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DECLARATION OF COVENANTS, CONDITIONS,  
 RESTRICTIONS AND EASEMENTS  
*for*  
 THE PINNACLES TOWNHOME ASSOCIATION  
 LOCATED IN KINGWOOD PLACE, SECTION TWENTY-NINE  
 A HARRIS COUNTY SUBDIVISION

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DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
for  
THE PINNACLES TOWNHOME ASSOCIATION  
LOCATED IN KINGWOOD PLACE, SECTION TWENTY-NINE  
A HARRIS COUNTY SUBDIVISION

501-32-3146

THE STATE OF TEXAS    \*  
                                  \*    KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF HARRIS    \*

WHEREAS, FRIENDSWOOD DEVELOPMENT COMPANY and KING RANCH, INC. the previous sole owners of that certain real property now known as Kingwood Place, Section Twenty Nine, a Harris County Subdivision, according to the map or plat thereof recorded on July 29, 1994, under County Clerk's File No. 360081 of the Map Records of Harris County, Texas (the "Property"); and

WHEREAS FRIENDSWOOD DEVELOPMENT COMPANY and KING RANCH, INC. did impose on the Property those certain covenants, conditions, restrictions, liens, and easements contained in those certain instruments respectively entitled "Kingwood Place, Declaration of Covenants, Conditions, and Restrictions" and "Declaration of Covenants, Conditions, and Restrictions, Kingwood Place Village Community Association", respectively filed of record in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Nos. E702128 and N862963 and Film Code Nos. 137-03-0631, et seq., and 109-52-0795, et seq., by and through those certain instruments respectively entitled "Annexation, Kingwood Place, Section Eighteen Into Kingwood Place Community Association, Inc." and "Annexation, A Portion of Kingwood Place, Section Twenty Four Into Kingwood Place Village Community Association", respectively filed under County Clerk's File Nos. K270973 and P360975, and Film Code Nos. 030-66-2208, et seq., and 166-41-3271, et seq. in the Official Public Records of Real Property of Harris County, Texas (the "Prior Restrictions"); and

WHEREAS, THE RYLAND GROUP, INC., a Maryland corporation (the "Declarant"), the current sole owner of all the Property, desires to establish a uniform plan for the further development, improvement, and sale of the Property to ensure the preservation of such uniform plan for the benefit of both the present and future owners of the Property in order to further protect and enhance the quality, value, desirability, and attractiveness of the Property.

NOW, THEREFORE, the Declarant hereby supplements the Prior Restrictions with the additional covenants, conditions, restrictions, easements, charges and liens, as follows:

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**ARTICLE I  
DEFINITIONS**

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

**SECTION 1.1. ARTICLES OF INCORPORATION** - The Articles of Incorporation of the Association.

**SECTION 1.2. ARCHITECTURAL REVIEW COMMITTEE** - The Board of Directors of Kingwood Place Village Community Association, a Texas non-profit corporation, their successors and assigns as provided in that certain instrument entitled "Assignment" filed of record under County Clerk's File No. N862962 and Film Code No. 109-52-0785 in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 1.3. ASSOCIATION - THE PINNACLES TOWNHOME ASSOCIATION**, a Texas non-profit corporation, its successors and/or assigns.

**SECTION 1.4. ASSESSMENT OR ASSESSMENTS** - A Common Assessment, a Special Assessment, or a Reimbursement Assessment.

**SECTION 1.5. BOARD OR BOARD OF DIRECTORS** - The Board of Directors of the Association as elected in accordance with the Articles of Incorporation and the Bylaws.

**SECTION 1.6. BYLAWS** - The Bylaws of the Association, as same may be amended from time to time.

**SECTION 1.7. COMMON AREA** - All real property owned by the Association for the benefit of and for the common use and enjoyment of the Owners, specifically including Reserves "A-K" reflected on the Plat.

**SECTION 1.8. COMMON ASSESSMENT OR COMMON ASSESSMENTS** - The assessments levied pursuant to Article IX hereof for managing, maintaining, operating, repairing, and insuring the Common Area, and the other purposes set out in this Declaration.

**SECTION 1.9. DECLARANT** - Shall mean and refer to THE RYLAND GROUP, INC., its successors and assigns so designated in writing by THE RYLAND GROUP, INC. No person or entity merely providing loans to or purchasing one or more Lots from THE RYLAND GROUP, INC. shall be considered a "Declarant".

**SECTION 1.10. DECLARATION** - The covenants, conditions, restrictions, easements, reservations and stipulations that shall be applicable to and govern the improvement, use, occupancy, and conveyance of all the Lots in the Property set out in this instrument or any amendment thereto.

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**SECTION 1.11. DOCUMENTS** - The Articles of Incorporation, Bylaws, Declaration, Rules and Regulations.

**SECTION 1.12. ELECTION DATE** - The earliest of the following dates: (a) four (4) months after Declarant shall have conveyed seventy-five percent (75%) of the Lots to Owners; (b) three (3) years after the conveyance of the first Lot to an Owner other than Declarant; or (c) Declarant by written notice to the Board notifies the Board of its election to cause the Election Date to occur.

**SECTION 1.13. ELIGIBLE MORTGAGEE** - Mortgagees who have submitted a written request to the Association that the Association notify them of any proposed action requiring the consent of a specified percentage of Eligible Mortgagees.

**SECTION 1.14. LOT OR LOTS** - Any one or more of the sixty-three (63) Lots reflected on the plat.

**SECTION 1.15. MAINTENANCE FUND** - Any accumulation of the Assessments collected by the Association in accordance with the provisions of this Declaration and interest, penalties, assessments, fines, and other sums and revenues collected by the Association pursuant to the provisions of this Declaration, the Bylaws, or Rules and Regulations.

**SECTION 1.16. MEMBER OR MEMBERS** - All Owners of Lots who are Members of the Association as provided in Section 3.3 of this Declaration.

**SECTION 1.17. MORTGAGE** - A security interest, mortgage, deed of trust, or lien instrument voluntarily granted by an Owner of a Lot to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Harris County, Texas, and creating a lien or security interest encumbering a Lot and some or all improvements thereon.

**SECTION 1.18. MORTGAGEE** - A Mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the insurer, guarantor or assignees of any such Mortgagee or beneficiary.

**SECTION 1.19. NOTICE AND HEARING** - A written notice and a public hearing before the Board of Directors or a tribunal appointed by the Board in the manner provided in this Declaration, the Bylaws, or the Rules and Regulations.

**SECTION 1.20. OWNER** - Any Person, firm, corporation or other entity, including Declarant or any combination thereof that is the record owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as a security for the performance of an obligation.

**SECTION 1.21. PERSON** - A natural person, a corporation, a partnership, or any



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other legal entity.

**SECTION 1.22. PLAT** - The plat of Kingwood Place, Section Twenty-Nine, filed of record on July 29, 1994, under County Clerk's File No. 360081, of the Map Records of Harris County, Texas, which is incorporated herein by reference.

**SECTION 1.23. PRIOR RESTRICTIONS** - Those certain covenants, conditions, restrictions, liens, and easements imposed on the Property, contained in those certain instruments and any amendments thereto, respectively entitled "Kingwood Place, Declaration of Covenants, Conditions, and Restrictions" and "Declaration of Covenants, Conditions, and Restrictions, Kingwood Place Village Community Association", respectively filed of record in the Official Public Records of Real Property of Harris County, Texas, under County Clerk's File Nos. E702128 and N862963 and Film Code Nos. 137-03-0631, et seq., and 109-52-0795, et seq., by and through those certain instruments respectively entitled "Annexation, Kingwood Place, Section Eighteen Into Kingwood Place Community Association, Inc." and "Annexation, A Portion of Kingwood Place, Section Twenty Four Into Kingwood Place Village Community Association", respectively filed under County Clerk's File Nos. K270973 and P360975, and Film Code Nos. 030-66-2208, et seq., and 166-41-3271, et seq. in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 1.24. PROPERTY** - All that certain real property described in the Plat.

**SECTION 1.25. REAR YARD** - That portion of the Lot located behind the rear wall of the Unit.

**SECTION 1.26. REIMBURSEMENT ASSESSMENT** - A charge against a particular Owner and Lot for the purpose of reimbursing the Association for expenditures and other costs of the Association incurred in curing any violation, directly attributable to the Owner, for a violation of the Documents, pursuant to Section 9.7 hereof.

**SECTION 1.27. RESERVE FUND** - That fund created pursuant to Section 11.10 for the maintenance, repair, and replacement of: (i) Common Area; and, (ii) those portions of the Lots and Units that are the responsibility of the Association to maintain.

**SECTION 1.28. RULES AND REGULATIONS** - Such rules and regulations as the Board may promulgate from time to time with respect to the Property, which may include reasonable provisions for fines for violation of such Rules and Regulations.

**SECTION 1.29. SPECIAL ASSESSMENT** - A charge against each Owner and Lot representing a portion of the cost to the Association for the purpose of funding major capital repairs, maintenance, and replacement of improvements, imposed pursuant to Section 9.4 hereof.

**SECTION 1.30. UNIT** - A residential unit designed for, limited and restricted to, occupancy by a single family on a Lot.

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**SECTION 1.31. WORKING CAPITAL FUND** - That fund created pursuant to Section 11.09 to meet unforeseen expenditures or to purchase any additional equipment or services for the Property.

**ARTICLE II  
ESTABLISHMENT OF GENERAL PLAN**

**Section 2.1. GENERAL PLAN AND DECLARATION** - This Declaration hereby is established pursuant to and in furtherance of a common and general plan for the improvement and sale of Lots within the Property and for the purpose of further enhancing and protecting the value, desirability, and attractiveness of the Property. Declarant, for itself, its successors, and assigns, hereby declares that the Property and each part thereof shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, easements, exceptions, equitable servitudes, and other provisions set forth in the Prior Restrictions and in this Declaration, for the duration thereof. To the extent legally possible, the terms of the Prior Restrictions shall be read to harmonize with this Declaration and all Owners must comply with the Prior Restrictions and this Declaration. Unless otherwise specified herein, the terms of the Documents shall apply equally to all Owners, including Declarant.

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

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

**ARTICLE III  
MANAGEMENT AND OPERATION OF THE PROPERTY**

**SECTION 3.1. MANAGEMENT BY ASSOCIATION** - The affairs of the Property shall be administered by the Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Property as provided for in the Documents. In the event of a conflict between the Articles of Incorporation, Bylaws and Rules and Regulations and the provisions of the Declaration, the provisions of the Declaration shall control.

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In the event of any conflict between the Articles of Incorporation, Bylaws, and Rules and Regulations, the Articles of Incorporation shall control. In the event of any conflict between the Bylaws and the Rules and Regulations, the Bylaws shall control. The business and affairs of the Association shall be managed by the Board of Directors, unless any particular item is otherwise reserved to the Members of the Association by law or the terms of the Documents. It shall be the responsibility of each Owner or occupant of a Unit to obtain copies of and become familiar with the terms of the Documents.

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

**SECTION 3.2. BOARD OF DIRECTORS** - The number, term, and qualifications of the members of the Board of Directors shall be governed by the Articles of Incorporation and the Bylaws.

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

**SECTION 3.4. TRANSFER FEE** - Prior to changing the name of the Owner of any Lot on the membership rolls of the Association or the name of the Mortgagee of the Owner, the Association or its managing agent (if authorized by the Board of Directors) may charge a transfer fee or processing fee when ownership to any Lot changes or the Mortgage on the Lot is refinanced.

**SECTION 3.5. VOTING OF MEMBERS** - The Association shall have two classes of membership.

**Class A.** Class A Members shall be all those Owners as defined in Section 3.3, with the exception of Declarant. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership in Section 3.3. When more than one person holds interest in any Lot, all such persons shall be members. The vote for such Lot

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shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to five (5) votes for each Lot in which it holds the interest required for membership by Section 3.3; provided, however, that the Class B membership shall cease and be converted to Class A membership on the Election Date.

**SECTION 3.6. POWER TO ADOPT RULES AND REGULATIONS** - The Association, through its Board of Directors, may adopt, amend, repeal, and enforce Rules and Regulations, fines, levies, and enforcement provisions as it deems necessary or desirable with respect to the interpretation and implementation of: the Declaration, Articles of Incorporation, and Bylaws; the operation of the Association; the use and enjoyment of the Common Areas; and, the use of any other property within the Property, including Lots. Any such Rules and Regulations shall be reasonable and uniformly applied to all Members and their family, tenants, and guests. Such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment, or repeal of any Rule and Regulation shall be given by depositing in the mail to each Member a copy of such Rule or Regulation. Such Rules and Regulations may also be filed of record. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration.

**SECTION 3.7. POWER TO ENFORCE DOCUMENTS** - The Association shall have the power to enforce the provisions of the Documents and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and each Member's family, guests, or tenants. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Documents by any one or more of the following means: (a) by entry upon any Lot after Notice and Hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice [written or oral] to the Owner, but in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use, or enjoyment of the improvements situated thereon by the Owner or any other Person), without liability by the Association to the Owner thereof or any other person, for the purpose of enforcement of the Documents or Rules and Regulations, as more particularly described in Section 13.6 hereof; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of the Documents, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of the Documents; (d) by exclusion, after Notice and Hearing, of any Member or Member's family, guests, or tenants from use of the Common Area during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations relating to the Common Area by such Member or Member's family, guests, or tenants, unless the breach is a continuing breach in which case, such exclusion shall continue for so long as such breach continues; (e) by suspension, after Notice and Hearing, of

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the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or Members's family, guests, or tenants, of the Documents, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (f) by levying and collecting, after Notice and Hearing, a Reimbursement Assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants; and (g) by levying and collecting, after Notice and Hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Member's family, guests, or tenants, for breach of this Declaration or such Rules and Regulations by such Member or Member's family, guests, or tenants.

**SECTION 3.8. BOARD ACTIONS IN GOOD FAITH** - Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its members or any other party.

**SECTION 3.9. PROPERTY RIGHTS OF OWNERS** -

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

1. The right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to regulate the time and circumstances by which Owners may use the facilities;
2. The right of the Association to limit the number of guests of Members and to make provisions for use by fee-paying third parties who are not Members;
3. The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, located in the Common Area, by an Owner as provided in Section 3.7;
4. The right of the Association to grant or dedicate easements in, on, under, or above the Common Area or any part of the Common Area to any public or governmental agency or authority or to any utility company for any service to the Property or any part of the Property;
5. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for the purposes and subject to conditions that may be agreed to by the Board. No dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members, agreeing to dedication of

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transfer, has been recorded except that easements for utility purposes may be approved solely by the Board of Directors.

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

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

**SECTION 3.10. MANAGEMENT AGREEMENTS** - Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association: (i) shall provide the management agreement may be cancelled, with or without cause, with thirty (30) days written notice; and, (ii) shall not provide for any penalty due to cancellation or termination. In no event shall such management agreement be cancelled prior to the negotiation by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the termination date of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be for a term not to exceed one year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type.

**SECTION 3.11. CONDEMNATION** - If all or any part of the Property is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association and each Owner shall be entitled to participate in the condemnation proceedings at their own expense. The Association shall give timely written notice of the existence of these proceedings to all Owners and to all holders of first Mortgages known to the Association by notice to the Association to have an interest in any property subject to assessment. The expense of participation in such proceedings by the Association shall be borne by the Association. The Association is authorized to obtain and pay for assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons that the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to these proceedings.

All damages or awards for any taking shall be deposited with the Association, and damages or awards shall be applied as provided in this Declaration. If an action in eminent domain is brought against a portion of the Common Area, the Association, as attorneys-in-fact for all Owners, in addition to its general powers, shall have the sole authority to determine whether to defend or resist any such proceeding; to make any settlement of such proceedings; or to convey such portion of the Property to the condemning authority in lieu of the proceeding.

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With respect to any taking, all damages and awards shall be determined for the taking as a whole and not for each Owner's interest in the portion sought to be condemned. After the damages or awards for the taking are determined, the damages or awards shall be paid to the Association, which may use the funds in the manner determined by the Board. Alternatively, the Board, if it deems advisable, is authorized to call a meeting of the Members, at which meeting the Members, by a majority vote, shall decide whether to replace or restore, as far as possible, the Common Area so taken or damaged. If it is determined that the Common Area should be replaced or restored by obtaining other land, this Declaration shall be duly amended by instrument executed by the Association on behalf of the Owners.

**ARTICLE IV**  
**INSURANCE REQUIREMENTS**

**SECTION 4.1. OWNER RESPONSIBILITY** - Each Owner shall be required to purchase insurance affording protection against loss or damage from fire or other hazards covered by the standard extended coverage endorsement, from a reputable insurance company licensed to do business in the State of Texas in an amount equal to the replacement cost of the improvements on the Lot. Such insurance must be in a form approved annually by the Board of Directors, to its complete satisfaction, and must name the Association as an additional insured. Should an Owner fail to provide adequate proof of insurance coverage as herein provided, the Association shall have the authority to purchase such coverage, and such assessment shall become the personal obligation of said Owner and secured by the lien established in Section 9.1. At its option, the Board may purchase the multi-peril insurance discussed above on behalf of all owners of Lots and pay the premiums out of the Maintenance Fund. In the event of damage or destruction of any improvement on the Lot, the Owner thereof shall repair or rebuild such improvements on the Lot, in as good a condition as formerly; provided, however, prior to commencing any repairs or rebuilding such proposed improvements must be approved by the Declarant or Architectural Review Committee pursuant to Article V. In the event said Owner fails or refuses to repair or rebuild such improvements on the Lot, in as good a condition as formerly, the Association is hereby authorized to undertake to rebuild or repair the improvements to the Lot and assess said Owner for the cost of such repair or replacement; such assessment shall become the personal obligation of said Owner and shall be secured by the lien in Section 9.1. Each Owner whose unit has been damaged or destroyed shall protect other Units from damage until the Unit has been completely repaired or rebuilt. Liability and personal property insurance for each Lot and the contents of Units shall also be the responsibility of and the expense of each individual Owner.

**SECTION 4.2. INSURANCE PROCURED BY ASSOCIATION** - The Association shall maintain insurance coverages consistent with the then current specific requirements of the Federal National Mortgage Association, for a development of the size and type of the Property. The Association, through the Board of Directors, shall also have the authority but not the obligation (unless otherwise required by Federal National Mortgage Association), to obtain the following types of insurance policies covering the Common Area, and covering all damage or injury caused by the negligence of the Association or any of its agents;

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- (a) property insurance in an amount equal to the full replacement value of real or personal property, if any, owned by the Association;
- (b) a comprehensive policy of public liability insurance;
- (c) a policy of fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle, or are responsible for handling funds of the Association;
- (d) directors and officers liability insurance; and
- (e) any such other insurance the Board deems necessary to protect the Property or the Association.

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Premiums for all such insurance purchased pursuant to this Section 4.2 shall be a common expense payable from the Maintenance Fund.

**SECTION 4.3. ADMINISTRATION OF INSURANCE PROCEEDS** - In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as formerly. Each Owner irrevocably designates the Association, as Attorney-in-Fact, to administer and distribute the proceeds from insurance coverage or insurance proceeds as is provided for in this Declaration, except for Owners individual liability and personal property insurance. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) members of the Board of Directors, or by an agent duly authorized by the Board of Directors. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a Special Assessment against all Members, as herein provided, to make up any deficiency.

**SECTION 4.4. WAIVER OF SUBROGATION** - Any insurance obtained by the Association or an Owner shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Owners, Association or their respective servants, agents or guests.

#### **ARTICLE V ARCHITECTURAL CONTROL**

**SECTION 5.1. ARCHITECTURAL CONTROL** - No building, fence, wall, structure, or other improvement shall be commenced, constructed, erected, or maintained upon the Property, nor shall any exterior addition to or change or alteration to any improvement or



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its color (including, without limitation, landscaping outside of patios, site layout, building location, grading plans, materials, patio covers and trellises and utility layout) be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the proposal shall have been submitted to and approved in writing by the Architectural Review Committee as to harmony of external design and location in relation to surrounding structures and topography. If no action has been taken on a request to approve plans and specifications within forty-five (45) days after the receipt by the Architectural Review Committee of a request for approval, then the plans and specifications shall be deemed to be approved, and the related restrictions of this Declaration shall be deemed to have been fully satisfied.

All plans and specifications shall be submitted in writing, including the signature of the Owner of the Lot or the Owner's authorized agent. Declarant, the Association and the Architectural Review Committee shall have the right to require any Owner to remove or alter any building, fence, wall, structure, or other improvement, which has not received approval or is built other than in accordance with the approved plans. The requirements of this Article are in addition to any approvals or permits required by any governmental entity. Approval of plans as complying with any Rules and Regulations adopted and promulgated from time to time for the Property by the Architectural Review Committee, shall be only for the purposes described in this Declaration and shall not serve as approval for any other purpose.

**SECTION 5.2. NO LIABILITY** - Neither Declarant, the Association, its Board of Directors or the Architectural Review Committee or its members shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any Owner of a Lot encumbered by this Declaration by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the Architectural Control Review for approval agrees that no action or suit for damages will be brought against Declarant, the Association, its Board of Directors, or the Architectural Review Committee, or any of its members for decisions made pursuant to this Declaration or Rules and Regulations.

**SECTION 5.3. NOTICE OF NONCOMPLIANCE OR NONCOMPLETION** - Notwithstanding any other provision of this Declaration, after the expiration of one year from the date of issuance of a building permit by municipal or other governmental authority for any improvement, the improvement shall, in favor of purchasers and encumbrances in good faith and for value, be deemed to be in compliance with all provisions of this Article V unless actual notice of noncompliance or noncompletion, executed by the Architectural Review Committee, or its designated representative, shall appear of record in the Official Public Records of Real Property of Harris County, Texas, or unless legal proceedings shall have been instituted to enforce compliance or completion.

**SECTION 5.4. RULES AND REGULATIONS** - The Architectural Review Committee may from time to time adopt, amend, and repeal Rules and Regulations interpreting

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and implementing the provisions of this Article V.

**SECTION 5.5. VARIANCES** - Where circumstances, such as topography, location of property lines, location of trees, or other matters require, the Architectural Review Committee, by the vote or written consent of a majority of its members, may allow reasonable variances as to any of the covenants, conditions or restrictions contained in this Declaration under the jurisdiction of such committee, pursuant to this Article V, on any terms and conditions as it shall require; provided, however, that no variance shall adversely affect the general plan for the improvement and development of the Property.

**ARTICLE VI**  
**EXTERIOR MAINTENANCE**

**SECTION 6.1. OWNER MAINTENANCE** - Owners shall maintain and keep in good repair the interior of their Units as well as: all the Rear Yard (including the fencing surrounding the Rear Yard and the landscaping inside the Rear Yard, but excluding those areas of Association maintenance as provided for in Section 6.2); interiors of chimneys, if any; any other fencing located on the Lot (excluding the perimeter fence built around the Property as provided in Section 6.2); all glass surfaces and doors, including all fixtures, framing, and related hardware; air conditioning equipment; utility company meters; circuit breakers and switch panels; sanitary sewer; gas and electric power service lines. Such interior maintenance to be performed by Owners of Units shall also include the structural supports for roofs and walls, as well as the foundations of Units. All fixtures and equipment installed on the Lot for the exclusive use of the Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Lot, shall also be maintained and kept in repair by the Owner thereof. Replacement of light bulbs in light fixtures under the exclusive control of an Owner, shall also be the responsibility of the Owner.

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

**SECTION 6.2. ASSOCIATION MAINTENANCE** - In addition to maintenance upon the Common Area, the Association shall maintain the fence built around the perimeter of the Property (even if the perimeter fence is located partially or totally on a Lot) and shall provide exterior maintenance upon each Unit, as follows: paint; repair; replacement (but not in the event of fire or other casualty loss normally covered by insurance on the premises) of exterior surfaces including care of roofs (shingles and decking only); gutters; and downspouts. Such exterior maintenance provided by the Association shall not, however, include any of those items defined as Owner maintenance in Section 6.1. The Association shall not be responsible for any alterations made to the Unit or Lot by the Owner. The Association shall also be responsible for

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installing and maintaining all landscaping on the Lot located outside the Rear Yard and any sprinkler systems installed by Declarant or the Association outside the Rear Yard. The Association is granted an easement over, across and under all areas on the Lot for the purpose of maintaining the grounds and other site improvements.

In the event that the need for maintenance or repair of a Lot, Unit, Common Area, or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitee of the owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the Assessments to which such Lot is subject.

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**ARTICLE VII**  
**PARTY WALLS**

**SECTION 7.1. GENERAL RULES OF LAW TO APPLY** - Each wall which is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**SECTION 7.2. SHARING OF REPAIR AND MAINTENANCE** - The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**SECTION 7.3. DESTRUCTION BY FIRE OR OTHER CASUALTY** - If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission. In the event of a casualty and a party wall(s) is damaged and the Owners thereof are unable to agree to the terms of repair of such party wall(s) within thirty (30) days following such casualty then the Association shall have the right to negotiate the repair thereof with the Insurance Company and Contractors and all Owners shall be bound by the settlement made by the Association.

**SECTION 7.4. WATERPROOFING** - Notwithstanding any other provision of this Article, an Owner who by his 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.

**SECTION 7.5. RIGHT TO CONTRIBUTION RUNS WITH LAND** - The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**SECTION 7.6. ARBITRATION** - In the event of any dispute arising concerning a

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party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.

**ARTICLE VIII  
USE RESTRICTIONS**

**SECTION 8.1. GENERAL** - No Owner shall use the Common Area, or use or permit such Owner's Lot or Unit to be used for any purpose that would (a) void any insurance in force with respect to the Property; (b) make it impossible to obtain any insurance required by this Declaration; (c) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (d) constitute a violation of the Documents or any applicable law, or (e) unreasonably interfere with the use and occupancy of the Property by other Owners.

**SECTION 8.2. SINGLE FAMILY RESIDENTIAL USE** - Each Owner shall use his Lot and the Unit on his Lot, if any, for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, by way of illustration but without limitation, the use of any Lot for any business, educational, church, professional or other commercial activity of any type, except that an Owner may use his residence as a personal office for a profession or occupation, provided: (a) the public is not invited, permitted, or allowed to enter the Unit or any structure or improvement upon such Lot and conduct business therein; (b) no signs advertising such profession or business are permitted; (c) no on-site employees are permitted; (d) no offensive activity or condition, noise and/or odor are permitted; and (e) such use in all respects complies with the Prior Restrictions and the laws of the State of Texas, the ordinances of the City of Houston, and the laws, rules, and regulations of any regulatory body or governmental agency having authority and jurisdiction over such matters. The term "single family residential purposes" shall also be defined as: (a) one or more persons related by blood, marriage, or adoption, which may include only parents, their children (including foster children and wards), their dependent brothers and sisters, their dependent parents, their dependent grandparents, and their domestic servants; (b) no more than three (3) unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent brothers or sisters, their dependent parents, their dependent grandparents, and their domestic servants; and (c) in no event, shall any single family residence be occupied by more persons than the product of the total number of bedrooms contained in the single family residence as originally constructed multiplied by two and one-half (2 1/2).

**SECTION 8.3. CARE-GIVING FACILITIES** - No Lot shall be used for the operation of a boarding or rooming house, a residence for transients, a group home, family home, community home, half-way house, personal care facility, custodial care facility, day-care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, day or night care of children or

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adults, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental disabilities or illness, or other similar matters, unless any such facility is otherwise allowed by the terms of any law specifically negating the provisions of restrictive covenants prohibiting same. Provided, however, informal baby-sitting arrangements for one (1) to three (3) children on an occasional or non-scheduled basis and baby-sitting or care-giving performed by residents of the Lot for those related to the resident by blood, marriage, or adoption are excepted herefrom.

**SECTION 8.4. ANIMALS** - No animals of any kind shall be raised, bred, or kept on a Lot, except as hereinafter provided. A total of two (2) dogs, cats, or other household pets may be kept on a Lot (except for fish of a type customarily kept within normal home aquariums, with respect to which there shall be no limitation on amount) provided that: (a) they are not kept, bred, or maintained for commercial purposes; (b) they do not make objectionable noises, create any objectionable odor, or otherwise constitute an unreasonable nuisance to other Owners; (c) they are kept within the Unit, an enclosed patio on the Lot occupied by the Owner of such pets, or on a leash being held by a Person capable of controlling the animal; and (d) they are not in violation of any other provision of this Declaration and such other limitations as may be set forth in the Rules and Regulations. The Association, acting through the Board, shall have the right to prohibit maintenance of any animal that, in the sole opinion of the Board, is not being maintained in accordance with the foregoing restrictions. Each Owner, tenant or guest of an Owner shall have the absolute duty and responsibility to clean up after such animals to the extent they have used any portion of the Lot of another Owner or any Common Area.

**SECTION 8.5. SIGNS, ADVERTISEMENTS, BILLBOARDS** - No sign, advertisement, billboard or advertising structure of any kind shall be displayed to the public view on any portion of the Property except one sign for each Lot may be permitted, provided it is approved by the Architectural Review Committee. Such sign may have one maximum dimension of twenty-four inches (24") and a maximum area of 576 square inches for the purpose of advertising the Unit located on the Lot for sale or rent.

**SECTION 8.6. ANTENNAE** - Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort (including satellite dish antennae) shall be placed, allowed or maintained upon any portion of the improvements on a Lot nor upon any Lot in the Property other than an aerial for a master antenna system operated by or through the Association, should any such master system or systems be utilized and require any such exterior antenna.

**SECTION 8.7. VISIBLE STORAGE** - All clotheslines, equipment, service yards, or storage piles shall be kept within the patio areas or other screened areas so as to conceal them from view of neighboring Lots and streets.

**SECTION 8.8. RESTRICTIONS ON GARBAGE AND TRASH** - No refuse, garbage, trash, or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot

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except within an enclosed container. All rubbish, trash, and garbage shall be kept in containers and within areas designated by the Association for collection purposes.

**SECTION 8.9. NO NOXIOUS OR OFFENSIVE ACTIVITY** - No noxious or offensive activity shall be carried on upon any Lot within the Property nor shall anything be done or placed thereon that is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to others.

**SECTION 8.10. NO HAZARDOUS ACTIVITIES** - No activity shall be conducted on any Lot that is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property (except as allowed by law for the protection of persons or property) and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit (located a safe distance from the Unit while attended and in use for cooking purposes) or within an interior fireplace, which is a part of the original construction or has been approved for installation by the Architectural Review Committee.

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**SECTION 8.11. LEASING** - Lots may only be leased for single family residential purposes as defined in Section 8.2. No Owner shall be permitted to lease his Lot for hotel or transient purposes, which for purposes of this Section 8.11 is defined as a period of less than seven (7) days. No Owner shall be permitted to lease less than the entire Lot. Every such lease shall be in writing. Every such lease shall provide that the tenant shall be bound by and subject to all of the obligations of the Owner in the Documents. The Owner making such lease shall not be relieved from any of such obligations. Copies of all leases entered into by Owners for occupancy of a Unit shall be deposited with the managing agent of the Association prior to the tenant taking occupancy of the Unit.

**SECTION 8.12. WINDOW TREATMENT** - No window in any Unit or other improvement that is visible from any other Lot or street may be covered with paper, cardboard, newspaper, boards, aluminum foil, or any other reflective material. Portions of window treatments facing streets must be shades of white or beige, unless otherwise approved by the Board.

**SECTION 8.13. PARKING** - On-street parking is restricted to approved deliveries, pick-ups, and short term guests. Lots shall not, without express written permission of the Association, be used for storage of boats, trailers, campers, unused or inoperable automobiles or any other items which the Association deems unsightly or inappropriate. Parking on streets in, along, adjacent to the Property and on Lots, shall be subject to further restrictions in the Rules and Regulations.

**SECTION 8.14. FENCES** - Rear Yards must at all times be completely enclosed by a fence, which has been approved in writing by the Declarant or the Architectural Review Committee pursuant to Article V.

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**SECTION 8.15. DECLARANT EXEMPTIONS** - For so long as Declarant owns a Lot, notwithstanding any provisions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant to maintain upon the Property such facilities (as in the sole opinion of the Declarant) may be reasonably required, convenient or incidental to the sale of any Lot, including, but without limitation, a business office, storage area, construction yards, model units, sales offices and advertising signs of any size.

**ARTICLE IX  
COVENANTS FOR ASSESSMENTS**

**SECTION 9.1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS** - Except for the Declarant as provided in Section 9.6, the Owner of each Lot within the Property, hereby covenants and agrees by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, to pay to the Association:

- (a) Common Assessments;
- (b) Special Assessments; and
- (c) Reimbursement Assessments.

The Assessments together with interest, costs and reasonable attorney's fees, shall also be a charge on the land and shall be a continuing lien upon the Lot against which the Assessments are made. The Assessments, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the Assessments fell due. The term "costs" as used in this Section 9.1 shall include all costs incurred by the Association in the collection of any Assessments, which shall include the right of the Association to charge a fee for returned checks of Owners. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by them.

**SECTION 9.2. COMMENCEMENT OF COMMON ASSESSMENTS** - Common Assessments shall be assessed in accordance with the provisions hereinafter set forth, and shall commence to accrue against each Lot on the first day of the first calendar month following the date of conveyance of that Lot to an Owner by Declarant. NEITHER THE ASSOCIATION, THE BOARD, THE DECLARANT, MANAGING AGENT, NOR THEIR OFFICERS, DIRECTORS, OR EMPLOYEES SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY AND SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR ALLEGED FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

**SECTION 9.3. BUDGETS; ESTABLISHMENT OF COMMON ASSESSMENT AND REPLACEMENT RESERVE FUND** - At least thirty (30) days in advance of each

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fiscal year, the Board shall have the right and obligation to establish the annual budget and Common Assessments for each fiscal year projecting all expenses for the forthcoming fiscal year, which may be required for the proper operation, management, and maintenance of the Property. Such budget and all successive budgets shall contain a reasonable allowance for contingencies and shall establish a Reserve Fund for maintenance, repairs, and replacements to those areas of maintenance, which are the responsibility of the Association pursuant to Section 6.2. Copies of each such budget and notice of the Common Assessments shall be delivered to each Owner by such reasonable means as the Board may provide.

The failure or delay of the Board to prepare any annual budget or to deliver copies of such budgets to each Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay Common Assessments whenever the same shall be determined and in the event of any delay or failure to establish any annual budget, each Owner shall continue to pay the Common Assessment monthly or otherwise as the Association may prescribe (as hereinafter provided), at the rate established for the previous fiscal year until a new fiscal budget is established (with the Common Assessments established by the new annual budget to be applied retroactively to the first day of the current fiscal year and appropriate adjustments made in succeeding installments of Common Assessments for such fiscal year).

**SECTION 9.4. SPECIAL ASSESSMENTS** - If the Board at any time or from time to time determines that the Common Assessments assessed for any period are insufficient to provide for the continued operation of the Property and the maintenance of the Common Area or for other expenditures the Board is authorized to make under this Declaration, then the Board shall have the authority to levy such Special Assessments, as it shall deem necessary to provide for such continued maintenance, operation, and other expenditures. Without limiting the generality of the foregoing, such Special Assessments may be assessed because of: casualty or other loss to any part of the Common Area or area which is the responsibility of the Association to maintain pursuant to Section 6.2; improvement of the Common Area; or to make up for any deficiencies caused by nonpayment of Assessments by Owners. Any such Special Assessment shall be payable (and the payment thereof may be enforced) in the manner herein specified for the payment and enforcement of the Common Assessments.

**SECTION 9.5. PAYMENT OF COMMON ASSESSMENTS; ENFORCEMENT** - Common Assessments assessed against each Lot shall be due and payable, in advance, in installments as the Board may prescribe from time to time, monthly, quarterly, or annually, for or during the fiscal year for which the Common Assessments in question have been assessed. Any such amount not paid and received by the fifteenth (15th) day following the due date shall be deemed delinquent and, without notice, shall accrue a late charge of \$25.00 or such greater amount as may be imposed by the Board from time to time for additional collection costs. Such delinquent payment shall also, at the Board's option, bear interest at the maximum rate of interest permitted by law from the date originally due until paid. If any such amount shall remain unpaid on the last day of the month in which such payment is due, then, at the Board's election, the Common Assessments due from the delinquent Owner for the next period shall be accelerated, shall become at once due and payable, and from the last day of the month in which

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such payment is due shall bear interest at the maximum rate permitted by law. For purposes of the preceding sentence, if the actual Common Assessment for the next period is not then known, it shall be deemed that the Common Assessment for the next period shall be the Common Assessment for the period then applicable. If, after the Common Assessment for the next period has been accelerated by the Board, satisfactory payments of the Common Assessments and accrued interest are paid, then the Board may allow such charge to again be paid on the regular basis applicable to each Lot.

**SECTION 9.6. UNIFORM RATE OF ASSESSMENT** - Both Common and Special Assessments must be fixed at a uniform rate for all Lots; provided, however, until the Election Date, Lots which are owned by the Declarant and are unoccupied shall not be assessed. Until the Election Date, in lieu of the payment of Common and Special Assessments, Declarant shall make a monthly payment to the Association equal to (i) costs of all operating expenses for which the Association is liable, less the Common and Special Assessments levied against Owners, plus (ii) a pro rata contribution to the Reserve Fund for each Lot owned by Declarant equal to other Owners' budgeted per Lot contribution towards the Reserve Fund.

**SECTION 9.7. REIMBURSEMENT ASSESSMENTS** - After Notice and Hearing, the Board of Directors, subject to the provisions hereof, may levy a Reimbursement Assessment against any Member if the failure of the Member or the Member's family, guests, or tenants to comply with the Documents shall have resulted in the expenditure of funds or the determination that funds will be expended by the Association to cause such compliance. The amount of the Reimbursement Assessment shall be due and payable to the Association fifteen (15) days after notice to the Member of the decision of the Board of Directors that the Reimbursement Assessment is owing.

**SECTION 9.8. ESTOPPEL CERTIFICATES** - The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**SECTION 9.9. ATTRIBUTION OF PAYMENTS** - If any Owner's payment of an Assessment payment is less than the amount assessed the payment received by the Association from the Owner shall be credited in the following order of priority: (a) Reimbursement Assessment until the Reimbursement Assessment has been satisfied; (b) Special Assessment until the Special Assessment has been satisfied; and (c) Common Assessment until the Common Assessment has been satisfied. In each of the foregoing cases, payments received shall be credited first to interest, attorney's fees, and other costs of collection; and next to principal reduction, satisfying the oldest obligations first, followed by more current obligations, in accordance with the foregoing order of priority.

**SECTION 9.10. EFFECT OF NONPAYMENT OF ASSESSMENTS** - The Association may bring an action at law against the Owner personally obligated to pay same of

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foreclose the Association's lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association either judicially or non-judicially by power of sale, and each Owner expressly grants to the Association a power of sale in connection with the non-judicial foreclosure of the Association's lien. Non-judicial foreclosure shall be conducted by notice and posting of sale in accordance with the then applicable laws of the State of Texas; and the Board of Directors of the Association is expressly empowered hereby to designate a trustee in writing from time to time to post or cause to be posted any required notices and to conduct any such non-judicial foreclosure sale. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same. The Association, by action of the Board, shall also have the right to suspend voting rights of any Member of the Association during any period of time when such Member shall have failed to pay an Assessment then due and payable.

**SECTION 9.11. NO OFFSETS** - The Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under the Documents or claim by the Owner of non-use of the Common Area, abandonment of his Lot or claim by the Owner of inconvenience or discomfort arising from the making of repairs or improvements to the Lot or from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

**SECTION 9.12. SUBORDINATION OF THE LIEN TO MORTGAGES AND PRIOR RESTRICTIONS** - The lien of the Assessments provided for herein shall be subordinate to the liens of any Mortgagee and the liens established in the Prior Restrictions. Sale or transfer of any Lot shall not affect the lien of the Assessments; however, the sale or transfer of any Lot pursuant to mortgage foreclosure or foreclosure of the lien in the Prior Restrictions or any proceeding in lieu thereof, shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for the Assessments thereafter becoming due or from the lien thereof.

#### **ARTICLE X UTILITIES AND EASEMENTS**

**SECTION 10.1. UTILITY EASEMENTS** - The rights and duties of the Owners of Lots within the Property with respect to sanitary sewer and water, electricity, gas and telephone, security system and cable television lines and drainage facilities shall be governed by the following:

- (a) Wherever sanitary sewer house connections and/or water house 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 land owned by the

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Association or persons other than the Owner of a Lot served by these connections, lines or facilities, the Owners of Lots served shall have the right, and are granted an easement to the full extent necessary, to enter upon the Lots and/or on land owned by the Association within the Property in or upon which the connections, lines, or facilities, or any portion of them, lie to repair, replace, and generally maintain the connections as and when repair, replacement, and maintenance may be necessary.

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

**SECTION 10.2. SURFACE AREAS OF UTILITY EASEMENTS** - An underground electric distribution system will be installed in that part of the Subdivision designated herein as Underground Residential Subdivision, which underground service area embraces all of the Lots which are platted in the Subdivision at the execution of the agreement between the electric company and Declarant or thereafter. This electrical distribution system shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available. In the event that there are constructed within the Underground Residential Subdivision structures containing multiple dwelling units such as townhouses, duplexes, or apartments, then the underground service area embraces all of the dwelling units involved. The Owner of each Lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure, the Owner/Declarant shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the plat of the Subdivision or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance, and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair and maintenance of each homeowner's owned and installed service wires. In addition, the owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure the Owner/Declarant shall at his or its own cost, furnish, install, own and maintain a

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meter loop (in accordance with the then current Standards and Specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each Unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Declarant (except certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Underground Residential Subdivision is being developed for residential dwelling units, including homes, and if permitted by the restrictions applicable to the subdivision, townhouses, duplexes, and apartment structures, all of which are designed to be permanently located where originally constructed (such category of dwelling units expressly to exclude mobile homes) which are built for sale or rent and all of which multiple dwelling unit structures are wired so as to provide for separate metering to each dwelling unit. Should the plans of the Declarant or the Owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, electric company shall not be obligated to provide electric service to any such mobile homes unless (a) Declarant has paid to the electric company an amount representing the excess in cost, for the entire Underground Residential Subdivision of the underground distribution system over the cost of equivalent overhead facilities to serve such Subdivision, or (b) the Owner of each affected Lot, or the applicant for service to any mobile home, shall pay to the electric company the sum of (1) \$1.75 per front lot foot, it having been agreed that such amount reasonably represents the excess in cost of the underground distribution system to serve such Lot or Unit over the cost of equivalent overhead facilities to serve such Lot or Unit, plus (2) the cost of rearranging and adding any electric facilities serving such Lot, which arrangement and/or addition is determined by the electric company to be necessary.

The provisions of the two preceding paragraphs also apply to any future residential development in Reserve(s) shown on the Plat of the Subdivision, as such Plat exists at the execution of the agreement for underground electric service between the electric company and Declarant or thereafter. Specifically, but not by way of limitation, if a Lot Owner in a former Reserve undertakes some action which would have invoked the above per front lot foot payment if such action had been undertaken in the Underground Residential Subdivision, such owner or applicant for service shall pay the electric company \$1.75 per front lot foot, unless Declarant has paid the electric company as above described. The provisions of the two preceding paragraphs do not apply to any future nonresidential development in such Reserve(s).

**SECTION 10.3. EMERGENCY AND SERVICE VEHICLES** - An easement is granted to all police, fire protection, ambulance, and other emergency vehicles and other service vehicles to enter upon the Common Area, including but not limited to streets and driveways, in the performance of their duties.

**SECTION 10.4. INGRESS AND EGRESS EASEMENT OF OWNER** - Each Owner is granted an unrestricted right of ingress and egress to his Lot.

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**SECTION 10.5. SPRINKLER SYSTEM** - Declarant or the Association may install an underground sprinkler system on the Lots and Common Area for the general benefit of all Owners. If installed, the Association shall maintain the sprinkler system and pay for all costs related to same and is hereby granted an easement for the maintenance (and relocation, if necessary) of the sprinkler system as the Board may deem necessary from time to time.

**SECTION 10.6. ASSOCIATION EASEMENTS** - The Association, its agents, servants, and employees shall have all other such easements necessary to perform those duties, tasks or rights as referenced throughout this Declaration.

**SECTION 10.7. EASEMENTS FOR ENCROACHMENTS** - Should any part of a Unit ever encroach upon the Common Area or another Lot, or the Common Area upon a Lot or Unit, due to construction, reconstruction, repair, shifting, settlement, or other movement of any portion of said improvements, a valid easement is hereby granted for both the encroachment and its maintenance, provided the physical boundaries of any such Unit after construction, reconstruction, repair, shifting, settlement, or other movement is in substantial accord with the description of the boundaries of the Unit as referenced in the Plat.

#### ARTICLE XI MORTGAGEES

**SECTION 11.1. NOTICE TO ASSOCIATION** - An Owner who mortgages his Lot shall notify the Association giving the name and address of his Mortgagee. The Association shall maintain such information in a book entitled "Mortgagees of Townhomes."

**SECTION 11.2. NOTICE OF DEFAULT** - The Association shall notify a first Mortgagee in writing, upon request of such Mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within thirty (30) days.

**SECTION 11.3. EXAMINATION OF BOOKS** - The Association shall permit first Mortgagees to examine the books and records of the Association during normal business hours.

**SECTION 11.4. ANNUAL AUDITS** - The Association shall furnish each first Mortgagee, upon request of such Mortgagee, an annual audited financial statement of the Association within one hundred twenty (120) days following the end of each fiscal year of the Association.

**SECTION 11.5. NOTICE TO MORTGAGEES** - The Association shall give the Mortgagee timely written notice of:

- (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its Mortgagee;

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- (b) any 60-day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the Mortgagee;
- (c) a lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- (d) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

#### SECTION 11.6. CONSENT OF MORTGAGEES REQUIRED :

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

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

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- (n) termination of the legal status of the Association and/or the Property as a planned unit development after substantial destruction or condemnation occurs (provided, however, in the event of termination of the Association or the Property as a planned unit development for reasons other than substantial destruction or condemnation, sixty-seven percent (67%) of the Eligible Mortgagees must agree); or
- (o) any provisions that expressly benefit Mortgagees.

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

**SECTION 11.7. DEED TO COMMON AREA** - Declarant shall deed all real property it owns in the Property, save and except the Lots, to the Association. The Common Area may not be subject to a lease between Owners or the Association and any other party.

**SECTION 11.8. INSURANCE PROCEEDS** - With respect to substantial damage to or destruction of any Lot or any part of the Common Area, nothing herein or in any other document establishing the Association will entitle the owner of a Lot or other party to priority over a Mortgagee with respect to any distribution to such Owner of any insurance proceeds.

**SECTION 11.9. WORKING CAPITAL FUND** - Declarant shall establish a Working Capital Fund in an amount that is at least equal to two (2) months of the estimated Common Assessments for all Units, in order to meet unforeseen expenditures or to purchase any additional equipment or services for the Property. The Working Capital Fund shall be funded upon the sale of a Unit by Declarant, at which time the Association shall collect from the buyer that Unit's share of the Working Capital Fund. The Working Capital Fund must be a segregated fund set up in the name of the Association. Declarant is prohibited from using the Working Capital Fund to defray any of its expenses, reserve contributions, construction costs, or to make up any budget deficits while Declarant is in control of the Association. Any amounts paid into the Working Capital Fund shall not be considered advance payments of any Common Assessments.

**SECTION 11.10. RESERVE FUND** - The Association's accounts shall include an adequate Reserve Fund for maintenance, repairs, and replacement of the Common Area and portions of the Lots and Units that must be replaced on a periodic basis by the Association and will be paid out of the Common and Special Assessments.

**SECTION 11.11. FILM AND FNMA REGULATIONS** - Notwithstanding anything in this Declaration to the contrary, Declarant may amend this Declaration to conform with the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or any similar duly constituted governmental authority, by written

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Instrument executed by Declarant and duly recorded in the records of the Official Public Records of Real Property of Harris County, Texas.

**ARTICLE XII**  
**AMENDMENT AND DURATION OF DECLARATION**

**SECTION 12.1. AMENDMENT BY OWNERS** - The terms of this Declaration may be amended at any time for legal reasons (including termination of the Declaration) by those Owners representing at least sixty-seven percent (67%) of the Lots within the Property and the approval of Mortgagees as required by Section 11.5. No person shall be charged with notice of or inquiry with respect to any amendment until and unless it has been filed of record in the Official Public Records of Real Property of Harris County, Texas.

**SECTION 12.2. AMENDMENT BY DECLARANT** - In addition to its right to amend the Declaration pursuant to Section 11.13, Declarant, without the joinder of any other party, shall also have the authority to amend this Declaration to correct any mistake or errors of a clerical nature resulting from typographical or similar errors.

**SECTION 12.3. DURATION** - This Declaration shall remain in full force and effect until April 15, 2015, and shall be extended automatically for successive ten (10) year periods; provided however, that this Declaration may be amended at any time, as set forth in Sections 11.11, 12.1 and 12.2.

**ARTICLE XIII**  
**MISCELLANEOUS**

**SECTION 13.1. SEVERABILITY** - In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

**SECTION 13.2. NUMBER AND GENDER** - Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

**SECTION 13.3. DELAY IN ENFORCEMENT** - No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

**SECTION 13.4. ENFORCEABILITY** - The Documents shall run with the Property and shall be binding upon and inure to the benefit of and be enforceable by the Association and each Owner against the Association or any Owner violating the terms thereof, or any portion

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thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce the Documents is initiated against an Owner or occupant of a Lot by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorney's fees from the Owner or occupant of a Lot who violated the Documents.

**SECTION 13.5. REMEDIES** - In the event any Person shall violate or attempt to violate any of the provisions of the Documents, the Association, each Owner of a Lot within the Property, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation.

**SECTION 13.6. RIGHT OF ENTRY; ENFORCEMENT BY SELF HELP** - The Association shall have the right, in addition to and not in limitation of all the rights it may have under this Declaration, to enter upon any Lot, including the Unit located thereon, for emergency, security, maintenance, repair, or safety purposes, which right may be exercised by the Association's Board, officers, agents, employees, managers, and all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or occupant of the Lot or improvements. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any improvements or any portion of a Lot to abate or remove, using such force as reasonably may be necessary, any improvement to Property, other structure, or thing or condition that violates the Documents. Unless an emergency situation exists, such self-help shall be preceded by written notice. All costs of self-help, including reasonable attorney's fees actually incurred, should be assessed against the violating Owner and shall be collected as provided for herein for the collection of the Assessments. All such entries shall be made with as little inconvenience to the Owner as is practicable in the judgment of the Association and any damages caused thereby (as distinguished from repairs with respect to which the Association is entitled to a Reimbursement Assessment) shall be borne by the Maintenance Fund of the Association. Notwithstanding anything contained in the Declaration to the contrary, prior to altering or demolishing any items of construction in or affixed to a Unit, the Association shall file judicial proceedings through which the Association has been granted the right to demolish or alter items of construction in or affixed to a Unit.

**SECTION 13.7. VIOLATIONS OF LAW** - Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Property hereby is declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

**SECTION 13.8. REMEDIES CUMULATIVE** - Each remedy provided under this Declaration is cumulative and not exclusive.

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SECTION 13.9. NO REPRESENTATIONS OR WARRANTIES - No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its agents or employees in connection with any portion of the Property, or any improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the Property, sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

SECTION 13.10. LIMITATION ON LIABILITY - Neither the Association, the Board, Declarant, or any officer, agent, or employee of any of the same acting within the scope of their respective duties described in this Declaration shall be liable to any Person for any reason or for any failure to act if the action or failure to act was in good faith and without malice.

SECTION 13.11. CAPTIONS FOR CONVENIENCE - The titles, headings, captions, article and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to articles and sections are to articles and sections of this Declaration.

SECTION 13.12. GOVERNING LAW - This Declaration shall be construed and governed under the laws of the State of Texas.

SECTION 13.13. CONSENT OF LIENHOLDERS - Kingwood Place Community Association, Inc. and Kingwood Place Village Community Association, both Texas non-profit corporations and holders of liens against the Property (the "Lienholders"), have joined in the execution hereof to evidence their consent to the imposition of these covenants and restrictions upon the Property. The Lienholders are executing this Declaration for the sole purpose of endorsing any matters contained herein. The Prior Restrictions shall remain prior in time and right to this Declaration and shall supersede in the event of any conflict.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed the foregoing instrument on this 3rd day of October, 1994.

(3) / w

THE RYLAND GROUP, INC.

10/3/94  
Date

By: D. W. Klein SK  
Print Name: Donald P. Klein  
Title: President, Houston Division

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KINGWOOD PLACE COMMUNITY ASSOCIATION, INC. *lv*

By: *Liz B. Dantone, President*  
Liz B. Dantone, President

10/3/94  
Date

KINGWOOD PLACE VILLAGE COMMUNITY ASSOCIATION *lv*

By: *Liz B. Dantone*  
Liz B. Dantone

10/3/94  
Date

STATE OF TEXAS \*  
\*  
COUNTY OF HARRIS \*

Before me, a notary public on this day personally appeared *Donald P. Klein*, known to me to be the person whose name is subscribed to the foregoing instrument and, being by me first duly sworn and declared that he executed same in the capacity and consideration therein expressed.

Given under my hand and seal of office this the *3rd* day of *October*, 1994.

*Katrina Bolt*  
NOTARY PUBLIC - STATE OF TEXAS



STAMPED: 511-32-3175

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STATE OF TEXAS

COUNTY OF HARRIS

Before me, a notary public, on this day personally appeared Liz B. Dantone, known to me to be the person whose name is subscribed to the foregoing instrument and, being by me first duly sworn and declared that she executed same in the capacity and consideration therein expressed.

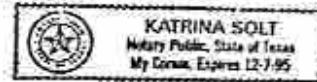
Given under my hand and seal of office this the 3 day of October, 1994.

*Katrina Solt*  
NOTARY PUBLIC - STATE OF TEXAS

501-32-3176

STATE OF TEXAS

COUNTY OF HARRIS

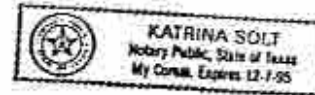


Before me, a notary public, on this day personally appeared Liz B. Dantone, known to me to be the person whose name is subscribed to the foregoing instrument and, being by me first duly sworn and declared that she executed same in the capacity and consideration therein expressed.

Given under my hand and seal of office this the 3 day of October, 1994.

*Katrina Solt*  
NOTARY PUBLIC - STATE OF TEXAS

#22435



NOT PROVISIONAL IN REAR WHICH IS SUBJECT TO THE STATE OF TEXAS  
PROPERTY RECORDS BY DATE OF SALE IS APPROVED AND CORRECTED UNDER FEDERAL LAW  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was filed in file number  
Sequence on the day and at the time stamped hereon by me, and was  
duly RECORDED, in the Official Public Records of Real Property of Harris  
County, Texas on

OCT 7 1994



*Beverly R. Freeman*  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

*Retention:*

CORNERSTONE TITLE COMPANY  
350 GLENBOROUGH, SUITE 100  
HOUSTON, TEXAS 77067

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RECORDER'S MEMORANDUM

AT THE TIME OF RECORDING, THIS INSTRUMENT WAS FOUND TO BE IN THE BEST PHOTOGRAPHIC REPRODUCTION BECAUSE OF ILLEGIBILITY, CLIPPING OR PHOTOGRAPHY, DISCOLORED PAPER, ETC.

HARRIS COUNTY, TEXAS

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FILED