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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
COMMONS WATERWAY, SECTION FOUR (4)**

THE STATE OF TEXAS

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§

COUNTY OF HARRIS

20100503897
11/24/2010 RPI \$112.00

This Declaration is made on the date hereinafter set forth by THE COMMONS OF LAKE HOUSTON, LTD., a Texas limited partnership, (hereinafter called "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the following tract of land (hereinafter referred to as "the Property"):

Commons Waterway, Section Four (4), a subdivision in Harris County, Texas, according to the map or plat thereof recorded under File No. 20100502604, of the Map Records of Harris County, Texas

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and,

WHEREAS, Declarant desires to establish and preserve a general and uniform plan for the improvement, development, sale, and use of the Property for the benefit of the present and future owners of Lots therein;

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, transferred sold, conveyed, occupied and enjoyed subject to the covenants, conditions, easements, charges, liens and restrictions herein set forth which shall be governed and managed by the Commons of Lake Houston Property Owners Association.

**ARTICLE I
DEFINITIONS**

Section 1. "Board" shall mean the Board of Directors of The Commons of Lake Houston Property Owners Associations elected pursuant to the provisions of Article VI, Section 1, of this Declaration.

Section 2. "Architectural Control Committee" shall mean the Architectural Control Committee established and empowered by the Commons of Lake Houston Property Owners Association.

Section 3. "Association" shall mean and refer to The Commons of Lake Houston Property Owners Association, Inc., its successors and assigns.

Section 4. “**Board**” or “**Board of Directors**” shall mean the Board of Directors of the Commons of Lake Houston Property Owners Association.

Section 5. “**Common Area**” shall mean any property and Improvements thereon owned by the Association or reserved for or dedicated for the common use and enjoyment of all Owners.

Section 6. “**Declarant**” shall mean The Commons of Lake Houston, Ltd., a Texas limited partnership, its successors and assigns that have been designated as such by Declarant pursuant to a written instrument duly executed by Declarant and recorded in the Official Public Records of Real Property of Harris County, Texas.

Section 7. “**Elected Board**” shall mean the Board of Directors of The Commons of Lake Houston Property Owners Association.

Section 8. “**Improvement**” shall mean any building, structure, fixture or fence, any transportable building or structure placed on a Lot, whether or not affixed to the land, and any addition to, or modification of, an existing building, structure, fixture or fence.

Section 9. “**Member**” shall mean every Lot Owner who is a member of the Association as provided in Article VI of this Declaration.

Section 10. “**Mortgage**” shall mean a security interest, mortgage, deed of trust, or lien instrument granted by an Owner to secure the payment of a loan made to such Owner, duly recorded in the Official Public Records of Real Property of Harris County, Texas, and creating a lien or security interest encumbering a Lot and some or all Improvements thereon.

Section 11. “**Owner**” shall mean any person or persons, firm, corporation or other entity or any combination thereof that is the record Owner of fee simple title to a Lot, including contract sellers, but excluding those having an interest merely as security for performance of an obligation.

Section 12. “**Property**” shall mean all of Commons Waterway, Section Four (4) and any other property that may be subjected to this Declaration by annexation document duly executed by Declarant and recorded in the Official Public Records of Real Property of Harris County, Texas.

Section 13. “**Plat**” shall mean the plat for Commons Waterway, Section Four (4), according to the map or plat thereof recorded under File No. 20100502604, of the Map Records of Harris County, Texas and any replat thereof.

Section 14. “**Residential Dwelling**” shall mean the single-family residence and appurtenances constructed on a Lot.

Section 15. “**Subdivision**” shall mean the Property, together with all Improvements now or hereafter situated thereon and all rights and appurtenances thereto.

ARTICLE II
EASEMENTS, DRIVES, ROADS, AND PRIVATE ROADS

Section 1. Private roads, drives, or access easements and easements for installation and maintenance of utilities, irrigation and drainage, are established by separate instrument or instruments of record or to be placed of record in the office of the County Clerk and as hereinafter set forth. Within such easements and private roads, no structure, planting, or other material shall be placed or permitted to remain which may damage, interfere with, or change the direction or flow of drainage facilities in the easements, or which may interfere with passage along such common or private road easements or which would interfere with maintenance thereof. The easement area of each Lot and all Improvements thereon shall be continuously maintained by the Owner of such Lot, except for Improvements or maintenance of which a public, private, or quasi-public authority or utility company is responsible. Easements established as Common Areas for greenbelts, riding trails, hiking trails, and the like shall be maintained by the Association and may not be fenced into private property except as hereinafter prescribed.

Section 2. No Residential Dwelling or other structure of any kind shall be built, erected, or maintained on any easement, reservation, or right of way, and such easements, reservations and rights of way shall at all times be open and accessible to representatives of the Association, to public and quasi-public utility corporations, their employees and contractors, and open to Declarant, its successors and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, or under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights of way are reserved.

Section 3. The Association, through its duly authorized employees and contractors, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot at any reasonable time to perform such maintenance as may be authorized herein.

Section 4. The private drive or roadway easements as set forth herein or by separate instruments, or as established within the Common Area, are for the private use and benefit of the Owners of the Lots and under the conditions as therein set forth, and are not dedicated to the general public.

Section 5. The Declarant or the Association may take unto itself or execute unto any fresh water supply, electric utility, gas utility, telephone or other utility entity right of way easements in the form and under the conditions as may at that time be required by said entity as a prerequisite to service of the Property with fresh water, electricity, gas, telephone, T.V. cable, or other utility or service.

Section 6. The Declarant or the Association may take unto itself or execute unto others right of way easements in the form and under the conditions as at that time may be required by said entity to distribute to each and every Lot herein water for the purposes of irrigation.

Section 7. It is understood and agreed that the easements granted herein and to be granted hereafter are reserved as permanent easements for the purpose set forth and are not subject to the time limit applicable to other restrictions.

Section 8. There is hereby reserved and established on each Lot a thirty-five (35) foot easement adjacent to, and parallel to, all private and public roadway easements. Said easement includes a twenty-five (25) foot drainage easement. Within the established twenty-five foot drainage easement is a fifteen (15) foot waterline easement upon the ground. Contiguous to and in addition to the fifteen (15) foot waterline easement, is a sixteen (16) foot electrical easement that extends beyond the twenty-five (25) foot drainage easement. As stated above, the total of these easements shall not exceed thirty-five (35) feet for the installation and service of all utilities the Declarant determines is necessary. A thirty-five (35) foot easement exists above the ground and extends from the outside boundary of the roadway easement or right of way into and upon the adjoining property on each Lot. There is further reserved on each Lot an easement five (5) feet into all property, measured from the front property line inward, for the purpose of the protection of a natural vegetation area along the frontage of each Lot.

Section 9. There is hereby reserved and established for the Association an easement for any purposes, including but not limited to, greenbelt, drainage and service of utilities fifteen (15) feet in width upon the ground, in, and across the rear tract line of each Lot and also elsewhere as indicated on the subdivision Plat. All Lots are subject to the easements reflected on the plat or designated in these restrictions. In no event shall the owner construct maintain or use any improvement within any utility easement located along the rear of such owner's lot.

ARTICLE III **ARCHITECTURAL CONTROL**

Section 1. As used in this Declaration, the term "Architectural Control Committee" shall mean a committee of three (3) members, all of whom shall be appointed by the Commons of Lake Houston POA, except as otherwise set forth herein. The Board shall continue to have the right to appoint all members of the Architectural Control Committee. Members of the Architectural Control Committee may, but need not be, Members of the Association. Members of the Architectural Control Committee appointed by The Commons of Lake Houston POA may be removed at any time and shall serve until resignation or removal by The Commons of Lake Houston POA. Members of the Architectural Control Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. The Architectural Control Committee shall have the right to designate a Committee Representative by recordation of a notice of appointment in the Official Public Records of Real Property of Harris County, Texas, which notice must contain the name, address, and telephone number of the Committee Representative. All third parties shall be entitled conclusively to rely upon such person's actions as the actions of the Architectural Control Committee itself until such time as the Architectural Control Committee shall record a notice of revocation of such appointment in the Official Public Records of Real Property of Harris County, Texas.

Section 2. In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Subdivision, to establish and preserve a harmonious design for the Subdivision and to protect and promote the value of the Property, the Lots and Residential Dwellings and all Improvements thereon, no Improvements of any nature (including landscape) shall be commenced, erected, installed, placed, planted, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any Lot or Residential Dwelling by any Owner, other than Declarant, which affect the exterior appearance of any Lot, Residential Dwelling or Improvement on a Lot, unless plans and specifications therefore have been submitted to and approved by the Architectural Control Committee in accordance with the terms and provisions of this Article. Without limiting the foregoing, the construction and installation of any Residential Dwellings, sidewalks, driveways, mailboxes, decks, patios, courtyards, landscaping, yard art, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, piers, docks, boat houses, garages, guest or servant's quarters, garages or any other outbuildings, shall not be undertaken, nor shall any exterior addition to or change or alteration be made (including, without limitation, painting or staining of any exterior surface) to any Residential Dwelling or Improvements, unless the plans and specifications for the same have been submitted to and approved by the Architectural Control Committee in accordance with the terms and provisions of this Article.

Section 2a. No clearing of any natural vegetation or timber shall commence without prior written consent from the Architectural Control Committee. Protection of the Vegetative Buffer Easement (VBE), as noted on the subdivision plat, shall be given the highest priority. Violation of this provision may result in fines to the lot owner. Lot owners are responsible for contractor clearing violations whether intentional or unintentional.

The Architectural Control Committee is hereby authorized and empowered to approve all plans and specifications for the construction of all Residential Dwellings and other Improvements on any part of the Property and the builder of all Residential Dwellings and Improvements; provided that, the approval of a builder shall not be construed in any respect as a representation or warranty by the Declarant, the Association or the Architectural Control Committee to any person or entity that the builder has any particular level of knowledge or expertise or that any Residential Dwelling or other Improvement constructed by the builder shall be a particular quality. Although the Architectural Control Committee has the authority to approve or deny any builder, it shall be the sole responsibility of the Owner of the Lot to determine the quality of that builder's workmanship, the builder's reputation and the suitability of the builder to construct the Residential Dwelling or other Improvement on that Owner's Lot. Owner shall hold the Declarant harmless from any claims that could arise through the fault of the builder. Prior to the commencement of any Residential Dwelling or other Improvements on any Lot, the Owner thereof shall submit to the Architectural Control Committee plans and specifications and related data for all such Improvements, which shall include the following:

- (i) Two (2) copies of an accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Residential Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, swimming pools, water lines, water wells, patios, boat docks and outbuildings and the relationship of the same to any setback requirements

applicable to the Lot or Residential Dwelling and any utility easements affecting the Lot.

- (ii) Two (2) copies of a foundation plan, floor plans and exterior elevation drawing of the front, back, and sides of the Residential Dwelling to be constructed on the Lot.
- (iii) Two (2) copies of written specifications and, if requested by the Architectural Control Committee, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Residential Dwelling on such Lot or any other Improvements thereto, including, without limitation, the type and color of all brick, stone, stucco, roofing and other materials to be utilized on the exterior of a Residential Dwelling and the color of paint or stain to be used on all doors, shutters, trim work, eaves and dormers on the exterior of such Residential Dwelling.
- (iv) Information sufficient to show that the landscaping and irrigation plans comply with the Declaration, the Construction Application and the Architectural Guidelines, if any.
- (v) Two (2) copies of information or documentation which clearly identifies all trees with a caliper of six (6) inches or more proposed to be removed from the Lot as well as a clearing plan that adequately describes for each lot what trees will be removed and which shall be replanted.
- (vi) A written statement of the estimated date of commencement, if the proposed Improvement is approved, and the estimated dated of completion.
- (vii) Such other plans, specifications or other information or documentation as may be required by the Architectural Control Committee, the Construction Application, and/or the Architectural Guidelines, if any.

The Architectural Control Committee shall, in its sole discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. One copy of all plans, specifications and related data so submitted to the Architectural Control Committee shall be retained in the records of the Architectural Control Committee and the other copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". The Architectural Control Committee may establish and charge from time to time, if deemed appropriate, a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof ("the Submission Fee"). This fee amount can be revised as the ACC deems necessary.

The Architectural Control Committee shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the Architectural Guidelines, if any, failure to provide requested

information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed Improvement with the scheme of development proposed for the Subdivision, objection to the location of any proposed Improvements on any such Lot or Residential Dwelling, objection to the landscaping plan for such Lot or Residential Dwelling, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole judgment of the Architectural Control Committee, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Subdivision. The Architectural Control Committee shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot or Residential Dwelling shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements or Residential Dwelling. Approval of plans and specifications by the Architectural Control Committee for Improvements to one particular Lot or Residential Dwelling shall not be deemed an approval or otherwise obligate the Architectural Control Committee to approve similar plans and specifications of any of the features or elements for the Improvements for any other Lot or Residential Dwelling within the Subdivision. The Architectural Control Committee shall have the authority to deny approval of any Builder that does not meet the minimum criteria established for consideration.

Any revisions, modifications or changes in any plans and specifications previously approved by the Architectural Control Committee must be approved by the Architectural Control Committee in the same manner specified above.

If construction of the Residential Dwelling or the Improvements has not substantially commenced (e.g., by clearing and grading, pouring of footing and otherwise commencing framing and other related construction work) within ninety (90) days of approval by the Architectural Control Committee of the plans and specifications for such Residential Dwelling or other Improvements, then no construction may be commenced (or continued) on such Lot or Residential Dwelling and the Owner of such Lot or Residential Dwelling shall be required to resubmit all plans and specifications for any Residential Dwelling or other Improvements to the Architectural Control Committee for approval in the same manner specified above.

Section 3. The address of the Architectural Control Committee shall be at the principal office of the Association.

Section 4. The Architectural Control Committee may from time to time promulgate, supplement or amend Architectural Guidelines, which provide an outline of minimum acceptable design standards for proposed Improvements; provided, however, that such outline will serve as a minimum guideline only and the Architectural Control Committee may impose other requirements in connection with its review of any proposed Improvements. If the Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall be superior for all approvals.

Section 5. Any request for approval of a proposed Improvement on a Lot shall be deemed approved by the Architectural Control Committee, unless disapproval or a request for additional information or materials is transmitted to the applicant by the Architectural Control Committee

within forty-five (45) days after the date of receipt by the Architectural Control Committee of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement on a Lot that violates any provision of this Declaration or the recorded Architectural Guidelines, the Architectural Control Committee at all times retaining the right to object to any Improvement on a Lot that violates any provision of this Declaration or the recorded Architectural Guidelines.

Section 6. After approval of any proposed Improvement on a Lot, the proposed Improvement shall be prosecuted diligently and continuously and shall be completed within the time frame approved by the Architectural Control Committee and in strict conformity with the description of the proposed Improvement in the materials submitted to the Architectural Control Committee. No building materials shall be placed upon a Lot until the Owner is ready to commence construction. Owners shall keep the job site and all surrounding areas clean during the progress of construction. All construction trash, debris and rubbish on each Lot shall be properly disposed of at least weekly. In no event shall any used construction material be buried on or beneath any Lot or Residential Dwelling. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any street. All construction vehicles must be parked on the Lot or in areas designated by the Architectural Control Committee. Construction on a Lot is permitted only between 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless special permission to proceed with construction at other times is given by the Architectural Control Committee. During the construction of a Residential Dwelling on a Lot, the Owner's builder is required to maintain one (1) port-o-can on the Lot for use by all persons working on the Lot. The port-o-can must be placed on the Lot at the location designated by the Architectural Control Committee, which is intended to be the least obtrusive location that still enables the port-o-can to be regularly serviced. For purposes hereof, the phrase "during the construction of a Residential Dwelling on a Lot" means the period beginning with the clearing and grading of the Lot and continuing until the Residential Dwelling is ready for occupancy. All builders and their subcontractors must use the contractor entrance designated by Declarant, if any, for both ingress to and egress from the Subdivision. Declarant shall have the authority to impose a fine in the amount of \$100.00 per violation for each occasion that a builder or one of its subcontractors fails to use the designated contractor entrance for ingress to or egress from the Subdivision. Any fines imposed against a builder in accordance with this Section shall be payable to the Association. Payment of such fines shall be the personal obligation of the builder; provided that, payment of such fines shall also be secured by the lien referred to and established in Article V of this Declaration against each Lot in the Subdivision owned by such builder. No Improvement on a Lot shall be deemed completed until the exterior fascia and trim on the structure has been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Residential Dwelling, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

Section 7. The Architectural Control Committee may authorize variances from compliance with any of the provisions of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of Improvements on a Lot, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become

effective when signed by at least a majority of the members of the Architectural Control Committee. Notwithstanding anything contained in this Declaration to the contrary, the Committee Representative shall not have the power to grant a variance. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was 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 provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Architectural Control Committee other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned.

Section 8. The members of the Architectural Control Committee shall be entitled to reimbursement for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

Section 9. None of the members of the Architectural Control Committee, any Committee Representative, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Architectural Control Committee, except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not inspect, guarantee or warrant the workmanship of the Improvement, including its design, construction, safety, whether structural or otherwise, conformance with building codes, or other governmental laws or regulations or whether the Improvement is suitable or fit for its intended purpose. Furthermore, none of the members of the Architectural Control Committee, the Committee Representative, any member of the Board of Directors, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Control Committee, the Board of Directors, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Control Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements, or portion thereof, or for failure to repair or maintain the same.

Section 10. The approval of plans and specifications by the Architectural Control Committee for any Residential Dwelling or other Improvement on a Lot shall not be construed in any respect as a representation or warranty by the Architectural Control Committee or Declarant to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot for the construction of any contemplated Improvements thereon.

ARTICLE IV.
USE RESTRICTIONS

Section 1. Each Owner shall use his Lot and the Residential Dwelling on his Lot for single family residential purposes only. As used herein, the term "single family residential purposes" shall be deemed to specifically prohibit, but without limitation, the use of any Lot for a duplex apartment, a garage apartment or any other apartment or for any multi-family use or for any business, professional or other commercial activity of any type, unless such business, professional or commercial activity is unobtrusive and merely incidental to the primary use of the Lot and the Residential Dwelling for residential purposes. No Owner shall use or permit such Owner's Lot or Residential Dwelling to be used for any purpose that would (i) void any insurance in force with respect to the Subdivision; (ii) make it impossible to obtain any insurance required by these Restrictions; (iii) constitute a public or private nuisance, which determination may be made by the Board in its sole discretion; (iv) constitute a violation of the Restrictions or any applicable law or (v) unreasonably interfere with the use and occupancy of the Subdivision by other Owners. No Owner shall be permitted to lease his Lot for hotel or transient purposes; for purposes of this Section, any lease term that is less than six (6) months shall be deemed to be a lease for hotel or transient purposes. Every lease shall provide that the lessee shall be bound by and subject to all the obligations under this Declaration and a failure to do so shall be a default under the lease. The Owner making such lease shall not be relieved from any obligation to comply with the provisions of this Declaration. For the purpose of this Section, one (1) full-time, live-in domestic servant or "nanny" shall be considered a member of the family occupying a Lot. No garage sales, rummage sales, estate sales, moving sales or similar types of activities are permitted on any Lot.

Section 2. No structures shall be erected, altered, placed or permitted to remain on any Lot other than (i) one detached single family dwelling, together with an attached or detached private garage for not less than two (2) nor more than four (4) vehicles and (ii) permitted accessory buildings, all of which are subject to approval by the Architectural Control Committee. Garages are permitted to be front loading in nature or to face a street. A metal garage door must be painted an earth tone color and be of ornamental design or made of wood. Garages placed upon a corner lot may face the side street and shall be located no closer to the side lot line than the minimum side lot line building setback as shown on the approved plat or otherwise indicated by the Committee. A two (2) story garage with living area on the second level may be permitted with the prior written approval of the Architectural Control Committee.

Interior Lots: The minimum allowable area of interior living space in a Residential Dwelling shall be two thousand (2,000) square feet for all interior lots, provided that, the minimum allowable area of interior living space in the ground floor of a one and one-half (1½), two (2) or two and one-half (2½) story Residential Dwelling shall be one thousand five hundred (1,500) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies and garages.

Waterfront Lots: On all lakefront lots the minimum allowable area of interior living space in a Residential Dwelling shall be two thousand eight hundred (2,800) square feet. Provided that, the minimum allowable area of interior living space in the ground floor of a one and one-half (1½), two (2) or two and one-half (2½) story Residential Dwelling shall be one thousand eight hundred

(1,800) square feet. For purposes of this Declaration, the term "interior living space" excludes steps, porches, exterior balconies and garages. All residential dwellings must have landscaping including but not limited to improved beds and all landscaping plans must be submitted to and approved by the Architectural Control Committee. Residential construction is not considered complete until all approved landscaping from the original approval has been properly installed consistent with the plans as submitted and approved.

Section 3. The Residential Dwelling constructed on each Lot must be constructed by a builder approved by the Architectural Control Committee. Unless otherwise approved in writing by the Architectural Control Committee, each Residential Dwelling, garage and carport shall consist of not less than 50% masonry materials or the equivalent on the exterior wall area. Masonry includes stucco, brick, and stone. For purposes of this Declaration, hardy plank is not considered to be masonry. Mailboxes must be constructed of masonry matching the material used on the Residential Dwelling. All materials must be installed per the manufacturer's specifications. Driveways and sidewalks, if any, must be constructed of concrete, natural stone or unit masonry. Other materials (e.g. brick) may be used only if approved by the Architectural Control Committee. All driveways shall be paved: chert, gravel or loose stone driveways are not permitted.

Section 4. No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently, except for ACC permitted guest houses and quarters for domestic workers. Storage buildings may not be utilized as a residence on the Lot. No guest house, quarters for domestic workers or other permitted accessory building, or structure shall be constructed or placed on a Lot prior to the construction of a Residential Dwelling on such Lot.

Waterfront Lot outbuildings: No outbuildings shall be approved for the rear of any waterfront lots unless granted a variance by the Architectural Control Committee. Regardless of other sections within the Commons of Lake Houston having outbuildings approved, including prior waterfront sections, this section strictly prohibits outbuildings on waterfront lots. Improvements such as gazebos, pavilions, a garden trellis, etc. shall be considered on a case-by-case basis and should be submitted to the ACC for written approval.

Section 5. No Lot shall be used or maintained as a dumping ground for unsightly personal property, rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. No garbage or trash shall be maintained on a Lot so as to be visible from any street in the Subdivision or any neighboring Lot except to make same available for collection and then only the shortest time reasonably necessary to effect such collection. All other equipment for the storage and disposal of such materials shall be kept in a clean, orderly and sanitary condition.

Section 6. Not more than three (3) generally recognized house or yard pets shall be maintained on any Lot and then only if they are kept thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be maintained on a Lot if visible from any street in the Subdivision or any neighboring Lot without the written consent of the Architectural Control Committee. The Board shall have the authority to

determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance, and the Board's determination shall be binding on all parties. Further, if during the term of the project, the Board of Directors determines, in its sole discretion, that an animal constitutes a nuisance or is otherwise undesirable in the Subdivision, the Board of Directors may revoke its consent and require the animal to be removed from the Lot.

Section 7. No Owner, lessee, tenant or occupant of a Lot, including all persons who reside with such Owner, lessee or occupant on the Lot, shall park, keep or store any vehicle on any Lot which is visible from any street in the Subdivision or any neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas, and a sport utility vehicle used as a family vehicle (whether or not the sport utility vehicle displays a passenger or truck vehicle license plate); the term "pick-up truck" is limited to a one (1) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger vehicle or pick-up truck owned or used by the residents of a Lot shall be permitted to be parked on any street in the Subdivision or any unpaved portion of a Lot. No guest of an Owner, lessee or other occupant of a Lot shall be entitled to park on any street in the Subdivision overnight or on any uncovered portion of the driveway of a Lot for a period longer than forty-eight (48) consecutive hours.

All trailers, recreational vehicles and boats must be kept behind the main dwelling on a lot and out of plain sight from the public road. A trailer, recreational vehicle or boat may be parked in the garage on a Lot or other structure approved by the Architectural Control Committee out of public view; if parked in the garage, there must be adequate space in the garage and on the driveway for all passenger vehicles used or kept by the Owner, lessee, tenant or occupant of the Lot. No passenger vehicle, pick-up truck, recreational vehicle, boat, or other vehicle of any kind shall be constructed, reconstructed, or repaired on any Lot within the Subdivision if visible from any street in the Subdivision or any neighboring Lot.

Section 8. Building location: No main residence or garage nor any part thereof shall be located on any lot nearer to the front or rear lot line or nearer to the side street lot line than the minimum building lines as shown on the subdivision plat.

However, at such time as plans are submitted to the committee for approval, the Committee may require that the residence or garage be located at a greater distance from the back lot line than the building line shown on the recorded plat. The Committee has the sole approval of the rear building line so there is consistency with the placement of homes with regard to one another.

Section 8a. Interior Lot sideline setback: No residential dwelling or garage shall be placed nearer to any side property line than ten (10) feet unless otherwise provided on the Plat or approved by the Committee.

Section 8b. Waterfront Lots sideline setback: No residential dwelling or garage shall be placed nearer to any side property line than seven (7) feet unless otherwise provided on the Plat.

Section 8c. Rear setback for all Lots: No Residential Dwelling or garage shall be located nearer to the rear property line than fifteen (15) feet.

Section 8d. Variance Authority: Upon written request, the Committee may approve a variance from the single family detached building location requirements provided said variance does not alter the scope and intent of the restrictions. Should a variance be granted, at no time shall it be considered to be a precedent established for future variances to be encouraged or allowed for the same or similar request. No permitted accessory building shall be placed nearer to the front property line than the front of the Residential Dwelling. A variance for the side property line setback may be considered for atypical shaped properties as well as those that are contiguous to a drainage easement. Setback Variances are to be limited to the most exigent circumstances.

Section 8e. Slab Requirements: All building foundations shall consist of a concrete slab, unless the Committee approves a different type of foundation when circumstances, such as topography of the Lot, make it impractical to use a concrete slab of all, or any portion of the foundation, of the building improvements constructed on the Lot. The finished slab elevation for all structures shall be twenty-four (24) inches above the 100-year floodplain elevation as established by FEMA and shall meet all requirements of the City of Houston, Harris County, San Jacinto River Authority, and any other governing political entities with jurisdiction over construction on or near Lake Houston. Additionally, all residential foundations/slabs must be a minimum of eight (8) inches exposed above the finished grade of the Lot at the foundation perimeter. The Committee or POA does not determine whether the structural integrity of the foundation is adequate, nor does the Committee or POA share in any duty to ensure each residence is built at or above the established FEMA floodplain elevations. The final slab elevation and placement with regard to the floodplain is the sole responsibility of the Owner. ACCEPTANCE OF THESE RESTRICTIVE COVENANTS IS AN ACKNOWLEDGMENT OF SUCH BY SAID OWNER. A structural engineer, surveyor, and/or third party inspector shall be consulted in these matters. The slab shall have the engineer's seal of approval prior to final approval by the Committee. Soil testing by a professional service is required as well, prior to slab design and approval.

Section 9. No septic tanks are allowed. All dwellings shall be connected to the waste/sewer lines in the dedicated utility easement area.

Section 10. No Lot shall be subdivided without written approval from the Architectural Committee, except that the Declarant may replat Lots for better utilization and function. However, any such replat will be subject to approval by all governmental authorities having jurisdiction, and all purchasers of Lots herein hereby waive the right or necessity of approval. No Lot shall be utilized for more than one (1) Residential Dwelling.

Section 11a. Fences, Walls and Hedges: All walls, fences and hedges must be approved by the Committee. Except as otherwise provided herein, no walls or fences shall be erected or

maintained nearer to the front of any lot than the front of the residential dwelling constructed on the lot, or on corner lots, nearer the side lot line than the side lot building line parallel to the side street as shown on the recorded plat. Except as otherwise provided within, all fences on any waterfront lot must be ornamental iron construction unless otherwise approved by the Committee and shall not exceed five (5) feet in height. All walls and fences on interior lots may be of ornamental iron, masonry or wood and shall not exceed six (6) feet in height. (The Declarant may construct fencing up to ten (10) feet in height where it deems necessary). All iron fencing shall be black and of a design that conforms to the Committee's predetermined plans. No chain link fences are permitted on any residential lot. Where approved herein, all wooden fences shall be constructed so that the finished side faces the street. No fence shall be installed which shall impede the natural flow of drainage across the lot. Ownership of any fence, wall or hedge shall pass with title to the lot and maintenance of such shall be the responsibility of the owner thereafter. The Declarant shall have the authority to enter for the purposes of repairing or maintaining any fence, wall or hedge should an owner fail to respond to notices requiring him or her to do so. Any fence construction that is determined to have commenced prior to written approval from the Committee shall be removed by owner and the approval process shall begin from that moment forward.

Section 11b. Docks and Boat slips: No dock, boat slip or other structure may be installed or constructed without approval from the Committee. Such a structure shall conform to the Committee's predetermined plan of low profile slips with canvas retractable covers. No dock, boat slip, decking, boat slip, boat cover, or bulk heading will be allowed unless approved by the Committee. Any and all boathouses will be denied if submitted for approval. All boat docks within the canal may not exceed twelve (12) feet in length protruding into the water, however, side loading docks parallel to the bulkhead may extend a greater distance for longer boats as further stated in 11g.

Section 11c. Lots 27 through 35, in Block 2, of COMMONS WATERWAY, SECTION FOUR (4) must submit for approval to construct a boat slip according to the predetermined subdivision plan. The Committee shall provide exact specifications for the design and construction of the slip including plans, materials and placement. The setback side line for these slips shall be five (5) feet from the lot line.

Section 11d. Lots 36 through 79, in Block 2, of COMMONS WATERWAY, SECTION FOUR (4) will have a boat slip provided by the Developer.

Section 11e. Ownership of any dock, boat slip, boat cover, or bulk heading installed on a Lot (including but not limited to bulk heading installed by the Declarant), shall pass with the title to the lot, and it shall be the owner's responsibility to maintain such dock, boat slip, boat cover and bulk heading thereafter. In the event of default on the part of the owner or the occupant any lot in maintaining said items and such failure continuing after ten (10) days written notice thereof, the Association, at its option, without liability to the owner or occupant in trespass or otherwise, may, in its discretion, enter upon said lot and cause said items to be repaired or maintained or do any other thing necessary to secure compliance with these restrictions so as to place said item in a satisfactory condition and may charge owner or occupant of such lot for the cost of the work. The owner or occupant, as the case may be, agrees by the purchase or occupancy of the property

to pay such statement immediately upon receipt thereof and all such payments by the Association shall, likewise, be secured by a vendor's lien for the benefit of the Association in the same manner as the maintenance charges payable in accordance with the provisions herein.

Section 11f. Sidewalks/recreation areas/additional decking may be built along the entire length of the bulkhead however these improvements may not exceed beyond the shoreline more than five (5) feet.

Section 11g. An additional slip for each waterfront lot may be approved and should be submitted to the Committee for as is required for all improvements. It is the intent of the Committee to require any additional slips to be designed and constructed parallel to the existing bulkhead. The Committee shall have the final authority to determine the maximum length of these additional slips.

Section 11h. Any and all outdoor lighting for waterfront lots must be approved prior to installation. Exterior illumination must be designed with the least amount of glare (negative impact) possible for area residents.

Section 11i. All entertainments decks, deck extension, slips, docks and boat covers must be low profile in design and may not be constructed without prior approval from the Architectural Control Committee. Any potential approvals must also meet the requirements set forth by any governing political jurisdictions responsible for Lake Houston and the San Jacinto River in writing prior to construction.

Section 12. No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot in this Subdivision.

Section 13. No culvert, bridge, or crossing may be installed by a Lot Owner unless approved by any governmental authority having jurisdiction and the Architectural Control Committee. Conformances to size and grade requirements are mandatory. All culverts will be installed with headers, or retainers, on each end to prevent erosion and dress culvert ends, and must be approved by the Architectural Control Committee prior to installation of culvert or wings. It is the responsibility of each Lot Owner to verify culvert installation meets city of Houston specifications, including proper elevations and slope. If modification or removal of a culvert, bridge or crossing becomes necessary to comply with the provisions of this Declaration or any governmental authority having jurisdiction, modification or removal shall be at the sole expense of the Lot Owner.

Section 14. No "For Sale" sign shall be placed on any vacant Lot. As used herein, "vacant" means a Lot on which there is no Residential Dwelling. The Association shall have the right to levy a fine on any Lot Owner for the unauthorized placement of signage. The Association shall have the right to remove and dispose of any unauthorized sign(s) on a Lot. No other signs are permitted without approval of the Architectural Control Committee except not more than one (1)

political sign having a face area not larger than four (4) square feet for a period of time commencing three (3) weeks before the corresponding election day and ending two (2) days after the election day, unless otherwise provided by law. No political sign of any type is permitted for any length of time on a vacant Lot.

Section 15. Should any person violate the provisions of this Declaration, Declarant, the Association and any Owner shall have the power to enforce compliance.

Section 16. Storage of equipment, materials, or any other products, is strictly prohibited prior to construction of a Residential Dwelling on a Lot and then only as permitted by this Declaration. No livestock may be pastured or kept on a Lot.

Section 17. This section intentionally left blank.

Section 18. All live streams and creeks may be designated as Common Areas upon the Plats from normal flow lines to normal flow lines. All streams and creeks are bounded by a common easement, and a common easement is hereby granted on all streams and creeks, dry and wet, extending 20 feet from the normal water flow line of each side of the stream or creek into the property adjacent thereto whether or not so marked upon a Plat. This section does not apply to dry bed drains originating on the Owner's Lot.

Any areas adjacent to or overlying this common easement extending further into the adjacent property will be set forth upon the subdivision Plat or otherwise described in recorded documents.

Section 19. The use of all Common Areas is subject to rules and regulations adopted and published by the Association and the Association is hereby granted authority to adopt and enforce such rules and regulations.

Section 20. The Common Areas may be used for any purpose deemed appropriate in the sole discretion of Declarant including, without limitation, the installation of utilities and the granting of easements and right of ways.

ARTICLE V.

OWNER'S OBLIGATION TO REPAIR

Each Owner shall, at his sole cost and expense, repair and maintain his Residential Dwelling, and all other Improvements on his Lot, keeping the same in a condition comparable to the condition of such building at the time of its initial construction, excepting only normal wear and tear. Each individual Lot Owner is responsible for the maintenance and upkeep of fences constructed on or along the Owner's Lot including fences constructed along the road frontage of each Lot. If an Owner fails or refuses to maintain any such fence, the Association shall have the authority to repair or maintain the fence and the Owner shall be obligated to reimburse the Association for all costs incurred.

ARTICLE VI.
MEMBERSHIP IN ASSOCIATION: VOTING RIGHTS

Section 1. The affairs of the Subdivision shall be administered by the Commons of Lake Houston Property Owner's Association. The Association shall have the right, power and obligation to provide for the management, acquisition, construction, maintenance, repair, replacement, administration, and operation of the Subdivision as herein provided for and as provided for in the Bylaws of the Association. The business and affairs of the Association shall be managed by its Board of Directors. The Association, acting through the Board, shall be entitled to enter into such contracts and agreements concerning the Subdivision as the Board deems reasonably necessary or appropriate to maintain and operate the Subdivision in accordance with this Declaration, including without limitation, the right to grant utility and other easements for uses the Board shall deem appropriate and the right to enter into agreements with adjoining or nearby land owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, operation of recreational facilities, or other matters of mutual interest.

Section 2. Each Owner, whether one or more persons or entities, of a Lot shall, upon and by virtue of becoming such Owner, automatically become and shall remain a Member of the Association until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the ownership of each Lot and may not be separated from such ownership.

Section 3. Subject to any limitations set forth in this Declaration, each Member other than Declarant shall be entitled to one (1) vote for each Lot owned on each matter submitted to a vote of the Members. Declarant shall also be entitled to one (1) vote for each Lot owned; Declarant is also entitled to one (1) vote for each Lot in the Subdivision sold by Declarant as long as Declarant retains any financial interest or any ownership interest in the Subdivision. No Member shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Lot in the Subdivision to the Secretary of the Association. In the event that ownership interests in a Lot are owned by more than one Member of the Association, such Members shall exercise their right to vote in such manner as they may among themselves determine, but in no event shall more than the number of votes be cast than applicable to the Lot(s) owned by such Members. Such Members shall appoint one of them as the Member who shall be entitled to exercise the vote of that Lot at any meeting of the Association. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Lot is owned by more than one Member of the Association, and no single Member is designated to vote on behalf of the Members having an ownership interest in such Lot, then the Member exercising the vote for the Lot shall be deemed to be designated to vote on behalf of the Members having an ownership interest in the Lot. All Members of the Association may attend meetings of the Association and may exercise their vote at such meetings either in person or proxy. The decision of the Board of Directors as to the number of votes which any number is entitled to cast, based upon the number of Lots owned by him, shall be final. Fractional votes and split votes will not be permitted. Any

Member who is delinquent in the payment of any assessment levied by the Association against his/her Lot or any interest, late charges, costs or reasonable attorney's fees added to such assessment under the provisions of this Declaration or as provided by law or who has any condition on his/her Lot that violates any provision of this Declaration which has progressed to the stage of a certified demand for compliance by the Association, or beyond, and which remains unsolved as of the date of the meeting of the Members, may have his/her right to vote suspended by the Board of Directors. No formal notice to the Member is required except as otherwise provided by law.

Section 4. Annual and special meetings of the Members of the Association shall be held at such place and time and on such dates as shall be specified or provided in the Bylaws.

Section 5. The Board shall have the authority to retain, hire, employ or contract with such professional management companies or personnel as the Board deems appropriate to perform the day to day functions of the Association and to provide for the construction, maintenance, repair, landscaping, administration and operation of the Subdivision as provided for herein and as provided for in the Bylaws.

Section 6. Any action, inaction or omission by the Board made or taken in good faith shall not subject the Board or any individual member of the Board to any liability to the Association, its Members or any other party.

ARTICLE VII. **ASSESSMENTS**

Section 1. All annual maintenance charges collected by the Association and all interest, penalties, assessments and other sums and revenues collected by the Association constitute the Maintenance Fund. The Maintenance Fund shall be held, managed, invested and expended by the Board, at its discretion, for the benefit of the Subdivision and the Owners of Lots therein. The Board shall by way of illustration and not by way of limitation, expend the Maintenance Fund for the administration, management, and operation of the Subdivision; for the maintenance, repair and Improvement of the Common Areas; for the maintenance of any easements granted to the Association; for the enforcement of this Declaration by action at law or in equity, or otherwise, and the payment of court costs as well as reasonable and necessary legal fees; and for all other purposes that are, in the discretion of the Board, desirable in order to maintain the character and value of the Subdivision and the Lots therein. The Board and its individual members shall not be liable to any person as a result of actions taken by the Board with respect to the Maintenance Fund, except for willful neglect or intentional wrongdoings.

Section 2. Subject to Section 7, below, each and every Lot in the Subdivision is hereby severally subjected to and impressed with an annual maintenance charge or assessment in an amount to be determined annually by the Board, which annual maintenance charge shall run with the land. Each Owner of a Lot, by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the

charges and assessments against his Lot and/or assessed against him by virtue of his ownership thereof, as the same shall become due and payable, without demand. The charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all Improvements thereon, as hereinafter more particularly stated. Each charge or assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such assessment accrued, but no Member shall be personally liable for the payment of any assessment made or becoming due and payable after his ownership ceases. No Member shall be exempt or excused from paying any such charge or assessment by waiver of the use or enjoyment of the Common Areas, or any part thereof, or by abandonment of his Lot or his interest therein. Contiguous one-owner properties will be assessed one maintenance fee so long as those properties are improved with one homestead. In the event multiple homes are constructed, multiple fees will be assessed.

Section 3. The Board of Directors of the Association shall establish the rate of each annual assessment based upon the anticipated needs to manage, administer and operate the Subdivision during the ensuing year. No increase over a prior year's annual assessment shall require a vote of the Members of the Association. The annual assessment levied against each Lot shall be uniform.

Section 4. The initial maximum annual assessment provided for herein shall be established as to all Lots on the date this Declaration is recorded in the Official Public Records of Real Property of Harris County, Texas; however, the annual assessment shall commence as to each Lot on the date of the conveyance of the Lot by the Declarant and shall be prorated according to the number of days remaining in the calendar year. On or before the 30th day of November in each year, the Board of Directors of the Association shall fix the amount of the annual assessment to be levied against each Lot in the next calendar year. Written notice of the figure at which the Board of Directors of the Association has set the annual assessment shall be sent to every Owner.

Section 5. If the Board at any time, or from time to time, determines that the annual maintenance charges assessed for any period are insufficient to provide for the continued operation of the Subdivision or any other purposes contemplated by this Declaration, then the Board shall have the authority to levy such special assessments ("special assessments") as it shall deem necessary to provide for such continued maintenance and operation. No special assessment shall be effective until the same is approved in writing by at least a majority of the Members present and voting, in person or by proxy, at a meeting of the Members called for that purpose at which a quorum is present. Any such special assessment shall be payable in the manner determined by the Board and the payment thereof may be enforced in the manner herein specified for the payment of the annual maintenance charges.

Section 6. The annual maintenance charge assessed against each Lot shall be due and payable, in advance, on the date of the sale of such Lot by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each January thereafter. Any annual maintenance charge which is not paid and received by the Association by the thirty-first (31st) day of each January thereafter shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18%) per annum from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent annual maintenance charge. The monthly late charge, if imposed, shall be in addition to

interest. To secure the payment of the annual maintenance charge and special assessments levied hereunder and any other sums due hereunder (including, without limitation, interest, late fees, attorney's fees or delinquency charges), there is hereby created and fixed a separate and valid and subsisting lien upon and against each Lot and all Improvements thereon for the benefit of the Association, and superior title to each Lot is hereby reserved in and to the Association. The lien described in this Section and the superior title herein reserved shall be deemed subordinate to any mortgage for the purchase or improvement of any Lot and any renewal, extension, rearrangements or refinancing thereof. The collection of such annual maintenance charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, costs and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Further, the voting rights of any owner in default in the payment of the annual maintenance charge, or other charge owing hereunder for which an Owner is liable, and/or any services provided by the Association, shall be automatically suspended without the necessity of action by the Board for the period during which such default exists, unless otherwise provided by law. Notice of the lien referred to in the preceding paragraph may, but shall not be required to, be given by the recordation in the office of the County Clerk of Harris County, Texas of an affidavit, duly executed, and acknowledged by an officer or authorized representative of the Association, setting forth the amount owned, the name of the Owner or Owners of the affected Lot, according to the books and records of the Association, and the legal description of such Lot. Each Owner, by acceptance of a deed to his Lot, hereby expressly recognizes the existence of such lien as being prior to his ownership of such Lot and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid annual maintenance charge and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapter 51 of the Texas Property Code (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Lot, each Owner expressly grants, bargains, sells and conveys to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid annual maintenance charge, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee a power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the Official Public Records of Real Property of Harris County, Texas. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapter 51 of the Texas Property Code as same may hereafter be amended. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver, if necessary, to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot by

forcible detainer. In the event of a judicial foreclosure, the provisions of Chapter 209 of the Texas Property Code, as such chapter now exists or may hereafter be amended, shall be applicable.

Section 7. Lots owned by Declarant are subject to assessments; provided that Declarant shall not be liable for unpaid or past due assessments, costs, penalties and interest on or related to Lots foreclosed on by Declarant or received by Declarant as the result of the cancellation or termination of a contract. However, it is fully understood that Declarant may pay such payments, including in advance any amount of funds in the form of improvements, maintenance, repairs, leases, rentals, and property donation at market value (collectively, "contributions"), and will receive full credit against assessments for such contributions. Such contributions shall accrue interest at twelve percent (12%) per annum on such funds and market value of property contributed until such funds or value are charged against by the Association. Each year the Association will charge against such contributions and any accrued interest thereon the amount of any assessments due by Declarant, and shall carry forward any credit balances to the next and ensuing years. Should Declarant have a credit balance remaining after the sale of all Lots in the Subdivision, such credit balance will not be a charge to the Association, but will, in fact, be written off by Declarant.

Section 8. Upon the written request of an Owner, the Association shall provide to such Owner a written statement setting out the then current total of all maintenance charges, special assessments, and other sums, if any, owing by such Owner with respect to his Lot. In addition to such Owner, the written statement from the Association so advising the Owner may also be addressed to and be for the benefit of a prospective lender or purchaser of the Lot, as same may be identified by said Owner to the Association in the written request for such information. The Association shall be entitled to charge the Owner a reasonable fee for such statement.

Section 9. In the event of a foreclosure of a mortgage on a Lot, the purchaser at the foreclosure sale shall not be responsible for maintenance charges, special assessments, or other sums, if any, which accrued and were payable to the Association by the prior Owner of the Lot, but said purchaser and its successors shall be responsible for maintenance charges, special assessments, and other sums, if any, becoming due and owing to the Association with respect to said Lot after the date of foreclosure.

Section 10. It is specifically stipulated that should Declarant, its successors or assigns, foreclose on any Lot sold under deed or contract such, the Lot will revert to status of Declarant's inventory free of the obligation of any accrued and unpaid assessments or costs and/or liens therefore that became due or were incurred prior to such reversion. Any such liens of records will be released by the appropriate officer or officers of the Association upon presentation of release thereto by Declarant. Upon failure of such action, Declarant may file a release executed on and by its own behalf (and send a copy to the Association), which will be conclusive evidence to all persons that such lien is thereby released.

Section 11. The Declarant will sell Lots within this Subdivision to purchasers. It is specifically stated and agreed that if one or more Lots or parcels of land are sold to any purchaser by Declarant, by contract for deed, or deed with lien and note or other instrument, and purchaser defaults in payments due under said instruments in any manner, such as failure to pay principal, interest, taxes, insurance or assessments set out hereunder and said property be repossessed, or such contract canceled by Declarant, or any assignee of Declarant's right, title and interest in any

such lien or contract, then Declarant or said assignee, will not be required to pay to the Association any delinquent or past due assessments, costs, interest, or penalties, and any liens for non-payment of same filed by the Association are deemed released with regard to such property. Evidence of such cancellation, repossession or foreclosure will, in and of itself, be sufficient to affect such release. No further release or action will be required by the Association for this purpose; however, this stipulation does not, by any means, relieve the purchaser in default who failed to pay such assessments and/or penalties and cost, and from who said property was repossessed, of his personal liability to pay such delinquent funds. This provision does not affect the rights of the Association, as a creditor, to pursue other remedies and liens.

Section 12. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the Owner's Lot. Any Owner in this section is entitled to the use and enjoyment of all common area amenities offered and maintained within the Commons of Lake Houston.

Section 13. The Association is authorized to contract with a utility company for the operation and maintenance of street lighting in the Subdivision and to pay for security lights installed in Common Areas at the rate of \$2.00 (two dollars) per month per Lot to be paid in cash or added to such owner's electric bill each month. This fee may be adjusted up or down in accord with the rates of the utility company. The Association may include funds for said lights in the general assessment.

ARTICLE IX. **UTILITY STANDBY CHARGES**

Section 1. The Association shall have the right to establish utility standby charges and in such case there shall be levied against every individual Lot, severally, a standby charge not to exceed the exact cost per month to the Association or utility. Such charge shall be fixed from time to time by the Board of Directors of the Association, which charge shall be due and payable in monthly installments in advance, or as otherwise required; and the payment of such standby charge or charges shall be and is secured by a lien hereby created on each individual Lot. The Association does hereby reserve unto itself, its successors and assigns, and establish and impose, a lien securing the assessment as herein set forth for the prescribed utility standby charge.

Section 2. This lien may be foreclosed upon after notice of delinquency to the Owner of any Lot, as and in the same manner as provided for the non-judicial foreclosure of a mortgage upon real property under the laws of the State of Texas. Any such foreclosure will entitle the lien holder to reasonable attorney's fees and other allowed costs and penalties. In addition, the Association may pursue any other procedures of collection as may be provided under the law.

Section 3. It is specifically stated herein that all property held by the Declarant, its successors and assigns, for sale or resale within this project is hereby totally exempt from any and all of the requirements of this Article and no lien shall become effective on any of Declarant's property until said property is sold to individual Lot purchasers by contract or deed.

Section 4. Such standby charge, the liens securing the payment thereof, and the right and responsibility for the enforcement thereof, are hereby reserved unto and given over to the Association. The right of the Association to levy such charge, and the creation of all liens securing the payment thereof, except for delinquent payments and liens securing same, shall be released and discharged automatically (without further action) on any Lot upon the conveyance of the Lot to the initial person or persons who will reside on the property, the completion of a dwelling or residence on the property, and connection to the utility with continued service. Such completion may be evidenced by the creation and recordation of the first lien mortgage or deed of trust on the improved property or by the execution of a release by the holder of said lien or by the Board of Directors of the Association of the lien created hereunder to secure the standby charge; however, prior to same any and all due or past due charges and fees must be paid in full.

Section 5. The Association may assign or pledge to any utility provider this right of assessment and security for standby charges. In such instance, the standby charges will be set at a rate in conformance with published or approved tables of any state agency or authority, if any. In the absence of such an agency or authority, the rates will conform to normal and usual rates. This authority granted and created in this Section is reserved unto Declarant until the creation of the Association is accomplished.

Section 6. A state approved central water and sewer system will be provided in the Subdivision with adequate volume of potable water to serve any Lot in waterway IV, and purchaser(s) of said Lot (s) will be obligated to connect to the system, be subject to any standby fee, and all other fees.

Section 7. Declarant has the sole and exclusive right to install a central water and sewer system and may transfer this right to any other entity at Declarant's sole discretion.

ARTICLE X

LAW ENFORCEMENT AND STREET RIGHTS

Section 1. Notwithstanding the fact that some roads in the Subdivision are not or may not be dedicated to the public, it is hereby stipulated that the County Commissioners Court or other public governing body will have the full authority to establish speed limits or other traffic laws and rules, and penalties for violation thereof applicable to the roads in the Subdivision and the law enforcement officers of the County or of the State of Texas or any other official body having such authority, may enforce such laws the same as if said roadways were public roads.

Section 2. Notwithstanding the fact that some roads in the Subdivision are not or may not be dedicated to the public, it is hereby stipulated that any law enforcement officer, City, County, State, or Federal, is hereby authorized to enter the Subdivision for all purposes just as though all roads were dedicated unto the public, and every law enforcement officer shall have the same rights, privileges and duties within the Subdivision as he would in any subdivision whereby the streets and other facilities were dedicated to the public. All terrain vehicles are strictly prohibited from subdivision roads, trails, and drainage systems and damages can and will be

levied in the form of fines to those found responsible for such infractions. Battery Powered vehicles are allowed so long as they meet the requirements of all laws within the State of Texas.

ARTICLE XI
GENERAL PROVISIONS

Section 1. Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions and covenants set forth in this Declaration. Declarant and the Association shall have the right to enforce, by proceeding at law or in equity, all reservations, liens, assessments and charges imposed by this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant, or restriction herein contained shall in no event be deemed a waiver of the rights to do so thereafter.

Section 2. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. The provisions of this Declaration may be amended upon the written consent of Owners representing not less than seventy-five percent (75%) of the total land area of the Subdivision, excluding roads and Common Areas. No amendment shall be valid until recorded in the Official Public Records of Real Property of Harris County, Texas. The provisions of this Declaration may be terminated upon the written consent of Owners representing not less than ninety (90%) of the total land area of the Subdivision, excluding roads and Common Areas. No termination shall be valid until recorded in the Official Public Records of Real Property of Harris County, Texas.

Section 4. The provisions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or any Owner for a period of twenty-five (25) years from the date recording of this Declaration, and thereafter shall continue in effect for additional, successive and recurring periods of ten (10) years, unless amended or terminated as provided herein.

Section 5. Additional land may be annexed and subjected to the provisions of this Declaration by Declarant, at any time, without the consent of the Members. The annexation of additional land shall be effective upon filing of record an annexation instrument in the Official Public Records of Real Property of Harris County, Texas.

Section 6. A central water and sewer system will be installed by Declarant or Declarant's designee which will be the sole source of water and sewer for household use. Rates for water and sewer will be as set by a State of Texas governing agency.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED ON THIS 24th day of November, 2010, to be effective upon recording in the Official Public Records of Real Property of Harris County, Texas.

THE COMMONS OF LAKE HOUSTON, LTD.,
a Texas limited partnership

302

By: **PLATINUM LAND, LTD.,**
Its General Partner

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

By: **PLATINUM LAND OPERATING COMPANY, L.L.C.,**
Its General Partner

NOV 24 2010



County Clerk
COUNTY CLERK
HARRIS COUNTY, TEXAS

By: *[Signature]*
Daniel K. Signorelli, President

THE STATE OF TEXAS

§

COUNTY OF MONTGOMERY

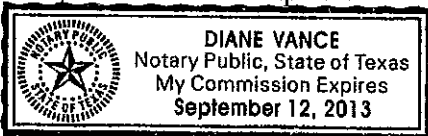
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ACKNOWLEDGMENT

This instrument was acknowledged before me on the 24th day of November, 2010, by Daniel K. Signorelli, President of Platinum Land Operating Company, L.L.C., the general partner of Platinum Land, Ltd, General Partner of The Commons of Lake Houston, Ltd., a Texas limited partnership, on behalf of said partnership.

My Commission Expires:



[Signature]

Notary Public, State of Texas

Notary's printed name: 09/12/2013

After recording, please return to:

The Commons of Lake Houston, Ltd.
235 I-45 North
Conroe, TX 77304

[Handwritten mark]

[Signature]
COUNTY CLERK
HARRIS COUNTY, TEXAS

2010 NOV 24 PM 1:46

FILED

2
Amend
M

FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF COMMONS WATERWAY, SECTION FOUR (4)

THE STATE OF TEXAS

§

20110142795
04/11/2011 RP2 \$20.00

COUNTY OF HARRIS

§

§

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made effective as of April 1, 2011 pursuant to Article XI of the Declaration of Covenants, Conditions and Restrictions for Commons Waterway, Section Four (4) dated November 24, 2010, and recorded in the property records of Houston, Harris County, Texas, marked RP 075-03-0921 through RP 075-03-0345, and file stamped 20100503897 dated 11/24/2010, (herein after "Covenants").

WITNESSETH

WHEREAS, THE COMMONS OF LAKE HOUSTON, LTD., (hereinafter the "Declarant") subjected certain real property situate in Houston, Harris County, Texas, further described as: Commons Waterway, Section Four (4), a subdivision in Harris County, Texas, according to the map or plat thereof recorded under File Number 20100502604, of the Map Records of Harris County, Texas (the "Property"), to the Covenants;

WHEREAS, the Declarant deems this First Amendment necessary for the efficient preservation, protection and enhancement of the community;

WHEREAS, pursuant to Article XI Section 3 of the Covenants, the Owners adopt the amendment hereinafter set forth.

NOW, THEREFORE, the Owners adopt the amendment hereinafter set forth on April 1, 2011 to be effective as of April 1, 2011.

Article IV Section 3 (page 11 of the Covenants) is stricken in its entirety and the following is inserted in lieu thereof:

The Residential Dwelling constructed on each Lot must be constructed by a builder approved by the Architectural Control Committee. Residential Dwellings on the following lots, lots 27 through and including lot 79, Block 2, Commons Waterway Section 4 must be one hundred percent (100%) masonry. All other Residential Dwellings may not consist of less than fifty percent (50%) masonry. For purposes of this Declaration, cementitious siding, such as Hardy Plank, Cemboard, Cemplank or any fiber-cement siding product are not considered to be masonry. Mail boxes must be constructed of masonry matching the material used on the Residential Dwelling. All materials must be installed per the manufacturer's specifications. Driveways and sidewalks, if any, must be constructed of concrete, natural stone or unit masonry. Other material (e.g. brick) may be used only if approved by the Architectural Control

lee

20110142795-04/11/2011 RP2 \$20.00

Committee. All driveways shall be paved: chert, any micro fibrous sedimentary rock, gravel or loose stone driveways or parking areas are not permitted.

All other Articles and Sections of the Covenants remain the same.

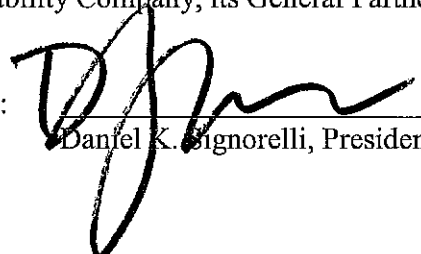
EXECUTED ON THIS 8th day of April, 2011, to be effective upon recording in the Official Public Records of Real Property, Houston, Harris County, Texas.

THE COMMONS OF LAKE HOUSTON, LTD.,
A Texas limited partnership

302

By: PLATINUM LAND, LTD., a Texas
limited partnership, Its General Partner

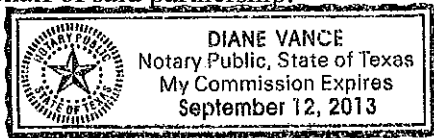
By: Platinum Land Operating
Company, L.L.C., a Texas limited
Liability Company, its General Partner

By: 
Daniel K. Signorelli, President

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

ACKNOWLEDGMENT

This instrument was acknowledged before me on the 8th of April, 2011, by Daniel K. Signorelli, President of Platinum Land Operating Company, L.L.C., the General Partner of Platinum Land, Ltd, General Partner of The Commons of Lake Houston, Ltd., a Texas limited partnership, on behalf of said partnership.




Notary Public, State of Texas

After recording, return to:
The Commons of Lake Houston, Ltd
235 I-45 N
Conroe TX 77304

11

FILED FOR RECORD
8:00 AM

APR 11 2011

Stan Stewart
County Clerk, Harris County, Texas

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

APR 11 2011



Stan Stewart
COUNTY CLERK
HARRIS COUNTY, TEXAS