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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

SUN RANCH, PHASE I

STATE OF TEXAS)
)SS.
COUNTY OF FORT BEND)

THIS DECLARATION is made this 26 day of March, 2002, by Sun Ranch LLC, hereinafter referred to as "Developer."

WITNESSETH:

WHEREAS Developer is the owner of that certain tract known as Sun Ranch, being a Subdivision of 130.655 acres of land situated in the Samuel Kennedy League, Abstract 44, Fort Bend County, Texas, recorded in the office of the County Clerk of said County on the 26 day of February, 2002, after having been approved as provided by law, and being recorded in Fort Bend County File #2002 2019359, of the Map Records of said County (hereinafter referred to as "the Property", or "the Subdivision"); and

WHEREAS the Subdivision is shown on a certain plat of survey by John T. Jakubik & Associates, Inc., filed in the Fort Bend County Land Records Office as Slides #2271B, 2272A, and 2272B; and

WHEREAS It is the desire of the Developer to place certain restrictions, easements, covenants, conditions, stipulations, and reservations (hereinafter sometimes referred to as the "Restrictions") upon and against the Subdivision in order to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of Lots within said Subdivision;

NOW THEREFORE, Developer hereby adopts, establishes and imposes upon the Subdivision known as Sun Ranch Phase 1, and declares the following reservations, easements, restrictions, covenants and conditions, applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of said Property, which Restrictions shall run with said Property and title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof, except that no part of this Declaration or the Restrictions shall be deemed to apply in any manner to the areas identified as a Reserve or Unrestricted Reserve on the Plat or to any area not included in the boundaries of said Plat. Developer also declares that this Subdivision shall be subject to the jurisdiction of the "Association" as hereinafter defined.

ARTICLE I

DEFINITIONS

- 1.01 **"Annexable Area"** shall mean and refer to any additional property made subject to the jurisdiction of the Association pursuant to the provisions set forth herein including, without limitation any other Section or additional phase of Sun Ranch Subdivision, if any, Developer may plat and any property adjacent to, or in the proximity of the Property which the Developer may wish to include in the jurisdiction of the Association.
- 1.02 **"Association"** shall mean and refer to Sun Ranch Property Owners Association, and it's successors and assigns. The Association is charged with the duty to act reasonably and timely in all matters. Failure to approve or disapprove a proposal within two (2) weeks of any request shall be deemed approval of the request. If a request is disapproved, the Association shall state the particulars that are not approved, with reference to these covenants, and shall attempt a good-faith effort to resolve any matters disapproved quickly with the Lot owner. The Association is not entitled to do any act other than as allowed in these covenants.
- 1.03 **"Sun Ranch"** shall mean and refer to this Subdivision and any other sections, additions, and phases of Sun Ranch hereafter made subject to the jurisdiction of the Association.
- 1.04 **"Board of Directors"** shall mean and refer to the Board of Directors of the Association.
- 1.05 **"Builders"** shall mean and refer to persons or entities that purchase Lots and build speculative or custom homes thereon for third-party purchasers.
- 1.06 **"Common Area"** shall mean all real property (including the improvements thereto) within the Subdivision owned by the Developer and/or the Association for the common use and enjoyment of the Owners and/or any other real property and improvements, including, but not limited to, the lot upon which the water system is placed and any other facilities and areas designated on the Plat within the Common Area to which the Owners may hereafter become entitled to use.
- 1.07 **"Contractor"** shall mean and refer to the person or entity with whom an Owner contracts to construct a residential dwelling on such Owner's Lot.
- 1.08 **"Developer"** shall mean and refer to Sun Ranch LLC and any successor(s) and assign(s) of Sun Ranch, LLC with respect to the voluntary disposition of all (or substantially all) of its right, title and interest in and to the Properties. However, no person or entity merely purchasing one or more Lots from Sun Ranch, LLC in the ordinary course of business shall be considered a "Developer."
- 1.09 **"Easement Areas"** shall mean all real property that includes roadways and adjacent reserved Easement Areas for the benefit of the Subdivision. It shall also include Landscape Easement Areas. It shall not include any portion thereof accepted for

ownership by any governmental authority. It shall not include any easement area that is only for the benefit of the Lot upon which it is placed.

- 1.10 "Lot" shall mean and refer to any plot of land identified as a Lot or tract on the plat of the Subdivision. For purposes of this instrument, "Lot" shall not be deemed to include any portion of any Common Areas, Reserves, Restricted Reserves or Unrestricted Reserves shown on the Plat, or any subsequent plats of properties made subject to these Covenants in the Subdivision, regardless of the use made of such area.
- 1.11 "Member" shall mean and refer to every person or entity who holds a membership in the Association.
- 1.12 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Subdivision, including (i) contract sellers (a seller under a Contract-for-Deed), but excluding those having such interest merely as security for the performance of an obligation, (ii) Developer (except as otherwise provided herein), and (iii) Builders.
- 1.13 "Drill Sites" shall mean those areas designated as Drill Sites on the Plat hereof, (including any subsequent plats of properties made subject to these Covenants) in the Subdivision, regardless of the use made of such area. It is specifically noted that there are no Drill sites in Phase 1, but that access to Drill sites is through Phase 1.

ARTICLE II

RESERVATIONS, EXCEPTIONS AND DEDICATIONS

- 2.01 Recorded Subdivision Map of the Property. The plat ("Plat") of the Subdivision dedicates for use as such, subject to the limitations as set forth therein, the rights-of-way, roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to the Property. All dedications, restrictions and reservations created herein or shown on the Plat, replats or amendments of the Plat of the Subdivision recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Developer, conveying said Property or any part thereof whether specifically referred to therein or not. In the event of any conflict between these Articles and the Plat, the Plat shall control.
- 2.02 Easements. Developer reserves for public use any utility easements shown on the Plat or that have been or hereafter may be created by separate instrument recorded in the Real Property Records of Fort Bend County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utility the

Developer sees fit to install in, across and/or under the Property. Developer and its assigns further expressly reserves the right to enter upon any Lot for the purpose of constructing or maintaining any natural drainage pattern, area or easement. All utility easements in the Subdivision may be used for the construction of drainage swales in order to provide for improved surface drainage of the Reserves, Common Area and/or Lots. Should any utility company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer, without the joinder of any other Owner, shall have the right to grant such easement on said Property without conflicting with the terms hereof. Any utility company serving the Subdivision and/or any Utility District serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither Developer nor any utility company, water district, political Subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants, to fences, shrubbery, trees and lawns or any other property of the Owner within the property encumbered by said easements. Specifically, the Developer shall have the right to remove all trees and underbrush from any such easement, and the Owner of the property covered by said easements shall not be entitled to compensation for trees, timber, or other improvements removed from said easements.

2.03 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Developer to any of the Lots by contract deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water line, gas, sewer, electric lighting, electric power, telegraph or telephone purposes and other easements hereafter granted affecting the Lots. The Owners of the respective lots shall not be deemed to own pipes, wires, conduits or other service lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot. The Developer may convey title to said easements to the public, a public utility company or the Association.

2.04 Utility Easements.

- (a) Utility ground and aerial easements have been dedicated in accordance with the Plat and may also be dedicated by separate recorded easement documents.
- (b) No building shall be located over, under, upon or across any portion of any utility easement. The Owner of each Lot may construct, keep and maintain concrete drives, fences, gates, landscaping, and similar improvements across any utility easement and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots, provided, however, any concrete drive, fence, gate, landscaping or similar improvement placed upon such Utility Easement by the Owner shall be

constructed, maintained and used at Owner's risk and, as such, the Owner of each Lot subject to said Utility Easements shall be responsible for (i) any and all repairs to the concrete drives, fences and similar improvements which cross or are located upon such Utility Easements and (ii) repairing any damage to said improvements caused by the utility District or any public utility, or any other person or entity having the right to use of the easement in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Utility Easements. Provided, however, no lot owner shall obstruct any easement immediately adjacent and parallel to any roadway, such easements being hereby additionally reserved as set forth in Part 2.05, below.

- 2.05 Use of Easements by Owners. The Roadways, and drainage, and utility easements immediately adjacent and parallel to the Roadways, shown on the Plat of the Subdivision as designated on the Plat may be used by all the Owners, their families, guests and invitees for the purpose of pedestrian walking or jogging and for riding horses or non-motorized vehicles or similar activities in the areas that are not paved specifically for motor vehicle use. No fence or other structures shall be constructed or maintained on any part of said easements, except by approval of Developer or the Association. No motorized vehicle of any type, including without limitation, any motorcycle, go-cart, tractor or automobile, ATV or other motorized vehicle, shall be permitted on said unpaved portions of these easements, except for motorized devices needed by persons with physical disabilities for purposes of mobility, such as motorized wheel chairs to be run at "walk speed" only, and except equipment necessary for the construction, improvement, maintenance and repair of said easements shall be permitted.
- 2.06 Landscape Easements. There is a landscape easement, as shown on the Plat, along the Lockwood Bypass road and the area between Sun Ranch Drive and Lots 1 and 49. The purpose of this landscape easement is for development, maintenance, and improvement of landscaping and landscape fencing for the Subdivision, and for the recreational enjoyment set forth in Part 2.05 above, of the lot owners in the Subdivision. The owners of Lots affected by these easements shall obtain approval from the Developer or the Association, as appropriate, for the placement of any improvement within the landscape easement. Generally, lot owners shall be allowed to fence across the Landscape easements adjoining the Lockwood bypass road, but, if they do, they must permit access to the Landscape easement area as needed for development, maintenance, and improvement of landscaping and subdivision perimeter fencing within the easement.
- 2.07 Road and Streets. Subject to the terms and conditions of this Section 2.07, the roads and streets in this Subdivision, as shown on the Plat, and specifically including the unpaved portions of the road and street easements, are hereby dedicated, not only as roadways, but also as utility easements for the purpose of constructing, operating, maintaining, or repairing a system(s) of electric lighting, electrical power, telegraph and telephone lines, gas lines, sewers, water lines,

storm drains (surface or underground) cable television, or any other utilities that the Developer sees fit to install or permit to be installed) in, across and/or under the Property.

- 2.08 Unrestricted Reserve A. The area designated as Unrestricted Reserve A is to be used for residential or commercial purposes, but not including industrial purposes. Any commercial use shall be restricted to a commercial business that provides products or services for residential customers living in the area.
- 2.09 Restricted Reserve B. The area designated as Restricted Reserve B is a lot specifically used for the water supply system for the Subdivision. It may not be used for any purposes except those that do not conflict with operation and maintenance of the water system. The construction and/or operation of underground petrochemical storage tanks, stock pens, feed lots, dump grounds, privies, cesspools, septic tank drainfields, drilling of improperly constructed water wells of any depth and any other construction or operation that could create an unsanitary condition within, upon or across this Restricted reserved area is prohibited. Further, tile or concrete sanitary sewers, sewer appurtenances, septic tanks and storm sewers are specifically prohibited within a 150 foot radius of the well location in said Restricted Reserve B.
- 2.10 Reservation of Drill sites. There are no drill sites within Phase 1. All of the drill sites are located to the east of Rabbs Bayou. However, access to those drill sites is allowed through the roadways in Phase 1. The areas designated as Drill sites are reserved for mineral interest holders for purposes of mineral exploration and extraction pursuant to previous reservations. To the extent allowed by law, these sites are subject to these covenants with regards to the surface area of the Drill sites. Surface holders of lots containing these Drill sites should not place any structures thereon, and if they do so, it is at their own risk, and subject to the rights of the mineral interest holders. To the extent allowed by law, and not in specific conflict with the reservations for these sites, mineral interest holders must keep all damage, construction, and modification to the surface of the Drill sites to a minimum, shielded from view by the surface owners of lots within the Subdivision, and must use and plant natural foliage to screen all surface modifications, structures, and equipment from view by the surface owners in the Subdivision. Mineral interest holders will be responsible to the Association for all damages caused to the surface and roadways in the subdivision to the extent allowed by law.

ARTICLE III

USE RESTRICTIONS

- 3.01 Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on any lot other than one dwelling unit ("Dwelling") per each Lot to be used solely for single family residential purposes, except that one guest/servant house may be built, provided said guest/servant house must

contain a minimum of 600 square feet, excluding porches, and a maximum of no more than 50% of the square footage of the main dwelling, and be built after or while the main dwelling is being built. A guest/servant house shall not be used as a rental house. Detached garages, work shops, and barns may be constructed on the property after or while the main dwelling is being built, so long as they are in harmony with the main dwelling and are of good construction, kept in good repair, and are not used for residential purposes. Each residence must have an attached or detached garage. Garages must be built for at least two (2) vehicles and not more than five (5) vehicles. Any workshops, barns or other outbuildings shall be located to the side or rear of the main dwelling. All dwellings, detached garages, work shops, and barns must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. The term "dwelling" does not include pre-manufactured homes, single or double wide manufactured or mobile homes, or any homes to be moved on the Lot, and said manufactured or mobile homes, or homes moved on the Lot are not permitted within the Subdivision. All dwellings within the Subdivision must have at least 2000 square feet of living area, with a minimum of 1,300 square feet on the first floor excluding porches, and be built with new construction materials. Any building, structure or improvement commenced on any tract shall be completed as to exterior finish and appearance within twelve (12) months from the setting of forms for the foundation of said building or structure. The exterior finish on all buildings shall be brick, stone, split-face block, hardy plank, or similar materials, including combinations of these materials. Any other material requires approval from the Architecture Control Committee. The roof of any Dwelling shall be constructed of either composition shingles (Architectural-25 year minimum), copper, tile, slate, standing seam metal or other material approved by the Architectural Control Committee prior to construction. The use of sheet metal or similar material on the roof or exterior sides of any Dwelling other than as flashing is prohibited. The exterior color scheme on all buildings on a lot shall match. The exterior color of all building roofs on a lot shall match. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes, prefabricated homes, or trailers being placed on said Lots, or the use of said Lots by more than one family (including their servants and guests), duplex or other multiplex houses, condominiums, townhouses, apartments, or apartment houses and no Lot shall be used for nonresidential purposes, nor for any commercial or manufacturing purposes. Provided, however an Owner may maintain a home office in a dwelling, only with such signs as are allowed pursuant to Section 3.17, below, and provided that such business does not substantially increase traffic in the subdivision.

3.02 Composite Building Site. Any Owner of one or more adjoining Lots (or portions thereof) may, with prior written approval of the Architectural Control Committee, consolidate such Lots into one Lot and building site, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back

lines shall be measured from the resulting side property lines rather than from the center adjacent Lot lines as indicated on the Plat. Any such composite building site must have a frontage at the building set-back line of not less than the minimum frontage of all Lots in the same block and shall be considered one Lot for purposes of the Maintenance Charge set forth in Article VI hereof. Any lot consolidation must also receive approval from all applicable governmental authorities.

- 3.03 Location of the Improvements upon the Lot. No building of any kind shall be located on any Lot nearer to any side or rear property line, or nearer to any public road or nearer to any waterway than as may be indicated on the Plat; provided, however, as to any Lot, the Architectural Control Committee may waive or alter any such setback line if the Architectural Control Committee, in the exercise of the Architectural Control Committee's sole discretion, deems such waiver or alteration is necessary to permit effective utilization of a lot. Any such waiver or alteration must be in writing and recorded in the Book of Deed Records of Fort Bend County, Texas, and approved by all applicable governmental authorities. All dwellings placed on Property must be equipped with septic tank or other sewage disposal system meeting all applicable laws, rules, standards and specifications, and all such dwellings must be served with water and electricity. The main residential structure on any Lot shall face a street adjacent to the Lot, unless a deviation is approved in writing by the Architectural Control Committee.
- 3.04 Residential Foundation Requirements. All building foundations shall consist of either: (i) concrete slabs, or (ii) piers and beams, with the entire building being skirted with brick or materials which match the outside of the building as may be approved by the Architectural Control Committee. Provided, however, the Architectural Control Committee may approve a different type of foundation when circumstances such as topography of the Lot make it impractical to use one of the above foundations for all or any portion of the foundation of the building improvements constructed on the Lot. Minimum finished slab elevation for all structures shall be above the 100 year flood plain elevation, or such other level as may be established by the Commissioner's Court or County Engineer of Fort Bend County, Texas, and other applicable governmental authorities. Minimum finished slab elevations are noted on the Plat.
- 3.05 Driveways. No private driveway or entrance shall be permitted from any Lot adjoining Lockwood By-pass Road, except that Unrestricted Reserve A may be entitled to access from Lockwood By-pass Road and Lockwood Road, provided, however, that no driveway or other access shall be allowed between said Reserve A and any other adjoining Lot. All driveways in the Subdivision shall be constructed of concrete or asphalt, which shall be maintained.
- 3.06 Use of Temporary Structures and Sales Offices. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence, either temporarily or permanently; provided, however, that Developer reserves the exclusive right to erect, place and maintain such facilities in or upon any portion of

the Subdivision as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements within the Subdivision. As long as a Builder shall own three or more lots in the Subdivision, said Builder may maintain a model home on a Lot as a sales office. At such time as a Builder shall own less than three Lots, said Builder may no longer use a model home as a sales office. Any Builder may advertise the sale of a dwelling constructed by Builder by placing a sign on said Lot in accordance with Section 3.17 herein.

- 3.07 **Water Supply.** All residential dwellings in this Subdivision shall be equipped with and served by a community water system installed, operated and continuously maintained in accordance with applicable utility company and governmental requirements, and no water wells shall be made, bored or drilled, nor any type or kind of private system installed or used except upon approval of the Architectural Control Committee, and any required governmental authorities. Wells may be drilled by the Developer or Association for providing residential water and use in watering common areas. Upon obtaining approval from the Association, water wells may be drilled by Owners, provided there is no anticipated degradation of the community water system, for use in watering animals or livestock, yard sprinkler systems or swimming pools, but shall not be used for human consumption, unless permitted by the Association, in writing.

A sanitary Well easement exists on Lots 22 and 31, and no livestock, as further explained in Paragraph 3.17, will be permitted to be kept on those Lots.

- 3.08 **Sanitary Sewer** No outside, open or pit-type toilets will be permitted in this Subdivision. Portable toilets, properly maintained, shall be used on lots during construction of the residence, and may be used during construction of other structures. Prior to occupancy, all dwellings constructed in this Subdivision must have a septic or sewage disposal system installed and maintained by the Owner which must comply with the requirements of the appropriate governmental agency.

- 3.09 **Walls and Fences.** Walls and fences, if any, must be approved prior to construction by the Architectural Control Committee and shall not include any easement areas across the front of said Lot nor in any easement area along any side street. Unless otherwise approved by the Architectural Control Committee, fences along or adjacent to any road or street must be set back at least 20 feet from the paved area, or further, if the easement area extends further. They shall be constructed of rail-type wood boards or similar appearing synthetic materials, ornamental iron, or masonry and must be in harmony with the guidelines of the Architectural Control Committee. All other fences and walls will be constructed of ornamental iron, wood or masonry unless the Architectural Control Committee approves a variance to allow such type of fence prior to its construction. There shall be no solid privacy fence between the front of a home and a street. Any such fence shall be allowed to have chain-link or other approved wire mesh as a part of the construction for the purpose of controlling animals. Any solid privacy fence on any Lot shall not exceed

six and one-half (6 ½ ') feet in height. The Owner may obtain permission from the Committee to construct a cage, kennel or dog run out of chain link or other similar fence material, provided any such outside pen, cage, kennel, shelter, concrete pet pad, run, track or other building, structure or device directly or indirectly related to animals which can be seen, heard or smelled by anyone other than the subject Lot Owner must be approved as to materials, size and location by the Architectural Control Committee, in its sole and absolute discretion. Driveway entrance areas may be constructed of masonry columns, ornamental iron or similar materials in harmony with the Dwelling on said Lot as may be approved by the Architectural Control Committee. The Owner of any Lot upon which the Developer has constructed a fence shall be responsible for the maintenance and repair of said fence.

- 3.10 **Prohibition of Offensive Activities.** Without expanding the permitted use of the Lots, no activity, whether for profit or not, shall be conducted on any Lot which is not related to single-family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the Subdivision. This restriction does not supersede any specific provision as to allowed uses in this Declaration, and is further waived in regard to the customary sales activities required to sell homes in the Subdivision and for home offices described in Section 3.01 hereof. No exterior speaker, horn, whistle, bell, or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or placed on a Lot. All exterior lighting shall be pointed down and no exterior light shall be positioned to directly shine towards any other lot. Subject to the limitations expressly stated in this Declaration, the Association shall have discretion to determine what constitutes a nuisance or annoyance. Activities specifically prohibited include wanton use or discharge of fire arms, firecrackers, or any other explosives of any kind. No ammonium nitrate, flammable liquids in excess of 10 gallons, or explosive chemicals of any kind shall be stored on any Lot. There shall be no activities which may be offensive to others by reason of odor, fumes, dust, smoke, noise, vision, vibration or pollution, or which are hazardous by reason of excessive danger, fire, or explosion.

3.11 **Drainage.**

- (a) No Lot owner may in any way interfere with the established drainage pattern over his Lot from adjoining or other Lots in the Subdivision, and each Lot owner will make adequate provisions for the drainage over his Lot (which provisions for drainage shall be included in the Owner's plans and specifications submitted to the Committee and shall be subject to the Committee's approval). For the purposes hereof, "established drainage" is defined as the drainage which existed at the time that the over-all grading of the Subdivision, including landscaping of any Lot in the Subdivision, was completed by Developer.

3.19 Lot Maintenance. All Lots, at Owner's sole cost and expense, shall be kept at all times in a neat, attractive, healthful and sanitary condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon (outside of natural vegetation areas) cut and shall in no event use any Lot for storage of materials or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. Provided, however, the burning of underbrush and trees during Lot clearing shall be permitted. All yard equipment or storage piles shall be kept screened by a service yard or other similar facility as herein otherwise provided, so as to conceal them from view of neighboring Lots, streets or other property. Such maintenance includes, but is not limited to the following:

- (a) Prompt removal of all litter, trash, refuse, and wastes.
- (b) Lawn mowing (other than the natural vegetation areas)
- (c) Tree and shrub pruning (other than the natural vegetation areas).
- (d) Keeping exterior lighting and mechanical facilities in working order, and directed downward, so that the lights themselves are not shining towards any other lot.
- (e) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (f) Keeping parking areas, walkways and driveways in good repair.
- (g) Complying with all government health and policy requirements.
- (h) Repainting of Improvements.
- (i) Repair of exterior damage to improvements.
- (j) Repainting of improvements.

In the event of the failure of Owner to comply with the above requirements after ten (10) days written notice thereof, the Association or their designated agents may, in addition to any and all remedies, either at law or in equity, available for the enforcement of these restrictions, without liability to the Owner/Builder or any occupants of the Lot in trespass or otherwise, enter upon (and/or authorize one or more others to enter upon) said Lot, to cut, or cause to be cut, such weeds and grass and remove, or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner, Builder or occupant of such Lot for the cost of such work and associated materials, plus a fee of \$ 10.00 per month for each instance. Payment thereof shall

- (b) Each Owner (including Builders), unless otherwise approved by the Committee, must finish the grade of the Lot so as to establish good drainage from the rear of the Lot to the front street or from the building site to the front and rear of the Lot as dictated by existing drainage ditches, swales and lakes constructed by Developer or Utility Districts for drainage purposes.
- (c) The Subdivision has been designed and constructed utilizing surface drainage in the form of ditches and swales and, to the extent these drainage ditches and swales are located in front, side or rear Lot easements, the Owners shall not re-grade or construct any improvements or other obstruction on the Lot which adversely affects the designed drainage flow. The Owner shall be responsible for returning any drainage swale disturbed during construction or thereafter to its original line and grade, and the Owner shall be responsible for maintaining the drainage ditches or swales appurtenant to said Owner's Lot in their original condition during the term of his ownership.

3.12 Excavation. The digging of dirt or the removal of any dirt from any Lot is expressly prohibited except as may be necessary in conjunction with the landscaping or construction of Improvements on such Lot.

3.13. Removal of Trees, Trash and Care of Lots During Construction of Residence.

- (a) All Owners, during their respective construction of a residence, are required to remove and haul from the Lot all tree stumps, trees, limbs, branches, underbrush and all other trash or rubbish cleared from the Lot for construction of the residence, construction of other improvements and landscaping. No materials or trash hauled from the Lot may be placed elsewhere in the Subdivision or on land owned by Developer whether adjoining the Subdivision or not.
- (b) All Owners, during their respective construction of any improvement, are required to continuously keep the Lot in a reasonably clean and organized condition. Papers, trash, and construction waste are to be hauled from the Lot periodically, and at least monthly, during construction. Where possible waste bins shall be kept on all lots during construction, and all such papers, trash, and construction waste materials shall be placed in them daily. Unused building materials should be kept neatly stacked and organized in a reasonable manner at the construction site.
- (c) No trash, materials, or dirt is allowed in the street or street ditches. All Owners shall keep street and street ditches free from trash, materials, and dirt. Any such trash, materials, or excess dirt or fill inadvertently spilling or getting into the street or street ditch shall be removed, without delay, daily.

- (d) No Owner or Contractor may enter onto a lot adjacent to the Lot upon which he is building for purposes of ingress and egress to his Lot during or after construction, unless such adjacent Lot is also owned by such Owner, and all such adjacent Lots shall be kept free of any trees, underbrush, trash, rubbish and/or any other building or waste materials during or after construction of building improvements by the Owner of an adjacent Lot.
- (e) All Builders, Owners and their Contractors shall be responsible for any damage caused to the roads and easements during the construction of improvements on a Lot. Further, any Builder or Contractor shall be required to deliver to the Developer, or if the Association has taken control, to it, a damage deposit of \$500.00 prior to beginning construction of any Dwelling or other building. This damage deposit shall be returned to the Builder or Contractor upon completion of said Dwelling or other building provided the Association determines that no damage to the roads or easement was caused by said Builder or Contractor, or any other person in relation to construction of the improvements.

3.14 **Garbage and Trash Disposal.** Garbage and trash or other refuse accumulated in this Subdivision shall not be permitted to be dumped at any place upon adjoining land, or at any dump sites other than those approved by the appropriate governmental agency. No Lot shall be used or maintained as a dumping ground for rubbish or landfill. Trash, garbage or other waste shall not be allowed to accumulate, shall not be burned, and shall be kept in sanitary containers and shall be disposed of regularly. Trees and brush may be disposed of by burning, provided it is done in a safe manner, and complies with all governmental requirements. All equipment for the storage or disposal of garbage, trash, and other refuse shall be kept in a clean and sanitary condition. The Association shall have the authority to contract with a trash hauling service for the Subdivision, and all Lot owners having homes on their lots shall be obligated to pay their proportionate share of costs of this service.

3.15 **Junked Motor Vehicles Prohibited.** No Lot shall be used as a depository for abandoned or junked motor vehicles. An abandoned or junked motor vehicle is one without a current, valid state vehicle inspection sticker and license plate. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept on any Lot. No accessories, parts or objects used with cars, boats, buses, trucks, trailers, house trailers or the like, shall be kept on any Lot other than in a garage or other structure approved by the Architectural Control Committee.

3.16 **Signs.** No signs, advertisement, billboard or advertising structure of any kind may be erected or maintained on any Lot without the consent in writing of the Architectural Control Committee, except:

- (a) no more than one (1) professionally made sign not more than twenty-four inches by twenty-four inches (24" x 24"), advertising an Owner's Dwelling for sale or rent, and
- (b) not more than one (1) professionally made sign not more than twenty-four inches by twenty-four inches (24" x 24"), advertising the builders of the Owner's dwelling may be placed on such Lot during the construction period of such residence from the forming of the foundation until completion not to exceed a six (6) month period.

Developer, or any member of the Committee shall have the right to remove any such sign, advertisement or billboard or structure which is placed on any Lot in violation of these restrictions, and in doing so, shall not be liable, and are hereby expressly relieved from, any liability for trespass or other tort in connection therewith, or arising from such removal.

3.17 Livestock and Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot in the Subdivision except that dogs, cats or other common household pets and no more than one (1) horse per acre may be kept on any Lot, provided that they are not kept, bred or maintained for commercial purposes and do not become a nuisance or threat to other Owners. Animals being raised for FFA or 4-H, or school-sponsored programs will be permitted on Lots in the Subdivision. No pigs, hogs, emus, ostriches or reptiles will be permitted under any circumstances. Manure shall not be allowed to accumulate, and must be cleaned and removed from the Lot at least monthly. Open grazing of livestock shall not be allowed to the extent it would damage the landscape, and must be kept within a fenced area at all times. No animals shall be allowed to run loose in the Subdivision. This paragraph is subject to the restrictions of Paragraph 3.07 with respect to Lots 22 and 31.

3.18 Mineral Development. Except within the areas that may be designated as Drill Site locations on the Plat, and easements related thereto, no commercial oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot, and, no derrick or other structures designed for the use of boring for oil or natural gas shall be erected maintained or permitted upon any Lot. Provided, however, that this provision shall not prevent the leasing of the Subdivision or any portion thereof, for oil, gas and mineral purposes and the development of same, it being contemplated that the portion or portions of the Subdivision may be developed from adjacent lands by directional drilling operations or from the Drill Sites designated on the Plat of various Sections of the Subdivision.

be collected as an additional Maintenance Charge and shall be payable on the first day of the next calendar month, and shall constitute a lien upon the Lot so charged.

3.20 Exterior Maintenance of Buildings. In the event the owner of any building in the Subdivision should allow such building to fall into disrepair and become in need of paint, repair or restoration of any nature and become unattractive and not in keeping with the neighborhood, the Association and/or the Developer will give such owner written notice of such conditions. Fifteen (15) days after notice of such condition to owner, and failure of owner to begin and continue at a diligent, reasonable rate of progress to correct such condition, the Association and/or the Developer in addition to any and all remedies, either at law or in equity, available for the enforcement of these Restrictions, may at its sole discretion enter upon said premises, without liability to Owner, to do or cause to be done any work necessary to correct said situation. The owner thereof shall be billed for cost of necessary repairs, plus ten (10%) percent. All monies so owed the Association will be an additional Maintenance Charge and shall be payable on the first day of the next calendar month, and shall constitute a lien upon the property charged.

3.21 Miscellaneous Use Restrictions. Without limiting the foregoing, the following restrictions shall apply to all Lots:

- a. No boat, jet-ski, aircraft, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the front of any Dwelling or parked on any street in the Subdivision, nor shall any such vehicle or equipment be parked for storage to the side or rear of any Dwelling unless concealed from public view. No such vehicle or equipment shall be used as a residence. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a Dwelling in the Subdivision.
- b. Trucks with tonnage in excess of one and one-half tons shall not be permitted to park overnight within the Subdivision except those used by a builder during the construction of improvements in the Subdivision. No vehicle shall be permitted to park overnight on any street within the Subdivision except for those vehicles used by a builder during the construction of improvements on Lots or Common Areas in the Subdivision.
- c. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time.
- d. No vehicles or similar equipment shall be parked or stored in an area visible from any Street except passenger automobiles, passenger vans, motorcycles and pick-up trucks that are in operating condition and have current license plates and inspection stickers and are in daily use as motor vehicles on the streets and highways of the State of Texas, and all such

vehicles shall be parked in a driveway or garage and may not be parked in a yard.

3.22 View, Obstructions and Privacy. In order to promote the aesthetic quality of "view" within the Subdivision, the Committee shall have the right to review and determine whether to approve or deny any item or structure placed on a Lot including, but not limited to the following:

- a. Sunlight obstructions upon adjoining lots;
- b. Roof top solar collectors plainly visible from other lots;
- c. Flagpoles, flags, pennants, ribbons, streamers, wind sock and weather vanes, and even if approved, no such item shall be more than twenty (20) feet in elevation from the ground;
- d. Exterior storage sheds, propane tanks, and outbuildings (all propane tanks shall be screened from view by shrubs or plants);
- e. Fire and burglar alarms which emit lights and sounds;
- f. Ornamental statuary, sculpture and/or yard art visible from a street or adjoining lot that is more than ten (10) feet in height or width, or that is more than two (2) in number, or that is considered distasteful to the Association and not in harmony with the subdivision, excluding those which may be a part of an otherwise approved landscape plan;
- g. The location and screening of satellite dishes and antennas.

3.23 Prohibited Items: The following items are prohibited on a Lot:

- a. Clotheslines, reels, hanging circles and other exterior clothes drying devices;
- b. Above ground swimming pool;
- c. Window unit air-conditioners (except in work shops or barns as may be approved by the Committee);
- d. Signs (except for signs permitted in Section 3.17 hereof);
- e. Storage of more than ten (10) gallons of fuel outside of regular vehicle gas tanks; and
- f. Unregistered, unlicensed or inoperable motor vehicles, unless they are inside a building.

- 3.24 **Antennas and Satellite Dishes.** No electronic antenna or device for receiving or transmitting any signal other than a satellite dish less than two feet (2') in diameter, or an antenna for receiving normal television signals shall be erected, constructed, placed or permitted to remain on any Lot, house, garage or other building unless otherwise approved by the Committee. All antennas or receivers for marine signals, citizens band signals, cellular telephone signals or ham radio signals must be approved by the Committee, in its sole discretion, prior to erection.

No satellite dish, receiver, or antenna may be maintained on any portion of any Lot outside the building lines of said Lot or forward of the front of the residence thereon. In no event may the top of any satellite dish be higher than six (6) feet from the grade level of the ground if not mounted on a building, nor more than two (2) feet above the roof line for roof mounted satellite dishes. In no event may the top of any other antenna or receiver be higher than six (6) feet from the grade level of the ground if not mounted on a building, nor more than four (4) feet above the roof line for roof mounted antennas. All house or roof mounted satellite dishes shall not exceed two (2') feet in diameter. No multicolored dishes shall be permitted, No advertising or the printing of names of any type shall be permitted, Not more than one satellite dish, receiver, or antenna will be permitted on each Lot. No transmitting device of any type which would cause electrical or electronic interference in the neighborhood shall be permitted. The Association reserves the right to seek the removal of any device that is harmful to the views from an adjoining lot.

- 3.25 **Solar Panels.** All Solar Panels installed shall be framed in such a manner so the structure members are not visible. The framing material shall be one that is in harmony with the rest of the structure. Architectural approval from the Committee is required prior to the installation of any solar panels. The Association reserves the right to seek the removal of any solar panel that was installed without first obtaining approval or for any solar panel that violates these restrictions. Solar panels shall be installed in a location not visible from the public street in front of the residence.

- 3.26 **Wind Generators.** No wind generators shall be erected or maintained on any Lot if said wind generator is visible from any other Lot or public street.

- 3.27 **Hazardous Substances.** No Lot shall be used or maintained as a dumping ground for rubbish or trash and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. Notwithstanding the foregoing, no Hazardous Substance shall be brought onto, installed, used, stored, treated, buried, disposed of or transported over the Lots or the Subdivision, and all activities on the lots shall, at all times, comply with Applicable Law. The term "Hazardous Substance" shall mean any substance which, as of the date hereof, or from time to time hereafter, shall be listed as "hazardous" or "toxic" under the regulations implementing The Comprehensive Environmental Response

Compensation and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., The Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6901 et seq., or listed as such in any applicable state or local law or which has been or shall be determined at any time by any agency or court to be a hazardous or toxic substance regulated under applicable law. The term "Applicable Law" shall include, but shall not be limited to: CERCLA, RCRA, The Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. and any other local, state and/or federal laws or regulations that govern the existence, cleanup and/or remedy of contamination on property, the protection of the environment from spill deposited or otherwise in place contamination, the control of hazardous waste or the use, generation, transport, treatment, removal or recovery of hazardous substances, including building materials.

ARTICLE IV

ARCHITECTURAL CONTROL COMMITTEE

4.01 Basic Control

- a. No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design or exterior appearance thereof, or any addition or exterior alteration made thereto after original construction, or demolition or destruction by voluntary action made thereto after original construction, on any Lot in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Committee of the construction plans and specifications for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, drainage, harmony of external design and color with existing and proposed structures in the Subdivision and location with respect to topography and finished grade elevation.
- b. Each application made to the Committee shall be accompanied by two (2) sets of professionally drawn plans and specifications for all proposed construction (initial or alterations) to be done on such lot, including the drainage plan for the Lot, plot plans showing the location and elevation of the improvements on the lot and dimensions of all proposed walkways, driveways, and all other matters relevant to architectural approval. The address of the Committee shall be the address of the principal office of the Developer or the Association, when the Developer has ceded control to the Association. If approved, one of the two sets of plans submitted shall be returned to the Owner with said approval noted thereon, and the other shall be retained by the Committee. The Committee may set reasonable application and inspection fees.

4.02 Architectural Control Committee.

- a. The authority to grant or withhold architectural control approval as referred to above is initially vested in the Developer; provided, however, the authority of the Developer shall cease and terminate upon the election of the Architectural Control Committee of the Association (sometimes herein referred to as the "Committee"), in which event such authority shall be vested in and exercised by the Committee (as provided in subparagraph b., below), hereinafter referred to, except as to plans and specifications and plot plans theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plot plans. The term "Committee," as used in this Declaration, shall mean or refer to the Developer or to Sun Ranch Architectural Control Committee composed of members of the Association appointed by the Board of Directors, as applicable.
- b. At such time as eighty percent (80%) of all of the Lots in any section of the Subdivision are conveyed by Developer (from time to time hereafter referred to as the "Control Transfer Date"), the Developer shall cause an instrument transferring control to the Association to be placed of record in the Real Property Records of Fort Bend County, Texas (which instrument shall include the Control Transfer Date). Thereupon, the Board of Directors of the Association shall elect a committee of three (3) members to be known as Sun Ranch Architectural Control Committee. From and after the Control Transfer Date, each member of the Committee must be an Owner of property in some Section of Sun Ranch. Additionally, the Developer shall have the right to discontinue the exercise of architectural control privileges and arrange for the transfer to the Association at any time prior to the Control Transfer Date by filing a statement and instrument to such effect in the Real Property Records of Fort Bend County, Texas.

- 4.03. Effect of Inaction.** Approval or disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plans and specifications and plot plans received by it in compliance with the preceding provisions within two (2) weeks following such submission, such plans and specifications and plot plan shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof. The time to approve or disapprove shall not commence until professionally drawn plans are submitted to the Committee. Professionally drawn plans shall mean those plans prepared by an architect, engineer, certified house planner, or building contractor in sufficient detail to allow the Committee to review in accordance with the criteria set forth herein. If the

Committee determines the plans do not meet these criteria, they have a duty to inform the lot owner within two (2) weeks, or they will be deemed acceptable.

- 4.04 **Effect of Approval.** The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Committee that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof .
- 4.05 **Minimum Construction Standards.** The Developer or the Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline only and the Developer or Committee shall not be bound thereby.
- 4.06 **Variance.** The Developer or the Committee upon Transfer Control Date, as the case may be, may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer or the Committee, when circumstances such as topography, natural obstructions, Lot configuration, Lot size, hardship, aesthetic or environmental considerations may require a variance. The Developer and the Committee reserve the right to grant variances as to building set-back lines, minimum square footage of the residence, fences, and other items. Such variances must be evidenced in writing and shall become effective when signed by the Developer or by at least a majority of the members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned and the Plat.
- 4.07 **No Implied Waiver or Estoppel.** No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or Board of Directors with respect to the construction of any improvements within the Subdivision. Specifically, the approval by the Committee or Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications or

other materials submitted with respect to any other residential construction by such person or other Owners.

- 4.08 Disclaimer. No approval of plans and specifications and no publication or designation of architectural standards shall ever be construed as representing or implying that such plans, specifications or standards will result in a properly designed structure or satisfy any legal requirements.

ARTICLE V

SUN RANCH PROPERTY OWNERS ASSOCIATION

- 5.01 Membership. Every person or entity who is a record owner of any lot which is subject to the Maintenance Charge (or could be following the withdrawal of an exemption therefrom) and other assessments provided herein, including contract sellers, shall be a "Member" of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership for each Lot owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the lots. Regardless of the number of persons who may own a Lot (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Lot. Additionally, upon the Transfer Control Date, the Directors of the Association must be Members of the Association (as more particularly described in the By-laws). Ownership of the Lots shall be the sole qualification for membership. The voting rights of the Members are set forth in the Bylaws of the Association.
- 5.02 Non-Profit Organization. Sun Ranch Property Owners Association, (which may be established either as a non-profit corporation, or as a non-profit limited liability company) has been (or will be) organized and it shall be governed by the Articles of Incorporation or Organization and Bylaws or Operating Agreement of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation or limited liability company.
- 5.03 Bylaws or Operating Agreement. The Association has adopted or may adopt whatever Bylaws or Operating Agreement it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Lots and Common Areas, provided that the same are not in conflict with the terms and provisions hereof.
- 5.04 Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Areas and limited use easement areas and such right shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- a. The right of the Association, with respect to the Common Areas, to limit the number of guests of Owners;
 - b. the right of the Association to make rules and regulations regarding use of any Common Area and limited use easement area and to charge reasonable admission and other fees for the use of any facility situated upon the Common Areas;
 - c. the right of the Association to suspend the Member's voting rights and the Member's and "Related Users" (as hereinafter defined) right to use any recreational facilities within the Common Areas during any period in which the Maintenance Charge or any assessment against his Lot remains unpaid;
 - d. the right of the Association to suspend the Member's voting rights and the Member's and Related Users' right to use any recreational facilities within the Common Area, after notice and hearing by the Board of Directors, for the infraction or violation by such Member or Related Users of this Declaration or the "Rules and Regulations," defined in Article VIII hereof, which suspension shall continue for the duration of such infraction or Violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation; and
 - e. the right of the Association, subject, until the Transfer Control Date, to the prior written approval of the Developer, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility, for such purposes and subject to the provisions of this Declaration.
- 5.05 Delegation of Use. Any member may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the Member's immediate family living in the Member's residence, and his contract purchasers who reside on the Lot (collectively, the "Related Users").

ARTICLE VI

MAINTENANCE FUND

- 6.01 Maintenance Fund Obligation. Each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association, in advance, an annual maintenance charge on January 10th of each year, (the "Maintenance Charge"), and any other assessments or charges hereby levied. The Maintenance Charge and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, including reasonable attorneys' fees, shall be a charge on the Lots and shall be a continuing lien upon the property against which each such Maintenance Charge and other charges and assessments are made.

6.02 Basis of the Maintenance Charge.

- a. **The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund," which shall be used as herein provided; and each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Lot (or residential building site) to the Association annually, in advance, on or before the tenth day of the first month of each calendar year, or on such other basis (monthly, quarterly or semi-annually) as the Developer or the Board of Directors of the Association may designate in its sole discretion. Provided, further, the Owners shall not begin paying the Maintenance Charge until January, 2003, at which time the amount due for 2003 shall be due and payable. Provided, however in the event an Owner obtains consent from the Committee for a Composite Building Site pursuant to Section 3.02 hereof, such Composite Building Site shall be considered one Lot for the Maintenance Charge purposes beginning upon the date of approval by the Committee.**

- b. **Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Maintenance Charge by non-use of any Common Areas, landscape easement areas, or recreational facilities for use by Owners of the Subdivision or by the abandonment of his Lot.**

- c. **The exact amount of the Maintenance Charge applicable to each lot will be determined by the Developer, until the Transfer Control Date, and thereafter by the Board of Directors of the Association during the month preceding the due date of the Maintenance Charge. The initial annual Maintenance Charge shall be two hundred dollars (\$200.00) per Lot, prorated in the year of sale. All other matters relating to the Maintenance Charge and the collection, expenditures and administration of the Maintenance Fund shall be determined by the Developer or the Board of Directors of the Association, subject to the provision hereof.**

- d. **Consolidated lots under Article 3.02 shall be assessed as a single lot.**

f. The annual Maintenance Charge described in this Article VI and other charges or assessments described in this Declaration shall not apply to Reserve Lots, nor to the Lots owned by the Developer. The Developer, prior to the Control Transfer Date, and the Association, from and after the Control Transfer Date, reserve the right at all times in their own judgement and discretion, to exempt any Lot ("Exempt Lot"), in the Subdivision from the Maintenance Charge, in accordance with Section 6.07 hereof. If an Exempt lot is sold to any party, the Maintenance Charge shall be automatically reinstated as to the Exempt Lot and can only be waived at a later date pursuant to the provisions of the preceding sentence. The Developer, prior to the Control Transfer Date, and the Association, from and after the Control Transfer Date, shall have the further right at any time, and from time to time, to adjust or alter said Maintenance Charge from month to month as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder.

6.03 Creation of Lien and Personal Obligations. In order to secure the payment of the Maintenance Charge, and other charges and assessments (including, but not limited to, attorney's fees incurred in the enforcement of these Restrictions) hereby levied, a vendor's (purchase money) lien for the benefit of the Association, shall be and is hereby reserved in the deed from the Developer to the purchaser of each Lot or portion thereof, which lien shall be enforceable through appropriate judicial and non-judicial proceedings by the Association. As additional security for the payment of the Maintenance Charge and other charges and assessments hereby levied, each Owner of a lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Lot which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute); and each such owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice-President of the Association and filed for record in the Real Property Records of Fort Bend County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's sale not less than twenty one (21) days prior to the date on which said sale is scheduled by posting such notice through the U.S. Postal Service, postage prepaid, certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall also cause a copy of the Notice of Trustee's

Sale to be recorded in the Real Property Records of Fort Bend County, Texas. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorneys' fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgement for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of nonpayment by any Owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten(10) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 6.03 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Fort Bend County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

6.04 Notice of Lien. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim or lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection, including reasonable attorneys' fees, which have accrued thereon, (c) the legal description and street address of the Lot against which the lien is claimed and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Trustees to cover the preparation and recordation of such release of lien instrument.

6.05 Liens Subordinate to Mortgages. The liens described in this Article VI and the superior title herein reserved shall be deemed subordinate to a first lien or other

liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or other bona fide, third party lender, including Developer, which may have heretofore or may hereafter lend money in good faith for the purchase or improvement of any Lot and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Lot who obtains title to such Lot pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the lot free and clear of any claims for unpaid Maintenance Charges or other charges or assessments against such Lot which accrued prior to the time such holder acquires title to such Lot. No such sale or transfer shall relieve such transferee of title to a Lot from liability for any Maintenance Charge or other charges or assessments thereafter becoming due or from the lien thereof. Any other sale or transfer of a lot shall not affect the Association's lien for Maintenance Charges or other charges or assessments. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of the lien described in Section 6.01 hereof, which notice shall be sent to the nearest office of such mortgagee by prepaid United States registered or Certified mail, return receipt requested, and shall contain a statement of delinquent Maintenance Charges or other charges or assessments upon which the proposed action is based provided, however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

6.06 Purpose of the Maintenance Charge. The Maintenance Charge levied by the Association shall be used exclusively for the purpose of promoting the aesthetics, recreation, health, safety, and welfare of the Owners of the Subdivision and other portions of the Annexable Area which hereafter may become subject to the jurisdiction of the Association. In particular, the Maintenance Charge shall be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties described in Article VIII, including the maintenance of the boundaries of the subdivision, Common and Easement Areas, landscape easements, any Drainage Easements, and the establishment and maintenance of a reserve fund for their maintenance. The Maintenance Fund may be expended by the Developer or the Association for any purposes which, in the judgement of the Developer or Association, will tend to maintain the property values in the Subdivision, including, but not limited to, providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the areas stated, and other expenses as may from time to time be authorized by the Association. Except for the Association's use of the Maintenance Charge to perform its duties described in this Declaration and in the Bylaws, the use of the Maintenance Charge for any of these purposes is permissive and not mandatory. It is understood that the judgement of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

6.07 Exempt Property. The following property subject to this Declaration shall be exempt from the Maintenance Charge and all other charges and assessments created

herein; (a) all properties dedicated to and accepted by a local public authority; (b) any Common Area; (c) the reserve areas; and (d) all properties owned by the Developer or the Association or a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas; however, no land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge.

- 6.08 Handling of Maintenance Charges. The collection and management of the Maintenance Charge or other charge or assessment levied hereunder, shall be performed by the Developer until the Control Transfer Date, at which time the Developer shall deliver to the Association all funds on hand together with all books and records of receipt and disbursements. The Developer and, upon transfer, the Association, shall maintain separate special accounts for these funds, and Owners shall be provided at least annually, information on the Maintenance Fund as provided in Section 8.07 hereof.

ARTICLE VII

DEVELOPER'S RIGHTS AND RESERVATIONS

- 7.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and any reserved flood areas, reserved water well areas, and other Common Areas from the date hereof, until the earlier to occur of (i) the Control Transfer date or (ii) Developer's written notice to the Association of Developer's termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of a Lot by Developer to an Owner whether or not specifically stated therein and in each deed or other instrument by which any property within any reserved flood area, reserved water well area, or common area is conveyed by Developer. The rights, reservations and easements hereafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Developer's consent to any one such amendment shall not be construed as a consent to any other or subsequent amendment.
- 7.02 Right to Construct Additional Improvements in Common Area. Developer shall have and hereby reserves the right (without the consent of any other Owner), but shall not be obligated, to construct additional improvements within any Common Area, subdivision boundary area, roadway area and easement areas adjacent to roadways, and any landscape easement area at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners, so long as such construction does not directly result in the increase of such Maintenance Charge. Developer shall, upon the Control Transfer Date, convey or transfer such improvements to the Association and the Association shall be obligated to accept title to, care for and maintain the same as elsewhere provided in this Declaration.

- 7.03 Developer's Rights to Use Common Areas, Subdivision boundary areas, roadway area and easement areas adjacent to roadways, and any landscape easement area in Promotion and Marketing of the Property and Annexable Area. Developer shall have and hereby reserves the right to reasonable use of these areas and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property and Annexable Area. Without limiting the generality of the foregoing, Developer may erect and maintain such signs, temporary buildings and other structures as Developer may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the above-stated areas; may use vehicles and equipment within the areas for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Property and Annexable Area, who are not Owners or Members of the Association, to use these areas at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Property and Annexable Area. Further, the Developer may establish Rules and Regulations for the use of the these areas in the Subdivision.
- 7.04 Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any other Owner or the Association, to grant or create temporary or permanent easements, for access, utilities, pipeline easements, cable television systems, communication and security systems, drainage, water and other purposes incident to development, sale, operation and maintenance of the Subdivision, located in, on, under, over and across (i) the Lots or other property owned by Developer, (ii) the Common Area, and (iii) existing utility and landscape easements. Developer also reserves the right, without the consent of any other Owner or the Association, to (i) grant or create temporary or permanent easements for access over and across the streets and roads within the Subdivision to and from the Lockwood By-Pass Road or other public roads for the benefit of owners of property; regardless of whether the beneficiary of such easements own property which is hereafter made subject to the jurisdiction of the Association and (ii) permit owners of property within the Annexable Area which is not made subject to the jurisdiction of the Association to use any recreational facilities of the Association and other Common Area, easement area, and landscape easement area, provided that said owners pay to the Association their proportionate share of the cost of operating and maintaining said recreational facilities and areas.
- 7.05 Developer's Rights to Convey Additional Common Area, Easement area, and Landscape Easement area to the Association. Developer shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and improvements thereon, if any, to the Association as such areas at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or the Association.

- 7.06 Annexation of Annexable Area. Additional residential property and common areas outside of the Subdivision including, without limitation, the Annexable Area, may, at any time and from time to time, be annexed by the Developer into the real property which becomes subject to the jurisdiction and benefit of the Association, without the consent of the Owners or any other party; provided, however, such additional residential property outside of the Annexable Area may be made subject to the jurisdiction of the Association by the Developer. The owners of Lots in such annexed property, as well as all other Owners subject to the jurisdiction of the Association, shall be entitled to the use and benefit of all Common Areas, easement areas, and Landscape easement areas, including any reserved flood areas, that are or may become subject to the jurisdiction of the Association, provided that such annexed property is impressed with and subject to at least the Maintenance Charge imposed hereby.
- 7.07 Developer's Rights to retain Agricultural Exemption. Developer shall retain the right to take all action reasonably necessary to retain an Agricultural exemption on all unsold Lots for taxation purposes, and such activity shall not be considered a violation of the Restrictive Covenants.

ARTICLE VIII

DUTIES AND POWERS OF THE PROPERTY OWNERS ASSOCIATION

- 8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the members, to maintain, improve and enhance the Easement Areas, Common Areas, and to improve and enhance the attractiveness, desirability and safety of the Subdivision and any portion of the Annexable Area which becomes subject to the jurisdiction of the Association. This power is limited however, to those matters set forth in these covenants, and shall not otherwise contravene the rights of the individual property owners in the Subdivision. The Association shall have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration.
- 8.02 Duty to Accept the Property and Facilities Transferred by Developer. The Association shall accept title to any of the Easement areas, Common Areas or other real property, including any improvements thereon and personal property transferred to the Association by Developer, and equipment related thereto, together with the responsibility to perform any and all administrative functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with

the terms of this Declaration. Property interests transferred to the Association by Developer may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by Developer shall be within the boundaries of the Property or Annexable Area. Any property or interest in property transferred to the Association by Developer shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens and mortgages (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of any declaration of covenants, conditions and restrictions annexing such property to the Common Area, and all easements, covenants, conditions, restrictions and equitable servitude Of other encumbrances which do not materially affect the Owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board of Directors, no property or interest in property transferred to the Association by the Developer shall impose upon the Association any obligation to make monetary payments to Developer or any affiliate of Developer including, but not limited to, any purchase price, rent, charge or fee. The property or interest in property transferred to the Association by Developer shall not impose any unreasonable or special burdens of ownership of property, including the management maintenance, replacement and operation thereof .

- 8.03 Duty to Manage and Care for the Easement Area and the Common Area. The Association shall manage, operate, care for, maintain and repair all Easement Areas and Common Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Easement Areas and Common Areas shall include, but not be limited to the following: establishment, operation and maintenance of a security system, if any, for the Subdivision; landscaping, maintenance, repair and replacement of the Easement Areas and Common Areas; maintenance, repair and replacement of any drainage easements; mowing of street right-of-ways and other portions of the Subdivision; and management, maintenance repair and upkeep of any reserved flood areas and Common Areas.
- 8.04 Other Insurance Bonds. The Association shall obtain such insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.
- 8.05 Duty to Prepare Budgets. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all Subdivision perimeters, Easement Areas and Common Areas.
- 8.06 Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

- 8.07 Duty to Provide Annual Review. The Association shall provide for annual unaudited independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of the same upon payment by such Member of the reasonable cost of copying the same.
- 8.08 Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Committee as elsewhere provided in Article IV of this Declaration.
- 8.09 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases) for the common benefit of Owners, including improvements and personal property. The Association may construct Improvements on the Property and may demolish existing improvements.
- 8.10 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce rules and regulations ("Rules and Regulations"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Easement Areas and Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association.
- 8.11 Power to Enforce Restrictions and Rules and Regulations. The Association (and any Owner with respect only to the remedies described in (ii) below) Shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Member and each related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and of Rules and Regulations of the Association by any one or more of the following means: (i) By entry upon any property within the Subdivision 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 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, for the purpose of enforcement of this Declaration of the Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations; (iii) by exclusion, after notice and hearing, of any Member of Related User from use of any recreational facilities within the Easement Areas and Common Areas during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case exclusion.

Before the Board may invoke the remedies provided above, it shall give registered or certified notice of such alleged violation to Owner, and shall afford the Owner a

hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Developer, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

- 8.12 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, water facility and other such easements in, on, over or under the Common Area. Additionally, the Association, from and after the Control Transfer Date, shall have the power to grant utility, drainage, water facility and other similar easements within twenty (20) feet of the boundaries of (in, on, over and under) Lots provided that such easements do not unreasonably interfere with the rights of the Owner of such Lots, and provided that the easements are limited solely to that purpose, and are not for any other use.
- 8.13 Power to Convey and Dedicate Property to Government Agencies. The Association shall have the power to grant, convey, dedicate or transfer any Easement Area or Common Area or facilities to any public or governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate, within the authority granted by these Covenants, which power may be exercised (i) prior to the Control Transfer Date by the Board of Directors and (ii) from and after the Control Transfer Date by the Association, with the approval of not less than two-thirds (2/3) of the Members agreeing in writing or by voting at any scheduled meeting of the Members and with the prior written approval of the Developer. The Association may, subject to the limitations of the preceding sentence, convey property to a public or governmental agency or authority in lieu of such property being condemned by such public or governmental agency or authority.

ARTICLE IX GENERAL PROVISIONS

- 9.01 Term. The provisions hereof shall run with all property in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by not less than two-thirds (2/3) of the then Owners (including the Developer, if the Developer still owns any land within or adjacent to the Subdivision) of the Lots has been recorded agreeing to cancel, amend or change, in whole or in part, this Declaration.
- 9.02 Amendments. This Declaration may be amended or changed in whole or in part, at any time by the written agreement or signed ballot of Owners (including the Developer) entitled to cast no less than two-thirds (2/3rds) of the votes of all of the

Owners. If the Declaration is amended by a written instrument signed by those Owners entitled to cast not less than two-thirds (2/3rds) of all of the votes of the Owners of the Association, such amendment must be approved by said Owners within three hundred sixty-five (365) days of the date the first Owner executes such amendment. The date an Owner's signature is acknowledged shall constitute prima facie evidence of the date of execution of said amendment by such Owner. Those Members (Owners, including the Developer) entitled to cast not less than two-thirds (2/3rds) of all of the votes of the Members of the Association may also vote to amend the Declaration, in person, or by proxy, at a meeting of the Members (Owners, including the Developer) duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the Bylaws to the contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Real Property Records of Fort Bend County, Texas, accompanied by a certificate, signed by a majority of the Board of Trustees, stating that the required number of Members (Owners, including the Developer) executed the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of the written ballots pertaining to such amendment shall be retained by the Association for a period of not less than three (3) years after the date of filing of the amendment or termination.

- 9.03 Amendments by the Developer. The Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity, or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee. Additionally, Developer shall have and reserves the right at any time and from time to time prior to the Control transfer Date, without the joinder or consent of any Owner of other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of permitting the Owners to enjoy the benefits from technological advances, such as security, communications or energy-related devices or equipment which did not exist or were not in common use in residential Subdivisions at the time this Declaration was adopted. Likewise, the Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of prohibiting the use of any device or apparatus developed and/or available for residential use following the date of this Declaration

if the use of such device or apparatus will adversely affect the Association or will adversely affect the property values within the Subdivision.

9.04 **Severability.** Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

9.05 **Mergers and Consolidations.** The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that (i) prior to the Control Transfer Date any such merger or consolidation shall be approved (in writing or at a meeting duly called for such purpose) by two-thirds (2/3rds) of the Directors and (ii) from and after the Control Transfer Date any such merger or consolidation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds (2/3rds) of the votes of all of the Members of the Association and the Developer.

Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of the other associations may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association will be subject to the covenants and restrictions established by this declaration within the Subdivision, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration, except as changed by amendment of this Declaration or by the plan of merger or consolidation. In the event of any inconsistency between the terms and provisions of this Declaration and the terms and provisions of any of the merger or consolidation documents, the terms and provisions of this Declaration shall control.

9.06 **Liberal Interpretation.** The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

9.07 **Successors and Assigns** The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and the Association, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

9.08 **Effect of Violations on Mortgages.** No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust and any such mortgage, lien, or deed of trust may,

nevertheless be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

- 9.09 **Terminology.** All personal pronouns used in this Declaration and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms "herein," "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear.
- 9.10 **Effect on Annexable Area.** The provisions of this Declaration do not impose any restrictions whatsoever or otherwise encumber the Annexable Area, unless and until portions of the Annexable Area are made subject to the jurisdiction of the Association by a separate instrument executed solely by Developer or its successors and assigns and any lienholders, which instrument is recorded in the Real Property Records of Fort Bend County, Texas.
- 9.11 **Developer's Rights and Prerogatives.** Prior to the Control Transfer Date, the Developer may file a statement in the Real Property Records of Fort Bend County, Texas, which expressly provides for the Developer's (ii) discontinuance of the exercise of any right or prerogative provided for in this Declaration to be exercised by the Developer or (i) assignment to any third party owning property in the Subdivision or Annexable Area, of one or more of Developer's specific rights and prerogatives provided in this Declaration to be exercised by Developer. The assignee designated by Developer to exercise one or more of Developer's rights or prerogatives hereunder shall be entitled to exercise such right or prerogative until the earlier to occur of the (i) Control Transfer Date or (ii) date that said assignee files a statement in the Real Property Records of Fort Bend County, Texas, which expressly provides for said assignee's discontinuance of the exercise of said right or prerogative. From and after the date that the Developer discontinues its exercise of any right or prerogative hereunder and/or assigns its right to exercise one or more of its rights or prerogatives to an assignee, the Developer shall not incur any liability to any Owner, the Association or any other party by reason of the Developer's discontinuance or assignment of the exercise of said right(s) or prerogative(s) Upon the Developer's Assignment of its rights as of the Transfer Control Date to the Association, the Association shall be entitled to exercise all the rights and prerogatives of the Developer .
- 9.12 **Electricity Utility Service.** Prior to beginning any construction on a Lot, each Lot owner, at his expense, shall be required to install electric service lines from the transformer or source of feed to the meter location on said Lot. Further, each Lot owner may expect to pay a charge for connection to such electric utility service, and the owner is obligated to contact Houston Lighting and Power or the appropriate electric utility company to determine such charge and make arrangements for the

installation of said service lines and connection to the electrical distribution system. Owner shall also be responsible for all charges for all utility service furnished to Owner's Lot.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand as of this 20 day of March, 2002.

SUN RANCH, LLC, (Developer) by

Ron Sebesta

Ron Sebesta, it's duly Authorized Agent

STATE OF NEW MEXICO

COUNTY OF SANTA FE

} ss.

This instrument was acknowledged before me this 20 day of March, 2002, by Ron Sebesta, Manager of Sun Ranch, LLC, a Texas Limited Liability Company.

[Signature]
Notary Public in and for the State of New Mexico



FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

THIS DOCUMENT WAS FILED
BY & RETURNED TO:
FIRST AMERICAN TITLE

Dianne Wilson

2002 MAR 27 10:05 AM 2002030333
TO \$83.00
DIANNE WILSON, COUNTY CLERK
FORT BEND COUNTY, TEXAS



GOVERNING DOCUMENTS ENFORCEMENT AND FINE POLICY
for
SUN RANCH PROPERTY OWNERS ASSOCIATION

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

I, KEITH KUIX, President of Sun Ranch Property Owners Association (the "Association"), certify that at a meeting of the Board of Directors of the Association duly called and held on the 2nd day of MARCH, 2019, with at least a quorum of the Board members being present and remaining throughout, and being duly authorized to transact business, the following Governing Documents Enforcement and Fine Policy (this "Policy") was approved by not less than a majority of the Board members in attendance.

RECITALS:

1. Section 8.10 of the Declaration of Covenants, Conditions and Restrictions for Sun Ranch, Phase I ("Declaration") grants the Association the power and authority to adopt, amend, repeal and enforce Rules and Regulations, fines, levies, and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of the Declaration, the operation of the Association, the use and enjoyment of the Easement Areas and Common Areas, and the use of any other property, facilities or improvements owned or operated by the Association.

2. The Bylaws of the Association provide in Article II, Section 10(j) that the Board may enforce all covenants and restrictions imposed in Sun Ranch, and in Article II, Section 10(q) that the Board may, in general, carry on the administration of the Association and do all those things necessary and/or desirable to carry out the governing and operating of the Association.

3. Section 209.006 of the Texas Property Code sets forth notice requirements prior to the commencement of enforcement action, including the imposition of fines.

4. The Board of Directors desires to adopt a policy relating to the enforcement of the Declaration and the other governing documents of the Association consistent with Section 209.006 of the Texas Property Code and the Declaration.

5. This Policy supersedes and replaces any previously recorded fine and enforcement policy.

WITNESSETH:

It is the policy of the Association to enforce its Governing Documents (as defined herein) as provided below.

Section 1. Definitions.

Capitalized terms used in this Policy have the following meanings:

- 1.1. **Articles of Incorporation** – The Articles of Incorporation of the Association, as they may be amended.
- 1.2. **Board or Board of Directors** – The Board of Directors of the Association.
- 1.3. **Bylaws** – The Bylaws of the Sun Ranch recorded in the Official Public Records of Real Property of Fort Bend County, Texas under Clerk's File No. 2018130432 as they may be amended or supplemented.
- 1.4. **Declaration** – The “Declaration of Covenants, Conditions and Restrictions for Sun Ranch, Phase I” recorded under Clerk's File No. 2002030333 in the Official Public Records of Real Property of Fort Bend County, Texas, and any amendments, annexations or supplements thereto.
- 1.5. **Governing Documents** – The Declaration, the Articles of Incorporation, the Bylaws, all guidelines and policies applicable to the Subdivision, and the rules and regulations of the Association adopted by the Board and recorded in the Official Public Records of Real Property of Fort Bend County, Texas.
- 1.6. **Subdivision** – means any and all Property subject to the Declaration as it may be amended.

Other capitalized terms used in this Policy, but not defined herein, have the same meanings as that ascribed to them in the Declaration.

Section 2. Types of Violations. Section 209.006 of the Texas Property Code refers to curable violations, uncurable violations, and violations which are considered a threat to public health or safety. The types of violations are addressed below.

2.1. **Curable Violations** – By way of example and not in limitation, the Texas Property Code lists the following as examples of curable violations:

- a. a parking violation;
- b. a maintenance violation;
- c. the failure to construct improvements or modifications in accordance with approved plans and specifications; and
- d. an ongoing noise violation such as a barking dog.

2.2. **Uncurable Violation** – A violation that has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. By way of example and not in limitation, the Texas Property Code lists the following as examples of uncurable violations:

- a. an act constituting a threat to health or safety;
- b. discharging fireworks;

- c. a noise violation that is not ongoing; and
- d. holding a garage sale or other event prohibited by the Governing Documents.

2.3. **Violation that is a Threat to Public Health or Safety** - Per the Texas Property Code, a violation that could materially affect the physical health or safety of an ordinary resident.

As provided in this Policy, there are two (2) enforcement procedures to be followed depending upon whether the violation is curable *and* does not pose a threat to public health or safety or whether the violation is uncurable *and/or* poses a threat to public health or safety. If there is reasonable uncertainty as to whether a violation is curable or uncurable or a threat to public health or safety, the Board has the authority to make the determination and, therefore, to decide which enforcement procedure will be followed. Provided that, this Policy will not be construed to impose an obligation on the Board to pursue enforcement action with respect to a violation or alleged violation if the Board, in its reasonable good faith judgment, decides that enforcement action is not warranted or necessary.

Section 3. Enforcement - Curable Violations That Do Not Pose a Threat to Public Health or Safety. If a violation is curable and does not pose a threat to public health or safety, the Owner will be given a reasonable period to cure the violation, as provided below. The time given to an Owner may vary depending upon the violation and the difficulty involved or the effort required to cure the violation. The Board of Directors may, but is not obligated to, consider any special circumstance relating to the violation and the cost to cure the violation. The enforcement procedure for this type of violation is as follows:

3.1. **Courtesy Letter (Optional)** - Upon verification of a violation, a courtesy letter may be sent to the Owner describing the violation and requesting that the Owner cure the violation within a stated time period. The Association is not required to send a courtesy letter.

3.2. **Violation Letter (Optional)** - After the expiration of the time set forth in the courtesy letter, if a courtesy letter is sent, or as the initial notice, a violation letter may be sent to the Owner. Depending on the severity of the violation and/or the history of prior violations on the Owner's Lot, the violation letter may be the first letter sent to the Owner. The Association is not required to send a violation letter. If sent, the violation letter will include:

- a. a description of the violation;
- b. the action required to correct the violation;
- c. the time by which the violation must be corrected; and
- d. notice that if the violation is not corrected within the time provided or if there is a subsequent violation of the same restriction, a fine may be imposed or other enforcement action may be initiated.

3.3. **Demand Letter** – Either upon initial verification of a violation, or after the expiration of the time period stated in the courtesy letter and/or violation letter, if sent, a demand letter may be sent to the Owner. The demand letter must be sent by certified mail or by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier. The demand letter must be sent to the Owner's last known address as shown in the records of the Association, as well as by any other method that the Board determines will cause the demand letter to be received by the Owner. Depending on the severity of the violation and/or the history of prior violations on the Owner's Lot, the demand letter may be the first letter sent (rather than a courtesy letter and/or a violation letter), as determined by the Board in its sole discretion.

3.4. **Content of the Demand Letter** – The demand letter will include the following:

- a. a description of the violation that is the basis for the enforcement action, suspension action, charge, or fine and any amount due the Association;
- b. notice that the Owner is entitled to a reasonable period to cure the violation and avoid the enforcement action, suspension, charge or fine;
- c. a specific date, which must be a reasonable period given the nature of the violation, by which the Owner must cure the violation. If the Owner cures the violation before the date specified, a fine may not be assessed for the violation;
- d. a notice that the Owner may request a hearing before the Board of Directors, such request to be made in writing on or before the 30th day after the date the notice was mailed to the Owner; and
- e. notice that the Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 *et seq.*), if the Owner is serving on active military duty.

3.5. **Hearing Requested** – If a hearing is properly requested by the Owner, the hearing will be held not later than the 30th day after the date the Association receives the Owner's written request for a hearing. Notification of the date, time and place of the hearing will be sent not later than the 10th day before the hearing. If a postponement of the hearing is requested by either the Association or the Owner, a postponement must be granted for a period of not more than ten (10) days. Any additional postponement may be granted by agreement of the parties.

3.6. **Hearing Not Requested** – If a hearing is not properly requested by the Owner, the violation must be cured within the time frame set forth in the demand letter. Fines and other remedies available to the Association may be implemented after the expiration of the thirty (30) day time frame provided to the Owner to request a hearing.

3.7. **Remedies** – The Owner is liable for, and the Association may collect reimbursement of, reasonable attorney's fees and other reasonable costs incurred by the

Association after the conclusion of a hearing, or, if a hearing is not requested, after the date by which the Owner must request a hearing. Additionally, the Association may, but is not obligated to, exercise any self help remedies set forth in the Declaration.

In addition to charging fines, as provided in Section 6, the Association reserves the right under the Governing Documents and under Texas law to file a suit for the recovery of damages and/or injunctive relief.

A notice of violation may also be recorded in the real property records if the violation is not cured within the specified time frame.

Section 4. Enforcement - Uncurable Violations and/or Violations that Pose a Threat to Public Health or Safety. Upon initial verification of an uncurable violation and/or threat to public health or safety, a demand letter may be sent to the Owner. The demand letter must be sent by certified mail or by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier. The demand letter must be sent to the Owner's last known address as shown in the Association's records, as well as by any other method that the Board determines will cause the demand letter to be received by the Owner.

4.1. **Content of the Demand Letter** - The demand letter will include the following:

- a. a description of the violation that is the basis for the enforcement action, suspension action, charge, or fine and any amount due the Association;
- b. notice that the Owner may request a hearing before the Board of Directors, such request to be made in writing on or before the 30th day after the date the notice was mailed to the Owner; and
- c. notice that Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the Owner is serving on active military duty.

4.2. **Hearing Requested** - If a hearing is properly requested by the Owner, the hearing must be held not later than the 30th day after the date the Association receives the Owner's written request for a hearing. Notification of the date, time and place of the hearing will be sent not later than the 10th day before the hearing. If a postponement of the hearing is requested by either the Association or the Owner, a postponement must be granted for a period of not more than ten (10) days. Any additional postponement may be granted by agreement of the parties.

4.3. **Remedies** - Regardless of whether the Owner requests a hearing, fines and other remedies available to the Association may be implemented after mailing the demand letter. The Owner is liable for, and the Association may collect reimbursement of, reasonable attorneys' fees and other reasonable costs incurred by the Association. Additionally, the Association may, but is not obligated to, exercise any self help remedies set forth in the Declaration.

In addition to charging fines, the Association reserves the right under the Governing Documents and under Texas law, to file a suit for the recovery of damages and/or injunctive relief.

A notice of violation may also be recorded in the real property records should the violation not be cured within the specified time frame.

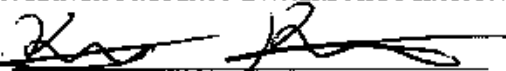
Section 5. Subsequent Violation. If an Owner has been given notice in accordance with Section 3 or Section 4 of this Policy in the preceding six (6) month period, notice is not required for the recurrence of the same or a similar violation. The Association may impose fines without first sending another demand for compliance.

Section 6. Fines. Subject to the notice provisions set forth in Section 3 or Section 4 of this Policy, as applicable, the Association may impose monetary fines against an Owner as a result of a violation pursuant to the Schedule of Fines attached hereto under **Exhibit "A"**. Any fines imposed against an Owner will be the personal obligation of the Owner, but will not be charges secured by the Association's lien against the Owner's Lot created by the provisions of the Declaration to secure the payment of assessments. The Board of Directors of the Association may adopt and modify from time to time a Schedule of Fines for various types of violations.

I hereby certify that I am the duly elected and acting President of the Association and that this Policy was approved by a majority vote of the Board of Directors as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Real Property of Fort Bend County, Texas.

TO CERTIFY which witness my hand this 13 day of MARCH, 2019.

SUN RANCH PROPERTY OWNERS ASSOCIATION

By: 

Print Name: KEITH KLUX

Its: President

THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

BEFORE ME, the undersigned notary public, on this 13 day of MARCH, 2019 personally appeared KEITH KLIK, President of Sun Ranch Property Owners Association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purpose and in the capacity therein expressed.



Notary Public in and for the State of Texas



EXHIBIT A
SUN RANCH
SCHEDULE OF FINES

<u>Violation of the Governing Documents</u>	<u>AMOUNT OF FINE*</u>
First Violation	\$50.00
Second Violation	\$100.00
Third Violation	\$150.00
Fourth Violation	\$200.00
Ongoing Violation	\$100.00 plus \$25.00 per day for each day that the violation continues to exist

*This Schedule of Fines may be amended and/or supplemented from time to time as deemed appropriate by the Board of Directors.



**FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
SUN RANCH, PHASE 1**

**THE STATE OF TEXAS §
 §
COUNTY OF FORT BEND §**

WHEREAS, Sun Ranch, LLC, a Texas limited liability company, as Declarant, caused that certain instrument entitled "Declaration of Covenants, Conditions, and Restrictions and Restrictions, Sun Ranch, Phase 1" (the "Declaration") to be recorded in the Official Public Records of Real Property of Fort Bend County, Texas on March 27, 2002 under Clerk's File No. 2002030333, which Declaration imposed various covenants, conditions and restrictions upon certain property in Fort Bend County, Texas, which is known as Sun Ranch Phase 1 according to the plat of survey by John T. Jakubik & Associates, Inc., filed in the Fort Bend County Land Records Office as Slides #2271B, 2272A, and 2272B; and

WHEREAS, Article XI, Section 9.02 of the Declaration provides that the Declaration may be amended at any time by the written agreement or signed ballots of Owners entitled to cast no less than two-thirds (2/3) of the votes of all of the Owners; and

WHEREAS, reference is hereby made to the Declaration for all purposes, and any and all capitalized terms used herein shall have the meanings set forth in the Declaration, unless otherwise specified in this First Amendment; and

NOW THEREFORE, pursuant to Declaration, the following amendment to the Declaration is approved by the Owners entitled to cast no less than two-thirds (2/3) of the votes of all of the Owners.

Article III, Section 3.01 entitled "USE RESTRICTIONS" is hereby amended to add the following provisions:

No Lot may be further subdivided and separated into smaller Lots, and no portion less than all of any Lot will be transferred or conveyed. Subdividing is prohibited.

The Declaration, as hereby amended, is in all respects ratified and confirmed and shall remain in full force and effect. If any provision of this First Amendment is found to be in conflict with the Declaration, this First Amendment shall control.

CERTIFICATION

I hereby certify that, as President of the Sun Ranch Property Owners Association and pursuant to the authority in the Declaration, this First Amendment was approved by the approved by the Owners entitled to cast no less than two-thirds (2/3) of the votes of all of the Owners.

IN WITNESS WHEREOF, this First Amendment to the Declaration is executed as of the 7 day of OCTOBER, 2020.

Sun Ranch Property Owners Association, a Texas non-profit corporation

By: [Signature]
PRESIDENT

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

BEFORE ME, on this day personally appeared KEITH KUIX, the President of the Sun Ranch Property Owners Association, known by me to be the person whose name is subscribed to this instrument, and acknowledged to me that s/he executed the same for the purposes herein expressed, in the capacity herein stated, and as the act and deed of said corporation.

Given under my hand and seal this the 7 day of OCTOBER, 2020.



[Signature]
Notary Public - State of Texas

After Recording, Return To:
Sipra S. Boyd
Roberts Markel Weinberg Butler Hailey PC
2800 Post Oak Blvd., 57th Floor
Houston, TX 77056
File No. 2375-00001