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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF LA PALOMA ESTATES LTD.  
A RESIDENTIAL SUBDIVISION IN HARRIS COUNTY, TEXAS

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THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

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KNOW ALL MEN BY THESE PRESENTS:

La Paloma Estates Ltd. ("Declarant"), a Texas limited liability company is the owner of certain real property ("Property") and Subdivision named La Paloma which was recorded on October 2, 2001 in Harris County CF# 491104, with the following legal description: LA PALOMA BEING A SUBDIVISION OF 82.218 ACRES OF LAND OUT OF THE WILLIAM SETTLE SURVEY A-705 HARRIS COUNTY, TEXAS

Declarant has adopted an overall plan for the orderly development of the Property as a planned residential community, and to implement such plan desires to and does hereby adopt this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") which, together with any covenants and restrictions which may hereafter be contained in deeds from the Declarant conveying any platted lot or lots (collectively, hereinafter referred to as the "Lots", and singularly as a "Lot") of the Property, shall constitute covenants running with the land and shall be binding upon any purchaser, grantee, owner or lessee of any Lot (and the improvements thereon), and upon the respective heirs, executors, administrators, devisees, successors and assigns (collectively, herein referred to as "Lot Owners", and singularly as "Lot Owner") of each purchaser, grantee, owner or lessee, and shall inure to the benefit of and be enforceable by the Declarant, the Association (as hereinafter defined) and the Declarant's successors and assigns.

La Paloma Estates Homeowner's Association ("Association") is a non-profit corporation established to administer and enforce and perform the duties of this Declaration of Covenants, Conditions and Restrictions as further described in the Articles of Incorporation filed with the Corporations Section of the Secretary of State for Texas on April 19, 2001. The Association's Charter Number is 01624912 as found in the Certificate of Incorporation dated April 19, 2001. The By Laws of the Association define the regulations and the procedures governing the Association.

ARTICLE 1  
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

**A. Plan Approval.** Prior to the construction, remodeling or alteration of any building or other structure on any Lot or Lots, final plans and specifications shall be submitted in duplicate to the Architectural Control Committee (as hereinafter described and referred herein as the "Committee") for approval and no construction shall commence until such plans have been approved. The non-refundable application fee, due at submittal, is five hundred dollars and (\$500.00) The plans and specifications shall show the nature, kind, shape, height, materials and location of all landscaping and improvements. The documents shall specify any requested variance from the setback lines, garage location or any other requirement set forth in this Declaration. The Committee is authorized to request the submission of samples of proposed construction materials. At such time as the plans and specifications meet the approval of the Committee, one complete set of plans and specifications will be retained by the Committee and

AFTER RECORDING, RETURN TO:  
Alamo Title  
5599 San Felipe, Suite 1400  
Houston, Texas 77056

the other complete set of plans shall be marked "Approved", and returned to the Lot Owner or his designated representative. The Committee's approval or disapproval as required in this Declaration shall be in writing. Any building or improvements placed upon a lot herein that was not presented to the Committee for approval prior to start of construction or placement will be in violation of these restrictions and may be removed by the Committee at the property owner's expense. If the Association pays for such removal, the cost, plus interest will become a lien upon the property.

**B. Commencement of Construction.** Unless otherwise approved by the Association, commence of the construction of a single family dwelling on each Lot shall commence not later than thirty six (36) months after the sale and transfer of the Lot is made by the Declarant.

**1. Maximum Period for Completion of Construction.** Upon commencement of construction of a single family residence, the work thereon must be prosecuted diligently to the end that the same will not remain in a partly finished condition any longer than reasonably necessary for completion thereof. In any event, construction must be substantially completed within twelve (12) months after pouring of the slab for a single-family residence. The foregoing period will be extended in the event of and only for the duration of delays due to strikes, war, acts of God or other good causes beyond the reasonable control of the builder or Owner as determined in sole opinion of the Committee.

**2. Residential Purposes.** Each Lot (including land and improvements) shall be used and occupied for single-family residential purposes only. No Lot Owner or other occupant shall use or occupy any Lot, or permit the same or any part thereof to be used or occupied, for any purpose other than as a private single family detached residence for the Lot Owner or such Lot Owner's tenant and their families and domestic servants employed on the premises. As used herein the term "single family residential purposes" shall be deemed to prohibit specifically, but without limitation, the use of any Lot for a duplex, duplex apartment, garage apartment, or other apartment use, commercial or professional uses (except as hereinafter expressly provided). For purposes of this Section, single family residence means one detached, site-built residential house designed to be occupied by one family only and a single 2-, 3-, or 4-car garage, either attached or detached outbuilding (guest facility, pool house, etc) and a barn.

**3. Minimum Floor Area.** No single primary residential dwelling, not including guest houses or servants quarters, shall be placed on any Lot unless its living area (air conditioned/heated space) has (exclusive of porches and garages) the minimum square footage of floor area set forth with respect to the indicated lot size, to-wit:

<u>Lot Area Range In Acres</u>	<u>Minimum First Floor Living Area</u>
1.499 – 1.999	One story - 3,000 sq ft or Two story - 2,500 sq ft
2.000 – 2.999	One story - 3,500 sq ft or Two story – 3,000 sq ft
3.000 – or more	One story - 4,000 sq ft or Two story – 3,000 sq ft

**4. Construction Requirements.** All construction of any single-family residence must be in compliance with applicable governmental laws, ordinances and regulations, including applicable building codes or permit or licensing requirements. Each structure will be constructed in accordance with the City of Houston (the "City") building codes. Each Lot Owner shall employ an inspection company approved by the Association, who shall provide a written report to the Committee and Association that such structure completed in accordance with such building codes.

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**a. Exterior.** The exterior surface of all residential dwellings shall be constructed of glass, brick, brick veneer, stone, stone veneer, stucco or other materials approved by the Committee. Wood siding or other such materials will be considered on a case by case basis when, in the sole and absolute judgment of the Committee, such materials are in keeping with the architectural style of the house and do not adversely impact the Property or other houses constructed within the Property. It is specifically required that the exterior wall area of each residence located within the Property shall not have less than seventy-five percent (75%) brick, brick veneer, stone, stone veneer, or stucco construction. All chimney or fireplace enclosures facing a public street shall be one hundred percent (100%) brick, brick veneer, stone, stone veneer, or stucco construction. The surface area of windows surrounded completely by brick or other approved masonry materials may be included within the computation of the exterior brick, brick veneer, stone, stone veneer, or stucco wall area of a residence. No previously used materials shall be permitted on the exterior of the residential structures located within the Property, without the prior written approval of the Committee.

**b. Painting of Frame Construction.** No structure of any kind or character, which incorporates frame construction on the exterior, may be erected on any Building Site unless such structure receives at least two coats of paint at the time of construction or the exterior is redwood or cedar material.

**c. Roof.** The buildings constructed on the Lots must have a composition roof (being Timberline, Prestique 2 or a product of equal or greater specification, color and appearance must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Committee), slate or tile, approved by the Committee. Wood shingle roofs are not permitted. The Committee will only approve roofing materials which are of the highest grade and quality and which are consistent with the external design, color and appearance of other improvements within the Property. The roof pitch of any structure shall be 8" X 12" minimum. Any deviation of roof pitch must be approved in writing by the Committee. Flat or reduced pitched roofs will be considered on a case-by-case basis when, in the sole and absolute judgment of the Committee, such a roof is appropriate and in keeping with the architectural style of the house. Exterior paint and stain colors shall be subject to the written approval of the Committee.

**d. Service Riser.** Each residential structure shall have installed on the outside wall thereof a service riser conduit, the location and length of such conduit to be subject to the written approval of the Committee; provided, however, no such conduit shall be visible from public streets, common properties, or adjoining Lots.

**e. Swimming Pools.** No above ground-level swimming pools shall be installed on any Lot; the Committee must approve Plans for private swimming pools. All pools must be fenced, built according to safety statutes and approved by the Committee. No above ground pools will be permitted other than temporary toddler pools less than 18 inches in height.

**f. Projections.** No projections of any type shall be placed or permitted to remain above the roofline of any residential building with the exception of one or more chimneys and one or more vent stacks without the prior written approval of the Committee. No radio or television aerial wires or antennas, except as allowed by law

and approved by the Committee, shall be maintained on the outside of any building, nor shall any free standing antennas of any style be permitted. All radio or television aerial wires or antennas must be built within the main structure and must not be visible from outside of such structure. The location of all satellite dishes shall be subject to the prior written approval of the Committee. Each Lot Owner shall landscape his Lot or provide fencing in accordance with this Declaration, so that no satellite dish is visible from public streets, common properties, or adjoining Lots.

**g. Garages & Other Structures.** Each residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. Detached garages, carports and storage rooms must be approved in writing by the Committee. All garages must conform in design and materials with the main structure. All garages must be rear or side entry, so that no garage door appears from the front of any residence. No garage may exceed in height the dwelling to which it is appurtenant.

**h. Setbacks and Building Locations.** No dwelling or garage shall be placed nearer to any property line than two hundred (200) feet from the Common Areas (as hereinafter defined) or fifty (50) feet from adjacent owner's property line, or any nearer to the setback lines as shown on the Plat (herein so called) of the Property or nearer to any setback line required by the City. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to written approval of the Committee. Furthermore:

(1) No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any tract at any time as a residence, either temporarily or permanently, except for Outbuildings (further defined in Article 1 Section B Part 4 Item j) otherwise conforming to this Declaration. Outbuildings shall be permitted in the project. Storage buildings may not be utilized as residences on the tract. Any building of any type must be approved by the Committee.

(2) Stables and outbuildings will be constructed of a design and materials in keeping with the dwelling on the tract. Plans specifications must be submitted to the Committee and approved as herein set forth for all buildings and structures, including but not limited to: primary dwelling; pool houses; guest house; well houses; servants quarters; all other structures, including pens, fences and gates, barns, tree and brush removal, stables, and exterior lighting.

(3) No barn, shed or outbuilding shall be placed nearer to the front or Commons line than two hundred (200) feet, nor nearer to the sideline than fifty (50) feet, nor nearer the front than the primary dwelling.

(4) No barn, shed or building (other than a servant/guest quarters or pool cabana) will be located nearer than seventy-five (75) feet to the dwelling proper of any adjacent owner's dwelling, provided said adjacent dwelling is set no further away from the street line than two hundred (200) feet.

(5) If any building is set on blocks or piers, it shall have an outside or perimeter beam of brick or concrete on all sides of the building. Any such structure must be completely dried in within six (6) months of beginning of

construction. Servants quarters constructed on any tract will be of at least standard frame construction and designed in harmony with the primary dwelling.

**j. Outbuildings.** Servants quarters, Guest Quarters, Private Offices, Mother-in-Law plans and Pool Cabanas (as hereinafter described and referred herein as the "Outbuildings") will be subject to the same construction requirements set forth in Section B 4 of this Article 1 herein except that they may contain as little as 500 square feet. Outbuildings may be constructed prior to the construction of the main or primary dwelling and may be occupied by the owner during the period of construction of the primary dwelling.

**k. Septic System.** All Lot Owners shall provide for the disposal of waste material through a sewer treatment system or septic system approved by the appropriate governmental authority and the Committee and the Association. Each Lot and the house constructed thereon shall be constructed so as to readily permit connection to any sewer lines, if the same are installed in the development by the City. No privy or cesspool shall be placed or maintained upon any Lot. All septic systems must be installed must be aerobic only. All septic systems shall be inspected not less than once every five years and meet the requirements of the State and local government authorities for licensing. A copy of the inspection report shall be delivered to the Association and the Lot Owner shall make such repairs and improvements as are recommended in such report. Any Lot Owner (the "Complaining Lot Owner") may register a complaint with the proper government authorities first and if necessary the Association as to any septic system on another Lot Owner's Lot (the "Offending Lot Owner"), which such Complaining Lot Owner deems is a health hazard or nuisance (including, but not limited to standing water around or near the septic system or offensive odors emanating from the septic system). Upon investigation, the Association, in its sole determination, may give notice (the "Inspection Notice") to the Offending Lot Owner that it is requiring that his septic system be inspected by an inspector approved by the Association. Such inspection shall be conducted and a report thereon shall be delivered to the Association and the Offending Lot Owner not later than fifteen (15) days after the date of the Inspection Notice. The Offending Lot Owner shall have the repairs and improvements, as are recommended in such report, completed not later than forty-five days after the date of the Inspection Notice. A portable toilet will be required during building construction upon each individual Lot.

**l. Driveways.** All driveways shall be surfaced with concrete or asphalt materials approved by the Committee, or similar hard surface substance approved by the Committee. All ditch culvert designs must be approved by the Committee. An unobstructed path with a width of not less than twelve feet (12'), including the surfaced driveway, is required to provide access for emergency vehicles to each Lot. Any driveway into a Lot, which is constructed over a drainage canal or ditch, will be constructed so as to conform to the details approved by the Committee.

**m. Drainage.** Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will flow to streets, drainage

easements, or to natural drainage courses or areas, in conformity with the existing drainage and gradation of the Property prior to the commencement of construction of or within the Property. No dams shall be constructed nor any other alteration or change be made in the course or flow of any waterway or drainage course crossing or abutting any Lot, without the prior written consent of the Committee and the Lot onto whose Lot the drainage is to cross because of such alteration or change. In addition:

(1) Guttering must be installed around roof lines and downspouts must be installed for proper drainage.

(2) No culvert, bridge, or crossing may be installed by Lots in the Common Area right-of-way unless approved by the proper authorities and the 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 to dress culvert ends, and must be approved by the Committee.

(3) No dwelling will be constructed within 150 feet of a common easement unless said dwelling is outside the 100-year flood plain and/or is in conformance with the requirements of the Association and any public entity of authority. No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such 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 shall also be open and accessible 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 the facilities are intended.

(4) Declarant is hereby specifically authorized to excavate as necessary for and to establish, construct and maintain drainage swales, erosion control systems and such other things and devices, including Crossing Devices as set forth in the next subsection (herein referred to as "Drainage Devices") upon, over, across or under any part of the Property as Declarant deems appropriate to properly maintain and control water drainage and erosion. Declarant may also authorize any builder of the initial single-family residence on any Lot to establish, construct and maintain Drainage Devices as aforesaid. Declarant hereby reserves for itself and authorized builders a blanket easement upon, over, under and across the Property, including each Lot, for purposes of establishment, construction and maintenance of Drainage Devices as aforesaid; provided, such easement may not be exercised and no Drainage Device may be established, constructed or maintained in any manner as to encroach upon the foundation or any other part of any single family residence or its appurtenant garage. THE FOREGOING SHALL NOT BE CONSTRUED TO OBLIGATE DECLARANT OR ANY AUTHORIZED BUILDER TO ESTABLISH, CONSTRUCT OR MAINTAIN ANY DRAINAGE DEVICES OF ANY TYPE OR KIND WHATSOEVER, AND ANY REPRESENTATION, WARRANTY OR IMPLICATION AS TO SAME IS HEREBY SPECIFICALLY DISCLAIMED.

(5) All entries, sidewalks, driveways and similar structures which cross any drainage ditches or ways must be across an approved culvert or similar device ("Crossing Devices") as approved by the City or other governmental

authority having jurisdiction. Nothing may be done to obstruct, impede or impair the maintenance or operation of any Crossing Devices.

(6) Once established and for so long as continued maintenance there of is reasonably necessary, all Drainage Devices shall remain unobstructed, and shall be properly maintained by each Lot to which same pertains. Each Lot must refrain from permitting any construction, grading and any other work, act or activity upon such Lot which would obstruct, alter, divert, impede or impair the proper functioning of any Drainage Device. In addition, each Lot must perform such work, act or activities and install and maintain such Drainage Devices (i) as is reasonably necessary to prevent so far as practical drainage from the Lot's Lot to any other Lot, and (ii) as needed to maintain so far as practical positive drainage away from the foundation of the residence located upon the Lot Owner's Lot. To obtain and maintain proper drainage, including as required by this Section, the Committee is hereby specifically authorized to require any Lot Owner to construct, install and maintain such gutters and/or downspouts, drains, drainage lines and any other Drainage Devices as the Committee determines, either upon initial construction of any residence or other improvement, or at any time thereafter that circumstances reasonably require.

**n. Utilities.** Each residence situated on a Lot shall be connected to the water lines as soon as practicable after same are available at the Lot line. The installation and use of any propane, butane, LP Gas or other gas tank, bottle, or cylinder of any type (except portable gas grills), shall require the prior written approval of the Committee, and, if so approved, the Committee may require that such tank, bottle, or cylinder be installed underground, unless such underground installation is prohibited by any federal, state or local law. Any control boxes, valves, connections, utility risers or refilling or refueling devices shall be completely landscaped with shrubbery so as to obscure their visibility from the streets.

**o. Landscaping.** Any and all plans for the landscaping of front yards and of side yards not enclosed by solid fencing, including alterations, changes or additions thereto, shall be subject to the written approval of the Committee. Weather permitting, each Lot shall be fully landscaped within sixty (60) days after the occupancy of the residence constructed thereon. Each Lot Owner shall be responsible for maintaining his own landscaping in a healthy condition. As part of the landscaping, each Lot Owner shall plant not less than twelve (12) trees of 1-½" to 2" diameter on his Lot and shall also plant shrubs and plants which are native to the State of Texas.

**p. Tree Removal.** No living tree with a trunk diameter of twelve inches or greater shall be cut down or removed from any Lot without the prior written approval of the Committee except for trees within the footprint of a single family residence to be constructed on the Building Site or within five feet thereof. Dead or damaged trees, which may create a hazard to property or persons within the Property, must be promptly removed or repaired at the Lot Owner's expense.

**q. Fences.** No fence, wall or hedge shall be erected, placed or altered on any Lot without the prior written approval of the Committee and the design of and materials used in the construction of fences shall be subject to the prior written approval of the Committee. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line indicated above, and no

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fence shall be constructed or extend past the front wall of the structure on the front of any Lot, unless otherwise permitted by the Committee. No fence, wall or hedge shall exceed eight (8) feet in height or be less than four (4) feet in height unless otherwise expressly approved by the Committee. No solid fencing whether wood or masonry shall be constructed between any other Lot within the Property except around a personal swimming pool and as approved by the Committee. All service and sanitation facilities, woodpiles, tool sheds and air conditioning equipment must be enclosed within fences, and/or landscaping so as not to be visible from the adjoining Lots and residential streets. Upon submission of a written request, the Committee may, from time to time, at its sole discretion, permit Lot Owners to construct fences or walls that are in variance with the provisions of this paragraph where, in the opinion of the Committee, the fence or wall is an integral part of the home. Fencing shall be constructed in accordance with the following restrictions based on the location of such fencing.

- (1) If fences are desired along the perimeter of the property they must be constructed of three-rail white PVC board fence and maintained at the expense of the respective property Lot Owner. All other fencing must be approved by the Committee.
- (2) Wrought iron fencing may be used around pools as approved by the Committee.
- (3) No chain link type fencing of any type is permitted on the Property except to secure a building site during construction.

**r. Storage of Materials; Clean-Up.** No building materials of any kind or character shall be placed or stored upon any Lot more than thirty (30) days before construction is commenced. Except as otherwise permitted by the Committee, all materials permitted to be placed on a Lot shall be placed within the boundaries of the Lot. Upon completion of construction, any unused materials shall be promptly removed from the Lot and the Property and in any event not later than thirty days after construction is completed.

**s. Exterior Lighting.** No exterior lighting shall be installed or maintained on any Lot without the prior written approval of the Committee. However upon being given notice by the Committee or the Association that any exterior light is objectionable, the Lot Owner on which same is located, will immediately remove said light or shield the same in such a way that it is no longer objectionable.

**t. Window Coolers.** No window or wall type air-conditioners or water coolers shall be permitted to be used, erected, placed or maintained on or in any residential building on any part of the Property.

**u. Temporary Structures and Vehicles.** No temporary structure of any kind shall be erected or placed upon any Lot. No trailer, mobile, modular or prefabricated home, tent, shack, or any other structure or building, other than the residence to be built thereon, shall be placed on any Lot, either temporarily or permanently, and no residence, house, garage or other structure appurtenant thereto shall be moved upon any Lot from another location, except for a sale, pre-sale or construction trailer; provided, however, that Declarant reserves the exclusive right to erect, place and maintain, and to permit builders to erect, place and maintain such



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facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and selling of residences and constructing other improvements on the Property. Such facilities may include, but not necessarily be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales office. Declarant and builders shall also have the temporary right to use a trailer, residence situated on a Lot as a temporary office or model home during the period of and in connection with the construction and sales operation of the Property, but in no event shall a builder have such right for a period in excess of one (1) year after the date of substantial completion of his last residence on the Property. Any truck, bus, boat, boat trailer, trailer, mobile home, camper or any vehicle other than conventional automobile shall, if brought within the Property, be stored, placed or parked within the garage of the appropriate Lot Owner and concealed from view from adjoining Lots, common property, or public streets, unless a variance is approved in writing by the Committee. No mobile homes, modular homes, manufactured home or similar pre-fabricated residential structures of any kind is permitted upon any Lot. No abandoned or inoperative automobile, other vehicle or trailer shall be permitted to remain on any tract or in front of any tract. This is not to be construed to mean that personal campers, boats, tractors, trailers, recreational vehicles, etc., in good and usable condition may not be kept on premises; however, campers, trailers, boats, tractors and utility vehicles of every nature must be kept to the rear of the main house or in a garage, shed or other suitable building.

v. **Mailboxes.** Mailboxes at the curb shall be constructed of brick, masonry or other material approved by the Committee and shall be of standardized construction and appearance, similar to other mailboxes in the Property. Except for mailbox banks installed by Declarant, all mail boxes and stands must be approved by the Committee and all stands must be constructed of brick, stone or stucco

**ARTICLE 2  
USE OF LOTS**

**A. Trash Receptacles and Collection.** The Association will contract with one trash company to collect and remove garbage and trash on a regular basis from each completed and occupied residential dwelling in the development. Trash pick-up service will not be provided during the construction of any such dwelling. Each Lot Owner will be responsible to pay their pro rata share of the costs incurred in connection with the trash pick-up and agrees to abide by the rules and regulations promulgated by such trash company in connection with such pick-up. Any Lot Owner who fails or refuses to abide by such rules and regulations shall be solely responsible for the additional cost incurred as the result of such failure or refusal. In the event the City should provide for collection and removal of garbage and trash on a regular basis, then the Association shall no longer be responsible to contract with an independent trash company and each Lot Owner shall make or cause to be made appropriate arrangements with the City for collection and removal of garbage and trash on a regular basis. All Lots shall at all times be kept in a healthful, sanitary and attractive condition. No Lot shall be used or maintained as a dumping ground for garbage, trash, junk or other waste matter. All trash, garbage, or waster matter shall be kept in adequate containers which shall be constructed of metal, plastic or masonry materials, with tightly fitting lids, or other containers approved by the City, and which shall be maintained in a clean and sanitary condition. No Lot shall be used for open storage of any materials whatsoever, except that new building materials used in the construction of improvements erected on any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction

progresses without unreasonable delay, until completion of the improvements, after which the materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. No garbage, trash, debris, or other waste matter of any kind shall be burned on any Lot. During the time of construction on any Lot, a chain link trash receptacle of a size not less than ten (10) feet in width and depth and six (6) feet high shall be temporarily constructed and utilized with trash picked up from each Lot and placed in said receptacle on, at a minimum, a daily basis.

**B. Parking.** No vehicles shall be parked or driven on any landscaped areas of the development, including, but not limited to yards or common areas. Subject to the restrictions herein provided, all vehicles shall be parked on streets or in driveways or parking lots (if any are provided for the Common Areas). On-street parking is restricted to approved deliveries or pick-ups, or temporary parking (not to exceed seventy two hours) for parties, home weddings or other events approved by the Association. In no event shall such on-street parking block any of the streets or driveways of the Lot Owners or preclude access to the Property. Parking in driveways is permitted; provided, however, no inoperable vehicles, no stored vehicles, or vehicles not utilized on a daily basis shall be permitted in driveways.

**C. Signs.** No signs or flags shall be displayed to the public view on any Lot without the prior written approval of the Committee, with the following exceptions; (i) Declarant may erect and maintain a sign or signs for the construction, development, operation, promotion and sale of the Lots; (ii) the patriotic display of flags not exceeding 4' x 6' in size shall be permitted; and (iii) signs of customary dimensions (3' x 4' maximum) advertising said property or portions thereof for sale. Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall comply with all sign standards of any municipality, as such standards may be applicable to the Property. Also,

1. No sign of any kind shall be displayed to public view on any Lot or building except one sign of no more than six (6) square feet in area advertising the merits of the property for sale or rent. The Declarant or the Association shall have the right (but not the obligation) to remove any sign, billboard or other advertising structure or device which is placed on any Lot or home in violation of this paragraph and shall be entitled to assess the Lot Owner and recover all costs of such removal from the Lot Owner. During the construction and sales period of the Lots, the Declarant may use other signs and displays to advertise the merits of the Lots for sale or rent, until such time as Declarant has sold all Lots owned by it in the Property.

2. Signage identifying the builder's company name and phone number may be placed on the Lot where he or she had contracted to build a home. The sign may not be any larger than six (6) square feet in size. The sign may be placed on the Lot in an attractive manner (not nailed to a tree) no earlier than the closing of the interim financing or 4 weeks prior to construction and must be removed no later than one week after occupancy. Subcontractors, such as pool contractors, electricians, plumbers, etc., may not erect signs during construction.

3. No "For Sale" signs may be placed on any vacant Lot within two years from the date of purchase from Declarant. Signs no more than 6 square feet may be placed on a Lot improved with a residential structure offering it for sale by Lot Owner or Lot Owner's agent. The Association may display signs at the common areas describing rules, hours, and other instructional information as deemed necessary.

4. No "For Sale" signs will be placed upon any vacant lot by individual Lot Owners or any other person or entity. The Association or authority as created herein has the right to remove and dispose of any such signs. No other signs are permitted without approval of the Committee.

**D. Drilling and Mining Operations.** No oil drilling, water drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or any Lot, nor shall oil wells, water 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, natural gas, or water shall be erected, maintained or permitted upon any Lot.

**E. Offensive Activities.** No noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the other Lot Owners.

**F. Commercial Activity.** With the exception of Common Areas or reserves, all parts of the Property are designated as and shall be used exclusively as residential home sites for single-family dwellings. The maintenance of an office in such dwellings for record keeping, communications and occasional meetings shall not be deemed a violation of these restrictions, unless it is determined by the Association that the extent of commercial activity on any particular tract is so pervasive that the residential character of such tract is being subverted. In such event, the Association shall take whatever legal action is deemed reasonable and necessary to curtail such commercial activity, as provided for under these restrictions.

**G. Duty of Maintenance.** Lot Owners and occupants (including lessees) of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep the Lot so owned or occupied, including buildings, improvements, grounds, or drainage easements or other rights-of-way incident thereto, and vacant land, in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

1. Prompt removal of all litter, trash and waste;
2. Lawn mowing on a regular basis;
3. Tree and shrub pruning;
4. Watering landscaped areas;
5. Keeping exterior lighting and maintenance facilities in working order;
6. Keeping lawn and garden areas alive, free of weeds, and attractive;
7. Keeping parking areas, driveways, curbs and roads in good repair;
8. Complying with all government health and police requirements;
9. Repair of exterior damages to improvements;
10. Cleaning of landscaped areas lying between street curbs and Lot lines;  
and
11. Repainting of improvements.

**H. Pets. Animals and Livestock.**

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1. **Permitted Pets: Leashing Required.** No animals, hogs, livestock or poultry of any kind may be raised, bred, kept or maintained on any Lot at any time except "Permitted Pets" which are dogs, cats or other usual household pets. Not more than five Permitted Pets are allowed per Lot unless authorized in writing by the Board or applicable Rules and Regulations, and no Permitted Pets may be raised, bred, kept or maintained for commercial purposes. Subject to remaining provisions hereof, the foregoing limitation on the number of Permitted Pets does not apply to hamsters, small birds, fish or other constantly caged animals which are continuously kept completely within a residence, nor shall it apply to require the removal of any litter born to a Permitted Pet prior to the time that the animals in such litter are three months old. All Permitted Pets must be kept on a leash or otherwise maintained under the control of their Lot Owner when not maintained in an enclosed yard from which the Permitted Pet cannot escape. The Board may adopt Rules and Regulations to further regulate Permitted Pets, including without limitation to further specify types of usual household pets to be included or excluded as Permitted Pets, regulations as to number or otherwise applicable to caged animals and areas outside a residence and/or an enclosed yard in the Property where Permitted Pets are permitted or from which they are excluded. NO PETS OF ANY KIND ARE PERMITTED UPON ANY COMMON AREAS EXCEPT TO THE EXTENT OTHERWISE EXPRESSLY PERMITTED BY APPLICABLE RULES AND REGULATIONS AND THEN ONLY IN STRICT COMPLIANCE THEREWITH, AND EXCEPT AS TO LEGITIMATE SEEING-EYE DOGS.

2. **Horses.** Notwithstanding the foregoing, not more than one horse may be maintained for each full acre. The permitted horse or horses is/are in addition to the five Permitted Pets otherwise allowed, but in all other respects the provisions of this Section apply to horses. Horse barns will be allowed and must be constructed in accordance with the specifications drawn by the Committee.

3. **Removal.** As to any animals or livestock not permitted by this Section, and as to any Permitted Pet which is allowed to roam free, or which in the sole opinion of the Board endanger health or safety, make objectionable noise, or constitute a nuisance, annoyance or inconvenience to the Lot Owners or occupants of other Lots, the Common Areas or any property located adjacent to or in the vicinity of the Property, or which is otherwise raised, bred, kept or maintained in violation of this Declaration or applicable Rules and Regulations, the Association may cause any such animal, livestock or Permitted Pet to be removed from the Property and may prohibit the return of any such Permitted Pet to the Property. Removal as aforesaid will be at the sole expense of the responsible Lot Owner or Lot Owner's tenant and without liability of any kind whatsoever to the Association, including the Committee, their agents, employees and representatives, or any person which the Association may direct to remove any such animal, livestock or Permitted Pet.

4. **Training.** No Lot may be used to raise, house, or train dogs or other animals commercially, or keep a creature that may be noxious or offensive to the neighborhood as determined by the Association

### ARTICLE 3 ARCHITECTURAL CONTROL COMMITTEE

A. **Membership of Committee.** Until such time as Declarant no longer owns any Lots, the Committee shall be composed of not less than one (1) or more than three (3) or more individuals selected and appointed by the Declarant. At such time as Declarant no longer owns any Lots, the Committee shall be composed of such individuals as selected by the Committee or the Board. The term of Committee members shall be staggered by one year so that continuity

of the Committee is maintained. All such persons will serve at the discretion of the Board (defined below) who shall be designated by the Declarant, and all of its decisions are subject to review and modification by the Board except as herein otherwise expressly provided. In the event of the death or resignation of any person serving on the Committee, the Board shall designate a successor or successors who will have all of the authority and power of his or their predecessor(s). Until such successor has been appointed, the remaining member or members have full authority to exercise all rights, duties and powers of the Committee.

**B. Purposes; Delegation.** The Committee shall use its best efforts to promote and ensure a high level of quality, harmony and conformity throughout the Property. The Committee shall function as the representative of the Declarant for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential development. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate and appoint a successor. No member of the Committee, nor their designated representative, shall be entitled to any compensation for services performed provided, the Committee may employ one or more architects, engineers, attorneys or other consultants, as approved by the Board, to assist the Committee in carrying out its duties, and the Association shall pay such consultants for services rendered to the Committee. Members of the Committee may also be reimbursed for reasonable expenses in such manner and amounts as may be approved by the Board.

**C. Architectural Approval.** No building, structure, fence, wall or improvement of any kind or nature shall be erected, constructed, placed, altered, changed or modified on any Lot until the plot plan and elevation drawings from the four sides of any building on the Lot, showing the location of such building, structure, paving or improvement, construction plans and specifications thereof and landscaping and grading plans therefore have been submitted to and approved in writing by the Committee as to: (i) location with respect to Lot lines; topography; finished grades elevation; effect of location and use on neighboring Lots and improvements situated thereon; and any drainage arrangement, (ii) conformity and harmony of external design, color, texture, type and appearance of exterior surfaces and landscaping with existing structures and existing landscaping, (iii) quality of workmanship and materials; adequacy of site dimensions; adequacy of structural design; proper facing of main elevation with respect to nearby streets; and (iv) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth in bulletins promulgated by the Committee. The Committee is authorized to request the submission of samples of proposed construction materials or colors of proposed exterior surfaces.

**1. Regulated Modifications.** No construction in variance of this Declaration ("Regulated Modifications") may be commenced, constructed, erected, placed, maintained or made upon any Lot or within any part of the Property unless and until complete plans and specifications have been submitted to and approved in writing by the Committee as to compliance with applicable Architectural Review Criteria as set forth herein. Two complete sets of plans and specifications must be submitted with each request for approval. Any plans and specifications to be submitted must specify, in such detail and form as the Committee may reasonably require:

- a. The location upon the Lot or within the Property where the Regulated Modification will occur or be placed;
- b. The dimensions, nature, kind, shape, height, and color scheme of and all materials to be used in connection with the Regulated Modification;

c. Appropriate information concerning structural, mechanical, electrical plumbing, grading, paving, decking and landscaping details; and

d. Intended uses; and such other information, plans or specifications as may from time to time be required by applicable architectural guidelines, or in specific instances as may be requested or required by the Committee, which in the sole opinion of the Committee is reasonably necessary to fairly and fully evaluate all aspects of the proposed Regulated Modification.

**2. Architectural Guidelines.** The Committee may, from time to time, adopt, modify and delete such reasonable Architectural Guidelines (herein so called) applicable to the Property, including Lots and Common Areas, as it deems appropriate to maintain or reasonably enhance Prevailing Community Standards (herein so called) of the Property as determined by the Committee at the time of adoption. No prior notice of any kind to any Lot Owner or any other Person need be given as to adoption or amendment of Architectural Guidelines. The Committee shall provide applicable Architectural Guidelines to Lot Owners upon request. Architectural Guidelines shall be of equal dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, provided: (a) such Architectural Guidelines shall not be deemed a waiver, modification, or repeal of any of the provisions of this Declaration and (b) such Architectural Guidelines shall not be enacted retroactively except that all repairs, modifications or maintenance performed subsequent to adoption shall be performed in such manner as to bring the Regulated Modification, so far as practicable, in compliance with all then applicable Architectural Guidelines.

**3. Architectural Review Criteria.** The Committee will evaluate all submitted applications for Committee approval on the individual merits of the particular application, and based on evaluation of the compatibility of the proposed Regulated Modification with Prevailing Community Standards as of the date of submission of an application. The Committee must also use reasonable efforts to achieve consistency in the approval or disapproval of specific types of Regulated Modifications. To this end, consideration will be given to (but the Committee is not bound by) similar applications for architectural approval and the decisions and actions of the Committee with regard thereto.

**4. Submissions and Response.** Applications for Committee approval and requests for Regulated Modifications are deemed submitted to the Committee only upon actual receipt. Where more than one Lot Owner applies for approval or a variance, the delivery or mailing of a response to anyone of the Lot Owners as aforesaid constitutes notice to all such Lot Owners. All responses of the Committee are deemed given when delivered to the applicant or when deposited in the United States mail, with postage prepaid and properly addressed to the applicant. If the Committee fails to respond within thirty (30) days after receipt of a proper application, then no further compliance with this section is required regarding the applicable application. If the Committee fails to respond to a request for variance within thirty (30) days after receipt, then the request is automatically denied.

**5. Committee Decisions.** The Committee may fully approve any request for approval made pursuant to this Article 3, or the Committee may approve any such request subject to compliance with conditions stated in a conditional approval. A conditional approval is effective only upon full compliance with the stated condition(s). The Committee may disapprove any request for approval for any of the following reasons: (i) failure to comply with any applicable Architectural Review Criteria as set forth above; (ii) lack of sufficient information,

plans or specifications as reasonably determined by the Committee to enable the Committee to fairly and fully evaluate the proposed Regulated Modification or the uses thereof; or (iii) failure to include any information, plans or specifications required by applicable Governing Documents, or as may be reasonably requested by the Committee. The Committee shall notify the applicant of its decisions in writing. Except for compliance with this Article, no action or omission of the Committee shall otherwise constitute a waiver as to any other provisions of this Declaration or preclude by estoppel or otherwise full enforcement thereof.

**6. Compliance With Laws and Governing Documents.** Each applicant is solely responsible for insuring that, and nothing herein or any written decision of the Committee shall be construed as a covenant, representation, guaranty or warranty that, any proposed Regulated Modification will be in compliance with applicable governmental laws, ordinances or regulations (including building codes or permit or licensing requirements), or with applicable requirements of this Declaration.

**7. Inspection Rights.** Upon reasonable notice (oral or written), any member of the Committee or the Board or their designated representatives may enter upon a Lot without liability for trespass or otherwise for purposes of confirming compliance with any applicable provisions of this Declaration regarding a proposed Regulated Modification, the work in progress, and the completed Regulated Modification. Except for gross negligence, willful misconduct or knowing violation of the law, the Lot Owner of any Lot so inspected by the Committee is not liable for any personal injuries, death or property damage of or to any person or entity performing such inspection.

**8. Records of Committee.** The Committee is not required to maintain records of any of its meetings. The Committee must keep and maintain records evidencing the final decision(s) of the Committee regarding all requests for approval and requests for variance for not less than four years. The Committee must also maintain a record of all current Architectural Guidelines, and must provide copies to Lot Owners upon written request and at the Lot Owner's expense.

**9. Variances.** Upon submission of a written request for same, the Committee may, from time to time, in its sole discretion, permit Lot Owner to construct, erect, or install improvements which are in variance from the architectural standards or this Declaration, or the previously published architectural bulletins which may be promulgated in the future. In any case, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community. No member of the Committee shall be liable to any Lot Owner or other person claiming by, through, or on behalf of any Lot Owner, for any claims, causes of action, or damages arising out of the granting or denial of, or other action or failure to act upon, any variance requested by a Lot Owner or any person acting for or on behalf of any Lot Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Lot Owner shall not constitute a waiver of the Committee's right to strictly enforce this Declaration and the architectural standards against any other Lot Owner. Each such written request must identify and set forth in detail the exact nature of the variance sought. Any grant of a variance by the Committee must be in writing and must identify in narrative detail both the standards from which a variance is being sought and the specific variance being granted. The Board, by vote of two-thirds (2/3rds) of all members of the Board, may grant specific variances to Architectural Guidelines and to the architectural and use restrictions set forth above of this Declaration as herein provided. A variance may be granted only with respect to specific instances upon written request therefore, is not binding with respect to any other request for a variance whether or not

similar in nature, and does not constitute a waiver, modification or repeal of any of the provisions of this Declaration or other this Declaration except for the limited purpose of and to the extent of the specific variance expressly granted. A variance may be granted only upon specific findings that the variance is necessary due to unusual circumstances which are reasonably beyond the control of the applicant to mitigate or rectify, and that the granting of a specific variance will not materially and adversely, affect the architectural, aesthetic or environmental integrity of the Property or the scheme of development therein. The good faith determination of the Committee that the conditions for granting of a variance have or have not been met are final.

**10. No Liability.** Neither Declarant, the Committee, the Association, the Board, nor their officers, directors, members, employees and agents of either, shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Lot Owner by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Lot Owner agrees that he will not bring any action or suit against Declarant, the Committee, the Association, the Board, their officers, directors, members, employees or agents of either of them, to recover any such damages and hereby releases and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Plans and specifications are not approved for engineering or structural design or adequacy of materials, and by approving such plans and specifications neither the Committee, the members of the Committee, nor the Lot Owner assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications.

**11. Liability of Committee.** Neither the Association nor the Committee, nor their respective Related Parties are liable to any Lot Owner, the Lot Owner's tenants, the employees, agents or representatives of either, or to any other person or entity for any actions or failure to act or in connection with any approval, conditional approval or disapproval of any application for approval or request for variance, including without limitation, mistakes in judgment, negligence, malfeasance, or nonfeasance. No approval or conditional approval of an application or related plans or specifications and no publication of Architectural Guidelines may ever be construed as representing or implying that, or as a covenant, representation, warranty or guaranty that, if followed, the Regulated Modification will comply with applicable legal requirements, or as to any matters relating to the health, safety, workmanship or suitability for any purpose of the Regulated Modification. The provisions hereof are cumulative of the provisions of paragraph 10 immediately above.

#### **ARTICLE 4 COMMON AREAS**

**A. Common Area.** The Common Area or Common Areas (herein so called) shall mean the streets and the lake area, reflected on the Plat, any and all easements in favor of the Association or the Declarant over any of the Lots and all of the other Property, other than the Lots (except for easements across such Lots as above provided).

**B. Easement over Common Areas.** Each Lot Owner within the Property other than the Declarant, by acceptance of a deed thereof whether or not it shall be so expressed therein or by acceptance of any other conveyance thereof, grants to the Association an easement over



the Common Areas, which shall be appurtenant to and shall pass with title to each respective Lot, provided no Lot Owner other than the Declarant or the Association shall have the right to make alterations, additions or improvements to the Common Area.

Damage to Common Areas. Each Lot Owner shall be liable to the Association for any damage to any portion of the Common Area caused by the negligence or misconduct of the Lot Owner, his family, tenant or guests.

**C. Use of Common Areas.** Use of the Common Areas shall be limited to Lot Owners, their families, tenants, and guests.

**D. Rules of the Lake.** The Board is specifically authorized to regulate all aspects of maintenance and usage of the reserve area designated as the lake or detention pond as so described on the Plat, provided (i) no swimming is permitted at any time in the detention pond, and (ii) no motorized boat or other motorized watercraft of any kind is at any time permitted on or in the detention pond, and (iii) no private piers are allowed on the detention pond.

## ARTICLE 5 LA PALOMA ESTATES HOMEOWNER'S ASSOCIATION

**A. Association.** The Property shall managed by La Paloma Estates Homeowner's Association, Inc. (the "Association"). The Association shall operate as a nonprofit corporation under the Texas Non-Profit Corporation Act, Article 1396-1.01, et seq., Texas Revised Civil Statutes, and any amendments thereto or successor statutes thereof.

**B. Membership.** Every person or entity who is a Lot Owner shall be automatically a member of the Association. The Association and any Special Association (herein so called) shall be governed by and act through a Board of Directors. Declarant shall initially appoint a three (3) member Board of Directors for the Association (the "Board") with terms running until 75% of tracts are sold. At such time Declarant shall appoint three (3) Directors to serve staggering terms of one (1) year and two person at two (2) years as Directors and on the same date of each following year, the members of the Association or Special Association shall meet for the purpose of electing a member or members of the Board of Directors for that year as set forth herein. The Board shall have the full powers and duties as may be reasonably necessary to carry out the purposes and duties of the Association as provided herein. All Board members' terms shall be for one (1) year with the exception of the initial Board members appointed by Declarant. The above stated term and election date may vary fifteen (15) days before or after said date at the option of Board. Mail ballots will be provided for all voters who may return the ballots within the prescribed time and manner or who may bring the completed ballots to the above-mentioned meeting. The person receiving the most votes shall be declared the winner. If two or more positions are being filled, then the persons receiving the most votes shall be declared the winners.

**C. Meetings.** Annual meetings of the members of the Association may be held at such time as is provided in the Bylaws of the Association. Special meetings may be called at any time pursuant to the provisions of the Bylaws of the Association.

**D. Voting Rights.** The Association shall have two classes of voting membership:

**1. Class A Members.** Class A Members shall be all the Lot Owners with the exception of Declarant. The Declarant may, however, become a Class A Member upon termination of its Class B Membership as hereinafter provided. Class A Members shall be

entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot all such persons shall be members and the vote provided for herein shall be exercised as they among themselves determine. In no event, shall there be more than one (1) vote cast with respect to any Lot.

**2. Class B Members.** The Declarant shall be the sole Class B Member and shall be entitled to six (6) votes for each Lot owned. Class B Membership shall cease and be converted to Class A Membership on the happening of the earlier to occur of the following events:

- a. When the Declarant no longer owns any of the Lots; or
- b. At such time as the Declarant voluntarily relinquishes its Class B membership rights.

**E. Voting Procedure.** Voting may be by petition as prescribed for certain specific procedures herein. Otherwise, all votes will be by ballots mailed to the last known address of each member per the records of the Association. These ballots must be mailed back by the member to a certified public accountant designated by the Board. The public accountant will tally all votes and certify the results to be true. Each ballot will be identified by a lot, block and section number. Any ballot vote must allow no less than a 30-day period between mail out of ballots and the return of mailed ballots.

**F. Powers and Duties Regarding Assessments.** The Association shall provide and shall pay for out of the assessments provided for below:

1. Care, preservation and maintenance of the Common Area and the furnishing and upkeep of any desired personal property and improvements for use in or on the Common Area;
2. Maintenance of the exterior grounds of the Common Area and plants and vegetation upon public rights-of-way, including without limitation trees, shrubs, grass and landscaping of any Common Area;
3. Insurance and utilities (including without limitation electricity, gas, water and sewer charges) which pertain to the Common Area only;
4. The services of a person or firm as a bonded professional manager to manage the Association or any separate portion thereof, to the extent deemed advisable by the Association, and the services of such other personnel as the Association shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Association or by the manager;
5. Legal and accounting services; and
6. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Association is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

**G. Additional Rights, Powers and Duties.** The Association shall have the following additional rights, powers and duties:

1. To borrow funds to pay costs of operation, secured by assignment or pledge or rights against delinquent Lot Owners, if the Association sees fit;
2. To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Association.
3. To protect or defend the Common Area from loss or damage by suit or otherwise, to sue or defend it in any court of law in behalf of the Association and to provide adequate reserves for repairs and replacements;
4. To make reasonable rules and regulations for the operation of the Common Area and to amend them from time to time;
5. Pursuant to the terms hereof, to adjust the claim amount, collect, and use any insurance proceeds to repair damage or replace lost property; to assess the Lot Owners in proportionate amounts to cover the deficiency; and
6. To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Lot Owner for violation of such provisions or rules.

**H. Maintenance Contracts.** The Association, shall have full power and authority to contract with any Lot Owner (including without limitation the Declarant) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms and conditions and for such consideration as the Association may deem proper, advisable and to the best interest of the Association.

**I. Liability Limitations.** Neither any Lot Owner, nor the Declarant, shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of another Lot Owner, whether such other Lot Owner was acting on behalf of the Association or otherwise. Neither the Declarant, nor the Association, 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. The Declarant, the Association or any other person, firm or corporation liable to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

**J. Exclusion of Declarant.** The Declarant will sell Lots to purchasers. It is specifically stated and agreed that if one or more Lots 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 by 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 said Association are deemed released as regards 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 whom 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. Otherwise, it is fully understood that Declarant is subject to the same payments created herein per Lot owned, as is any other Lot Owner; save and except accrued but unpaid or post due assessments, costs, penalties and interest on or related to those lots or tracts foreclosed on by Declarant or received by Declarant as the result of canceling a contract. However, it is fully understood that Declarant may pay such payments, including in advance in the form of payments for improvements, maintenance, repairs, leases, and 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 (12%) percent 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 sellout of the total project of all sections, such credit balance will not be a charge to the Association, but will, in fact, be written off by Declarant.

**K. Directors and Officers.** The Association may elect directors and officers as it deems necessary, desirable or appropriate to act on its behalf, pursuant to Association and with the powers and duties as may be granted by the Association to the person(s) so acting. The liability limitations provided herein shall extend to any director or officer acting on behalf of the Association.

**L. Inspection by Members of Books and Records.** Subject to exclusions, protection of privileged and confidential communication and rules for inspection as set forth in the Bylaws, every Member of the Association, on written demand stating the purpose of the demand, has the right to examine and copy, in person or by agent, accountant, or attorney, at any reasonable time, for any proper purpose, the books and records of the Association relevant to that purpose, at the expense of the Member .

## ARTICLE 6 ASSESSMENTS

**A. Assessments.** Each Lot Owner within the Property other than the Declarant, by acceptance of a deed thereof whether or not it shall be so expressed therein or by acceptance of any other conveyance thereof (except a conveyance in connection with the establishment of a mortgage), shall be deemed to covenant and agree to pay to the Association:

1. Monthly/Annual assessments for maintenance and insurance on portions of the property and the Common Area.
2. Closing assessment for operations and reserves
3. Special assessments for capital improvements or maintenance thereof;

**B. Monthly/Annual Assessments** The initial annual assessment is set at (\$1,200.00) Dollars, per Lot, per year, and may not be increased by more than twenty five (25%) percent per year without the approval of at least seventy-five (75%) percent of the members voting at a meeting of the Association where a quorum is present and notice of intent to increase the annual assessment was given. The Association, in initially setting the monthly levy or assessment for any purpose stated herein, will do so on an estimated basis determined by a

study of the requirements of said purposes. Said amount so levied may be changed from time to time as necessary, to pay the allowed expenses as herein set forth. Should said assessment prove to be more than needed for such purposes, then, the Association may reduce said levy accordingly, or carry forward such excess to be used to decrease the amount of future assessments.

**C. Closing Assessment.** At time of purchase of any single lot the new owner shall make a one-time contribution of four (4) months of monthly dues over and above their monthly contribution to be used for operations and/or reserves. In addition there shall be a \$75 administrative transfer fee payable to the HOA management company upon sale of any lot by an Owner other than the Declarant.

**D. Special Assessments.** The Association will have the right, privilege and powers to levy special assessments as may become necessary for purposes as required and authorized herein. Such special assessments would be made on the same pro-rata basis as hereinabove set forth and paid to Association as prescribed by said Association. Upon the approval of seventy-five (75%) of the Lot Owners of tracts, subject to any special assessment, such special assessments could be made for the purpose of the construction or reconstruction of any desired improvements in the Common Areas for the use and benefit of Lot Owners of all of the acreage subject to such special assessment. Special assessments in connection with a Lot Owner's failure to perform the required exterior maintenance or improvements of his property or in connection with an Lot Owner's failure to comply with this Declaration, all as hereinafter described with more particularity.

**E. Handling of Assessed Funds; Audit.** It is specified herein that all funds collected by the Association for maintenance and services of commons will be kept in a special bank account or savings account to be used only for the purposes as herein stated, and an itemized account of all receipts and disbursements will be mailed annually to all property Lot Owners. There shall be an annual audit by a Certified Public Accountant (CPA). The Association will make such records available to the CPA in the offices of the Association or other place at the discretion of Association and will be authorized to pay to such Accountant, reasonable accounting fees for said audit from the funds of the account so audited.

**F. Liability for Payment.** Each Lot Owner shall be personally liable for the any assessments and the Association may bring legal action against the Lot Owner personally obligated to pay any delinquent assessments or to foreclose the lien (as hereinafter provided) against the Lot to which such assessment applies and there shall be added to the amount of such assessment all costs incurred by the Association in foreclosing the lien or in collecting the amount owing, including any reasonable attorney's fees. No Lot Owner may waive or otherwise escape liability for the assessment provided herein by non-use of the Common Area or abandonment of his Lot.

**G. Determination of Assessments.** Assessments shall be made by a vote of the majority of the members of the Association at a meeting of the members. Assessments shall be made in equal amount to each Lot. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the due date thereof and shall fix the dates such amounts may become due. Assessments may be made payable monthly. Notice of the annual assessments shall be sent to every Lot Owner subject thereto. The Association shall, on demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment against a specific tract has been paid, and shall on or before February 15th of each year, cause to be recorded in the office of the County

Clerk of the County, a list of delinquent assessments as of that date setting forth and establishing the amount of the lien therefore. Failure to record such list by such date shall not affect the validity of such lien. Said lien shall arise and become effective on the day after the due date for any assessment not paid by such due date.

**H. Lien on Lot.** All assessments shall be a debt and obligation of the Lot Owner and, if such assessments are not paid by the due date, then the unpaid assessments shall bear interest at a rate per annum equal to the lesser of eighteen percent (18%) per annum or the highest lawful rate permitted under Texas law. Assessments made shall be a covenant running with the land. To secure the payment of unpaid assessments, a lien shall arise in favor of the Association on the Lot to which such unpaid assessment applies. Each Lot Owner by acceptance of a deed conveying a Lot to him or her hereby covenants and agrees to pay any and all Assessments on such Lot and to the extent such Assessments are not paid hereby grants a lien and security interest in the Lot (and the Improvements thereon) to the Association to secure the payment of such unpaid Assessments. The Assessment Lien shall be subordinate and inferior to any lien arising under a deed of trust (or other instrument) and securing amounts due for the acquisition of a Lot, construction of improvements thereon, or the purchase of a Lot and the improvements thereon, and any renewals, extensions or refinancing thereof, so long as such deed of trust (or other instrument) is filed of record in Harris County, Texas prior to the date such Assessment Lien became effective. Any foreclosure of such deed of trust (or other instrument) under power of sale or through court proceedings shall cut-off and extinguish the Assessment Lien securing the assessment that became due and payable prior to the foreclosure date. However, such foreclosure shall not release any Lot from any Assessment Lien to secure assessments, which become due and payable after the date of such foreclosure, nor shall the personal obligation of any Lot Owner be extinguished by such foreclosure proceeding.

**I. Foreclosure of Lien.** If the Lot Owner fails to pay any assessment when due, the Association or its duly authorized representative shall be authorized to sell the Lot at public auction, to the highest bidder, for cash, at the county courthouse of the county in Texas in which the Lot is situated, between the hours of 10:00 o'clock a.m. and 4:00 o'clock p.m. on the first Tuesday of any month, after giving notice of the sale as required by the applicable law of the State of Texas in effect at the time of the sale. Such proposed sale shall take place at the county courthouse in the area designated by the commissioner's court of such county, as recorded in the real property records of such county, or if no area has been designated by the county commissioner, then the notice of sale must designate the area where the sale covered by the notice is to take place. Notice of such proposed sale, which must include a statement of the earliest time at which the sale will occur, must be given at least twenty-one (21) days before the date of such sale: (i) by posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold; (ii) by filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under subparagraph (i) of this paragraph; and (iii) by Beneficiary's serving written notice of the sale by certified mail on the Lot Owner obligated to pay the assessment secured by such lien. The sale must begin at the time stated in the notice or not later than three (3) hours after that time. If the lien for assessments encumbers real property used as the Lot Owner's residence, then the Association or its designated representative, shall serve Lot Owner with written notice sent by certified mail stating that the Lot Owner has defaulted in the payment of its assessments and giving the Lot Owner at least twenty (20) days to cure such default before the assessment is due and notice of sale is given. Service of any such written notice by certified mail is complete when such written notice is deposited in the United States Mail, postage prepaid and addressed to each such Lot Owner at the last known addresses of each of them,

respectively, as shown by the records of the Association. The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service. The proceeds from such sale shall be applied as follows:

1. First, the Association shall pay the reasonable expenses and costs incurred by the Association in enforcing its rights under this Declaration and any reasonable expenses and costs incurred by Association, including, but not limited to, expenses and costs incurred by Association or its duly authorized representative in foreclosing upon the Lot and a reasonable trustee's fee or commission;

2. Second, shall pay, so far as may be possible, the assessment and any interest accruing thereon; and

3. Third, the Association shall pay the residue, if any, to the person or persons legally entitled thereto.

Payment of the purchase price to the Association shall satisfy the obligation of the purchaser at such sale therefore, and such purchaser shall not be bound to look after the application thereof. Each Lot Owner within the Property other than the Declarant, by acceptance of a deed thereof whether or not it shall be so expressed therein or by acceptance of any other conveyance thereof, shall be deemed to covenant and agree, on behalf of himself and on behalf of his heirs, administrators, executors, successors, personal representatives and assigns, that any and all statements of fact or other recitals made in any deed of conveyance given by the Association or its duly authorized representative, to a purchaser of a Lot at any foreclosure sale shall be conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against such Lot Owner and his heirs, administrators, executors, successors, personal representatives and assigns.

## ARTICLE 7 INSURANCE; REPAIR AND RESTORATION

**A. Purchase of Insurance.** The Association shall purchase, carry and maintain in force insurance covering all portions of the Common Area, and improvements thereon or appurtenant thereto, for the interest of the Association, its agents and all members of the Association, in such amounts and with such endorsements and coverage as shall be considered good, sound insurance coverage for properties similar in construction, location and use to the subject property. Such insurance may include, but need not be limited to:

1. Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs as determined annually by the insurance carrier.

2. Comprehensive public liability and property damage insurance on a broad form basis, including coverage of personal liability (if any) of the Lot Owners with respect to the Common Area.

3. Fidelity bond for all officers and employees of the Association having control over the receipt of and disbursement of funds.

**B. Insurance Proceeds.** The Association and its members shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Area. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special group assessment as provided for above of this Declaration to cover the deficiency.

## ARTICLE 8 GENERAL PROVISIONS

**A. Easements.** Easements for access and the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Easements are also reserved for the installation, operation, maintenance and Lot ownership of utility service lines from the property lines to the residences. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements. By acceptance of a deed to any Lot, the Lot Owner covenants and agrees to mow weeds and grass and to keep and maintain in a neat and clean condition any easement that may traverse a portion of the Lot.

**B. Duration.** This Declaration and the covenants, conditions and restrictions contained herein are to run with the land and shall be binding on all parties and all persons claiming them for a period of thirty-five (35) years from the date this Declaration are recorded unless at any time after said thirty-five year period an instrument signed by a majority (by number of Lots) of the then Lot Owners has been recorded, agreeing to change said covenants in whole or in part.

**C. Enforcement.** In addition to the Declarant, the Lot Owners and to the other parties for whose benefit this Declaration shall run, the Committee shall further have the Association to enforce any and all of the covenants, conditions and restrictions set forth in this Declaration against any person or persons violating or attempting to violate the same. In furtherance of the foregoing, and not by way of limitation, the Committee, Declarant and any other party for whose benefits the covenants, conditions and restrictions provided in this Declaration shall run may enter proceedings at law or in equity to restrain violation of this Declaration, conditions and restrictions contained in this Declaration and to recover damages for the breach or violation thereof. Notwithstanding any express or implied term or provision hereof, neither Declarant nor the Committee shall ever be obligated to enforce any provision hereof and failure to do so shall never be grounds for any liability for or recovery of any damages against Declarant, the Committee or any member thereof. The Association, through its duly authorized employees and contractors shall have the right, after reasonable notice to the Lot Owner thereof, to enter any tract at any reasonable time to perform such maintenance as may be authorized herein.

**D. Public Law.** Notwithstanding the fact that Common Areas in the Property are private and dedicated and made available only to the Lot Owners within the Property, it is hereby stipulated that any law enforcement officer, (City, County, State or Federal) is hereby authorized to enter upon the premises of the Property for all purposes just as though the Common Areas were dedicated to the public, and every law enforcement officer will have the same rights, privileges and duties within the boundaries of the Property as he would have in any project where the streets and other commons and facilities were dedicated to the public.



**E. Traffic Law.** Notwithstanding the fact that vehicular access and the Common Areas in the Property are not dedicated to the public (as opposed to the Lot Owners in the Property) it is hereby stipulated that the County Commissioners Court or other public governing body will have the full Association to establish speed limits or other traffic laws and rules, and penalties for violation thereof, upon the streets of the Property, and the law enforcement officers of the County or of the State of Texas or any other official body having such Association, may enter upon the Property to enforce such laws the same as if said access commons were public roads.

**F. No Security Services.** The Association may from time to time engage in activities or provide facilities, including activities, devices or services intended to or which may have the effect of enhancing safety, including activities, devices or services limiting or controlling Property access, or providing of patrol services or otherwise monitor activities within the Property (including Common Areas), and may from time to time provide information through newsletters or otherwise regarding same. Without limitation of the foregoing, each Lot Owner and their tenants covenant and agree with respect to any and all Security Services provided directly or indirectly by the Association as follows:

1. SECURITY IS THE SOLE RESPONSIBILITY OF LOCAL LAW ENFORCEMENT AGENCIES AND INDIVIDUAL LOT OWNERS AND THEIR TENANTS, AND THEIR RESPECTIVE RELATED PARTIES. Security Services may be provided at the sole discretion of the Board. The providing of any Security Services at any time will in no way prevent the Board from thereafter discontinuing, or from temporarily or permanently modifying, terminating or removing, any Security Services, in whole or in part.

2. Any third party providers of Security Services are independent contractors, the acts or omissions of which are not imputable to the Association or its agents, employees or representatives (the "Related Parties").

3. Providing of any Security Services may never be construed as (i) an undertaking by the Association or its Related Parties to provide personal security as to any Lot Owner, tenant or their Related Parties, or as to any other Person, or (ii) a representation or undertaking that any Security Services will be continued, or (iii) a representation, guarantee or warranty that the presence of any Security Service will in any way increase personal safety or prevent personal injury or property damage due to negligence, criminal conduct or any other cause. WITHOUT LIMITATION OF THE FOREGOING, DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES SHALL NOT HAVE ANY DUTY WHATSOEVER TO WARN, ADVISE OR INFORM ANY LOT OWNER, TENANT OR THEIR RELATED PARTIES AS TO CRIMINAL CONDUCT OF ANY KIND OR AS TO ANY OTHER MATTERS REGARDING OR RELATING TO SECURITY SERVICES, PAST OR PRESENT.

4. Declarant, the Association and their Related Parties are not liable for, and each Lot Owner, their tenants, and their respective Related Parties, must indemnify, keep indemnified and hold Declarant, the Association and their Related Parties harmless at all times from, any injury, loss or damages whatsoever, including without limitation any injury or damages caused by theft, burglary, trespass, assault, vandalism or any other crime, to any Person or property arising, directly or indirectly, from the providing or failure to provide any Security Services, or the discontinuation, modification, disruption, defect, malfunction, operation, repair, replacement or use of any Security Services.

5. DECLARANT, THE ASSOCIATION AND THEIR RELATED PARTIES, HAVE NO DUTY, OBLIGATION OR RESPONSIBILITY OF ANY KIND WHATSOEVER TO WARN,

ADVISE OR IN ANY OTHER MANNER INFORM ANY LOT OWNERS, TENANTS, OR THEIR RELATED PARTIES, OR ANY OTHER RESIDENTS OR OCCUPANTS OF ANY BUILDING SITE OR COMMON AREAS, OR ANY LAW ENFORCEMENT AGENCY, OR ANY OTHER PERSON AS TO ANY ALLEGED, SUSPECTED OR KNOWN CRIMINAL ACTIVITIES OF ANY KIND, CRIMINAL HISTORY OR BACKGROUND OF ANY PERSON, OR CRIMINAL INVESTIGATIONS BY LAW ENFORCEMENT AGENCIES OR BY ANY OTHER PERSON (ALL SUCH MATTERS, ACTS AND INVESTIGATIONS HEREIN REFERRED TO AS "CRIMINAL MATTERS"), regardless of whether the Criminal Matters involve the Property, other areas in the vicinity or any other place or lands. The Association may (but has no obligation to) from time to time disclose and/or transmit information concerning Criminal Matters to Lot Owners, tenants, and any other occupants of Lots and/or any Common Areas, to any law enforcement agencies, and to any other Person which the Association's officers, directors, agents, employees and other Related Parties in their sole discretion deem advisable. Each Lot Owner and tenant by acceptance of any right, title or interest in any Lot, and every Lot Owner, tenant and occupant of a Lot or any Common Areas by virtue of such occupancy, hereby consents, on their behalf and on behalf of their respective Related Parties, and on behalf of all other Persons coming upon a Lot or any Common Areas at their invitation, or with their consent or permission, to any such disclosure and/or transmittal of information. Any such disclosure and/or transmittal of information shall in no way be deemed an undertaking to do so in the future, either as to the Criminal Matters then involved or as to any other current or future Criminal Matters. All other provisions of this Section apply to any disclosure and/or transmittal of information, and to any failure to disclose and/or transmit information, concerning Criminal Matters, including in particular but without limitation, the provisions regarding the indemnity obligations of Lot Owners, their tenants and their respective Related Parties.

**G. Subsequent Statutory Association.** If the Texas Non-Profit Corporation Act, Texas Miscellaneous Corporation Laws Act, Chapter 84 of the Texas Civil Practice and Remedies Code or any other applicable statute, state or federal, is construed or amended to further eliminate or limit liability or authorizing further indemnification than as permitted or required hereby, then liability will be eliminated or limited and right to indemnification will be expanded to the fullest extent permitted by such construction or amendment.

**H. Amendments.** Until the sale by Declarant of all of the Lots in the Property to third parties unrelated to Declarant, the Declarant, its successors or assigns, at its sole discretion, may abolish or amend the covenants, conditions and restrictions set forth herein in whole or in part. Thereafter, the covenants, conditions and restrictions set forth herein may be amended with consent of fifty one per cent (51%) of the then Lot Owners (with one vote to be cast for each Lot so owned) evidenced by a document in writing bearing each of their signatures. Covenants and restrictions of this Declaration may be amended by duly recording an instrument with the Harris County Clerk executed and acknowledged by the Board as approved by not less than seventy-five (75%) of the tracts set forth on ballots received by the deadline. All votes will be as prescribed above. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party, to amend these Restrictive Covenants by any instrument in writing duly signed, acknowledged, and filed of record for the purpose of correcting any typographical or grammatical error or any ambiguity or inconsistency appearing herein.

**I. No Impairment.** Any repeal, amendment or modification hereof may not adversely affect any rights or protection existing at the time of the amendment. Invalidation of any one of this Declaration or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

244-74-1378

**J. Severability.** Invalidation of any one of this Declaration by judgment or court order shall in no wise affect any other provision of this Declaration and the remaining provisions hereof shall remain in full force and effect.

**K. Notices to Declarant/Lot Owners.** Any notice required to be given to any Lot Owner or Declarant under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as a Lot Owner or Declarant.

**L. Termination of Responsibility of Declarant.** If Declarant shall convey all of its right, title and interest in and to the Property and assign all its rights, benefits and obligations as Declarant hereunder to any partnership, individual or individuals, corporation or corporations, then and in such event Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed as of the 1 day of Oct., 2001.

DECLARANT:  
**LA PALOMA ESTATES LTD.**

By: CUMMINGS-BACCUS INTERESTS LC, a Texas limited liability company, General Partner

By: [Signature]  
Ross M. Cummings, President

[Handwritten initials]

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 File Number 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

OCT - 8 2001



[Signature]  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

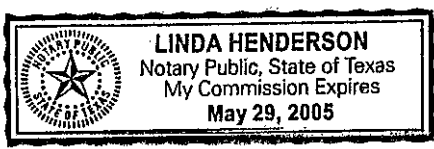
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THE STATE OF Texas  
COUNTY OF Texas

FILED  
2001 OCT - 8 AM 11:43  
COUNTY CLERK  
HARRIS COUNTY, TEXAS  
[Signature]

BEFORE ME, the undersigned, personally appeared Ross M. Cummings, President of Cummings-Baccus Interests LC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 1st day of October, 2001.



[Signature]  
Linda Henderson