but an Owner may have multiple votes depending on its ownership of multiple Residential Units in accordance with the voting provisions hereof. Membership (and Member voting rights, except for proxies granted under terms permitted by the Texas Non-Profit Corporation Act, as from time to time amended) shall be appurtenant to and may not be separated from ownership of the related Residential Unit. Owners may not assign Membership rights (including voting rights) associated with the Residential Unit they own even to another Residential Unit within the Property; provided, however, that this provision will not be construed to prevent granting of proxies pursuant to the Texas Non-Profit Corporation Act but an additional restriction on proxies is that no proxy may survive the conveyance of the Residential Unit as to which the related Member vote(s) is or are appurtenant unless the Residential Unit conveyance occurs between the time when the record Owner of the Residential Unit is conclusively determined for voting purposes for a particular Member meeting and the time when such meeting occurs.

2.04. **Merger With Other Association.** Declarant at its sole discretion, so long as Declarant owns any portion of the Property, or the homeowners association, upon the written approval or assent of 67% of the outstanding votes of Members, shall have the right and option to cause the Association to merge or consolidate with any similar group of Residential Units or associations.

2.05. **Classes of Membership.** The Association shall have two classes of voting membership as follows:

Class A. Class A Members shall be all Owners of Assessable Tracts which shall include, but not be limited to, Owners of Residential Units, with the exception of the Declarant (unless and until its Class B Membership converts to Class A Membership as contemplated below), and each such Class A Member shall be entitled to one vote for each Assessable Tract or Residential Unit owned by such person or entity. When more than one person holds an interest in an Assessable Tract or Residential Unit, all such persons shall be Members. The vote of each Assessable Tract or Residential Unit shall be exercised as such co-owners among themselves determine, but in no event shall more than one vote be cast with respect to any one Assessable Tract or Residential Unit.

If the co-owners of a single Assessable Tract or Residential Unit do not vote unanimously and in unison, no vote for that Assessable Tract or Residential Unit shall be counted.

Class B. Class B membership shall be reserved exclusively to the Declarant, who shall be entitled to Twenty (20) votes in the Association for each Residential Lot owned by it and nine (9) votes in the Association for each one quarter acre (or major portion) of land owned by it within any unplatted property owned by Declarant. Declarant

shall always be entitled to no less than the cumulative number of Class A votes plus one (1). Class B Membership shall cease and be converted to Class A Membership on the happening of the earliest to occur of the following three events (A or B):

(a) The twenty-fifth (25th) anniversary date of the first recording of this Declaration; or

(b) When the Declarant terminates Class B Membership by an instrument filed in the Real Property Records of Waller County, Texas. Thereafter, Declarant may cast votes as a Class A Member regardless of whether Declarant pays any or its full share of Assessments.

At such time that additional Property is annexed into the Association, the Class B Membership of the Declarant, shall, if it had previously ceased due to one of the conditions listed above in (A), or (B), be automatically deemed reinstated and shall apply to all Lots owned by Declarant in the newly annexed portion of the Property as well as to all Lots owned by Declarant in all other areas of the Property. Such reinstatement is subject to further cessation in accordance with the limitations set forth in the preceding paragraphs (A) or (B) of this Article, whichever occurs first. However, upon reinstatement due to annexation of additional Property, the period of time set forth in Section (A) of this Article shall be extended to the extent necessary such that in all circumstances it extends for a period no shorter than ten (10) years from the date of each such recorded annexation (i.e., Supplemental Declaration).

2.06. **Non-Profit Corporation.** The homeowners association, if any, shall be organized as a Texas non-profit corporation. At such time as any association is organized, Declarant will convey, and the association will accept the conveyance of, the Common Property to the association upon final completion of construction of all improvements to be located thereon or, at the option of Declarant, prior to such construction, and reserving the right to design and build the improvements to be located thereon.

2.07. **Bylaws.** The Association may make whatever legal rules or bylaws it may choose to govern the organization, provided that same are not in direct conflict with the terms and provisions hereof.

2.08. **Members' Easements of Enjoyment.** Subject to the provisions stated herein, every Member of the Association shall have a non-exclusive common right and easement of enjoyment in the Common Property to the extent they are designed for such use (i.e., parks, playgrounds and the like would be subject to the right of common use, but monument sign easements and landscape easements would not) and such right and easement shall be appurtenant to and shall pass with the title to every Assessable Tract which is a Residential Lot. Any conflicts or disputes over this section shall be resolved solely by the Declarant.

2.09. **Extent of Member Easements.** The rights and easements of enjoyment created hereby in favor of Members shall be subject to the rights and easements now existing or hereafter created in favor of Declarant or others as referred to or provided for in this Declaration.

2.10. **Enforcement of Declaration.** The Association and/or Declarant shall have the power and authority to enforce the terms and provisions of this Declaration by legal action or other means provided for herein.

ARTICLE III **COVENANTS FOR MAINTENANCE ASSESSMENTS**

3.01. Creation of the Lien and Personal Obligation of Assessments. The Assessments assessed against each Assessable Tract and its Owner(s), as hereinafter stated, together with interest, collection costs and reasonable attorney's fees relating thereto, shall be a charge on such Assessable Tract and shall be and are secured by a continuing contract lien hereby created by, and reserved and retained in favor of, the Declarant upon the Assessable Tract against which each such Assessment is made. Each such Assessment, together with interest, collection costs and reasonable attorney's fees, shall also be the personal obligation of the person or legal entity that was the Owner of such Assessable Tract at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them, but shall be secured by the above-referenced continuing lien on the Assessable Tract so transferred as security for the delinquent obligation of the prior Owner, and may be enforced against such Assessable Tract notwithstanding any such conveyance.

3.02. Purpose of Assessments. Except to the extent otherwise specifically set forth elsewhere in this Declaration, the Assessments levied by the Declarant shall be used to enforce the provisions contained in this Declaration; to improve, beautify, maintain, manage and operate the Properties, including but not limited to the Common Properties; to pay utility bills, taxes and insurance premiums as described in Article VI. These uses and purposes are permissive and not mandatory, and the decisions of the Declarant shall be final as long as made in good faith and in accordance with these Declarations as amended.

3.03. Basis and Amount of Assessments. The Declarant is authorized to establish a maximum base annual assessment (the "Maximum Base Assessment"). The Maximum Base Assessment may be adjusted at any time, but no more often than annually, at the sole discretion of the Declarant. **The Initial Base Assessment for each Assessable Tract shall be \$350.00 per year, effective January 1, 2010.**

3.04. Date of Commencement of Base Annual Assessments; Due Date. The Base Annual Assessments provided for herein shall commence as to all Assessable Tracts on January 1, 2010. The Declarant shall levy on each Assessable Tract and collect from the Owner(s) of said Assessable Tracts a Base Annual Assessment. The Base Annual Assessment shall be made for the balance of the calendar year in which it is levied. The amount of the Base Annual Assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the Base Annual Assessments as the remaining number of months in that year bear to twelve. The Assessment shall be due and payable at the address listed below 30 days from the date of notice thereof. Notwithstanding anything contained to the contrary in this Section, it is hereby understood that the Declarant shall have the right to establish a payment date and payment period that is different from the monthly payment date provided herein.

3.05. Rate of Assessments. The Declarant shall levy Base Annual Assessments against the Assessable Tracts to obtain funds reasonably anticipated by Declarant to be needed for purposes stated in this Article III, including reasonable reserves for contingencies and for capital improvements, replacements, and repairs; provided, however, that the Base Annual Assessment shall be levied as follows:

- (a) **Any Assessable Tract owned by Declarant, its designated successors and assigns, including undeveloped property, Residential Units, and any such Property held solely as security for the performance of an obligation by Declarant or its designated successors. - 0%**

(b) **Undeveloped residential land conveyed by Declarant to any person(s) or entity(ies) upon which construction of a Residential Unit is contemplated, for a period not to exceed a maximum of two years from the date of conveyance. Thereafter, said lots shall be assessed as if a Residential Unit were present thereon (c). - 50%**

(c) **Residential Units owned by individuals or entities (other than Declarant) - 100%**

3.06. **Declarant Assessment Liability.** As long as there is a Class B Membership, no Assessable Tract owned by Declarant shall be subject to Assessments under this Declaration or any Supplemental Declaration.

3.07. **Exempt Property.** All Common Property shall be exempt from the Assessments and liens created, reserved and/or contemplated herein. In addition, the Declarant shall have the right, but not the obligation, to grant exemptions to certain organizations qualifying for Section 501 (c) status under the Internal Revenue Code so long as such organizations own property subject to this Declaration for purposes listed in Section 501 (c).

3.08. **Duties of the Declarant to Determine Assessment.** The Declarant shall determine the amount to be levied as the Base Annual Assessment for each calendar year, subject to the criteria and limitations set out in this Article. The Declarant shall, upon demand and payment of a fee to be determined by the Declarant, at any time furnish to any Owner a certificate in writing signed by an officer or agent of the Declarant setting forth the status of Assessments against said Owner's Assessable Tract or Residential Unit. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid, as to any third party who in good faith relies thereon to his or her economic detriment.

3.09. **Effect of Non-Payment of Assessment and Remedies of Declarant.**

(a) If any Assessment or any part thereof is not paid on the date(s) when due (as specified by the Declarant), then the unpaid amount of such Assessment shall become delinquent and shall, together with such interest thereon and the costs of collection thereof as hereinafter provided, be a continuing lien (the "Lien") on the Assessable Tract, which shall bind such property in the hands of the then Owner, the Owner's heirs, executors, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain the Owner's personal obligation and shall not pass to his successors in title unless expressly assumed by them. Any assumption of the obligation to pay an Assessment by a successor in title shall not relieve the prior Owner of the Owner's personal obligation to pay such Assessment. The Lien for unpaid Assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the Assessments provided herein by non-use of the Common Property or abandonment of the Assessable Tract.

(b) In furtherance of the Lien provided in this Article, and to secure the full and timely payment of all Assessments and other amounts payable by each Owner hereunder, each Owner, by acceptance of a deed or other conveyance of the Assessable Tract, and regardless of whether or not such deed or other conveyance expressly contains such a provision, does hereby grant and convey unto the Declarant, in trust as Trustee (the "Trustee"), the Assessable Tract owned by such Owner, subject to all easements and other encumbrances affecting such property; provided, that each

such grant shall be subordinated to the lien of any mortgage or deed of trust only to the extent provided in Section 3.10; and for these purposes the provisions of this Section 3.09 shall be deemed to have created a deed of trust (the "Deed of Trust") covering all of the Assessable Tracts with a power of sale granted to the Trustee in accordance with the provisions of Chapter 51 of the Texas Property Code (the "Code") and as it may be amended from time to time. The Deed of Trust created hereby shall be upon the same terms and conditions, and shall provide to the Declarant all of the rights, benefits and privileges, of the Deed of Trust promulgated by the State Bar of Texas for use by lawyers designated as Form No. 2402, and all amendments, modifications and substitutions thereof, which form is hereby incorporated by reference for all purposes hereof. The Declarant shall have the right in its sole discretion at any time, and from time to time, to appoint in writing a substitute or successor trustee who shall succeed to all rights and responsibilities of the then acting Trustee.

(c) Without limitation of the remedies available to the Declarant and to the other Owners upon the occurrence of a default by any Owner in the payment of any Assessment or other amount due and payable hereunder, the Declarant may, at its election and by and through the Trustee, sell or offer for sale the Assessable Tract owned by the defaulting Owner to the highest bidder for cash at public auction in accordance with the provisions of the Code. The Declarant may, at its option, accomplish such foreclosure sale in such manner as permitted or required by the Code or by any other present or subsequent laws relating to the same. After the sale of any Assessable Tract in accordance with the provisions of this Section, the Owner of such Assessable Tract shall be divested of any and all interests and claims thereto, and the proceeds of any such sale shall be applied in the following order of priority: (i) to the payment of the costs and expenses of taking possession of the Assessable Tract, (ii) to the payment of reasonable Trustee's fees, (iii) to the payment of costs of advertisement and sale, (iv) to the payment of all unpaid Assessments and other amounts payable by such Owner to the Declarant, and (v) to the defaulting Owner or to any other party entitled thereto. The Declarant shall have the right to become the purchaser at the sale of any Assessable Tract pursuant to the Deed of Trust and shall have the right to be credited on the amount of its bid therefor all of the Assessments due and owing by the defaulting Owner to the Declarant as of the date of such sale.

(d) If any Assessment or part thereof is not paid within thirty (30) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the maximum legal rate of interest, then prevailing and the Declarant may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the property subject thereto. There shall be added to the amount of such Assessment the costs of preparing and filing the complaint (including reasonable attorneys' fees) in such action, and in the event a judgment is obtained such judgment shall include interest on the Assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

3.10. Subordination of the Lien to Mortgages. The lien securing any Assessment provided for herein shall be subordinate to the lien of any mortgage(s) now or hereafter placed upon the Assessable Tract subject to the Assessment for the purpose of securing indebtedness incurred to purchase or improve such Assessable Tract; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to

a sale or transfer of such Assessable Tract pursuant to a decree of foreclosure or a foreclosure by trustee's sale under a deed of trust. Such sale or transfer shall not relieve such Assessable Tract from liability for any payment of any Assessment calculated being the date following any such sale or transfer of an Assessable Tract, nor from the lien securing any such subsequent Assessment.

ARTICLE IV
ARCHITECTURAL STANDARDS

4.01 Approval Required; Procedures.

(a) No structure shall be placed, erected or installed upon any Lot, no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), and no exterior alteration or modification of existing improvements, shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained as provided below. Such improvements include but are not limited to the construction or installation of sidewalks, driveways, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data (including, if required by the appropriate Architectural Committee as applicable), shall have been submitted to and approved in writing by the appropriate Architectural Committee as to the compliance of such plans and specifications with the Architectural Guidelines as may be published by the Architectural Committee from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the appropriate Architectural Committee, and the other copy shall be returned to the Owner marked "approved," "approved with conditions as noted," or "disapproved." Notwithstanding the foregoing, no permission or approval shall be required to repaint in accordance with an originally-approved color scheme, or to rebuild in accordance with the originally-approved plans and specifications. The Architectural Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Declarant.

(b) Following approval of any plans and specifications by the appropriate Architectural Committee, representatives of the appropriate Architectural Committee shall have the right, but not the obligation during reasonable hours to enter upon and inspect any Lot with respect to which construction is underway to determine whether or not the plans and specifications have been approved and are being complied with. In the event the appropriate Architectural Committee shall determine that such plans and specifications have not been approved or are not being complied with, the appropriate Architectural Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. Upon approval of plans and specifications, no further approval under this Article shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Disapproval of plans and specifications by the Architectural Committee may be based upon any ground which is

consistent with the objects and purposes of this Declaration as defined in Architectural Guidelines which shall be promulgated by the Architectural Committees from time to time, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

(c) The Declarant, at the Declarant's sole discretion, may establish a reasonable fee to be charged for review of applications hereunder and may require such fees to be paid in full prior to review of any application. All Residential Units constructed on any portion of the Property shall be designed by and built in accordance with the plans and specifications of a licensed architect or licensed building designer pre-approved by Declarant. This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Property by or on behalf of the Declarant. The Declarant shall have the authority and standing, to enforce in courts of competent jurisdiction, decisions of the Architectural Committee. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration. Because architectural trends, design trends, neighborhood character and general standards of taste change with the times, the New Construction Committee and the Modifications Committee shall not be bound by prior decisions of the Committees. The granting of approval on prior occasions is no assurance that the same or similar plans will be approved on future requests.

4.02 New Construction Committee. The New Construction Committee (NCC) shall be appointed by Declarant and shall consist of at least three (3), but not more than five (5), persons. The NCC shall have exclusive jurisdiction over all original construction on any portion of the Property. Until one hundred (100%) of the Property has been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. In the event that the NCC fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within forty-five (45) days after submission thereof, the plans shall be deemed **disapproved**.

4.03 Modifications Committee. The Declarant may also establish a Modifications Committee (MC) to consist of at least three (3) and no more than five (5) persons, all of whom shall be appointed by, and shall serve at the discretion of, the Declarant. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on any Lot or to any Residential Unit and the open space, if any, appurtenant thereto. The Modifications Committee, with the approval of the Declarant, shall promulgate detailed standards and procedures governing its areas of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. All such modifications must be performed by qualified craftsmen using proper materials and workmanship. Any proposed interior remodeling of multiple-owner units must be submitted to all owners of said unit and approved by the Modifications Committee prior to commencement of work thereon. Nothing contained herein shall be construed to limit the right of owners of single-owner units to remodel the interior of their Residential Unit, or to paint the interior of their Residential Unit any color desired; provided, modifications or alterations to the interior of screened porches, patios and similar portions of a Residential Unit visible from

outside the Residential Unit shall be subject to approval hereunder. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be **deemed approved**.

4.04. **No Waiver of Future Approvals.** The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute approval of similar or different proposals, plans and specifications, drawings, or matters subsequently or additionally submitted for approval or consent.

4.05. **Variance.** The Architectural Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No request for a variance shall be considered if it affects the rights of adjoining Owner, unless affected Owner has granted written consent to the requested variance. Additionally, the Architectural Committee shall not be obligated to grant a similar variance as a result of granting the same or similar variance in the past.

4.06. **Architectural Guidelines.** The Architectural Committee is authorized and empowered to consider all aspects of dwelling construction, construction of other improvements, and may disapprove aspects thereof which may, in the reasonable opinion of the Architectural Committee, adversely affect the living enjoyment of one or more Owners or the general value of the Properties. Also, the Architectural Committee is permitted to consider technological advances in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the Architectural Committee. The Architectural Committee may, from time to time, publish and promulgate Architectural Guidelines which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of this Declaration. The Architectural Guidelines shall supplement this Declaration and are incorporated herein by reference. The Architectural Committee shall have the authority to make final decisions in interpreting the general intent, effect and purpose of this Declaration. It is the intent of Declarant that this Declaration and any Architectural Guidelines issued by the Architectural Committee promote harmonious design throughout the Properties. However, approval of plans and specifications by the Architectural Committee and compliance with the Architectural Guidelines does not insure compliance with the building code and other restrictions imposed by applicable governmental authorities.

4.07. **Approval Required For Clearing, Grading, Excavation or Filling.** To preserve the aesthetic appearance of the Property, no grading, excavation, or filling of any nature whatsoever shall be implemented and installed on a Lot by any Owner unless and until the plans therefor have been submitted to and approved in writing by the appropriate Architectural Committee. The provisions of the Article regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, and so forth shall also be applicable to any proposed clearing, grading, excavation, or filling.

4.08. **NO LIABILITY.** NO APPROVAL OF PLANS AND SPECIFICATIONS AND NO PUBLICATION OF ARCHITECTURAL GUIDELINES SHALL BE CONSTRUED AS REPRESENTING OR IMPLYING THAT SUCH PLANS, SPECIFICATIONS, OR ARCHITECTURAL GUIDELINES WILL, IF FOLLOWED, RESULT IN PROPERLY DESIGNED IMPROVEMENTS. SUCH APPROVALS AND ARCHITECTURAL GUIDELINES SHALL IN NO EVENT BE CONSTRUED AS REPRESENTING OR GUARANTEEING THAT ANY RESIDENCE OR OTHER IMPROVEMENT BUILT IN ACCORDANCE THEREWITH WILL BE

BUILT IN A GOOD AND WORKMANLIKE MANNER. REVIEW AND APPROVAL OF ANY APPLICATION PURSUANT TO THIS ARTICLE IS MADE ON THE BASIS OF AESTHETIC CONSIDERATIONS ONLY AND NEITHER THE NCC NOR THE MC SHALL BEAR ANY RESPONSIBILITY FOR ENSURING THE STRUCTURAL INTEGRITY OR SOUNDNESS OF APPROVED CONSTRUCTION OR MODIFICATIONS, NOR THE ENSURING COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REQUIREMENTS. NEITHER THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, ANY COMMITTEE, OR MEMBER OF ANY OF THE FOREGOING SHALL BE HELD LIABLE FOR ANY INJURY, DAMAGES OR LOSS ARISING OUT OF THE APPROVAL OR DISAPPROVAL OF, OR NON-COMPLIANCE WITH, ANY PLANS OR SPECIFICATIONS, THE MANNER OR QUALITY OF APPROVED CONSTRUCTION OR, OR MODIFICATIONS TO, ANY RESIDENTIAL UNIT.

ARTICLE V **EASEMENTS**

5.01 **General.** The rights and duties of the Owners of Residential Lots or Residential Units within the Property with respect to sanitary sewer, water, electricity, gas, telephone, and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer and/or water line connections, or electricity, gas or telephone and cable television lines or drainage facilities, are installed within the Property, which connection lines or facilities or any portion thereof, lie in or upon Lots owned by any party other than the Owner of a Lot served by connections, lines or facilities, such Owners of Lots served shall have the right, and are hereby granted an easement to the full extent necessary, to enter upon the Lots within the Property in or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary.

(b) Wherever sanitary sewer and/or water line connections, or electricity, gas, telephone or cable television lines or drainage facilities, are installed within the Property, which connections serve more than one Lot, the Owner of each Lot served by connections shall be entitled to the full use and enjoyment (for their designed purposes) of such portions of said connections which service the Owner's Lot.

5.02. **Reservation of Easements.** Easements over the Residential Lots and Common Property for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby reserved by Declarant, together with the right to grant and transfer such easements and/or the dedication rights retained herein.

5.03. **Surface Areas of Utility Easements.** Easements for installation and maintenance of utilities are reserved by Declarant as shown and provided for on the recorded Plat(s), and/or in the deeds of conveyance by which such Lots are conveyed by Declarant to the subsequent Owner(s) thereof, and/or in separate easement instruments recorded by Declarant prior to or contemporaneously with the conveyance of portions of the Property affected thereby. All electric, gas and telephone service within the Residential Lots shall be located underground. Subject to the applicable rules and regulations of the utilities owning lines or other facilities therein, and provided the Owner or the Builder makes any required or necessary arrangements with the utility companies furnishing electric, gas and telephone service and provides and installs any necessary conduit of approved type and size under such improvements, utility easements reserved within the Property for the underground service may be crossed by driveways, walkways, patios, brick walls and fences. Such easements for utilities shall, prior to

construction of such underground service, be kept clear of all improvements other than fences. Neither Declarant, nor the grantor of such utility easements, nor any utility company using such utility easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other improvements (including crossing driveways, walkways, patios, brick walls or fences) of the Owner located on the land covered by said easements as a result of the maintenance, repair, installation, removal, reinstatement, upkeep, inspection or rearrangement or replacement of any underground utility lines, facilities or improvements installed by any such utility in such easements.

5.04. Streets and Rights-of-Way. All Lots within the Property shall abut and have access to either a public or a private street. Streets and rights-of-way are shown on the Plat. The streets and rights-of-way of Legendary Oaks are a part of the City of Hempstead; however, because Legendary Oaks Subdivision is a gated community, no County or local government agency shall have any obligation to maintain or improve any streets or permanent access easements within the Subdivision, which obligation shall be the sole responsibility of the Declarant and the Owners.

5.05. Emergency and Service Vehicles and Access. An easement is hereby granted to all police, fire protection, ambulance and other emergency vehicles and other service vehicles to enter upon the Common Property, in the performance of their duties and further, an easement is hereby granted to the Declarant, its officers, agents, employees, and management personnel to enter the Common Property to render any service or perform any function contemplated herein.

5.06. Universal Easement. Each Lot and its Owners are hereby declared to have an easement, and the same is hereby granted to Declarant, over all adjoining Lots, and Common Property for the purpose of accommodating any encroachment due to engineering error, errors in original construction, settlement or shifting of the building, or any other cause. There shall be easements for the maintenance of any encroachment, settling or shifting. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and there shall be easements for the maintenance of any encroachments so long as they shall exist. Each Owner grants to the Declarant a perpetual easement for any encroachment of improvements on to such Owner's Lot caused by the Declarant prior to such Lot Owner's purchase of the lot. Each of the easements referred to in this Section shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to the Lot being serviced and shall pass with each conveyance of the Lot. Notwithstanding the foregoing, in no event shall an easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

5.07. Utility Distribution Systems. Utility distribution systems (including electric, natural gas, telephone, cable and water) have been or may be installed within the boundaries of the Properties pursuant to one or more agreement for such services executed or to be executed and recorded by Declarant and the relevant utility. These distribution systems will be underground. No permanent above ground utility service lines shall be placed on any property by any Owner thereof. The Owner(s) of each occupied or improved Lot shall, at the Owner's own cost, furnish, install, own and maintain (all in accordance with the requirements of the local governing authorities) the underground service appurtenances from the point of the utility metering on the exterior of the structure (if applicable) to the point of attachment at such company's installed utilities, such point of attachment to be made available by the utility company at a point designated by such company. The utility company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has

granted or will grant either by designation on the Plat(s) or by separate instrument, necessary easements to the utility company providing for the installation, maintenance and operation of its distribution system and has also granted or will grant to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the utility service of the various Owners to permit installation, repair and maintenance of each Owner's owned and installed service, but the Declarant has no responsibility for the construction of any utility service facilities. In addition, the Owner of each Lot containing improvements shall, at the Owner's or its own cost, furnish, install, own and maintain a meter in accordance with the then current Standards and Specifications of the Utility Company) for the location and installation of the meter of such Utility Company for each Residential Unit involved.

5.08. **Easement Reserved for the Declarant.** Full rights of ingress and egress shall be had by the Declarant at all times over and upon each Lot and the Property for the carrying out by the Declarant of its rights, functions, duties and obligations hereunder; provided, that any such entry by the Declarant upon any Lot shall be made with as minimum inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Declarant.

5.09. **Storm Water Quality Control Easement.** Declarant shall have an easement to access and maintain structural controls and to implement non-structural controls in accordance with any applicable storm water quality permit(s) or plan(s), related to storm water quality control.

5.10. **Shared Improvements Access Easement.** Declarant grants to the Owners of each Residential Unit, their heirs, executors, administrators, successors and assigns, an easement over adjacent Residential Units for the purpose of accessing and maintaining Shared Improvements.

5.11 **Retention Ponds and Lakes.** Declarant and its successors and assigns shall have a perpetual easement for existing lakes, ponds, creeks, or other bodies of water, as they currently exist or as they may be changed by natural ebb and flow, or as they may be changed or altered by the Declarant in the future at its discretion. Declarant reserves the right to take whatever action is necessary, at law or in equity, to construct retention ponds as and where needed, at the sole discretion of Declarant or its successors, for flood control, which may adjoin or encroach on Owner Lots.

ARTICLE VI **UTILITY BILLS, TAXES AND INSURANCE**

6.01. The Declarant shall have the following responsibilities regarding utility bills, taxes and insurance for the Common Property, to be paid from Assessments:

(a) The Declarant shall pay, as a common expense of all Assessable Tracts, for all water, gas, electricity and other utilities used in connection with the enjoyment and operation of the Common Property and the appurtenances appertaining thereto or to any part thereof.

(b) The Declarant shall render for taxation and shall pay, as part of the common expenses of all Owners, all taxes levied or assessed against or upon the Common Property and appurtenances appertaining thereto or to any part thereof.

(c) The Declarant shall have authority to obtain and continue in effect as a common expense of all Owners, a blanket property insurance policy or policies to insure

the structures and facilities, if any, located in the Common Property and the contents thereof and the Declarant against the risks of loss or damage by fire and other hazards as are covered under standard extended or all-risk coverage provisions, in such limits as the Declarant deems proper, and said insurance may include coverage against vandalism and such other coverage as the Declarant may deem desirable. The Declarant shall also have the authority to obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring the Common Property, the Declarant, and the agents and employees of the Declarant, from and against liability in connection with the Common Property. Director and officer liability insurance and fidelity bonds are also allowable coverage that may be obtained by the Declarant at the expense of the Owners.

(d) All costs, charges and premiums for all utility bills, taxes and any insurance to be paid by the Declarant as hereinabove provided shall be paid as a common expense of all Owners and shall be a part of the Base Annual Assessment.

ARTICLE VII **CONDEMNATION**

In the event that all or any part of the Common Property shall be taken by any authority having the power of condemnation or eminent domain, no Owner shall be entitled to notice thereof nor be entitled to participate in the proceedings incident thereto. Declarant at its sole discretion may decide to convey Common Property in lieu of or under threat of condemnation, or to accept an agreed award as compensation for such taking.

ARTICLE VIII **MAINTENANCE AND REPAIRS**

8.01. **By the Owners.** It shall be the duty, responsibility and obligation of each Residential Unit and Lot Owner at the Owner's own cost and expense to care for, maintain and repair the exterior and interior of all improvements on the Owner's Lot, including the fixtures, appliances, equipment and other appurtenances thereto and also including the private driveway(s), sidewalks and fences which are situated on the Owner's Lot, excepting only improvements located in any easement benefitting the Declarant, which shall be maintained by the Declarant as a common expense of all Owners. The Declarant shall have the right to enforce the requirements of this Section by any means provided for enforcement of these Declarations, including by self-help entry and repairs by the Declarant at the cost and expense of a Lot or Owner. If any improvement on a Lot is damaged or destroyed, the Owner shall promptly commence and diligently proceed to complete the restoration of such improvements to their condition existing prior to such damage or destruction (but, to the extent of new requirements of the Architectural Control Guidelines or new law, then in compliance therewith) or, in the alternative, raze or remove such improvement and landscape the Lot pursuant to a "Removal Plan" approved by the Modifications Committee.

8.02. **By the Declarant.** The Declarant, as a common expense of all Owners, may construct, and will perpetually care for, maintain and keep in good repair, the Common Property, including but not limited to, entrances, gates, postal facilities, esplanades, improvements owned by the Declarant, and all areas of the Subdivision as determined by Declarant to be in the best interest of the Subdivision as a whole, except that it shall be the obligation of each Owner, and not the obligation of the Declarant, to pay for the cost of repair and maintenance of any private driveway, sidewalk, and fence or fences which are located on such Owner's Lot. The Declarant has the additional right, but not the obligation, to have the grass or vegetation cut and

maintained, in a neat and sanitary manner, on the land that is owned by or dedicated to any county flood control district or any municipal utility district and that lies within the Properties (or adjacent thereto) if the appropriate county agency's or utility district's maintenance standards are not acceptable to the Declarant. **NOTWITHSTANDING ANYTHING STATED IN THE DECLARATION TO THE CONTRARY, THE STORM SEWER LINES AND SANITARY SEWER LINES ARE PRIVATE LINES WHICH SERVICE THE LOTS. THE DECLARANT SHALL BE RESPONSIBLE FOR MAINTENANCE AND REPAIRS OF THE STORM SEWER LINES AND COMMON SANITARY SEWER LINES. THE DECLARANT SHALL ALSO BE RESPONSIBLE FOR MAINTENANCE AND REPAIRS OF PRIVATE COMMON WATER LINES SERVICING THE PROPERTIES.**

ARTICLE IX
RIGHTS AND OBLIGATIONS OF THE DECLARANT

9.01. **The Common Property.** The Declarant, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Property and shall keep them in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof. All landscape reserves dedicated in any Plat (or to the Declarant in any separate recorded instrument) shall be utilized and maintained as Common Property for the Declarant, unless otherwise described on the Plat or by separate instrument signed by the Declarant and recorded in the Waller County Official Public Records for Real Property.

9.02. **Personal Property and Real Property for Common Use.** The Declarant may acquire, hold and dispose of tangible and intangible personal property and real property. Notwithstanding anything contained in this Declaration to the contrary, Declarant shall have the right, power and authority to dedicate to any public or quasi-public authority water lines, sanitary sewer systems, storm water facilities, streets and esplanades situated in the Common Property and to unilaterally terminate or modify these restrictive covenants with respect to such dedicated Property. Such dedication and acceptance thereof shall not prohibit the Declarant from maintaining the land and facilities located within dedicated areas, nor relieve the Owners of the obligation to participate in the payment of the cost of such maintenance.

9.03. **Rules and Regulations.** The Declarant may make and enforce rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Amended Declaration and any subsequent Supplemental Declarations. Sanctions for violations may include, but are not limited to: (a) reasonable monetary fines which shall constitute a lien upon the Owner's Lot (and improvements located thereon); (b) suspension of the right to vote; (c) suspension of the right to receive services contracted for through the Declarant; and (d) monetary damages in the form of costs of enforcement and legal fees. In addition, the Board shall have the power (but not the obligation) to seek relief in any court for violations or to abate unreasonable disturbance.

9.04. **Implied Rights.** The Declarant may exercise any other right or privilege given to it expressly by this Declaration, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein necessary to effectuate any such right or privilege.

ARTICLE X
RESTRICTIONS OF USE

10.01. Residential Lots.

(a) Each Residential Lot shall be used only for the construction of Residential Units. Cooperative or fractional ownership of property is specifically allowed and not in violation of the definition of "Residential". All such Residential Units and other improvements erected, altered, or placed upon any Residential Lot within the Property shall be of new construction. No part of any Residential Lot shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes, nor (subject to constraints of applicable law) for any commercial use of a residential nature (e.g., as a boarding house, day-care facility, half-way house, nursing home, rehabilitation or therapy facility, church or place of religious assembly, etc.), except on those Residential Lots which may be designated by the Declarant for use as sales offices, construction offices and storage facilities for a period of time commensurate with home construction and sales within the residential sections of the Property. Notwithstanding the foregoing, however, any Occupant of a Residential Unit or Single Residential Unit may engage in a home occupation on a full or part time basis within the Residential Unit if and only if: (A) such business is transacted or conducted (insofar as activity on or within the Residential Unit is concerned) entirely through telephone communication (including facsimile transmissions, computer modems and similar communications equipment); (B) there is no visible manifestation exterior to the Residential Unit that would indicate that such home occupation is being conducted in the Residential Unit; and (C) the home occupation usage complies with the following other specific restrictions:

- (1) No employees of the business (other than the permitted occupant(s) or permitted resident(s) conducting the business) shall be permitted to remain on the Residential Unit or Single Residential Unit in connection with the conduct of the business;
- (2) The business shall not invite or otherwise allow customers to visit the Residential Unit in connection with the business being conducted thereon;
- (3) The home occupation use shall not generate any noise that would be in excess of or materially different in nature from that normally associated with a strictly residential use;
- (4) The home occupation use shall not cause there to be traffic generated on or in the vicinity of the Residential Unit in excess of that normally associated with a strictly residential use;
- (5) There shall be no assembly, fabrication or manufacturing process carried out on the Residential Unit in connection with such home occupation; and
- (6) There shall be absolutely no signage or advertisement of the home occupation business anywhere on the Residential Unit, the Residential Lot, on any Common Areas or at the entrance to the Subdivision, or any other place without specific permission of the Declarant, whether permanent or temporary in nature.

(b) Notwithstanding the foregoing, however, certain Lots (including Residential Lots) may be designated by Declarant for use as sales offices, construction offices, and storage facilities for a period of time commensurate with home construction and sales within the Property. Except for this temporary use of selected Lots, no noxious or offensive activity of any sort shall be permitted, nor shall anything be done, on any portion of the Properties which may be or become an annoyance or nuisance to the owners or users of the Property.

(c) It is anticipated that one or more of the Residential Units shall be owned by cooperative or fractional means, and utilized by a private residence group. Such ownership and use shall be exempt from consideration as a business for all purposes related to this section.

(d) No structure intended as a residence shall be erected, altered or permitted to remain on any Residential Lot, other than the Residential Unit and a private garage as approved by the Declarant or Architectural Committee. No carports shall be permitted on any Lot within the Properties.

(e) As to single home Residential Units, the maximum allowable height of any residential structure shall not exceed one and one-half (1-1/2) stories. Notwithstanding uses permitted herein, no more than fifty percent (50%) of the total Lot area shall be used for dwelling and other structures. The following Lot building requirements shall apply:

- (1) Lots #1-15 shall require not less than 2000 square feet of heated and cooled space (excluding garage and porches).
- (2) Lots #16-88 shall require not less than 2500 square feet of heated and cooled space (excluding garage and porches).

(f) Except as specified to the contrary on the Plat, which specification shall control, the following shall apply:

- (1) Front yard setbacks shall conform to a minimum depth of twenty-five (25) feet from the front property line to the closest structural projection, including porches, but not including eaves, overhangs, planters or fireplaces.
- (2) A principal structure shall provide total side yards of not less than fifteen (15) feet with not less than five (5) feet on one (1) side. Corner Lots shall maintain a minimum setback of twenty-five (25) feet from the side street line.
- (3) A rear yard shall be maintained of at least fifteen (15) feet from the property line to the nearest building line.

10.02 No Temporary Structures. No structure of a temporary character, trailer, mobile home, tent, shack, barn, or outbuilding shall be permanently or temporarily erected, maintained, or installed on any Lot at any time, except as may be approved by the Architectural Committee; but in no event shall any approved temporary structure on a Residential Lot be used as a residence, either temporarily or permanently.

10.03 Reasonable Enjoyment. No nuisance shall ever be erected, placed, or suffered to remain upon any Lot, and (subject to the Declarant's rights reserved herein) no Owner or Occupant of any Lot shall use the same so as to endanger the health or disturb the reasonable enjoyment of any other Owner or Occupant, or to store any items whatsoever other than as specifically allowed by these Declarations. The Declarant is hereby authorized to conclusively determine what constitutes a violation of this restriction.

10.04 Animal Husbandry. No sheep, goats, horses, cattle, swine, poultry, dangerous animals (the determination as to what is a dangerous animal shall be in the sole discretion of the Declarant), snakes or livestock of any kind shall ever be kept in or upon any part of the Property. A maximum total of 3 dogs, cats or other common household pets may be kept by the Owner or Occupant of any Residential Unit, provided they are not kept for any commercial purpose. Any allowable pet that is kept in a household must be confined to its Owner's Lot either by constraints of a backyard fence or a leash, or kept within the Residential Unit. No animal shall be permitted to run freely away from its Owner's Lot and must be controlled by a leash. All applicable leash and licensing laws in effect in Waller County shall also apply to this animal husbandry provision and shall be complied with by all Owners and Occupants of Residential Lots.

10.05 Trash and Rubbish Removal. No trash, rubbish, garbage, manure, or debris of any kind shall be kept or allowed to remain for extended periods on any Lot except in approved containers inside a structure as approved by the relevant Architectural Committee. The Owner of each Lot shall remove such trash and other prohibited matter from the Owner's Lot at regular intervals at the Owner's expense. During any hours when such refuse containers on a Residential Lot are outdoors for pick up by any trash collecting company, all such prohibited matter shall be placed in sanitary refuse containers. Reasonable amounts of construction materials and equipment may be stored upon a Lot for reasonable periods of time during the construction of improvements thereon.

10.06 Oil and Mining Operations. Except upon and within drill sites designated by Declarant or its predecessors in title to the Property, which Declarant shall have no obligation to any Owner to approve or designate under any circumstance, no oil or natural gas drilling, oil or natural gas development, or oil refining, quarrying, or mining operations of any kind, no oil, natural gas or water wells, tanks, tunnels, mineral excavations or shafts, and no derricks or other structures for use in boring for oil, natural gas, minerals or water shall be erected, maintained or permitted in the Properties. No water wells shall be permitted on any Residential Lot.

10.07 Prohibited Use. Industrial use of Lots is expressly prohibited. No use of any Lot shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion. No activity or use shall be permitted on or with respect to any of the Lots which is determined by the Declarant to be obnoxious to or out of harmony with a distinctive residential community, including, but not limited to, any storage of motor homes, trailers, boats, or materials of any kind, dumping, disposal, incineration or reduction of garbage or refuse, and any fire, bankruptcy or auction sale or operation. No excavations shall be made and no sand, gravel or soil shall be removed from the Properties except in connection with a grading and/or building plan approved as provided by the New Construction Committee. No burning of rubbish or trash shall be permitted at any time.

10.08. Septic Tanks. No privy, cesspool or septic tank shall be placed or maintained in the Property.

10.09. **Declarant's Rights During Development Period.** During that period of time while any parcels of land, Lots or Residential Units located within the Property are being developed and marketed (the "Development Period"), the Declarant, with the right of assignment, shall have and hereby reserves the right to reasonable use of the Common Property and land owned by the Declarant within the Property in connection with the promotion and marketing of land within the boundaries of the Properties. Without limiting the generality of the foregoing, Declarant may erect and maintain such signs, temporary buildings, model homes and other structures as Declarant may reasonably deem necessary or proper with the promotion, development, and marketing of land within the Property during the Development Period.

10.10. **Builder Rights.** Declarant has the exclusive right to designate approved homebuilders for the Development. During the Development Period, the Declarant shall have the right to allow any one or more approved homebuilders (a "Builder") the right to erect and maintain such signs, model homes, and other structures Declarant may reasonably deem necessary or proper in connection with such Builders' promotion, development, and marketing of Lots and residential improvements located within the Property. The approvals granted by the Declarant as described above are discretionary and may be revoked in the manner specified in an agreement between Declarant and the Builders or, if there is no agreement, a Builder shall be given at least ten (10) days' notice to comply with any revocation of approval by the Declarant.

10.11. **Storage of Boats, Trailers and Other Vehicles and Equipment.** No boat, trailer, bus, recreational vehicle, camping unit, or self-propelled or towable equipment or machinery of any sort or any item deemed offensive by Declarant shall be permitted to park on any Residential Lot, except that during the construction of improvements on a Residential Lot, necessary construction vehicles may be parked on or in front of the Residential Lot from and during the time of necessity therefor. Travel trailers or recreational vehicles may be permitted to park on the street in front of the Residential Unit owned by the owner of said vehicles, or with whom the owners of said vehicles are visiting, with a permit issued by the Declarant, on a case-by-case basis. No commercial use truck shall be permitted to park on a Residential Lot or on the public streets or on or in front of any Residential Lot (other than for construction purposes as defined) at any time whatsoever. Stored vehicles and vehicles which are either obviously inoperable or do not have current licenses shall not be permitted, except within enclosed garages. For purposes of this paragraph, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin or parked on the public street for fourteen (14) consecutive days without the prior approval of the Declarant. Vehicles that become inoperable while on the streets of the Property must be removed within twelve (12) hours of becoming inoperable. Any vehicle left for more than 12 hours will be considered "abandoned" and will be towed by the Declarant, at the expense of the owner thereof. Notwithstanding the foregoing, service and delivery vehicles may be parked on the Property during the daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Residential Unit or the Common Property. Any vehicle parked in violation of this section or parking rules promulgated by the Declarant may be towed by Declarant or its agents without notice to the owner. No vehicle shall ever be permitted to be parked on the front or side lawn within view of the public, and no vehicle shall ever be permitted to park on a driveway on a Residential Lot at a point where the vehicle obstructs pedestrians from use of a sidewalk. No tractors or other heavy equipment for property clearing or maintenance shall be stored on any Residential Lot without the specific authorization of Declarant.

10.12. **Clothes Lines.** No clothing or other materials shall be aired or dried within the boundaries of the Property except in a manner so as not to be visible to public view from the street.

10.13. **Construction Work.** Except in an emergency or when other unusual circumstances exist, as determined by the Declarant, outside construction work or noisy interior construction work on new construction of a Residential Unit shall be permitted only after 6:00 A.M. and before 6:00 P.M., and on modification or alteration work subsequent to original construction, only after 7:00 A.M. and before 6:00 P.M.

10.14. **Television and Radio Antennas and Satellite Dishes.**

(a) Architectural Committee approval of a "dish antenna" or an antenna designed to receive local broadcast signals is not required as long as the dish is located either in the attic or attached to the house outside of view from the street. As used herein, a "dish antenna" means an antenna that is one meter (39.37") or less in diameter, designed to: (a) receive direct broadcast satellite service, including direct-to-home satellite service; (b) receive or transmit fixed wireless signals via satellite; (c) to receive video programming services via wireless cable, or (d) to transmit fixed wireless signals other than via satellite. No mast-type antenna is permitted, whether attached to a Residential Unit or anywhere within the Residential Lot.

(b) All antennas other than those described in 10.14(a) above must be approved by the Architectural Committee, and must not be located upon any portion of a Residential Lot visible from the street abutting the front of the Residential Unit.

10.15. **House Numbers and Mail Boxes.** House numbers, mail boxes and similar matter used in the property must be harmonious with the overall character and aesthetics of the community and be continually maintained in an attractive manner. The decision of the applicable Architectural Committee, as applicable, that any such matter is not harmonious shall be final.

10.16. **Signs and Picketing.** Owners may not place any signs of any nature at the entrance or on any Common Areas. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Residential Unit, fence or other improvement upon such Lot so as to be visible from public view except the following. Declarant reserves the right to remove any sign deemed by Declarant to be unfit or controversial without any liability in trespass, tort, or otherwise, arising from such removal.

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

(b) **For Lease Signs.** No signs advertising a Lot or Residential Unit for lease shall be permitted at any time. In the event that a sign is erected in violation of this paragraph, the Declarant will have the right, without the obligation, to remove such sign, advertisement, or billboard, without any liability in trespass, tort, or otherwise, arising from such removal.

(c) **Builders' Signs.** A Residential Unit builder may utilize one professional sign (of not more than five (5) feet square in size) per Lot for advertising and sales promotion of such Residential Unit as approved by Declarant.

(d) **Model Home Sign.** The one allowable yard sign will be a maximum of 12 square feet in area on a standard lot and 24 square feet in area on a corner lot. This sign will be allowed for a period of time commensurate with the homes model or sales program only. Model homes are allowed one model name sign, each of which includes only the model's name. These model identification signs may not exceed three square feet in surface area.

(e) **Political Signs.** No political signs may be erected on any Lot or any Residential Unit by the Owner or any other party.

10.17. **Lot Maintenance.** The Owner of each Residential Lot shall maintain the same and adjacent street right-of-way, and the improvements, sod, trees, hedges, and plantings thereon, in a neat and attractive condition. Such maintenance shall include regular mowing, edging of turf areas, weeding of plant beds, fertilizing, weed control and watering of the turf and landscape areas on each Lot. Diseased or dead plants or trees must be removed and replaced within a reasonable time. On front lawns and wherever visible from any street, there shall be no decorative appurtenances placed, such as sculptures, birdbaths, bird-houses, fountains, artificial flowers, benches, swings, play structures, or other decorative embellishments unless such specific item(s) have been approved in writing by the applicable Committee. The Declarant shall have the right, but not the obligation, after ten (10) days' notice to the Owner of any Lot setting forth the action intended to be taken by the Declarant, provided at the end of such time such action has not already been taken by such Owner, (i) to mow or edge the grass thereon, (ii) to remove any debris therefrom, (iii) to trim or prune any tree, hedge, or planting that, in the opinion of the Declarant, by reason of its location or height, or the manner in which it has been permitted to grow, is detrimental to the enjoyment of adjoining Property or is unattractive in appearance, (iv) to repair or stain/paint any fence thereon that is out of repair or not in harmony, with respect to color, with fencing on adjacent Property, and (v) to do any and all things necessary or desirable in the opinion of the Declarant to place such Property in a neat and attractive condition consistent with the intention of this Declaration. The Owner of such Property at the time such work is performed by the Declarant shall be personally obligated to reimburse the Declarant for the cost of such work within ten (10) days after it is performed by the Declarant, and if such amount is not paid within said period of time, such Owner shall be obligated thereafter to pay interest thereon at the maximum rate allowable by law, and to pay attorney's fees and court costs incurred by the Declarant in collecting said obligation, and all of the same to the extent performed by the Declarant shall be secured by a lien on such Owner's Lot, subject to liens then existing thereon. Such lien shall be enforceable as any other Assessment lien as provided in this Declaration.

10.18 **Roof Ventilators or Projections.** All roof ventilators (other than ridge ventilators) shall be located to the rear of the roof ridge line and/or gable of any structure and shall not extend above the highest point of such structure, so as not to be visible from any public street. Declarant and the New Construction Committee may approve exceptions to this restriction when energy conservation and heating/cooling efficiency require ventilators that, because of a particular roof design, cannot be hidden from view as described above.

No projections of any type shall be placed or permitted to remain above the roof of any Residential Unit or related structure with the exception of one (1) or more chimneys and one (1) or more vent stacks without the written permission of the New Construction Committee.

10.19. **Window Coolers.** No window or wall type air conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any Residential Unit on any part of the Property, if visible from any adjacent lot, Common Property, or street.

10.20. **Driveways.** The Owner of each Residential Unit shall maintain at the Owner's expense a driveway to an abutting street, including the position in the street easement, and shall repair at the Owner's expense any damage to the street occasioned by connecting the Owner's driveway thereto. The New Construction Committee reserves the right to restrict the location of any driveway on any Lot.

10.21. **Sod.** The Owner of each Residential Lot, as a minimum, shall solid sod the front and side yards of the Owner's Lot with grass, and shall at all times maintain such grass in a neat, clean and attractive condition, periodically resodding damaged areas of the lawn as they occur. The grass shall be of a type and within standards prescribed by the New Construction Committee.

10.22. **Outbuildings.** No tree house or children's playhouse shall be permitted on any Residential Lot in the Property without prior written approval of the applicable Committee. Outbuildings or other structures, temporary or permanent, other than the main residence or garage shall be subject to approval by the applicable Committee. Temporary structures may be used as building offices and other related purposes by Declarant or a Builder. Any permanent outbuilding must be in keeping with the overall character and aesthetics of the Residential Unit located on the Lot. The applicable Committee shall be entitled to review and approve or disapprove, without limitation, all outbuildings, play structures (including basketball backboards and hoops), and storage structures. Any such outbuilding will be required to be constructed with material and design that is determined by the applicable Committee to be architecturally and aesthetically compatible with the design of the Residential Unit thereon and other structures nearby the Property. All playground and recreational equipment pertaining to a Lot must be placed at the rear of such Lot. No basketball hoop and/or backboard shall be installed closer to the front or side Lot lines facing on any adjacent street than the applicable building set-back line along such street. The New Construction Committee is hereby authorized to determine what constitutes a violation of this restriction.

10.23. **Lot Drainage.** All drainage of water from any Lot and the improvements thereon shall drain or flow as set forth below.

(a) All slopes or terraces on any Lot shall be maintained so as to prevent any erosion thereof upon adjacent streets or adjoining Property.

(b) No structure, planting or other material shall be placed or permitted to remain or other activities undertaken within the Property or any portion thereof by any Owner which might damage or interfere with established slope ratios or interfere with established drainage functions or facilities.

10.24. **Building Height.** No Residential Unit on any Residential Lot in the Property shall exceed one and one-half (1-1/2) stories in height. Finished attics shall not be considered for the purposes of this Section to be separate stories.

10.25. **Building Requirements.** As to each Lot in the Property, the following building requirements shall apply unless the relevant Architectural Committee agrees to the contrary in writing, to-wit:

(a) No building (i) shall be placed or built on any Lot nearer to the front Lot line or nearer to a side Lot line than the building lines therefor shown on the relevant subdivision Plat, or (ii) shall encroach on any easement shown on the relevant subdivision Plat unless (A) approved in writing by the relevant Architectural Committee as having resulted from setting or shifting of improvement, and (B) permitted by applicable law and governmental authorities having jurisdiction.

(b) Before the Residential Unit constructed on the Lot is completed, the Owner shall construct an improved walkway of a size, nature, type and configuration to be approved by the relevant Architectural Committee.

(c) Orientation of each garage entrance to the public street on which the Residential Unit fronts and other aspects of garage location, type, configuration and construction materials shall be as approved by the relevant Architectural Committee.

10.26. **Walls and Fences.** With the exception of property perimeter walls, which may be installed by the Declarant, no walls shall be constructed on any residential lot. Any proposed fence to be constructed on any Residential Lot must be approved as to materials and location by the Architectural Committee prior to beginning construction. Such fences shall only be "ornamental fencing" made of wrought iron, antique green or black in color and 4' high. No fence shall be erected or maintained nearer to the front Lot line than the front building line, nor on corner Lots nearer to the side Lot line than the building setback line parallel to the side street, except in special circumstances necessitated by the geography of a particular Residential Lot to be approved by the Architectural Committee on a case-by-case basis. No chain link fence type construction will be permitted on any Lot except, however, Declarant is exempt from this prohibition as long as it owns portions of the Property. Any wall or fence erected on a Lot by Declarant, or its assigns, shall pass ownership with title to the Lot and it shall be Owner's responsibility to maintain said wall or fence thereafter. **Approval of the relevant Architectural Committee shall be obtained prior to the erection of any wall or fence on any Lot.**

10.27. **Roofs.** The roof of each Residential Unit shall be covered with asphalt or composition type shingles of a weight and color approved by the appropriate Architectural Committee, such other architecturally compatible and attractive roofing material as may from time to time be approved by the relevant Architectural Committee in its sole discretion for particular Lots or areas. The decision with regard to shingle weight and color shall rest exclusively with the relevant Architectural Committee, as the case may be, and its decision regarding same shall be final and binding. All roof stacks and flashing must be painted to match the approved roof color. Any replacement roof must be approved by the Architectural Committee prior to construction or removal.

10.28. **Party Walls and Shared Improvements.** The cost of maintenance of a Party Wall or any Shared Improvement shall be shared equally by the Owners of the applicable Party Wall, or the Owners who benefit from the Shared Improvement. In the event that a Residential Unit is destroyed or removed for any reason and not reconstructed, the cost of the restoration shall be borne by the Owner(s) of the Residential Unit(s) which was destroyed or removed. No Owner shall alter or change the Party Wall in any manner (interior decoration excepted) and the

Party Wall shall always remain in the same location as when erected. Notwithstanding any other provision herein, an Owner who by such Owner's negligent 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. The rights of any Owner to contribution from any other Owner under this agreement shall be appurtenant to the land and shall pass to such Owner's successors in title. Each Owner shall have the right to enforce by any proceeding at law or in equity the provisions contained in this paragraph. Failure by any Owner to enforce any provision of this paragraph shall in no event be deemed a waiver of the right of any other Owner to do so thereafter.

10.29. **Building Exterior.** With the exception of buildings and structures constructed by Declarant, all structures must have exterior wall of at least seventy-five (75%) masonry on the street fronting walls and shall not have less than fifty percent (50%) masonry covering on the total of all exterior walls. Stucco shall be considered as "masonry" for the purpose of this paragraph. The exterior portion of all walls that are not masonry shall be painted or stained immediately upon completion or shall have color mixed in the final structural application, excepting acceptable woods that are commonly used without such finishes, so that all such materials shall have a finished appearance. The final color of all exterior surfaces must be approved by the Architectural Committee prior to application.

10.30. **Tanks, Butane, Etc.** No butane or other tank used for the storage of gases or liquids for fuel shall be placed on a lot or the Property.

10.31. **Elevated Structure Design.** Other than buildings and structures constructed by Declarant, no structure on any Lot or the Property shall be constructed or placed on "stilts", pilings or piers, etc.

10.32. **Yard Lighting.** Owners of single home Residential Units shall be required, by date of completion, to place near the street serving the Residential Unit, a decorative electric yard light. The type and location of such light shall be selected and controlled by the Committee. Such light shall not exceed six and one-half (6 1/2) feet in height and shall be controlled by a light sensitive switch. Each yard light and light sensitive switch for same shall be maintained by Owner in a manner so that the light shall burn all night.

10.33. **Hunting and Firearms.** No hunting shall be allowed on the Property and any discharge of firearms is strictly prohibited.

ARTICLE XI **ANNEXATION OF ADDITIONAL PROPERTY DEANNEXATION**

11.01. **Annexation Without Approval.** Declarant, its successors or assigns, shall have the unilateral right, privilege, and option, from time to time at any time until twenty (20) years from the date this Amended Declaration is recorded in the Office of the County Clerk of Waller County, Texas, to annex and subject to the provisions of this Declaration and the jurisdiction of the Declarant any property it may desire, whether in fee simple or leasehold, whether contiguous or non-contiguous, by filing in the Waller County, Texas, Real Property Records a Supplemental Declaration annexing such property as more fully described below. Any such annexation shall be effective upon the filing of such Supplemental Declaration in the Waller County, Texas, Real Property Records, unless otherwise provided therein. Any such annexation or addition shall be accomplished by the execution and filing for record by Declarant (or the

other Owner of the Property being added or annexed, to the extent such Owner has received a written assignment from Declarant of the right to annex), of a Supplemental Declaration.

At such time as any Supplemental Declaration (of annexation) is filed for record as hereinabove provided, the annexation shall be deemed accomplished and the annexed area shall be a part of the Properties and subject to each and all of the provisions of this initial Declaration (as amended), and to the jurisdiction of the Declarant, in the same manner and with the same force and effect as if such annexed Property had been originally included in this initial Declaration as part of the Subdivision Land.

After additions or annexations are made, all Assessments collected by the Declarant from the Owners in the annexed areas shall be commingled with the Assessments collected from all other Owners so that there shall be a common maintenance fund for the Properties. Nothing in this Declaration shall be construed to represent or imply that Declarant, its successors or assigns, are under any obligation to add or annex additional Property to this development.

11.02. De-annexation. At any time and from time to time, as Declarant may determine in its sole and absolute discretion, without any obligation or liability to any Owner or any Owner's lender by reason thereof, Declarant may remove Property owned by it from this Declaration (and, thereby, from the jurisdiction of the any Association) by filing in the Real Property Records of Waller County, Texas, a "Notice of De-annexation of Property" stating that the parcel or parcels of land described therein are no longer part of the Property or subject to this Declaration. Such de-annexation shall be effective immediately upon the filing of the Notice of De-annexation in the Waller County, Texas, Real Property Records, without notice to any party whomsoever, including, without limitation, any other Owner.

ARTICLE XII **GENERAL PROVISIONS**

12.01. Assignment of Declarant Rights. Declarant may assign or transfer some or all of its rights as Declarant hereunder to one or more third parties provided that (i) at the time of the assignment such assignee owns more than one Lot or Residential Unit (or, contemporaneously with the assignment of the Declarant's rights, is being conveyed more than one Lot), and (ii) such assignee is expressly designated in writing by Declarant as an assignee of all or part of the rights of Declarant. In any assignment of all or part of the Declarant's rights to a third party pursuant to the terms hereof, Declarant, may specify that the assignee has or does not have the right (or has a limited right) to further assign the Declarant rights being transferred to the assignors. However, in the absence of any reference to a restriction on further assignment, the assignee shall have the right to further assign such transferred Declarant rights on the same terms as are stated above for Declarant, except that the assignment under clause (ii) will be executed by the assignee of Declarant's rights having such power of assignment and the assignment by such assignee may not transfer Declarant rights more expansive than those transferred to the assigning Declarant pursuant to the assignment instrument by which it received such rights. Any attempted assignment or transfer of Declarant rights hereunder which does not strictly comply with the requirements of this Section shall be liberally interpreted as being in compliance with the requirements hereof if the intent of the parties to transfer Declarant rights pursuant hereto is reasonably clear.

12.02. Enforcement. The terms and provisions of this Declaration shall run with and bind the land included in the Property, and shall inure to the benefit of and be enforceable by Declarant, or the Owner of any Lot, and by their respective legal representatives, heirs,

successors and assigns. This Declaration may be enforced in any proceeding at law or in equity against any person or entity violating or threatening to violate any term or provision hereof, to enjoin or restrain violation or to recover damages, and against the Property to enforce any lien created by this Declaration, and failure of Declarant or any Owner to enforce any term or provision of this Declaration shall never be deemed a waiver of the right to do so thereafter.

12.03. **Incorporation.** The terms and provisions of this Declaration shall be construed as being adopted in each and every contract, deed, or conveyance hereafter executed by Declarant conveying all or any part of the land in the Property, whether or not referred to therein, and all estates conveyed therein and warranties of title contained shall be subjected to the terms and provisions of this Declaration.

12.04. **Covenants Running With Title.** The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Declarant or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

12.05. **Amendments.** This Declaration may be amended in whole or in part by any instrument executed by the Declarant. Following any such amendment, every reference herein to this Declaration shall be held and construed to be a reference to this Declaration as so amended. All amendments shall be recorded in the Real Property Records of Waller County, Texas.

12.06. **Amendments by Declarant.**

(a) Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration, and shall not impair or affect the vested property or other rights of any Owner or such Owner's mortgagee.

(b) Particularly reserved to Declarant is the right and privilege of Declarant to designate, by Supplemental Declaration, additional and/or more specific restrictions, applicable to any portion of the Properties within the jurisdiction of this Declaration so long as Declarant owns at least one Lot. Such additional restriction may be done by Declarant without the consent or joinder of the other Lot owners in such affected area. No such designation of additional or more specific requirements or restrictions, or subsequent change of requirements or restrictions, as provided for herein, shall be deemed to adversely affect any substantial right of any existing Owner.

12.07. **Indemnification and Hold Harmless.**

(a) **By the Association.** Any homeowners association for the Legendary Oaks Subdivision, shall INDEMNIFY every officer and director of Declarant and the Declarant against any and all expenses, including fees of legal counsel, reasonably incurred by or imposed upon any officer, director or the Declarant in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reasons of being or having been an officer, director or the Declarant. The officers, directors and Declarant shall not

be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors of Declarant shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Declarant (except to the extent that such officers or directors may also be members of the Association), and the Association shall **INDEMNIFY** and forever hold each such officer and director free and **HARMLESS** from and against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Declarant may, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

(b) **By an Owner.** Each Owner shall be liable to the Declarant for any damage to the Common Property of any type or to any equipment thereon which may be sustained by reason of the negligence of said Owner, the Owner's tenants, employees, agents, customers, guests or invitees, to the extent that any such damage shall not be covered by insurance. Further, it is specifically understood that neither the Declarant nor any Owner shall be liable to any person for injury or damage sustained by such person occasioned by the use of any portion of the Common Property. **Every Owner does hereby agree to defend, INDEMNIFY and HOLD HARMLESS the Declarant and other Owners from and against any such claim or damage as referenced in the immediately preceding sentence hereof, including, without limitation, legal fees and court costs.**

12.08. **Rights of Mortgagees and Lien holders.** No violations of any of these restrictions, covenants or conditions shall affect or impair the rights of any mortgagee or lien holder under any mortgages or deed of trust, or the rights of any assignee of any mortgagee or lien holder under any such mortgage or deed of trust.

12.09. **Right to Subdivide or Resubdivide.** Prior to the time Declarant parts with title thereto, Declarant shall have the right (but shall never be obligated) to subdivide or re-subdivide into Lots, by recorded Plat or in any other lawful manner, all or any part of the land included within the Property. During any period that Declarant owns any part of the Property, Declarant's prior written approval must be obtained to any subdivision plat to be filed of record by any Owner if such Plat would result in the division of the Property being platted into more platted lots or reserves than was the case prior to the recordation thereof.

12.10. **No Obligation as to Adjacent Property.** The Property is or may be a part of a larger tract or block of land owned by or under contract to Declarant. While Declarant may subdivide other portions of its property now or hereafter acquired, or may subject the same to a declaration similar to or dissimilar from this Declaration, Declarant shall have no obligation to do so, and if Declarant elects to do so, any subdivision plat or declaration executed by Declarant with respect to any of its other property may be the same as or as similar to or dissimilar from any subdivision Plat, this Declaration or Supplemental Declaration covering the Property, or any part thereof, as Declarant may desire and determine in its sole and exclusive discretion.

12.11. **Renting or Leasing.** Residential Units that are rented or leased shall be subject to the following restrictions:

(a) All tenants shall be subject to the terms and conditions of this Declaration and the rules and regulations as though such tenant were an Owner.

(b) Each Owner agrees to cause the Owner's lessee, Occupant, or persons living with such Owner to comply with this Declaration, and the rules and regulations promulgated thereunder, and is responsible for all violations and losses caused by such tenants or Occupants, notwithstanding the fact that such Occupants of the Residential Unit are fully liable for any violation of the documents and regulations.

(c) In the event that a lessee, Occupant or person living with the lessee violates a provision of this Declaration, the Declarant shall have the power to bring an action or suit against the lessee or other occupant and/or Owner to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity, including, but not limited to, all remedies available to a landlord upon the breach or default of the lease agreement by the lessee.

(d) The Declarant shall also have the power to impose reasonable fines upon the lessee, other Occupant and/or the Owner for any violation by the lessee, Occupant, or person living with the lessee of any duty imposed under this Declaration, and to suspend the right of the Owner, lessee, Occupant or person living with the lessee to use the Common Property.

12.12. Notice. Any notice required or desired to be given under this Declaration shall be in writing and shall be deemed to have been properly served when (i) delivered in person and receipted for, or (ii) three (3) days after deposit in the United States Mail, certified, return receipt requested, postage prepaid, addressed, if to an Owner, to the Owner's last known address as shown on the records of the Declarant at the time of such mailing or, if to the Declarant, to its President, Secretary or registered agent. The initial address for the Declarant shall be:

LEGENDARY OAKS HOME DEVELOPMENT CORPORATION
P.O. Box 1405, Hempstead, Texas 77445

The foregoing address for the Declarant shall be effective unless and until a supplement to this Declaration or management certificate shall be made and filed in the Real Property Records of Waller County, Texas, specifying a different address for the party filing such supplement (in which event such address specified in such supplement or management certificate shall be the address, for the purposes of this Section, for the addressee named in such supplement or management certificate).

12.13. Enforcement. The covenants, conditions, restrictions, easements, uses, privileges, Assessments and liens of this Declaration shall run with the land and be binding upon and inure to the benefit of Declarant and each Owner of the Residential Lots, Properties, Residential Units or any part thereof, their respective heirs, legal representatives, successors and assigns. The enforcement of the provisions of this Declaration shall be vested in the Declarant. A breach of any of the provisions of this Declaration shall give to the party entitled to enforce such provision the right to bring a proceeding at law or in equity against the party or parties breaching or attempting to breach this Declaration and to enjoin such party or parties from so doing or to cause such breach to be remedied or to recover damages resulting from such breach. A breach of this Declaration by an Owner relating to the use or maintenance of any portion of the Properties or part thereof is hereby declared to be and constitute a nuisance and every public or private remedy allowed by law or equity for the abatement of a public or private nuisance shall be available to remedy such breach. In any legal or equitable proceedings for the enforcement of this Declaration or to restrain a breach thereof, the party or parties against whom judgment is entered shall pay the attorney's fees and costs of the party or

parties for whom judgment is entered in such amount as may be fixed by the court in such proceedings. All remedies provided under this Declaration, including those at law or in equity, shall be cumulative and not exclusive. No party having the right to enforce this Declaration shall be liable for failure to enforce this Declaration.

12.14. **Good Faith Lender's Clause.** No violation of this Declaration shall affect any lien or deed of trust of record upon any Property subject to Assessment or any part of the Property, when held in good faith. These liens may be enforced in due course, subject to the provisions of this Declaration.

12.15. **Conflict with Deeds of Conveyance: Declarant's Rights.** If any part of this Declaration shall be in conflict with any term of a previously recorded deed of conveyance to any portion of the Property, the term of the prior deed of conveyance shall govern, but only to the extent of such conflict. Where rights are reserved to Declarant by the restrictions of this Declaration, Declarant reserves the right to modify such restrictions as necessary in subsequent deeds of conveyance, in which case the terms of the deeds of conveyance shall prevail.

12.16. **Duration.** This Declaration shall remain in full force and effect for a term of thirty (30) years from the date this Declaration is recorded in the Office of the County Clerk of Waller County, Texas, after which time this Declaration shall be extended automatically for successive periods of ten (10) years each unless modified by subsequent amendment properly filed by the Declarant. No particular area annexed herein by Supplemental Declaration, nor the Owners thereof, shall be entitled to elect not to renew the term hereof.

12.17. **Severability.** Invalidation of any term or provision of this Declaration by judgment or otherwise shall not affect any other term or provision of this Declaration, and this Declaration shall remain in full force and effect except as to any terms and provisions which are found to be invalid.

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


12.19. **Titles.** The titles of this Declaration and of Articles and Sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any terms or provisions contained in this Declaration.

12.20. **Successors in Title.** The terms and provisions of this Declaration shall apply to, be binding upon, and inure to the benefit of Declarant and its successors and assigns.

Executed this 9th day of February 2010.

DECLARANT:

LEGENDARY OAKS DEVELOPMENT CORPORATION

By: 
Kirk Paschal, CEO

THE STATE OF TEXAS

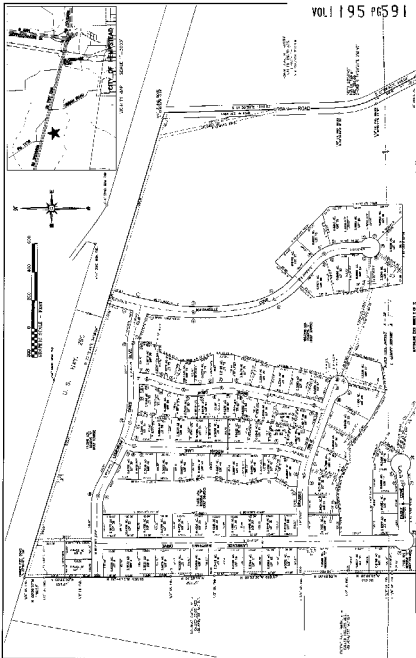
COUNTY OF HARRIS

This instrument was acknowledged before me on this the 9th day of February, 2010 by Kirk Paschal, Chief Executive Officer of Legendary Oaks Development Corporation.

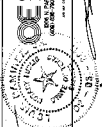

Notary Public - State of Texas

AFTER FILING RETURN TO:
Sandra Roach Godfrey, Attorney at Law
P. O. Box 6065
Katy, Texas 77491





OE O'MALLEY ENGINEERS
 400 WEST 26TH STREET
 HOUSTON, TEXAS 77018
 (713) 865-7907 FAX (713) 865-7908



REFLAT OF LEGENDARY OAKS
 A SUBDIVISION OF 280.892 ACRES
 OUT OF THE JAMES HALL SURVEY, A - 32 AND
 THE L. ABBOTT SURVEY, A - 1 WALLER COUNTY, TEXAS
 865 LOTS, 6 RESERVEES

THIS PLAT IS A REFLAT OF THE ORIGINAL PLAT OF THE LEGENDARY OAKS SUBDIVISION, A SUBDIVISION OF 280.892 ACRES, OUT OF THE JAMES HALL SURVEY, A - 32 AND THE L. ABBOTT SURVEY, A - 1, WALLER COUNTY, TEXAS, AS SHOWN ON PLAT NO. 195, P. 6391, VOL. 195, RECORDS OF THE CLERK OF THE COUNTY CLERK OF WALLER COUNTY, TEXAS, DATED AND RECORDED AS ABOVE.

FINAL PLAT
 SHEET 1 OF 3

1000684

FILED FOR RECORD

10 FEB -9 PM 4:06

CHERYL PETERS
COUNTY CLERK
WALLER COUNTY, TX
DEPUTY

Samantha Wilkey

129.00
5.00
1.00

135.00 *pd*

LEGENDARY OAKS DEVELOPMENT CORPORATION

108 WEST COMMERCE
BRENNAM, TX 77833

THE STATE OF TEXAS
COUNTY OF WALLER

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Waller County, Texas, in the Volume and Page as noted hereon by me.



Cheryl Peters
County Clerk, Waller County, Texas
