

BILL & RETURN TO:
LAWYERS TITLE CO.
GF# 509722 -CF

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**DECLARATION OF COVENANTS AND RESTRICTIONS OF
HORSE HAVEN ESTATES SUBDIVISION, PHASE THREE**

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

WHEREAS, OAKWOOD CUSTOM HOMES GROUP, LTD., a Texas limited partnership ("Developer and/or Declarant"), is the owner of the subdivision in the City of College Station, Brazos County, Texas, known as HORSE HAVEN ESTATES SUBDIVISION, PHASE THREE (herein sometimes called "Horse Haven" or "Subdivision"), being more particularly described on the Plat recorded in Volume 7901, Page 165 of the Official Records of Brazos County, Texas.

WHEREAS, Developer desires to create and carry out an organized and uniform plan for the improvement, development, sale, and possession of all the numbered lots in any other Phase of the said Subdivision, such phase being Horse Haven Estates Subdivision, Phase Three, as per the Plat recorded in Volume 7901, Page 165, Official Records of Brazos County, Texas, for the benefit of present and future owners of the Subdivision;

WHEREAS, Developer has filed a Declaration of Covenants and Restrictions in Volume 7872, Page 283, Official Records, Brazos County, Texas, covering or pertaining to Horse Haven Estate Subdivision, Phase Two, and hereinafter referred to as Existing Declaration;

WHEREAS, the Existing Declaration allows for additional Phases to be brought within the Existing Declaration filed in Volume 7872, Page 283, Official Records of Brazos County, Texas, but supplemented Declarations;

NOW, THEREFORE, Declarant hereby adopt and establish the following reservations, restriction, covenants, and easements to apply to (a) the use, maintenance, occupancy, preservation of value and conveyance of all said number lots in Horse Haven Estate Subdivision, Phase Three and (b) to use in each contract or deed, which may be executed, delivered and accepted conveying any Lot in Horse Haven Estate, Phase Three. By acceptance of a contract, deed, or other conveyance therefore, whether, or not it shall be so expressed in the deed or other conveyance, each lot owner in Horse Haven Estate Subdivision, Phase Three as per the plat recorded in Volume 7901, Page 165, shall be deemed to covenant and agree to the reservation, restrictions, covenants and easements, recorded in Volume 7872, Page 283, Official Records of Brazos County, Texas, regardless of whether or not such reservation, restrictions, covenants and easements or set out in full or referenced in said contract or deed, and the Declarations filed in Volume 7872, Page 283, shall apply to all of the Lots in Horse Haven Estates, Phase Three as if Horse Haven Subdivision, Phase III, was originally included in the Existing Declarations.

This Agreement shall be binding upon the heirs, successors and assigns of the owner of each and every Lot located in Horse Haven Estate Subdivision, Phase Three, as per the Plat, recorded in Volume 7901, Page 165, Official Records of Brazos County, Texas.

Witnessed this 19th day of April, 2007.

OAKWOOD CUSTOM HOMES GROUP, LTD.,
a Texas limited partnership

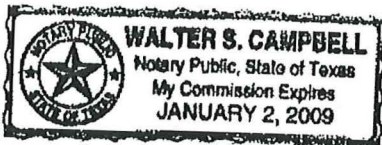
By: OAKWOOD CUSTOM HOMEBUILDERS, L.L.C.,
a Texas limited liability company, its General Partner

By: [Signature]
Alton E. Ofczarzak, Managing Member

THE STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the 19th day of April, 2007, by Alton E. Ofczarzak, Managing Member of Oakwood Custom Homebuilders, L.L.C., a Texas limited liability company, acting in its capacity as General Partner of Oakwood Custom Homes Group, Ltd., a Texas limited partnership, on behalf of said partnership.

[Signature]
Notary Public, State of Texas
My Commission Expires: _____



Filed for Record in:
BRAZOS COUNTY

On: Apr 19, 2007 at 03:46P

As a
Recording

Document Number: 00960136

Amount 15.00

Receipt Number - 313996

By:
Seth Gallion

STATE OF TEXAS COUNTY OF BRAZOS
I hereby certify that this instrument was
filed on the date and time stamped hereon by me
and was duly recorded in the volume and page
of the Official Public records of:

BRAZOS COUNTY

as stamped hereon by me.

Apr 19, 2007

HONORABLE KAREN MCQUEEN, COUNTY CLERK
BRAZOS COUNTY

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BILL & RETURN TO:
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**DECLARATION OF COVENANTS AND RESTRICTIONS OF
HORSE HAVEN ESTATES SUBDIVISION, PHASE TWO**

THE STATE OF TEXAS §

COUNTY OF BRAZOS §

WHEREAS, OAKWOOD CUSTOM HOMES GROUP, LTD., a Texas limited partnership ("Developer and/or Declarant"), is the owner of the subdivision in the City of College Station, Brazos County, Texas, known as HORSE HAVEN ESTATES SUBDIVISION, PHASE TWO (herein sometimes called "Horse Haven" or "Subdivision"), being more particularly described on the Plat recorded in Volume 7446, Page 154 of the Official Records of Brazos County, Texas.

WHEREAS, Developer desires to create and carry out an organized and uniform plan for the improvement, development, sale, and possession of all the numbered lots in said Subdivision, for the benefit of present and future owners of Horse Haven.

NOW, THEREFORE, Developer hereby adopts and establishes the following reservations, restrictions, covenants and easements to apply (a) in the use, maintenance, occupancy, preservation of value and conveyance of all such numbered lots in said Subdivision and (b) to use in each contract or deed, which may be executed, delivered and accepted. By acceptance of a contract, deed, or other conveyance therefore, whether of not it shall be so expressed in the deed or other conveyance, each lot owner shall be deemed to covenant and agree to the following reservations, restrictions, covenants and easements, regardless of whether or not such reservations, restrictions, covenants and easements are set out in full or referenced in said contract or deed (the headings being employed for convenience only, and not controlling over content).

**1.
BUILDING SITE**

As used in these Restrictions, the term "Building Site" means one or more contiguous lots or a lot or contiguous lots, plus a part of an adjacent lot or lots, of the numbered lots in the Subdivision. However, as long as a part of a lot is at least fifty-five (55) feet wide and meets city standards, it shall be a Building Site. Any Lot shown on the plat of the Subdivision shall qualify as a Building Site.

**2.
SINGLE FAMILY RESIDENTIAL PURPOSE ONLY**

No lot or Building Site shall be used for any purpose except for single family residential purpose. No building shall be erected, altered, placed or permitted to remain on any Building Site other than one single family type dwelling and garage, together with any permitted outbuilding. However, the owner of Lot 18, Block 4, Phase 3 of Horse Haven ("Lot 18"), shall be permitted to keep and lease the two apartments that are attached to the existing home. Also, the owner of said

Lot 18 shall be allowed to keep the existing carport, dog house, satellite antenna and chain link fence on Lot 18. The owner of Lot 18 shall obtain written approval from the Committee before relocating or replacing any existing items.

A single family type dwelling is defined as:

- a.) A residence occupied by a single family unit which may consist of the owner, of the residence, his or her spouse, his and/or her children, and his and/or her parents; or
- b.) A residence occupied by no more than two unrelated individuals and lineal descendants thereof; or
- c.) A residence occupied by either the owner, his or her spouse, his and/or her parents, or the lineal descendants of the owner and/or his spouse and their authorized guests, but not a dwelling used by such persons as a rooming or boarding house for unrelated persons; or
- d.) A residence occupied by not more than four unrelated persons and lineal descendants thereof under a lease agreement with the owner of the residence; or
- e.) A residence occupied by a single family unit consisting of no more persons than are otherwise authorized herein under a lease agreement with the owner of the residence.
- f.) To maintain the health and safety of the Subdivision, there should not be more than two persons per bedroom. This is not a restriction or requirement, but is only included for information purposes.

No provisions in these restrictions shall be construed to prevent the Developer, or any real estate agent or homebuilder as approved by Developer, from erecting, permitting or placing such facilities or structures, either permanent or temporary, of whatever nature, on a lot or lots as may be necessary or convenient during the period of, and in connection with, the sale of lots, or the construction or selling of new residences in the Subdivision. Such facilities may include, but shall not be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales offices. The Developer, or its designated agent, shall also have the right to use a residence, situated on a lot, as a temporary office or model home during the period of, and in connection with, construction and sales operations in Horse Haven.

3. ARCHITECTURAL CONTROL COMMITTEE

No building or other improvements shall be erected, placed or altered on any building site until the construction plans and specifications, and a plan showing the location of the structure or improvements, have been approved by a majority of the Architectural Control Committee (the "Committee") as to the quality of workmanship and type of building materials; harmony of

external design with existing structures; and location with respect to topography, easements, building lines and finish grade elevation. The Architectural Control Committee shall consist of four (4) members, whose names are Alton Ofczarzak, Joe Wilson, Sieg Lipp and upon election, the first President of the Horse Haven Homeowners Association (the "Association"). A majority of the Committee may designate a representative to act for it. In the event of resignation or impossibility to continue serving of any member of the Committee, the remaining members shall have full authority to designate a successor. Upon completion of the fiftieth house in the Subdivision (it being contemplated that additional properties shall be added and phased into the Subdivision as set forth in Section 30 hereafter), the terms of Alton Ofczarzak, Joe Wilson, and Sieg Lipp will automatically expire and the designation of members of the Committee will be the exclusive responsibility of said Association. Neither the members of the Committee or its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Committee's approval, or disapproval, as required herein, shall be in writing. If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the conclusion of improvements, approval will not be required, and the related covenants shall be deemed to have been fully satisfied. It is stipulated, however, that to be approved all construction on any building site must comply with all the requirements of these Deed Restrictions.

4.

MINIMUM SIZE OF DWELLINGS

The minimum air conditioning area per dwelling, exclusive of garages, porches and attics will be 1,100 square feet, plus a garage.

5.

BUILDING LINES

No building shall be located on any building site nearer to the front lot line, or nearer to the side street line, than the minimum set back lines shown on the recorded plats for the Subdivision. No building shall be located nearer to a rear lot line than the rear easement line.

6.

FACING OF RESIDENCES

Residences on corner lots shall face the street from which the greatest building setback is shown on the recorded plat. This requirement may be waived by the Committee if, in its sole opinion, the conditions warrant the change.

7.

MATERIALS REQUIRED

Only new construction material (except masonry) shall be used in constructing any structures in the Subdivision. Exterior colors (for house, mailbox, fence, roof, and other residential appurtenances), stone or other masonry colors and exterior shutter or door colors must be approved

in writing by the Committee. This includes initial construction and any repainting after initial construction. No structure shall be occupied or used until the exterior construction thereof is completed, the interior construction is substantially completed and a certificate of occupancy has been issued by the City of College Station, Texas (the "City").

8.

GARAGES, CARPORTS AND OUT BUILDINGS

Each and every residential structure shall have a garage to be constructed at the time of construction of the main residence, and shall be constructed for not less than one (1) automobile. No garage shall ever be changed, altered, enclosed or otherwise converted for any purpose other than for the housing of automobiles, other vehicles and storage. All roof materials on a garage must be of the same nature as the materials used on the main residential dwelling and all garage walls must be constructed of the same material, or other similar material, as the exterior of the main residential dwelling. Any storage building, outbuildings or other structures must be located in the rear yard and screened with fencing from view from streets adjoining the lot containing such structures. Any such additional building structures shall only be one story and their location, height, size, building materials and colors must be approved in writing by the Committee, prior to construction.

Window unit air conditioners, seen from any street, are not allowed anywhere in the residential structure, including any enclosed area visually detectable from the street. No exterior door or window may be added to the front of the house unless approved in writing by the Committee, which approval may be withheld solely at the discretion of the Committee.

9.

EASEMENTS

Easements for installation or maintenance of utilities, access and drainage are reserved as shown and provided for on the recorded plats. No building or other permanent structures are allowed on these easements, except for driveways, sidewalks, culverts, foot bridges, porches and fences. Future use of these easements as improved bicycle or walking paths is permissible. Any construction over and across a drainage easement must be approved by the City and the Committee. All easements are to be maintained by the owner of the lots where the easements exist. The repair and maintenance of fences built by the owner of a lot, and damaged by others having legal access to the easement, will be at the expense of the owner.

10.

NUISANCES PROHIBITED

No noxious, loud or offensive activity shall be permitted upon any portion of the Subdivision, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood or other portions of the Subdivision.

11.
TEMPORARY STRUCTURES PROHIBITED AS RESIDENCES

A structure of temporary character, including but not limited to, mobile homes, motor homes, recreation vehicles, trailers, tents, shacks, garages, barns, basements or other outbuilding, shall not be used or located on any lot at any time as a residence, either temporarily or permanently.

12.
SIGNS AND WINDOW SCREENS

No signs of any kind shall be displayed to the public view on any building site or lot, except such signs as shall have been approved by the Committee. However, a professional looking "For Sale" sign (when a lot or home is for sale) shall not be rejected by the Committee. No foil paper, cardboard, plywood, newspaper, sheets or other bed linen, or other unsuitable materials will be allowed to screen or cover windows, either internally or externally, except for an emergency of three (3) weeks or less. The Committee's decision about the suitability of window coverings shall be final.

13.
NO MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any lot, nor shall any mineral wells, pumps, compressors, tanks, tunnels, mineral excavations or shafts be permitted upon any building site. No derrick or other structure designed for use in boring for oil, natural gas, or any mineral or substance, shall be erected, maintained or permitted on any lot.

14.
LIVESTOCK

No animals, livestock, poultry or insects of any kind shall be raised, bred or kept on any lot, except that dogs, cats, fowl, or other household pets may be kept if they are not used, maintained or bred for any commercial purposes, and provided such pets do not become a nuisance to the neighborhood. However, if a homeowner owns at least nine-tenths (9/10) of an acre of contiguous land, the owner may keep a small horse or a pony if the City approves it and it does not become a nuisance to the neighborhood.

In the case of the existing home on Lot 18, the owner of Lot 18 may have professional-looking fencing in front of the home and may build a professional-looking, wooden horse fence using western cedar or treated pine corral boards to surround all or part of Lots 1 and 2, Block 4, Phase 3 of Horse Haven, if the owner of Lot 18 purchases said Lots 1 and 2. Also, said owner of Lot 18 may build a professional-looking horse shed or barn on Lot 18 and a pen around said shed or barn, suitable for a small horse or a pony. All plans for such horse fencing and building must be approved by the City prior to the beginning of construction. Said horse shed or barn shall have exterior walls of at least three-fourths-inch-thick treated pine plywood and painted to match the

color and scheme of said owner's home exterior above the brick line. The roof shall match that of said owner's home in type and color. All wood in the horse shed or barn and fencing shall be treated to help prevent rot and termite infestation (unless the wood is of a type that naturally repels water and/or termites, such as cedar wood).

15.

MAINTENANCE OF BUILDING SITES AND LOTS

All building sites and lots, whether improved or unimproved, shall be kept in a sanitary and attractive condition and shall in no event be used for storage of material and equipment except for normal residential requirements incidental to construction of improvements thereon as herein permitted. No owner of any lot shall permit the accumulation or burning of garbage, trash or rubbish of any kind thereon.

Those portions of each improved lot that are visible from the street, primarily the front yard, shall be maintained with domestic grass and/or suitable ground cover, integrated with any natural trees and bushes that may be incorporated into the landscaping. In any case, whether a yard is primarily covered with grass and/or ground cover or largely covered with natural growth, the yard shall be kept in a manner consistent with a well-maintained attractive neighborhood.

If the owner of a lot fails to keep the grass and vegetation cut as often as may be necessary to maintain the lot in a neat and attractive condition, the Association may have the grass or vegetation cut, and the lot owner shall be obligated to pay, or otherwise reimburse the Association, for the cost of such work. By acceptance of its grant deed, each lot owner in the Subdivision grants to the Association authority to enter upon such owner's property without threat of trespass or other liability against the Association excepting willful misconduct by the Association, its officers, employees and agents.

All clothes lines, yard equipment (including lawn chairs, benches, tables, swings, and the like), outdoor cooking equipment (barbeque pits, hibachis and the like), play equipment (swing sets, slides, pool, etc.), wood piles or storage piles shall be kept screened by a solid wood or masonry fence, service yard, drying yard or other similar facility as herein otherwise provided, so as to conceal them from view of streets. Tool sheds, fences and any other construction or improvements shall be subject to approval by the Committee. No fences may be built on the front of any lot unless approved in writing by the Committee, except for Lot 18 (see Article 14). The Committee shall have the right to enforce action to remove violations by injunctive relief if necessary to assure aesthetic quality of the Subdivision.

16.

VEHICLES

No vehicle or trailer, which is inoperative, wrecked, dismantled, discarded or which does not have (i) a lawful license affixed thereto, (ii) an unexpired license plate or plates, and (iii) a valid unexpired motor vehicle safety inspection certificate, shall be permitted upon any lot. If visible from the street for a period longer than 72 hours such violative vehicles shall be subject to being towed away by the Association at the owner's expense.

No truck or van with more than two axles, service vehicles (including but not limited to, those containing multiple tool boxes, ladder racks, welding equipment, construction equipment or other similar equipment or accessories), boat, trailer, motor home, mobile home, house trailer, or recreational vehicle, may be kept on the street in front of any lot, or upon any lot, unless it is kept inside the garage or yard areas, behind fences or walls, and concealed from public view and adjoining Property. No vehicle of any kind may be parked on lawn areas for any reason. These restrictions shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and used for the construction, repair and maintenance of the Subdivision or of any properties in the Subdivision. Passenger vehicles may be parked on the street in front of lots for periods of time not to exceed twelve (12) hours in any twenty-four (24) hour period. Any vehicle parked for a longer time may be towed away by the Association at the owner's expense. This restriction is not to be construed to prohibit periodic overnight guests from parking on the street, but is to specifically prohibit residents from using the street as the usual overnight parking for vehicles. No major repair work, dismantling, or disassembling of motor vehicles or other machinery or equipment shall be permitted in or on any driveway, street, garage, carport or any part of any lot.

No motorcycles, motorbikes, dirt-bikes, motor-scooters, go-carts, or three and four wheel "off-road" vehicles, nor any similar vehicles, whether licensed or unlicensed may be operated on any lot in the Subdivision. Furthermore, no motor vehicle may be operated in such a manner that may be or become a danger, nuisance or annoyance to the neighborhood.

17.

STORAGE OF MATERIALS

No building material of any kind or character shall be placed or stored upon any residential lot until the owner is ready to commence construction of improvements, and then, only if such material shall be placed within the property lines of the lot being improved. No building materials, material scraps, stumps, trees, underbrush, or any refuse of any kind, shall be placed on any other lot, streets or easements in the Subdivision, other than the lot being improved. All such material, if not disposed of immediately, must remain on the lot upon which the construction work is in progress, and after the completion of such improvements, such material shall be removed from the lot within three (3) days of said completion.

18.

GARBAGE AND REFUSE

All lots shall at all times be kept in a clean, sanitary and attractive condition except during approved construction. No lot shall be used or maintained for storage of materials, nor as a dumping ground for rubbish, trash, garbage, or other waste. All household waste shall be kept only in sanitary containers provided or approved, by the City. No garbage cans or refuse containers shall be placed or permitted to remain at the front of a residence either within the street or on the lot or right-of-way, except upon those days scheduled for garbage and refuse collection by the City or a privately contracted collector.

19.

FENCES, WALLS, AND MAILBOXES

No fence, wall, or any other structure shall be erected, added or placed on any lot nearer to any front lot line than the nearest front corner of the residential dwelling, unless approved in writing by the Committee. All fences, walls and mailboxes shall be of a nature and quality so as to be harmonious with, and enhance, and not detract from the general appearance of the Subdivision and must be approved in writing by the Committee prior to construction. Each individual lot owner is responsible for keeping, repairing, replacing and maintaining any existing fence or wall that is on the owner's lot or adjacent right-of-way. All fences will be made of cedar, spruce, fir, pine, redwood or ornamental metal unless otherwise approved by the Committee. Cyclone fences are allowed only if fully screened from public view (i.e., "dog runs"); however, any and all such cyclone fences and the use thereof must first be approved in writing by the Committee. Fences may be reasonably stained to enhance natural appearance but are not to be painted unless approved by the Committee. The "good side" of the fence (that is, the side that shows fence slats or pickets only) shall always face the public street closest to such fence. Final approval of fencing and its facing shall be at full discretion of the Committee.

Articles 2 and 14 limit the effect of this Article 19 on Lot 18. See Articles 2 and 14 regarding the effect on Lot 18.

20.

CONSTRUCTION STANDARDS

All construction must meet the requirement and specifications set forth by the City's building codes and ordinances. Where not otherwise specified by such codes and ordinances, the requirements set forth by these Restrictions shall prevail.

21.

FIREARMS

The use or discharge of pistols, rifles, shot guns, or other firearms or firecrackers/fireworks is expressly prohibited in or on any part of the Subdivision. Except for construction tools such as nail guns, any kind of unit that propels dangerous objects by air or spring-action, etc. shall not be used or discharged in or on any part of the Subdivision. No hunting or trapping of any kind is allowed in the Subdivision.

22.

ANTENNAE

No external antennas of any kind shall be permitted or allowed on any lot within the Subdivision without prior written approval of the Committee as to antenna size, height, placement, and visibility. No satellite antenna nor any antenna dish may be parked, erected, or installed either permanently or temporarily, on any lot except in backyard areas where it is substantially concealed from public view. (See Article 2 for Lot 18.)

23.

OBLIGATION OF LOT OWNER

It is the obligation of each individual lot owner to familiarize himself or herself with these restrictions and to comply with them. The Committee, the Association or any lot owner in the Subdivision is authorized to initiate any legal action necessary to enforce these restrictions.

24.

HORSE HAVEN ESTATES HOMEOWNERS ASSOCIATION

It is further covenanted by Developer that, on or before January 1, 2009, based on lots initially sold by the Developer, there shall be formed a mutual non-profit corporation ("Corporation") under the laws of the State of Texas, in which the owner of each lot in Horse Haven Estates Subdivision agrees to become, and shall be, a member. The name of said Corporation shall be Horse Haven Homeowners Association ("Association") if such name is available. Membership shall be limited to the purchasers and owners of lots in the Subdivision. The Articles of Incorporation of said Corporation shall specify, among the purpose and duties of said Corporation, the enforcement of all said restrictions, covenants and conditions and payment of any and all legal and other expenses in connection therewith; the maintenance, preservation and improvement of property in the Subdivision; the keeping and maintaining said property, and every lot therein, in a clean and sanitary condition, including the removal of weeds and rubbish from vacant property and streets; providing for security guards and/or security aids, if approved by a vote of the majority of the Members of the Association; appointing members to the Committee and keeping it accountable to members, so far as it may lawfully act; maintaining communication among neighbors; engaging in common interest issues; and transacting other business as may be permitted by law. Each member of said Association agrees to pay to said Corporation, when formed, dues or assessments ("Assessment") for such purpose which may be fixed by law or by lawful acts of the Association's Board of Directors ("Board"). The initial assessment payable to said Corporation/Association shall be \$100.00 per year. Such sum shall be payable annually in advance. In any calendar year Assessments shall never increase by more than ten percent (10%) of the amount payable in the prior year except upon written approval, to the contrary, of owners of not less than ninety percent (90%) of the lots in the Subdivision. The Association may contract with third Parties for the Performance of the agreements herein stated and the Association has an automatic right to post a lien on any property on which the assessments are in arrears.

It is understood and agreed that the Articles of Incorporation and By-Laws of said Corporation shall provide for substantially the following definitions;

Membership: Every person or entity who is a record owner of any lot in Horse Haven Estates Subdivision (which by covenants of record is subject to Assessment by the Association) shall be a member of the Association, provided that any such person or entity does not hold such interest merely as a security for the performance of an obligation

Voting Rights: The Association shall have two classes of voting memberships:

Class A: Class A members shall be all those Lot owners other than the Developer or a contracted or speculative Builder as defined by the Developer. When more than one person holds such interest or interest in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B: Class B members shall be the Developer and any Builder, as defined by the Developer. The Class B member shall be entitled to four votes for each lot in which it holds the interest required for membership, provided that the Class B membership shall cease and become converted to Class A membership on the occurrence of any of the following events, whichever is first:

- (a) When the lot is sold to a third person other than a Developer or a Builder.
- (b) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member and entitled to one vote for each lot in which it holds the interest required for membership.

It is further understood and agreed that the Articles of Incorporation shall provide that the Corporation's existence shall be perpetual and that the Developer or its agent shall have the right and duty to appoint the initial Board of Directors of the Association and take all other steps necessary to assure the creation, existence and organization of the Corporation/Association.

25. ASSESSMENTS

Any assessments or other charges and assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of: (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner personally obligated, as applicable, to pay the same or foreclose the above described lien against the Owner's Lot, as provided below.

In order to secure the payment of the Assessment, and other charges and assessments hereby levied, a vendor's (purchase money) lien for the benefit of the Association, shall be and is hereby reserved in the Deed from the Declarant to the purchaser of each Lot, or portion thereof, which lien shall be enforceable through appropriate judicial and/or non-judicial proceedings by the Association. As additional security for the payment of the Assessment, and other charges and assessments hereby levied, each owner of a Lot, in the subdivision by such party's acceptance of a deed thereto, hereby grants the Association a contractual lien on such Lot, which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property code (and any successor statute), and each such Owner hereby expressly grants the

Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Real Property Records of Brazos County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the date on which said sale is scheduled by posting such notice through the U. S. Postal Service, postage prepaid, certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall send any curative period notice to the Owner and also cause a copy of the Notice of Trustee's Sale to be recorded in the Real Property Records of Brazos County, Texas. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and, third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot, foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgement for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Assessment, or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon thirty (30) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 25 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice President of the Association, acting without joinder or any other Owner of mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Brazos County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

In addition to the right of the Association to enforce the Assessment, or other charge or assessment levied hereunder, the Association may file a claim or lien against the Lot, of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the Lot, against which the Lien is claimed and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise