

PART ONE AMENDED BEAU RIVAGE SUBDIVISION DEED RESTRICTIONS**THE STATE OF TEXAS****KNOW ALL MEN BY THESE PRESENTS:****POLK COUNTY**

We, the eight (8) Lot owners ("**Owners'**") desire to amend and carry out a uniform plan for improvement, development and sale of all the lots (the "**Lots'**") as shown on that certain plat (the "**Plat'**") of 7.99 acres recorded under Clerk's file volume 12 page J of the Official Map Records of Polk County, Texas (the name of the Subdivision is "Beau Rivage"), and further described in Attachment "A", for the benefit of the present and future owners of said Lots, and for the protection of property values in the Subdivision, and to this purpose, the Owners hereby adopt, establish and impose the following declarations, reservations, protective covenants, limitations, conditions and easements (the "**Restrictions'**") to apply to the use, improvement, occupancy and conveyance of all Lots in the Subdivision, and each contract or deed which may be hereafter executed with regard to any of the Lots in the Subdivision shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in full or by references in said contract or deed);

1. Use. Lots or the improvements thereon shall be used solely for single-family, private residential purposes, and all Lots in the Subdivision shall be known only as residential lots. No property owner shall use the Lot for anything other than a single-family dwelling, and no property owner shall rent such Lot to any third party for any purpose regardless of the duration. Lots are not to be used as rental properties of any kind or nature. Short term rentals on Lots, such as VRBO and AirBnB, within the Subdivision are strictly and expressly prohibited. No commercial activity shall be permitted on any Lot, nor shall any commercial activity be engaged in front of such Lot or be visible from the street in front of such Lot.

2. Subdividing. The Lots shall not be subdivided into smaller parcels than as set forth on the Plat of the Subdivision. It shall not be permissible to sell a portion, but not all, of any Lot.

3. Architectural Control Committee. An Architectural Control Committee ("**Committee'**") shall be appointed, from time to time, by the Owners, whose purpose it shall be to review plans, to insure for all owners (i) compliance with these restriction: (ii) harmony of external design of such building or improvement with existing and proposed buildings and improvements; (iii) quality of building materials; (iv) location of such building or improvement within the Lot or Lots on which it will be constructed; (v) the number of square feet to be contained such building or improvements, and (vi) other factors determined by the Owners. The members of the Committee shall be selected by the Beau Rivage Property Owners' Association ("**Association'**"). Neither the Owners, the Association, the Committee, nor any of the members thereof shall be liable in damages or otherwise to anyone submitting plans and specification for approval or to any owner affected by the Deed Restriction by reason of mistake of judgment, negligence, or nonperformance arising out of or inconnection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

4. Structures.

A. No residence shall be constructed or permitted to remain on any lot in the Subdivision unless such residence has a minimum of 1,500 square feet of living area exclusive of porches, breezeways, patio, carports and garages, or other such items or structures approved by the Committee.

B. No improvements shall be placed on the Lot until the final building plans, specifications and plot plans showing the location of such improvements on the Lot have been approved in writing by

the Committee, and plot plans showing the location of such improvements on the Lot have been approved in writing by the Committee. Likewise, the alteration of any existing improvements thereon may not be made until the final plans for such alterations have been approved in writing by the Committee. In the event the Committee disapproves of any such final plans, specifications and/or plot plans, notice of such disapproval shall be delivered in person or by registered or certified letter addressed to the party submitting the same at an address which must be supplied with the original submission. In passing upon all of such final plans, specifications and/or plot plans, the Committee may take into consideration, among other things, the suitability of any such proposed building or structure or the alteration thereof and the materials of which it is to be constructed to the Lot upon which it is to be constructed, and the effect thereof upon adjacent, neighboring or other Lots. Any such notice shall set forth the elements disapproved and the reason or reasons therefore, but notices need not contain suggestions as to methods of curing any matters or things disapproved. The judgment of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive and there shall be no review of any such action by the Committee. In no event shall the Committee be liable to any party for damages. If said Committee fails to approve or disapprove said final plans, specifications and/or plot plans within thirty (30) days after the same have been received by the Committee, it will be presumed that the same have been approved. These requirements for approval by the Committee as herein set out cover not only the residences to be constructed in the Subdivision, but all piers and other structures built in the water of Lake Livingston as well as on the land, and also apply to any retaining walls and any significant moving of soil in and out of the water.

C. In addition to the requirements of the preceding paragraphs, all structures which extend into the water shall meet the following requirements, as well as any requirements imposed by the Trinity River Authority of Texas, Army Corps of Engineers, and/or any other government agency having jurisdiction over the property or waterway in question.

1. Such structures shall not extend into the water more than 150 feet per the TRA restrictions.
2. No part of such structure shall be closer to any projected side property Lot line than ten (10) feet.
3. The Beach Area is a special area in which there shall be no construction other than boathouse structures and low wood walkway structures. Boathouse structures and boardwalks must be approved by the Architectural Committee. Boathouse structures must be placed in the areas in the lake (not on the Beach Area).
4. Bulkheading will not be allowed on the beach. If in the future conditions change such that bulkheading is necessary and desirable, it must first be approved by the Architectural Committee according to the procedures in section B referenced hereinabove. All bulkheading, new or replacement, must first be approved by the Architectural Committee.

D. No part of any building shall be located on any Lot nearer than twenty (20) feet to any street. No part of any building or structure shall be located within five (5) feet to any interior Lot line. The building setback lines may be changed by issuance of a variance decision by the Committee, if the above- described distances are not feasible, considering the terrain and/or dimensions of the Lot as determined by the Committee in its sole discretion.

E. No structure shall be occupied or used for residential purposes until the exterior thereof shall have been fully completed in accordance with the approved final plans and specifications.

F. Each residence, once commenced, must be "dried in" within four (4) months from the date of commencement thereof. As used herein the term "dried in" means that the exterior must have the appearance of being a complete house, including all necessary windows, doors, roof, paint and trim. If any such residence is not "dried in" within four (4) months after the date on which residence is commenced, the owner of same hereby gives the Committee or its representative or agent the right and

authority, after notice to the owner, to enter upon the property upon which such structure is situated, and to disassemble such structure and store the building materials at a location chosen by the Committee in the Committee's sole discretion. The owner or occupant of any such Lot agrees, by the purchase or occupancy thereof, that the Committee shall not be liable for trespass or otherwise (and specifically waives any claim or cause of action for property damage incident thereto) in entering upon said Lot, disassembling any such structure, or for any damage(s) caused by the Committee in the course of disassembly and relocation of such structure. Furthermore, the owner agrees to pay reasonable and necessary costs upon demand to the Association for any cost involved with the action of disassembling and/or relocating a structure.

G. No trailer, mobile home, tent, shack, camper, garage, barn or other outbuilding or structure of a temporary character shall, at any time, ever be used as a residence, temporary or permanent, nor shall any structure of a temporary character ever be used in any way or moved onto or permitted to remain on any Lot.

H. In no event shall any wooden fence or solid wall of masonry or otherwise be constructed on any Lot in the Subdivision. Nor shall any line of shrubbery in excess of four (4) feet in height be grown or allowed to grow on any Lot in the Subdivision. The location, height, type and design of any other type of fence or wall erected on any Lot in the Subdivision shall be approved in writing by the Committee prior to construction. The main considerations will be aesthetic and lake views of adjacent lots. Any Lot in violation of this section hereby agrees and authorizes the Committee, or Agent of the Committee, to enter upon the property and trim, remove, or otherwise cure the violation at the Lot Owners sole expense, and in so doing, the Committee shall not be liable and is hereby expressly relieved from any liability for trespass or otherwise in connection with, or arising from such action.

5. Consent of Committee. No signs, advertisements, billboards or advertising structure of any kind may be erected or maintained on any Lot without the prior written consent of the Committee. The Committee shall have the right to enter upon the Lot and to remove and dispose of any such nonconforming sign, advertisement or billboard or advertising structure which is placed on any Lot without such consent, and in so doing, the Committee shall not be liable and hereby expressly relieved from any liability for trespass or otherwise in connection with or arising from such removal. This section shall not prohibit a "For Sale" sign on said property if not larger than four (4) feetsquare.

6. Nuisances. No obnoxious or offensive activity shall be carried on or maintained on any Lot in the Subdivision, nor shall anything be done or permitted to be done thereon which may be or become a nuisance in the Subdivision or other property in the vicinity of the Subdivision.

7. Firearms and Fireworks. The use or discharge of firearms or fireworks in the Subdivision is expressly prohibited. However, fireworks will be permitted on the 4th of July and New Year's Eve holidays when fireworks are legally for sale in the state of Texas so long as reasonable safety precautions are taken by the participating Lot owners and/or their invited guests.

8. Garbage and Trash Disposal. The Association may make a contract with a garbage removal service to provide for periodic garbage and trash collection. In such an event, a monthly charge in addition to the maintenance charge may be made for such garbage and trash collection. Otherwise, owners will individually contact a garbage removal service for periodic garbage and trash collection. Burying trash, burning trash, or storing it in container accessible to animals is not permitted. Trash, garbage or other rubbish shall be kept only in well maintained and sanitary containers or trash receptacles. Each Lot owner shall be responsible for disposing of all of his/her trash, garbage and rubbish in a timely manner. In the event the Committee gives the Lot owner notice to remove garbage and/or trash, the Lot owner shall fully remove such garbage and/or trash within seven (7) days after receiving such notice. Notice in this section shall mean a written correspondence sent regular or certified mail return receipt requested. Upon failure to comply, the Association may have the garbage and/or trash removed and the cost or expense thereof shall be payable by the owner to the Association upon demand.

9. Unsightly Storage. No unsightly storage and/or unsightly vehicles shall be permitted on the Lot or in open carports.

10. Camping. No camping shall be permitted in the Subdivision at any time.

11. Animals. No horses, cows, poultry or livestock of any kind (other than a maximum of six (6) dogs and/or cats only) may be kept on any Lot within in the Subdivision. Should ordinary household pets become a nuisance in the opinion of the POA Committee, they must be restricted to the owner's property or removed from the Subdivision.

12. Off-Street Parking. Both prior to and after the occupancy of a dwelling on any lot, the owner shall provide appropriate space for off-street parking for his/her vehicles (defined as automobiles, trucks, motorcycles, and recreational vehicles) and/or boats. No repair work, dismantling or assembling of motor vehicles, boats or any other machinery or equipment shall be done in any street, or on any Lot.

13. Weeds and Lawn Maintenance. The owner of each Lot shall keep the same clean and free of weeds and manicured such as will be in keeping with the other properties and the community at any particular time. Upon failure to comply with this section, the Association may have the Lot cleaned and/or mowed, and the cost or expense thereof shall be payable on demand by the Owner to the Association.

14. Cesspool. No cesspool will be dug or permitted on any Lot.

15. Septic tanks, Septic tanks or septic systems approved by governmental authorities with jurisdiction will be permitted on the Lots, but their construction and location shall comply with all existing state, county and/or other laws relating thereto. There shall be no outside toilet built or used on any Lot, except for port-o-can type facilities which must be provided and used during construction and/or Committee approved renovations only.

16. Water Service. Each Lot owner shall, at his expense, connect his/her residence to the water line serving his/her Lot. A monthly charge in addition to the maintenance charge may be made for water service if it becomes necessary. The well will be maintained by the Association. Any Lot greater than one (1) acre in area may support a private well; the owner may decide whether to use a private well or the communal water system. Nothing herein contained to the contrary shall prevent the installation and operation of water and sanitary sewer facilities by a water district or other governmental or private authority in said Subdivision.

17. Utility Easements. An easement is expressly reserved in, on, over, under and through those portions of the Lots as shown on the Plat for the purpose of installing, repairing and maintaining electric power, water, sewage, gas, telephone and similar utility or communications/media facilities and services. There is also reserved and dedicated hereby for the use of the Association and any public or private utility or communications/media company an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to and above all dedicated utility easements as shown on the Plat of the subdivision. The easements reserved and dedicated under the terms and provisions hereof and under the terms and provisions of the Plat shall be for the general benefit of the Subdivision as herein defined and any other land owned or acquired by the Association in the vicinity thereof, and shall also inure to the benefit and may be used by any public or private utility company or communications/media company entering into and upon said property for the purposes aforesaid, without the necessity of any further grant of such easement rights to such utility or communications/media company. When approved by the Committee, fences,

and shrubbery hedges shall be permitted on any such easements except those easements being used for underground electric and/or telephone and/or communications/media systems, provided (i) that such fences and hedges do not interfere in any way with the use of such easements by any public or private utilities and/or communications/media then utilizing or thereafter designed to utilize the same; (ii) that the right of the owners of such fences and hedges shall at all times be and remain subordinate and inferior in every way to the right of public and private utilities and/or communications/media; and (iii) that such public or private utilities and/or communications/media at any time may, without liability of any kind to the owner or owners thereof, remove any such fence or hedge where the removal of the same is incidental to or necessary for this performance of public or private utility and/or communications/media operations. No buildings or structures of any character may be erected or allowed to remain on any utility and/or communications/media easement.

18. Association Membership. All purchasers of a Lot or Lots in the Subdivision must be members of the Association as may be more particularly set forth in the Articles and Bylaws of the Association.

19. Easements in Favor of the Trinity River Authority of Texas. The property included in the Subdivision is subject to certain easements in favor of the Trinity River Authority of Texas. All references to the improvements to be located within such easement areas as contained in these Restrictions, are hereby expressly made subject to the approval of The Trinity River Authority of Texas.

20. Oil, Gas and Mineral Development and Transportation. No oil or gas drilling, oil or gas development operations, oil or gas refining or treatment, transportation, quarrying or mining operations of any kind shall be permitted upon any Lot in the Subdivision, nor shall oil or gas wells, or tunnels, mineral excavations or shafts be permitted on any Lot at any time while these restrictions remain in force and effect. No derricks or other structure designed for use in boring or drilling for oil or gas shall be erected, maintained or permitted on any residential lot in the Subdivision at any time while these restrictions remain in force and effect.

21. Drainage Structures. Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

22. Maintenance Fund. Each lot shall be subject to an annual maintenance charge of \$240.00 (Two Hundred Forty Dollars) per Lot per year for the purpose of creating a fund to be known and the "Beau Rivage Maintenance Fund" to be paid by the then owner of such Lot in conjunction with like charges to be paid by other Lot owners. This maintenance charge shall be secured by a vendor's lien upon said Lot which lien may be foreclosed either through appropriate judicial proceedings by the Association or be public sale without judicial proceedings in the manner prescribed by law in the State of Texas. A power of sale is hereby granted to the Association to conduct such public sale without judicial proceedings. The maintenance charge is to be paid to the Association annually in January of each year with any delinquent payments to be increased by a charge of 10% per annum. For purchasers of property during the year, a prorated maintenance charge, subject to the portion of annual ownership, shall be made within three (3) months of purchase. Such annual charge may be adjusted by the Association from year to year as the needs of the Subdivision may, in the judgment of the Association, require. Said lien shall be junior, subordinate and inferior to any lien (and renewals and extension thereof) granted by the owner of said Lot to secure the repayment of sums advanced to cover the purchase price for the Lot or the cost of any permanent improvement to be placed thereon.

23. The Association will render an annual accounting of the fund to the owners of the Lots, showing the receipts and expenditures. It shall apply the total of the funds so collected so far as they may be sufficient toward doing things necessary and desirable in the opinion of the Association which will benefit the owners of occupants of Lots within the Subdivision. The Association shall also have the right to use said maintenance fund to enforce these restriction.

24. Covenants Running with the Land. All of the restrictions, covenants and conditions herein provided for and adopted shall apply to each and every Lot in the Subdivision, and shall be covenants running with the land, and each Lot(s), its successors, and assigns shall have the right to enforce observance and performance of the restrictions and covenants contained and provided for herein, and in order to prevent a breach or to enforce the observance or performance of same, shall have the right, in addition to all legal remedies or remedies elsewhere provided herein, to an injunction either prohibitive or mandatory. The owner of any Lot or Lots in the Subdivision affected shall likewise have the right either to prevent a breach of any such restrictions or covenants or to enforce the performance thereof.

25. Partial Invalidity. Invalidation of any of these covenants, restrictions or conditions by court judgment or otherwise, shall not affect, in any way, the validity of any of the other covenants, restrictions or conditions, all of which shall remain in full force and affect. Acquiescence of any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions. Lot owners and/or the Association shall have the right to enter the property of the violator and correct the violation, or to require that the same be corrected. The Association may recover attorney's fees and other costs and expenses in enforcing these covenants and Restrictions.

26. Duration. These covenants and Restrictions shall run with the land and shall be binding upon the owners of property in the Subdivision, their successors, heirs and assigns, and all persons or parties claiming under them, for a period of thirty (20) years from the date hereof, at which time they will be automatically extended for successive periods of ten (10) years each, unless amended or terminated in whole or in part as hereinafter provided.

27. Amendments. Upon the expiration of the initial thirty (30) year term, the foregoing covenants and restrictions may be terminated or amended by the execution and recordation of a written instruction in the Polk County Official Public Records executed by the owners of a majority of the Lots within said Subdivision, such owners being allowed one vote for each Lot owned. Notwithstanding the duration and amendment provisions of paragraphs 25 and 26, upon the expiration of five (5) years from the date hereof, the foregoing covenants and restrictions (with the specific exception of these contained in paragraph nineteen (19) hereinabove), may be terminated or amended by the execution and recordation of a written instrument in the Polk Count Official Public Records executed by the owners of seventy five percent (75%) of the Lots within said Subdivision, such owners being allowed one vote for each Lot owned.

28. Headings. All sections and paragraph headings used herein are for convenience only and shall no efficacy in construing any of the restrictions, covenants or conditions herein contained.

PART TWO

BEAU RIVAGE HOMEOWNERS ASSOCIATION

I. Membership in the Association, Voting Rights and Registration

A. Membership. Every person or entity who is a record owner of a full or undivided interest in any lot in the Beau Rivage Subdivision shall be a Member of the Association. Each member is entitled to one vote for each lot.

B. Suspension of Voting Rights. All voting rights of a lot owner maybe suspended by the Board of Directors during any period in which such lot owner is delinquent in the payment of any duly established assessment or is otherwise in default and/or in violation of the rules and regulations of the Association or the Restrictions.

C. Current Information, Each member is obligated to supply the Association with the full name of the owner of each lot owned, current mailing addresses and phone numbers. In the event the owner fails to do so, the Association is not obligated to inform the owner concerning meetings, or actions concerning the owner's lot(s). Notices will be sent to the last known addresses of the owners.

II. Covenants for Maintenance Assessments

Each owner, by virtue of owning property in the Subdivision, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to agree to pay to the Association (1) annual assessments or charges; (2) special assessments, (to be fixed, established and collected from time to time as deemed necessary), and (3) member charges levied against individual lot owners to reimburse the Association for extra or unusual costs incurred by the Association for curing the lot owner's violation of a restrictive covenant contained in the Regulation and Restrictions.

The annual and special assessments, together with interest thereon, reasonable attorney's fees, and costs of collection thereof, shall be a charge on the lot and shall be a continuing lien upon the lot or lots against which such assessment is made. Each such assessment, together with such interest, attorney fees, and collection costs shall also be the personal obligation of the person who was the owner of such lot at the *time* the obligation accrued.

The assessments levied by the Association shall be used for upgrading, repairing or maintaining the well, upgrading, repairing or maintaining any streets or roads not administered by Polk County; installing, maintaining, repairing and up keeping (such as paying electricity charges of street lights), as well as for the purpose of promoting the recreation, health, safety and welfare of the lot owners, and in particular, for the improvement, maintenance and operation of the Subdivision, services and facilities devoted to this purpose and related to the use and enjoyment of the Subdivision by the lot owners.

A. Annual Assessments. The annual assessments for both improved and unimproved property may be established or adjusted by the Board of Directors in the manner provided herein after determination of current maintenance and anticipated needs of the Association during the year for which the assessment is being made, The new annual assessment rate may be adjusted by a majority vote of the Board of Directors, without membership approval, but shall not be increased to more than the greater of 10% above the prior year's annual assessment. The annual assessment is two hundred forty dollars (\$240.00).

B. Special Assessment. In addition to the annual assessments provided for in (A) above, the Association may levy a Special Assessment on improved lots only for the purpose of responding to the unusual emergency needs of the Association provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the lot owners who are voting in person or by proxy at the meeting duly called for this purpose. Written notice of this meeting shall have been sent to all lot owners setting forth its purpose.

C. Member Charge. In addition to the annual assessment and any special assessment, the Association, by a majority vote of the Board, may impose a charge (Member Charge) upon any lot

owner for the purposes of reimbursing the Association for all direct and indirect costs incurred by the Association with regard to corrected violations of the Restrictions on the owner's lot. The owner of such lot shall be notified in writing of said determination and shall be afforded a reasonable period of time to correct the deficiencies.

The owner of such lot shall be assessed the cost of reimbursing the Association for any and all costs, including attorney's fees, to secure compliance.

D. Due Dates, Budget and Late Charges. The annual assessments provided for herein shall become due and payable and shall be collected as the Board of Directors of the Association shall determine. The amount of the annual assessment shall be an amount which reflects the number of months the owner has owned the lot in the current year. The Board shall use reasonable efforts to provide each lot owner with an invoice statement of the amount due, but any failure to provide such a notice shall not relieve any lot owner of the obligation. Membership charges are due within thirty (30) days after the lot owner was served with notice by the Association. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate to be determined, from time to time, by the Board, not to exceed the maximum rate of interest permitted by law. If the Board does not determine a rate of interest, the rate shall be ten percent (10%) per annum or the maximum rate of interest permitted by law, whichever is less.

In addition to the foregoing charges for delinquent accounts, each lot owner shall be obligated to pay to the Association all actual costs of collection incurred by the Association, including attorney's fees, and such reasonable late charges and collection charges as the Board of Directors may establish, all of which shall also be subject to the liens of the Association.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in order of their coming due, and then finally to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming date.

Notice of the lien may be given, but is not required, by the recordation in the Real Property Records of Polk County, Texas of an Affidavit of Delinquent and Notice of Assessment Lien, duly executed by an officer, managing agent, attorney or officer of the Association, setting forth the amount owned, the name of the last known lot owner or owners of record, and the legal description of the lot.

At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure, the occupants of such lot shall be required to pay a reasonable rent for the use of any such lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to appoint a

receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such lot by forcible detainer or by writ of possession.

The lien of the assessments provided for herein shall be subordinate to the lien or liens of any mortgage or mortgages now and hereafter placed upon the lot or lots subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the sale or transfer of such lot or lots pursuant to a decree of foreclosure, non-judicial foreclosure, or conveyance in lieu of foreclosure or in satisfaction of mortgage debt. Such sale or transfer shall not relieve such lot or lots from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

III. Maintenance Fund and General Powers and Duties of the Board of Directors of the Association

Maintenance Fund The Board, for the benefit of the lot owners, shall establish and maintain a maintenance fund into which shall be deposited the annual assessments collected from lot owners and which maintenance fund shall be used for the payment of, but not limited to, the following:

- (A) Taxes, assessments, and other liens and encumbrances against any common area.
- (B) Care and preservation of the common area.
- (C) Maintenance, repair, and operation of the common well.
- (D) Workers compensation insurance to the extent necessary to comply with any applicable laws.
- (E) Such fidelity bonds as may be required as the Board of Directors may determine to be advisable.
- (F) Any other materials supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments (including taxes or assessments assessed an individual lot owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of these Regulations.
- (G) Perpetual maintenance and enhancement of all areas maintained by the Association including walls, gates, roads, landscaping, lights, irrigation and electric for right- of way and all entry monuments, walls, and signs owned or maintained by the Association.

Powers and Duties of the Board. The Board, for the benefit of the lot owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for in this instrument.

- (A) To execute all declaration of owners for tax assessment purposes and with regard to any common areas on behalf of all lot owners:
- (B) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent lot owners if the Board sees fit.
- (C) To enter into contracts, maintain one or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.
- (D) To protect or defend any common areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.
- (E) Make reasonable rules and regulations for the operation of any common areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument signed by a majority of lot owners.
- (F) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the lot owners in proportionate amounts to cover the deficiency.
- (G) To enforce the provisions of any rules made hereunder and to enjoin and seek damages from any lot owner for violation of such provisions or rules.
- (H) To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.
- (I) To establish a monetary "fines" system which will include due process hearings and a discretionary range of fine amounts, which, when levied shall constitute a permitted Member Charge assessment secured by the lien herein established.
- (J) To establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses.
- (K) To accept title to real and/or personal property for any common area.

The Board shall have the exclusive right to contract for all goods, services, and insurance payment

of which is to be made from the maintenance fund and the exclusive right and obligation to perform the functions of the Board.

The Board, on behalf of the Association, shall have full power and authority to contract with any lot owner or other person or entity for the performance by the Association of Services which the Board is not otherwise required to perform pursuant to the terms hereof,

such contracts to be upon such terms and conditions and for such conditions as the Board may deem proper, advisable, and in the best interest of the Association.

IV. Title to Common Areas

All initial common area within the Subdivision shall be conveyed to the Association free of lien. The Association shall own all common areas in fee simple and assume all maintenance obligations thereon as well as with respect to any common areas which may be hereafter established. Except for the conveyance of the land comprising the streets (until such time as they are administered by Polk County) and the land on which is located the well, nothing contained herein shall create an obligation on the part of Owner to establish any common area.

There shall be no physical partition of the common area or any part thereof. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to these Regulations.

V. Durations and Amendment.

1. Duration. The Regulations set forth herein shall continue and be binding upon lot owners and their heirs and assigns for a period of fifty (50) years ("**Primary Term**") from the date of this instrument, unless terminated or amended. At the expiration of the Primary Term, the Regulations shall automatically be extended for an additional ten (10) year period ("**Extension Term**") and for successive periods of the Extension Term thereafter, unless terminated or amended. After the expiration of the Primary Term, the owners of fifty-one (51%) percent of the lots may execute and acknowledge an agreement in writing terminating or revising the terms of this instrument and file the same in the Real Property Records of Polk County, Texas, or where appropriate, and then and thereafter the Regulations set forth in this instrument shall be null and void or shall be modified as such recorded instrument may direct.

2. Amendment. These Regulations may be amended, but not terminated, at any time by consent of not less than seventy-five (75%) percent of the recorded owners of fee simple title of all lots in the Subdivision, as such record ownership is reflected by the Real Property Records of Polk County, Texas.

VI. Enforcement

1. Parties Bound. These Regulations shall be binding upon lot owners and their heirs and assigns and all subsequent owners of the property in the Subdivision, each of whom shall be obligated and bound to observe the terms of this instrument; provided, however, that no such persons shall be liable except with respect to breaches committed during ownership of said property.

2. Limitation of Impact on Mortgages. The violation of any term or provision of this instrument shall not operate to invalidate any mortgage, deed of trust or other lien acquired and held in good faith against any lot, or any part thereof, but such liens may be enforced as against any and all lots so encumbered.

3. Standing and Remedies. The Association, any lot owner or the holder of lien or mortgage on any lot or lots in the Subdivision shall have the right to enforce observance or performance of the provisions concerning Restrictions or Association. If any person violates or attempts to violate any term or provision concerning Regulations and Restrictions or Association, it shall be lawful for the Association, any lot owner, any party holding a lien or mortgage on any lot in the Subdivision, or the Committee, to prosecute proceedings at law or in equity against such person, in order to

accomplish one or more of the following: to prevent the lot owner, tenants, invitees, or representatives from so doing; to correct such violation; to recover damages; or to obtain such other relief for which violation as then may be legally available.

4. Result of Conflicting Regulations. These Regulations shall not permit any action thing prohibited by the laws, rules or regulations of any governmental authority. In the event of any conflict, the most restrictive provisions of such laws, rules, regulations, or these Regulations shall govern and control.

5. Alternative Dispute Resolution Procedure. The parties agree to mediate in good faith to resolve any dispute under this instrument before filing a suit for damages. Following mediation, all unresolved issues shall be resolved by binding arbitration. Absent an agreement to use other rules, the arbitration will be controlled by the American Arbitration Association's Commercial Arbitration Rules.

VII. General Provisions

1. Choice of Law. This instrument shall be subject to and governed by the laws of the State of Texas. Each party hereby submits to the jurisdiction of the state and federal courts in the State of Texas and to venue in Polk County, Texas.

2. Effect of Waiver or Consent. Failure on the part of a lot owner to complain of any act, failure, or negligence of any other lot owner, regardless of how long such act, failure, or negligence continues, shall not constitute a waiver of the rights hereunder until the applicable statute of limitation period has run out.

3. Legal Constructions. In case any one or more of the provisions contained in this instrument shall for any reason be invalid, illegal or unenforceable in any respect, the other provisions contained in this instrument are not affected. The meaning of the articles shall not turn on the pronouns used nor on the article and section headings.

4. Notices. Any notice or communication required or permitted hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, registered or certified mail, and addressed to the intended recipient at the address shown herein, and if not so shown, then at the last known address according to the records of the party delivering the notice. Notice given in any other manner shall be effective only if and when received by the addressee. Any address for notice may be changed by written notice delivered as provided herein.

5. Recitals. Any recitals in this instrument are represented by the parties hereto to be accurate and constitute a part of the substantive agreement. For development and sale of the subdivision lots