

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
REDFISH RETREAT  
A SUBDIVISION IN PORT LAVACA, CALHOUN COUNTY, TEXAS**

This Declaration, made on the date hereinafter set forth by Grand Tejas Land, LLC, a Texas limited liability company, hereinafter referred to as "Developer"

**WITNESETH:**

WHEREAS, Developer is the owner of that certain tract of land known as "REDFISH RETREAT" being a Subdivision situated in Calhoun County, Texas, as described in the plat thereof recorded in the office of the County Clerk of Calhoun County, Texas on October 28, 2008, in Vplume Z, Page 747, Slide 492A and 492B of the Official Records of Real Property of Calhoun County, Texas, incorporated herein by reference and to which is hereby made for all purposes.

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

NOW, THEREFORE, Developer hereby declares that all of the fifty-four (54) Lots described as Phase One on the Plat of Redfish Retreat and the property described in attached Exhibit "A" shall be sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and the desirability of, and which shall run with the Property and title or interest therein, and be binding on all parties having any rights, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of the Owners thereof. Developer also declares that this Subdivision shall be subject to the jurisdiction of the "Association" (as hereinafter defined).

**ARTICLE I**

**DEFINITIONS**

Section 1.01 "Annexable Property" shall mean and refer to any additional property made subject to the jurisdiction of the Association pursuant to the provisions set forth herein, including any property which the Developer, from time to time in its sole discretion, may wish to include in the jurisdiction of the Association. Annexable Property shall also refer to any property which the Association, from time to time, may make subject to this Declaration, but only after the Control Transfer Date has occurred.

Section 1.02 "Association" shall mean and refer to the Redfish Retreat Property Owners Association, Inc., a Texas non-profit corporation, and its successors and assigns, formed or to be formed by Developer.

Section 1.03            “Redfish Retreat” shall mean and refer to the Property and any other property hereafter made subject to the jurisdiction of the Association by the Developer.

Section 1.04            “Board of Directors” shall mean and refer to the Board of Directors of the Association.

Section 1.05            “Builders” shall mean and refer to persons or entities that purchase Lots in Redfish Retreat and build speculative or custom homes thereon for third party purchasers.

Section 1.06            “Common Property” shall mean those tracts of land, including the improvements thereto, that are for the common use and enjoyment of the Owners and that are (i) deeded to the Association and designated in the deed as Common Property, or (ii) labeled as a Common Area on the Plat. The term Common Property also shall mean any personal property appurtenant to any real property owned by the Association or acquired by the Association if the personal property is designated as such in the bill of sale or other instrument conveying it. Common Property does not mean any area that is (i) dedicated in the plat to the county or municipal government or other party other than the Association, or (ii) sold or dedicated by the Association.

Section 1.07            “Contractor” shall mean and refer to the person or entity with whom an Owner contracts to construct an improvement or dwelling on such Owner’s Lot.

Section 1.08            “Developer” shall mean and refer to Grand Tejas Land, LLC and its successor(s) and assign(s) with respect to the voluntary disposition of all (or substantially all) of its right, title and interest in and to the Redfish Retreat Properties. However, no person or entity merely purchasing one or more Lots from Grand Tejas Land, LLC in the ordinary course of business shall be considered a “Developer”.

Section 1.09            “Lot” shall mean and refer to any plot of land identified as a Lot or tract on a Plat of the Subdivision along with any improvements constructed on the Lot. For purposes of this instrument, “Lot” shall not be deemed to include any portion of any “Common Areas”, “Reserves”, “Restricted Reserves”, or “Unrestricted Reserves”, (defined herein as any Common Areas, Reserves, Restricted Reserves or Unrestricted Reserves shown on the Plat) in the Subdivision, regardless of the use made of such area.

Section 1.10            “Lakefront Lot” shall mean and refer to Lots adjoining any portion of the lakes in the Subdivision.

Section 1.11            “Bay Front Lot” shall mean and refer to any lots located on Chocolate Bay or Lavaca Bay, their respective estuaries, shorelines and adjacent waters, including, without limitation, tidally influenced waters.

Section 1.12            “Member” shall mean and refer to every person or entity who holds a membership in the Association as provided in Section 5.01 hereof. Each Owner is also a Member.

Section 1.13            “Owner” shall mean and refer to the record owner, whether that be one or more individuals, a fiduciary, partnership, joint venture, corporation, association, or other entity, or the personal representative of an individual, of (a) fee simple title to any Lot which is a part of the Subdivision, including (i) contract sellers (a seller under a Contract-for-Deed), but excluding Lineholders, (ii) Developer (except as otherwise provided herein), and (iii) Builders, or (b) a life estate in any Lot.

Section 1.14            “Plat” shall mean and refer to the plat of Redfish Retreat Phase One recorded in the office of the County Clerk of Calhoun County, Texas on October 28, 2008, in Vplume Z, Page 747, Slide 492A and 492B of the Official Records of Real Property of Calhoun County, Texas and the plats of any additional phases of Redfish Retreat and land annexed to and made part of Redfish Retreat, from time to time.

Section 1.15            “Rules” shall mean and refer to the rules governing the use of the Common Property originally enacted by Developer and revised from time to time by the Association. The procedures regarding the Rules are set forth in Section 5.09 hereof.

Section 1.17            “Subdivision” shall mean and refer to Redfish Retreat as described on the Plat and any additional land annexed to and made part of Redfish Retreat, from time to time.

Section 1.18            “Control Transfer Date” shall mean the date Developer owns no lots or Developer chooses to become a Class A Member.

Section 1.19.            “Waterfront Lots” shall mean and include all Lakefront Lots and Bay Front Lots.

Section 1.20.            “Lienholder” shall mean an individual, corporation, financial institution or other entity that holds a vendor’s lien or deed of trust lien secured by land within the Subdivision.

Section 1.21.            “Governing Documents” means this Declaration and the certificate of formation, Bylaws, rules of the Association, and standards of the Architectural Control Committee, as amended.

Section 1.22            “Structure” means any improvement on a Lot (other than a Dwelling), including, without limitation, a Guest House, a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, pier, dock, and recreational equipment.

## ARTICLE II

### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 2.01            Imposition of Restrictions. Developer imposes the Restrictions on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Restrictions. The Restrictions are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Restrictions run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot. Each Owner and occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

Section 2.02            Recorded Subdivision Map of the Property. The Plat dedicates for use as such, subject to the limitations as set forth therein, the roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to the Property. All dedications, restrictions and reservations created herein or shown on the Plat, re-plats or amendments of the Plat of Redfish Retreat recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Developer, conveying said Property or any part thereof whether specifically referred to therein or not. The Plat is incorporated herein by reference.

Section 2.03            Easements. Developer reserves for public use the utility easements either shown on the Plat or described herein or that have been or hereafter may be created by separate instruments recorded in the Official Records of Calhoun County, Texas for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telegraph and telephone line or lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utility the Developer sees fit to install in, across and or under the Property. More specifically as described herein, an easement is hereby dedicated along and within each lot line, with a 20 feet wide easement along and within each front and rear lot line and a 10 feet wide easement along and within each side lot line. Developer and its successors and assigns further expressly reserve the right to enter upon any Lot for the purpose of construction or maintaining any natural drainage pattern, area or easement. All utility easements in the Subdivision may be used for the construction of drainage swales or ditches in order to provide for improved surface drainage of the Reserves, Common Property and/or Lots. Should any utility company furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer, without the joinder of any other Owner, shall have the right to grant such easement on said Property without conflicting with the term hereof. Any utility company serving the Subdivision and/or any Utility District serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither Developer nor any utility company, water district, political Subdivision or other authorized entity using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or servants, to any Lot, fences, shrubbery, trees and lawns or any other property of the Owner on the property encumbered by said easements, provided however, any utility company using said easements shall restore the easement area by leveling and grading said area after installation of utilities. Specifically, the Developer or other authorized entity shall have the right to remove all trees and underbrush from



any such easement, and the Owner of the Property covered by said easements shall not be entitled to compensation for trees or timber removed from said easements. The Owner of a Lot shall, at his expense, clean any utility easement located upon his Lot in order for the utility company to provide utility services to and Dwelling on said Lot.

Section 2.04            Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Developer to any of the Lots by contract, deed or other conveyance shall be subject to the easements reserved or described in this Declaration, all easements shown on the Plat, and any easement affecting same for roadways or drainage, water line, gas, sewer, electric lighting, electric power, telegraph or telephone purposes and other easements hereafter granted or reserved affecting the Lots. The Owners of the respective Lots shall not be deemed to own pipes, wires, conduits or other service lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot. The Developer may convey title to said easements to the public, a public utility company or the Association.

Section 2.05            Utility Easements.

(a) Utility ground and aerial easements have been dedicated in accordance with the Plat and by separate recorded easement documents.

(b) No building shall be located over, under, upon or across any portion of any utility easement. The Owner of each Lot shall have the right to construct, keep and maintain concrete drives, fences, and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots, provided, however any concrete drive, fence or similar improvement placed upon such Utility Easement by the Owner shall be constructed, maintained and used at Owner's risk and, as such, the Owner of each Lot subject to said Utility Easements shall be responsible for (i) any and all repairs to the concrete drives, fences and similar improvements which cross or are located upon such Utility Easements and (ii) repairing any damage to said improvements caused by the Utility Easements.

Section 2.06            Police Powers; Security. A blanket easement is reserved throughout Redfish Retreat for police powers and services supplied by the local, state, and federal governments and for any security services that may be provided by the Association.

Section 2.07            Construction Easement. An exclusive easement is hereby reserved for the benefit of Developer, its agents, employees, successors and assigns, for the purposes of completing construction on any existing Lot, and for new construction on any property annexed hereto pursuant to the annexation provisions described in this Declaration.

Section 2.08            Future Easements. Developer reserves the right to impose further restrictions and to grant or dedicate easements and rights of way on any Lot within the Property owned by the Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights of way over, under and through the land now or later annexed other than

the Lots, so long as the Developer shall own any portion of Redfish Retreat, or property to be annexed.

Section 2.09 Lakes, Discharge Spillways and Drainage Swales. Those areas designated as Lakes and Discharge Spillway on the Plat are Common Property and shall be used for the purpose of controlling drainage in the Subdivision in compliance with city and county authorities and to create areas to collect and discharge the Subdivision's surface water runoff. The Association will be responsible for the maintenance, operation, and repair of Lakes, Discharge Spillway and Drainage Swales. Maintenance means the exercise of practices that allow the drainage system to operate properly in order to provide control of storm water runoff, water storage, conveyance, or other storm water management capabilities. Any repair or reconstruction of the Lakes, Spillway or Drainage Swales shall be as originally permitted.

Section 2.10 Wetlands. The Property contains wetland resources and coastal area property, which may be subject to the jurisdiction of the Texas Natural Resources Code, Army Corps of Engineers, Texas General Land Office and Texas Commission on Environmental Quality. NOTICE IS HEREBY GIVEN THAT:

- (a) A portion of the Property in the Subdivision contains wetlands. No structure, planting, or other material may be placed or permitted to remain on any property within the Redfish Retreat Subdivision if it may damage or disturb the designated wetlands, and the wetlands shall not otherwise be disturbed by the Owners, Developer, or Association, unless otherwise approved by governmental authorities including but not limited to Texas Commission on Environmental Quality, U. S. Army Corps of Engineers and Texas General Land Office.
- (b) A portion of the Property in the Subdivision adjoins and shares common boundary with tidally influenced submerged lands of the state of Texas. The boundary is subject to change and can be determined accurately only by a survey on the ground made by a licensed state land surveyor in accordance with the original grant from the sovereign. The Owners of Bay Front Lots may gain or lose portions of Bay Front Lots because of changes in the boundary;
- (c) State law prohibits the use, encumbrance, construction, or placing of any structure in, on, or over state owned submerged lands below the applicable tide lines, without proper permission; and,
- (d) The purchaser of any Bay Front Lot is advised to obtain the advise of an attorney or other qualified person as to the legal nature and effect of the these facts on the property in question. Information regarding the location of any applicable tide line may be obtained from the surveying division of the General Land Office in Austin, Texas.

Section 2.11 Drainage Easement for Waterfront Lots. Developer reserves for the benefit of Developer, the Association, and their respective successors, assigns, and designees, a nonexclusive right and easement, over and across each lot adjoining a Lake, Drainage Swale, Spillway, coastal area property or wetland area located within the Subdivision,

but not the obligation, to enter onto any such Lot to carry out any work required to maintain, operate, and repair the Lakes, Drainage Swales, Spillway, coastal area property or wetland areas to the extent reasonably necessary to exercise their rights under this section. Each Owner releases those parties from all liability with respect to such work.

Section 2.12            View Impairment.        Neither the Developer, the Association, guarantees or represents that any view over and across any Lot will be preserved without impairment. Neither the Developer, the Association and any Owner shall have an obligation to prune or thin trees or other landscaping to preserve or restore any view from any Lot or other point in the Subdivision. The Developer, the Association and any Owner shall have the right, in its sole discretion, subject to the provisions of this Declaration, to alter the landscaping of any Lot from time to time, including, but not limited to, changing the location, configuration, and size of the trees even though such alterations may diminish or obstruct any view from the any other Lot or Lots. Any express or implied easements for view or for the passage of light and air are hereby expressly disclaimed.

Section 2.13            Roads and Streets.        Upon the recording the Plat, the roads and streets in Redfish Retreat, as shown on the Plat, shall be dedicated to the Association, with the reservation of utility easements for the purpose of constructing, operating, maintaining or repairing a system(s) of electric lighting, electrical power, gas lines, water lines, storm drainage (surface or underground), cable television, or any other utilities that the Developer sees fit to install (or permit to be installed) in, across and/or under the Property.

### ARTICLE III

#### USE RESTRICTIONS

The following restrictions are imposed on the use of the Lots to promote a harmonious neighborhood and limit uses that may be a nuisance to other Owners. A Lot may be used only for an approved Dwelling and approved Structures for use by a Single Family.

Section 3.01            Single Family Residential Construction.

(a) No building shall be erected, altered, placed or permitted to remain on any Lot other than one dwelling unit ("Dwelling") per each Lot or Composite Building Site, as defined in section 3.02 herein, to be used solely for residential purposes, provided however, one guest/in-law house ("Guest House") per each Lot or Composite Building Site, as defined in section 3.02 herein, may be built, subject to the Calhoun County Land Development Code, provided said Guest House must be built after or while the main Dwelling is being built. Each Dwelling shall have a garage or drive under carport for not less than two (2) vehicles. Detached side entry garages may be constructed on the property after or while the main dwelling is being built. Any garages must be built for at least two (2) vehicles and not more than five (5) vehicles. All Dwellings, Guest Houses and detached garages must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the property. There shall



be no work shops, barns or outbuildings constructed, erected placed or permitted to remain on Waterfront Lots.

(b) The terms "Dwelling" and "Guest House" does not include single or double wide manufactured or mobile homes, any old or used houses to be moved onto any Lot or any log homes. Manufactured homes, mobile homes, used homes and log homes are not permitted within the Subdivision.

(c) As used herein, the term "residential purposes" shall be constructed to prohibit mobile homes, trailers, modular homes, pre-fabricated or log homes being placed on said Lots, or the use of said Lots for Duplex houses, condominiums, townhouses, garage apartments, or apartment houses; and no Lot shall be used for business, educational, religious or professional purposes of any kind whatsoever, nor for any commercial or manufacturing purposes. Provided, however, an Owner may maintain a home office in a dwelling with no advertising signs or regular visits by customers or clients.

(d) All Dwellings on Waterfront Lots shall have a minimum of 1800 square feet of living area, excluding porches, and be built with new construction materials. All other dwellings must have at least 1600 square feet of living area, excluding porches, and be built with new construction materials. There shall be a minimum of 800 square feet of living area on the first floor of any multi-story home. The height of all dwellings shall conform to the requirements of the Calhoun County Land Development Code, and all applicable governmental rules, regulations, statutes and ordinances.

(e) All buildings, structures and improvements commenced on any Lot shall be completed as to exterior finish and appearance within twelve (12) months from the setting of forms for the foundation of said building, structure or improvement.

(f) The roof of any Dwelling shall be constructed of 30 year composition shingles, copper, tile, slate, standing seam metal or other material approved by the Architectural Control Committee prior to construction. The use of sheet metal or similar material on the roof or exterior sides of any dwelling other than as flashing is prohibited. Roof pitches shall be a minimum of 6/12.

Section 3.02 Composite Building Site. Any Owner of one or more adjoining Lots (or portions thereof) may, with prior written approval of the Architectural Control Committee, consolidate such Lots or portions into one building site, with the privilege of placing or constructing improvements on such resulting site, in which case the side set-back lines shall be measured from the resulting side property lines rather than from the center adjacent Lot lines as indicated to the Plat. Any such composite building site must have a frontage at the building set-back line of not less than the minimum frontage of all Lots in the same block and shall be considered one Lot for purposes of the Maintenance Charge set forth in Article VI hereof.



Section 3.03 Location of the Improvements upon the Lot. No building of any kind shall be located on any Lot nearer to any side or rear property line, or nearer to any public road or nearer to the natural creek or waterway that as may be indicated on the Plat; provided, however, as to any Lot, the Architectural Control Committee may waive or alter any such setback line if the Architectural Control Committee, in the exercise of the Architectural Control Committee's sole discretion, deems such waiver or alteration is necessary to permit effective utilization of a Lot. Any such waiver or alteration must be in writing and recorded in the Deed of Records of Calhoun County, Texas. All dwellings placed on Property must be equipped with septic tank or other sewage disposal system meeting all applicable laws, rules, standards and specifications, and all such dwellings must be served with water and electricity. The main residential structure on any Lot shall face the front of the Lot towards the street or road, unless a deviation is approved in writing by the Architectural Control Committee.

The minimum dimensions of any Lot and the building set back lines shall be as follows (provided, any conflict with the building set back lines set forth on the Plat shall be controlled by the Plat):

- (a) The building set back line along the front of each Lot shall be fifty feet (50') on all Lots, unless otherwise shown on the Plat;
- (b) The building set back line along the side of each Lot shall be ten feet (10'), unless otherwise shown on the Plat; and,
- (c) The building set back line along the rear of each Lot shall be twenty feet (20') provided, however, the building set back line along the rear of any Water Front Lot shall be seventy-five feet (75'), unless otherwise shown on the Plat.

Section 3.04 Sidewalks. A ten foot (10') wide easement is reserved on each Lot along the roadways as shown on the Plat for the purpose including, but not limited to, the construction, maintenance, repair and use of a sidewalk. Each Owner shall construct a sidewalk within the easement prior to obtaining a certificate of occupancy for the dwelling. The sidewalk shall be constructed of concrete with a thickness of four inches (4") and a width of four feet (4'), shall abut any sidewalk within the ten foot (10') easement on the adjacent Lot(s), and shall otherwise conform to Calhoun County specifications.

Section 3.05 Driveways. All driveways in the Subdivision shall be constructed of concrete (or concrete products approved by Developer in writing) and extend from the road or street to the front of the Dwelling. Further, the driveway or entrance to each Lot from the pavement of the street shall be paved with concrete and shall, if applicable, include concrete headwalls and County approved culverts installed to cross any roadside drainage ditch.

Section 3.06 Use of Temporary Structures and Sales Offices. No structure of a temporary character, whether trailer, basement, tent, shack, garage, residence, either temporarily or permanently shall be permitted for the purpose of selling Lots in the Subdivision; provided, however, that Developer reserves the exclusive right to erect, place and maintain such facilities in or upon any portion of the Subdivision as in its sole discretion may be necessary or convenient

while selling Lots, selling or constructing residences and constructing other improvements within the Subdivision.

Section 3.07            Water Supply. All residential dwellings in this Subdivision shall be equipped with and served by a fresh water system installed, operated and continuously maintained in accordance with applicable utility company and governmental requirements, and no water wells shall be made, bored or drilled, nor any type or kind of private system installed or used except for the purpose of landscaping irrigation upon approval of the Architectural Control Committee and any required governmental authorities. Prior to occupancy, all Owners must apply to the City of Port Lavaca for connection to the public water system. Wells may be drilled by the Developer or Association for use in watering Common Property and filling of lakes or ponds in the Common Property.

Section 3.08            Sanitary Sewers. Except as set forth in Section 3.13 (e), no outdoor, portable, open or pit type toilets are be permitted in the Subdivision. Prior to occupancy, all Owners must apply to the City of Port Lavaca for connection to the public sewer system.

Section 3.09            Fences, Hedges, and Screens. No wall, fence, planter or hedge shall be erected, planted or maintained along the side and front of the rear of the dwelling on the Lots or on corner Lots nearer to the side Lot line than the building set-back line parallel to said side street. To protect views and maintain the character of the Subdivision, fences are permitted only along the back of the Lot and shall be black ornamental aluminum picket with top and bottom rails. Columns may be incorporated but must be spaced a minimum of 16'-0" apart and a maximum of 4'-0" tall. All fencing material and location must be approved by the Architectural Control Committee prior to construction and installation. Gates must match the fencing in design, material, height, and color, and the top of the gate must be flush with the top of the fence. No chain link or wire fencing is allowed, but hedges or other landscaped buffer may be permitted subject to this section and the written approval of the Architectural Control Committee prior to installation. The following restrictions shall apply to fences constructed on the Lots described below:

(a). No fence in excess of four feet (4') in height may be erected or maintained within twenty feet (20') of the rear property line. A black ornamental aluminum picket with top and bottom rails, as approved by the Committee, that would not reasonably obstruct the view of the Water front by adjacent Owners may be constructed between the front of a Dwelling and a line twenty feet (20') from the rear property line, provided, however, that portion of any fence along the rear and twenty feet (20') therefrom along the side lot lines of a Water front Lot shall not exceed four feet (4') in height;

(b) All fences will be constructed of ornamental iron in harmony with the guidelines established by the Architectural Control Committee, provided no electric wire or temporary fences shall be allowed unless the Architectural Control Committee approves a variance to allow such type of fence prior to its construction. No barbed wire or chain link fences shall be allowed, provided, an

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

(c) Screened in areas, excepting screened pool enclosures, will be permitted provided that they are completely contained under the same roof as the main dwelling and are made to look as part of the main dwelling. All screened enclosures will be required to include architectural detailing conforming with the provisions contained herein and are subject to the written approval of the Architectural Control Committee prior to construction.

Section 3.10 Prohibition of Offensive Activities. Without expanding the permitted use of the Lots, no activity, whether for profit or not, shall be conducted on any Lot which is not related to single family residential purposes. No noxious or offensive activity of any sort shall be permitted nor shall anything be done on any Lot which may be or become an annoyance or a nuisance to the Subdivision. This restriction is waived with regard to the customary sales activities required to sell homes in the Subdivision and for home offices described in Section 3.01 hereof. No exterior speaker, horn, whistle, bell or other sound device, except security and fire devices used exclusively for security and fire purposes, shall be located, used or placed on a Lot. Without limitation, the discharge or use of firearms is expressly prohibited. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. Activities expressly prohibited, include, without limitation, (1) the use or discharge of firearms, firecrackers or other fireworks within the Subdivision, (2) the storage of ammonium nitrate, flammable liquids in excess of five (5) gallons, or (3) other activities which may be offensive by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire or explosion. Soliciting within Redfish Retreat is strictly prohibited without the approval of Developer or the Association.

Section 3.11 Swimming Pools. No swimming pool may be constructed on any Lot without the prior written approval of the Architectural Control Committee. Each application made to the Committee shall be accompanied by two (2) sets of plans and specifications for the proposed swimming pool construction to be done on such Lot, including a plot plan showing the location and dimensions of the swimming pool and all related improvements, together with the plumbing and excavation disposal plan. The Committee's approval or disapproval of such swimming pool shall be made in the same manner as described in Article IV hereof for other building improvements. The Owner shall be responsible for all necessary temporary erosion control measures required during swimming pool construction on said Lot to insure that there is



no erosion into the Lakes or coastal area property. In no event shall swimming pools be drained or discharge water into the Lakes or coastal waters. No swimming pool shall be constructed within twenty feet (25') of the rear property line on Water Front Lots. Swimming pool areas may be screened in, provided that the enclosures are covered by the same roof material and made to look part of the main dwelling. All screened pool areas will be required to include architectural detailing consistent with guidelines contained herein and developed by the Architectural Control Committee.

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

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

(a) All Owners, during their respective construction of any and all improvements, are required to burn or remove and haul from the Lot all tree stumps, trees, limbs, branches, underbrush and all other trash or rubbish cleared from the Lot for construction of the residence, construction of other improvements and landscaping. No materials or trash hauled from the Lot may be placed elsewhere in the Subdivision or on land owned by Developer whether adjoining the Subdivision or not.

(b) All Owners, during their respective construction of any and all improvements, are required to continuously keep the Lot in a reasonably clean and organized condition. Papers, rubbish, trash, scrap, and other unusable building materials are to be kept picked up and hauled from the Lot. Other usable building materials are to be kept stacked and organized in a reasonable manner upon the Lot.

(c) No trash, materials, or dirt is allowed in the street or street ditches. All Owners shall keep street and street ditches free from trash, materials, and dirt. Any such trash, materials, or excess dirt or fill inadvertently spilling or getting into the street or street ditch shall be removed, without delay, not less frequently than daily.

(d) No Builder, Owner or Contractor may enter into a lot adjacent to the Lot upon which he is building for purposes of ingress and egress to his Lot during or after construction, unless such adjacent Lot is also owned by such Builder, Owner or Contractor, and all such adjacent Lots shall be kept free of any trees, underbrush, trash, rubbish and any other building and waste materials during and after construction of any and all improvements by such Builder, Owner or Contractor of an adjacent Lot.

(e) All Builders, Owners and their Contractors shall be responsible for any damage caused to the roads and easements during the construction of



improvements on a Lot whether caused by Builder, its vendors, material men, subcontractors, invitees, or employees. Further, each Builder and Contractor shall be required to deliver to the Association a damage deposit of \$1,000.00 prior to beginning construction of any Dwelling or other improvement. This damage deposit shall be returned to the Builder or Contractor upon completion of said Dwelling or other improvement provided the Association determines that no damage to the roads, ditches or easements was caused by said Builder, Contractor, its vendors, material men, subcontractors, invitees, or employees. If any damage was caused during the construction of improvements by Builder, Builder shall be responsible for any fees and costs related to repairs. Further, any Owner, Builder, or Contractor shall supply and maintain a portable toilet during the construction of a Dwelling or other improvement in the Subdivision.

Section 3.14            Inspections. A fee, in the amount of \$100.00 to be paid to the Architectural Control Committee (the "Committee"), must be paid to the Association prior to architectural approval of any improvements to defray expenses for inspections. In the event construction requirements are incomplete or rejected at the time of inspection and it becomes necessary to have additional building inspections: a fee, in an amount to be determined by the Committee, must be paid to the Committee prior to each building inspection.

Section 3.15            Garbage and Trash Disposal. Garbage and trash or other refuse accumulated in this Subdivision shall not be permitted to be dumped at any place upon adjoining land where a nuisance to any residence of this Subdivision is or may be created. No Lot shall be used or maintained as a dumping ground for rubbish or landfill. Trash, garbage or other waste shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 3.16            Junked Motor Vehicles Prohibited. No Lot shall be used as a depository for abandoned or junked motor vehicles. An abandoned or junked motor vehicle is one without a current, valid state vehicle inspection sticker and license plate. No junk of any kind or character, or dilapidated structure or building of any kind or character, shall be kept on any Lot. No accessories, parts or objects used with cars, boats, buses, trucks, trailers, house trailers or the like, shall be kept on any Lot other than concealed from public view in a garage or other structure approved by the Committee.

Section 3.17            Signs. Except as authorized herein, no signs, advertisement, billboard or advertising structure of any kind may be erected or maintained on any Lot without prior approval, except that Developer, in its sole discretion, may erect or maintain signs or advertisement structures for any purpose. "For Sale" or "For Rent" signs shall not be placed on any lot. This shall not preclude Builders from placing signs on lots with its name and contractor license number only as required by State law. Developer must approve the size and design of all such signs in writing prior to Buyer placing same on the lots. Developer or any member of the Committee shall have the right to remove any sign, advertisement or billboard or structure which is placed on any Lot in violation of these restrictions, and in doing so, shall not be liable, and are

hereby expressly relieved from, any liability for trespass or other tort in connection therewith, or arising from such removal.

Section 3.18 Livestock and Animals. No animals, livestock, poultry or reptiles of any kind shall be raised, bred or kept on any Lot in the Subdivision except that no more than four dogs, cats or rodents may be kept on each Lot, provided that they are not kept, bred, or maintained for commercial purposes and do not become a nuisance or threat to other Owners.

No animals shall be allowed to run loose in the Subdivision. All owners of pets shall be held strictly responsible to immediately collect and properly dispose of the wastes and litter of their pets on any Lot. Should a pet owner fail to clean up after his pet, the Association shall perform that service and bill the Owner of the Lot on which the pet resides, with a minimum charge of \$25.00 for such service. The charge may be increased by vote of the Board of Directors. The Association further reserves the right to adopt and enforce additional pet regulations necessary to ensure that pets are not and do not become a nuisance, and demand that an Owner or the tenants or guests of an Owner permanently remove from a Lot any and all pets which create disturbances and annoyances to other Owners, their tenants or guests.

Section 3.19 Drainage.

(a) Each owner of a Lot agrees for himself, his heirs, legal representatives, assigns or successors-in-interest that he will not in any way interfere with the established drainage pattern over his Lot from the street or other adjoining Lots in the Subdivision, and he will make adequate provisions for the drainage of his Lot in the event it becomes necessary to change the established drainage over his Lot (which provisions for drainage shall be included in the Owner's plans and specifications submitted to the Committee and shall be subject to the Committee's approval). For the purposes hereof, "established drainage" is defined as the drainage which existed at the time that the overall grading of the Subdivision, including landscaping of any Lot in the Subdivision, was completed by Developer;

(b) Each Owner (including Builders), unless otherwise approved by the Committee, must finish the grade of the Lot in such a way as that provides for the direct flow of drainage from the street onto the Lot. Drainage from the street must be allowed to sheet flow or be directed via drainage swales in order to establish good drainage away from the street and across the front of the Lot toward the rear of the Lot. The lowest floor elevation of any Dwelling and other improvement shall be a minimum of one foot above the crown of the street in front of the dwelling. Drainage swales shall be constructed to route the sheet flow drainage from the street around the dwelling toward the Lake or drainage ditch located in the rear of the Lot. No pockets or low areas may be left on the Lot (whether dirt or concrete) where water will stand following a rain or during watering. With the approval of the Committee, an Owner may establish an alternate drainage plan for low areas by installing underground pipe and area inlets or by installing an open concrete trough with area inlets, however, the

drainage plan for such alternate drainage must be submitted to and approved by the Committee prior to the construction thereof; and,

(c) The Subdivision has been designed and constructed utilizing surface drainage from the street to be controlled by swales and, to the extent these drainage swales are located in front, side or rear Lot easements, the Owners shall not regrade or construct any improvements or other obstruction on the Lot without the written approval of the Committee prior to construction. The Owner shall be responsible for returning any drainage swale disturbed during construction or thereafter to its original line and grade, and the Owner shall be responsible for maintaining the drainage ditches or swales appurtenant to said Owner's Lot in their original condition during the term of his ownership.

Section 3.20 Lot Maintenance. All Lots, at Owner's sole cost and expense, shall be maintained at all times in a neat, attractive, healthful and sanitary condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon (outside of natural vegetation areas) cut and shall in no event use any Lot for storage of materials or equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. Lot maintenance shall include, but is not limited to the following:

- (a) Prompt removal of all litter, trash, refuse and wastes.
- (b) Lawn mowing (outside of the natural vegetation areas).
- (c) Tree and shrub pruning (outside of the natural vegetation areas).
- (d) Keeping exterior lighting and mechanical facilities in working order.
- (e) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (f) Keeping parking areas, walkways and driveways in good repair.
- (g) Complying with all government health and policy requirements.
- (h) Repainting of improvements
- (i) Repair of exterior damage to improvements.
- (j) Vegetative natural buffers on lots as may be designated as such and shown on the applicable plat, shall be preserved in their natural state.

In the event of the failure of Owner to comply with the above requirements after ten (10) days written notice thereof, the Association or their designated agents may in its sole discretion, in addition to all other remedies available at law or equity, including, without limitation, the



filing of suit to enforce these Restrictions, may, without liability to the Owner, Builder or any occupants of the Lot in trespass, or otherwise, enter upon (and/or authorize one or more others to enter upon) said Lot, to cut, or cause to be cut, such weeds and grass and remove, or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner, Builder or occupant of such Lot for the cost of such work and associated materials, plus a fee of \$10.00 per month for each instance. Payment thereof shall be collected as an additional Maintenance Charge and shall be payable on the first day of the next calendar month.

Developer reserves and each Owner grants Developer, the Association, and their respective contractors, employees, and agents a perpetual easement to enter onto the Owner's Lot to carry out the work, and releases those parties from all liability with respect to such work. Additionally, the Association may impose a fine for each day this Paragraph is violated.

Section 3.21 Exterior Maintenance of Building. In the event the Owner of any building in the Subdivision should allow such building to fall into disrepair and become in need of paint, repair or restoration of any nature and become unattractive and not in keeping with the neighborhood, the Association and/or the Developer will give such owner written notice of such conditions. Fifteen (15) days after notice of such condition to owner, and failure of owner to begin and continue at a diligent, reasonable rate of progress to correct such condition, the Association and/or the Developer in addition to any and all remedies, whether at law or in equity, available for the enforcement of these Restrictions, may at its sole discretion enter upon said premises, without liability to Owner, to do or cause to be done any work necessary to correct said situation. The Owner thereof shall be billed for cost of necessary repairs, plus a ten percent (10%) administrative fee.

Developer reserves and each Owner grants Developer, the Association, and their respective contractors, employees, and agents a perpetual easement to enter onto the Owner's Lot to carry out the work, and releases those parties from all liability with respect to such work. Additionally, the Association may impose a fine for each day this Paragraph is violated.

All monies so owed the Association will be an additional Maintenance Charge and shall be payable on the first day of the next calendar month.

Section 3.22 Miscellaneous Use Restrictions. Without limiting the foregoing, the following shall apply to all Lots:

- (i) Private passenger motor vehicles and non-commercial trucks and non-commercial vans may be parked on the Lots but must be kept completely on the driveway area of a Lot without blocking the sidewalk. No boat, jet-ski, aircraft, travel trailer, motor home, camper body, tractor, lawn equipment or similar vehicle or equipment may be parked on any street in the Subdivision, nor shall any such vehicle or equipment be parked for storage to the side or rear of any Dwelling unless completely concealed from public view. Further, all such vehicles or equipment stored on Water Front Lots shall be parked or stored in a



garage or carport and concealed from public view. All boats so parked or stored on any Lot must at all times also be stored on a trailer. No such vehicle or equipment shall be used as a residence either temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, maintenance or repair of a Dwelling in the Subdivision;

(ii) Trucks with tonnage in excess of one and one-half (1½) tons shall not be permitted to park overnight within the Subdivision except those used by a builder during the construction of improvements in the Subdivision. No vehicle shall be permitted to park overnight on any street within the Subdivision except for those vehicles used by a Builder during the construction of improvements on Lots or Common Property in the Subdivision;

(iii) No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time;

(iv) No vehicles or similar equipment shall be parked or stored in an area visible from any Street or the Water front except passenger automobiles, passenger vans, motorcycles and pick-up trucks that are in operating condition and have current license plates and inspection stickers and are in daily use as motor vehicles on the streets and highways of the State of Texas, and all such vehicles shall be parked in a driveway or garage and may not be parked in a yard;

(v) Mailboxes shall be uniform and approved in writing by the Committee;

(vi) Window- or wall-type air conditioners may not be used in a Dwelling, Guest House or Structure;

(vii) All Dwellings, Guest Houses and Structures must be aesthetically compatible with the Subdivision, as determined by the Committee. No change to the color of the exterior walls, trim, or roof of a Dwelling, Guest House or Structure will be permitted, unless otherwise approved in writing by the Committee; and,

(viii) Any Dwelling, Guest House or Structure that is damaged must be repaired within ninety (90) days (or within a period approved by the Committee) and the Lot restored to a clean, orderly, and attractive condition. Any Dwelling, Guest House or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within forty-five (45) days and the Lot restored to a clean and attractive condition.

Section 3.23 Views, Obstructions and Privacy. In order to promote the aesthetic quality of "view" within the Subdivision and particularly the views along the Water front, the Committee shall have the right to review and approve any item and improvement placed on a Lot by considering factors, which are including, but not limited to the following:

- (a) The probable view from second story windows and balconies and decks (particularly where there is potential invasion of privacy to an adjoining neighbor);
- (b) Sunlight obstructions;
- (c) Roof top solar collectors;
- (d) Flagpoles, flags, pennants, ribbons, streamers, wind sock and weather vanes;
- (e) Exterior storage sheds;
- (f) Fire and burglar alarms which emit lights and sounds;
- (g) Children playground or recreation equipment;
- (h) Exterior lights;
- (i) Ornamental statuary, sculpture and/or yard art visible from a street or common area excluding those which may be a part of an otherwise approved landscape plan;
- (j) The probable view of the Water front for other Owners;
- (k) The location of Dwelling, Guest House and other improvement on the Lot; and,
- (l) The location of satellite dishes and antennas.

Section 3.24 Prohibited Items. The following items are prohibited on any Lot:

- (a) Clotheslines, reels, hanging circles and other exterior clothes drying devices;
- (b) Above ground swimming pools;
- (c) Window unit air conditioners;
- (d) Signs (except for sign permitted in Section 3.17 hereof);
- (e) Storage of more than five (5) gallons of fuel outside of regular vehicle gas tanks;
- (f) Unregistered, unlicensed or inoperable motor vehicles:

Section 3.25            Antennas and Satellite Dishes. No electronic antenna or device for receiving or transmitting any signal other than an antenna for receiving normal television signals, marine signals, citizens band signals, cellular telephone signals or ham radio signals shall be erected, constructed, placed or permitted to remain on any Lot, Dwelling, Guest House, garage or other buildings unless approved by the Committee. The Committee's decision shall be final.

No satellite dish may be maintained on any portion of any Lot outside the building lines of said Lot or forward of the front of the improvements thereon. A satellite dish may not exceed twenty-four inches in diameter unless approved by the Committee and must be mounted as inconspicuously as possible. However, in no event may the top of the satellite dish be seen from the street. All dishes shall be of one solid color of black or earth tones of brown, gray or tan. No multicolored dishes shall be permitted. Not more than one satellite dish will be permitted on each Lot. No transmitting device of any type which would cause electrical or electronic interference in the neighborhood shall be permitted. Architectural approval is required prior to the installation of any satellite dish. The Association reserves the right to seek the removal of any device that was installed without first obtaining approval or any dish that violates these restrictions. The Committee may vary these restrictions only as is necessary to comply with the Federal Communications Act (the "Act") and the Committee may promulgate rules and regulations in accordance with the Act.

Section 3.26            Solar Panels. All Solar Panels installed shall be framed in such a manner so the structure members are not visible. The framing material shall be one that is in harmony with the rest of the structure. Architectural approval from the Committee is required prior to the installation of any solar panels. The Association reserves the right to seek the removal of any solar panel that was installed without first obtaining approval or for any solar panel that violates these restrictions. Solar panels shall be installed in a location not visible from the public street in front of the residence.

Section 3.27            Wind Generators. No wind generators shall be erected or maintained on any Lot if said wind generator is visible from any other Lot, the Water front or public street.

Section 3.28            Drying of Clothes in Public View. The drying of clothes in public view is prohibited, and the Owners or occupants of any Lots at the intersection of streets or adjacent to parks, playgrounds, Water fronts, Lakes or other facilities where the rear yard or portion of the Lot is visible to the public, shall construct and maintain a drying yard or other suitable enclosure to screen drying clothes from public view.

Section 3.29            Hazardous Substances. No Lot shall be used or maintained as a dumping ground for rubbish or trash and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition. Notwithstanding the foregoing, no Hazardous Substance(s) shall be brought onto, installed, used, stored, treated, buried, disposed of or transported over the Lots or the Subdivision, and all activities on the Lots shall, at all times, comply with Applicable Law. The term "Hazardous Substance" shall mean any

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

Section 3.30            Piers and Docks.        No pier or dock may constructed on any Waterfront Lot unless approved in writing by the Architectural Control Committee prior to construction or being placed on a Lot. No pier or dock placed upon a Lakefront Lot shall extend or overhang more than twenty-four inches beyond the static water line elevation of the lake adjacent to the Lakefront Lot upon which the pier or dock is placed..

Section 3.31            Enforcement.        In addition to all remedies set forth in this Declaration, the Developer, or, subsequent to the Control Transfer Date, the Association, shall be entitled to enforce compliance with these Restrictions by filing of suit against each Owner not in compliance and shall be entitled to recover, in addition to equitable relief, all relief permitted by the Texas Property Code, and to the extent so permitted, expenses, including interest, attorney fees and costs, incurred in connection with securing compliance herewith, all of which shall be enforceable as set forth in the Texas Property Code and Article VIII.

#### ARTICLE IV

#### ARCHITECTURAL CONTROL COMMITTEE

Section 4.01            Basic Control.

(a) All construction, improvements, remodeling, or modification on or to a Lot, except interior alterations not affecting the external appearance of the Lot or improvements on a Lot, must be approved in writing in advance by the Committee. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows, and trim); replacement of roof or other parts of a building other than with duplicates of the original material; installation of antennas, satellite dishes or receivers, solar panels, or other devices; construction of fountains; construction of privacy walls or other fences or gates; addition of awnings, flower boxes, shelves, statues, or other outdoor ornamentation; addition of window coverings; and initial landscaping and any material alteration of landscaping. This right is general and is not limited to the specific items listed in this Paragraph. Construction effected by or on behalf of Developer will not be subject to approval by the Architectural Control



Committee.

The Architectural Control Committee, in making its decisions, may consider purely aesthetic matters that in the sole opinion of the Architectural Control Committee will affect the desirability or suitability of the construction. The Architectural Control Committee will not be limited to the specific restrictions and requirements of this Article in making its decisions.

(b) Each application made to the Committee shall be accompanied by two (2) sets of professionally drawn plans and specifications for all proposed construction (initial or alterations) to be done on such Lot, including the drainage plan for the Lot, plot plans showing the location and elevation of the improvements on the Lot and dimensions of all proposed walkways, driveways, and all other matters relevant to architectural approval. The address of the Committee shall be the address of the principal office of the Developer or the Association. If approved, one of the two sets of plans submitted shall be returned to the Owner with said approval noted thereon. The Committee may set reasonable application and inspection fees, as well as, the damage deposit set forth in Section 3.13 hereof.

Section 4.02

Architectural Control Committee.

(a) The authority to grant or withhold architectural control approval as referred to above is initially vested in the Developer; provided, however, the authority of the Developer shall cease and terminate upon the election of The Architectural Control Committee of the Association (sometimes herein referred to as the "Committee") in accordance with Section 4.02 (b), in which event such authority shall be vested in and exercised by the Committee (as provided in (b) below), hereinafter referred to, except as to plans and specifications and plot plans theretofore submitted to the Developer which shall continue to exercise such authority over all such plans, specifications and plot plans. The term "Committee", as used in this Declaration, shall mean or refer to the Developer or to The Redfish Retreat Architectural Control Committee composed of members of the Association appointed by the Board of Directors, as applicable.

(b) At such time as Developer owns no lots or Developer chooses to become a Class A Member, as evidenced by an instrument to such effect, executed by Developer and recorded in the Public Records (from time to time hereafter referred to as the "Control Transfer Date"), the Developer shall cause an instrument transferring control to the Association to be placed of record in the Real Property Records of Calhoun County, Texas (which instrument shall include the Control Transfer Date). Thereupon, the Board of Directors of the Association shall elect a committee of three (3) members to be known as The Redfish Retreat Architectural Control Committee. From and after the Control Transfer Date, each member of the Committee must be an Owner of property in Redfish Retreat. Additionally, the Developer shall have the right to discontinue the exercise of architectural control privileges and arrange for the transfer to the Association at

any time prior to the Control Transfer Date by filing a statement and instrument to such effect in the Real Property Records of Calhoun County, Texas.

Section 4.03            Effect of Inaction. Approval or disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration shall be in writing. In the event that the authority exercising the prerogative of approval or disapproval (whether the Developer or the Committee) fails to approve or disapprove in writing any plan and specifications and plot plans received by it in compliance with the preceding provisions within thirty (30) days following such submission, such plans and specifications and plot plan shall be deemed approved and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof. The time to approve or disapprove shall not commence until professionally drawn plans are submitted to the Committee. Professionally drawn plans shall mean those plans prepared by an architect, engineer or certified house planner in sufficient detail to allow the Committee to review in accordance with the criteria set forth herein.

Section 4.04            Effect of Approval. The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Committee that the terms and provisions hereof shall be complied with if the building and/or other improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppels either as to the persons expressing such approval or any other person in the event that such building and/or improvements are not constructed in accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof.

Section 4.05            Minimum Construction Standards. The Developer or the Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline only and the Developer or Committee shall not be bound thereby.

Section 4.06            Variance. The Developer or the Committee upon Transfer Control Date, as the case may be, may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Developer or the Committee, when circumstances such as topography, natural obstructions, Lot configuration, Lot size, hardship, aesthetic or environmental considerations may require a variance. The Developer and the Committee reserve the right to grant variances as to building set-back lines, minimum square footage of the residence, fences and other items. Such variances must be evidenced in writing and shall become effective when signed by the Developer or by at least a majority of the members of the Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any

way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned and the Plat.

Section 4.07            No Implied Waiver or Estoppel. No action or failure to act by the Committee or by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Committee or Board of Directors with respect to the Construction of any improvements within the Subdivision. Specifically, the approval by the Committee or Board of Directors of any such residential construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar residential construction or any similar proposals, plans, specifications or other materials submitted with respect to any other residential construction by such person or other Owners.

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

## ARTICLE V

### REDFISH RETREAT PROPERTY OWNERS ASSOCIATION

Section 5.01            Membership. Every Owner of any Lot which is subject to the Assessments (hereinafter defined) (or could be following the withdrawal of an exemption therefrom) and other assessments provided herein, including contract sellers, shall be a "Member" of the Association. The foregoing is not intended to include Lienholders or those having only an interest in the mineral estate. No Owner shall have more than one membership for each Lot or Building Site owned by such Member. Memberships shall be appurtenant to and may not be separated from the ownership of the Lot(s). Regardless of the number of persons who may own a Lot (such as husband and wife, or joint tenants, etc.) there shall be but one membership for each Lot. Additionally, upon the Transfer Control Date, the Directors of the Association must be Members of the Association (as more particularly described in the By-laws). Ownership of the Lots shall be the sole qualification for membership. The voting rights of the Members are set forth in Section 5.06.

Section 5.02            Non-Profit Corporation. Redfish Retreat Property Owners Association, Inc., a non-profit corporation, has been (or will be) organized and it shall be governed by this Declaration, the Articles of Incorporation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation. The Association has the powers of a nonprofit corporation and the property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

Section 5.03            Bylaws. The Association has adopted or may adopt whatever Bylaws it may choose to govern the organization or operation of the Subdivision and the use and enjoyment of the Lots and Common Property, provided that the same are not in conflict with the



terms and provisions hereof.

Section 5.04 Common Property. The Association will be responsible for the management, control, maintenance, repair, replacement and improvement of the Common Property and must keep the same attractive, clean, and in good repair in accordance with this Declaration and applicable governmental regulations.

Section 5.05 Management Agreements. The Association may contract with Developer or any other party for the performance of all or any portion of the management of the Association and the Association's maintenance and repair obligations. Management costs will be included within the Assessments. The property manager for the Association, its employees, officers, contractors, and assigns will have the right to use the Common Property without liability for Assessments or other charges, as more particularly specified in the management agreement.

Section 5.06 Capital Improvements. The Association may make capital improvements to the Common Property and may modify the uses of the Common Property.

Section 5.07 Power to Annex Additional Property Additional property may be annexed to Redfish Retreat by the Association, pursuant to the same requirements as Section 9.06, but only after the Control Transfer Date. A two-third (2/3) vote of all Owners entitled to vote is required for the Association to annex additional property.

Section 5.08 Damage or Destruction of Common Property by Owner. If any Owner or any guest, customer, tenant, licensee, agent, employee or family member damages any of the Common Property, the Owner hereby authorizes the Association to repair the damage. The cost of repair will be the responsibility of that Owner and will become an Individual Lot Assessment payable by the responsible Owner.

Section 5.09 Compliance with Laws. Lots and the Common Property may be used and must be maintained in accordance with all applicable laws, ordinances, and regulations, including, without limitation, all regulations and requirements of the state of Texas.

Section 5.10 Rules for Use of Common Property. Members will have the right to use the Common Property only in accordance with the terms of the Rules initially made by Developer and revised from time to time by the Association. The Rules may restrict the time of use, provide limitations on use of the Common Property by a Member's guests and lessees, and provided such fee or charge is uniformly assessed. No Member will be entitled to any rebate or reduction in such Member's Assessments on account of any such restrictions imposed on the Member's use of the Common Property. The Rules will be kept at the offices of the Association and copies will be made available without charge to any Member requesting the same.

Section 5.11 Owner's Right of Enjoyment. Every Owner shall have a beneficial interest of use and enjoyment in and to the Common Property and such right shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the right of the Association, in



accordance with its Articles and Bylaws (and until the Transfer Control Date, subject to the prior written approval of the Developer) to do the following:

- (a) with respect to the Common Property, to limit the number of guests of Owners;
- (b) to make rules and regulations regarding use of any Common Property and to charge reasonable admission and other fees for the use of any facility situated upon the Common Property;
- (c) to (i) borrow money for the purpose of improving and maintaining the Common Property and facilities (including borrowing from the Developer or any entity affiliated with the Developer) and (ii) mortgage said property, however, the rights of such mortgage of said property shall be subordinate to the rights of the Owners hereunder;
- (d) to suspend the Member's voting rights and the Member's and "Related Users" (as hereinafter defined) right to use any recreational facilities within the Common Property during any period in which the Maintenance Charge or any assessment against his Lot remains unpaid;
- (e) to suspend the Member's voting rights and the Member's and Related Users' right to use any recreational facilities within the Common Property, after notice and hearing by the Board of Directors, for the infraction or violation by such Member or Related Users of this Declaration or the "Rules and Regulations", defined in Article VIII hereof, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation; and,
- (f) to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility, for such purposes and subject to the provisions of this Declaration.

Section 5.12            Delegation of Use. Any Member may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Property and facilities to the Member's immediate family living in the Member's residence, and his contract purchasers who reside on the Lot (collectively, the "Related Users").

Section 5.13            Voting Rights . The Association will have two classes of voting membership:

- (a) Class A. Class A Members are all Owners of Lots other than Developer, while Developer is a Class B Member. Class A Members will be entitled to one vote for each Lot owned.
- (b) Class B. The Class B Member is the Developer, which shall be

entitled to 20 votes in all matters for each Lot owned by the Class B Member or its affiliates. Developer may assign its Class B Membership. The Class B Membership will end and be converted to Class A Membership once Developer owns no lots or Developer chooses to become a Class A Member, as evidenced by instrument to such effect, executed by Developer, which is recorded in the Public Records.

Section 5.14            Exercise of Vote.

(a) When more than one person holds an interest in any Lot, all such persons shall be Members; however, the number of votes for that Lot will not be increased, and the Members must determine among themselves how the Lot's vote may be exercised. Corporations, partnerships, and other entities must notify the Association of the natural person who will be considered a Member of the Association and be entitled to exercise its vote.

(b) An Member delinquent in payment of any Assessment may not vote.

Section 5.15            Board of Directors.

(a) Composition. Initially and throughout the existence of Class B Membership, the Board will consist of at least three persons appointed by Developer. Upon termination of the Class B Membership, the Board will consist of at least three directors, selected in accordance with the Articles and Bylaws.

(b) Classes. Each director will be appointed or elected to one of three classes to be known as Class 1, Class 2 or Class 3. Directors will be elected by class to provide for staggered terms. If the number of directors is increased as permitted by the Bylaws, each new position must be assigned to a class with the intention that each class will have as equal a number of directors as possible under the circumstances.

(c) Term of Office. The initial term for the Class 1 director will be for one year. The initial term for the Class 2 director will be for two years. The initial term for the Class 3 director will be for three years. Subsequent terms for directors of any class will be for three years; however, directors will always serve until resignation, removal, or the election of their successors.

(d) Qualifications. After termination of the Class B Membership, each director must be a Member. If a director ceases to be a Member during the term of office, such person will be automatically removed from the Board, effective upon such occurrence. Directors need not be Members throughout the existence of Class B Membership.

(e) Voting Procedure. At each Annual Meeting, the Members will elect the directors to replace the directors of the class whose term of office is then expiring.

Each Class A Member will have one vote for each seat to be filled and the Class B Member will have 20 votes for each Lot owned by the Class B Member or its affiliates. No cumulative voting will be permitted. The candidate(s) receiving the highest number of votes will be declared elected. If there is a tie vote, the Class B Member will be given one additional vote and the opportunity to cast such vote to break the tie. The meeting will, in other respects, be conducted in accordance with the Articles and the Bylaws.

(f) Removal. Any director may be removed from office, with or without cause, by at least a majority vote of the Members.

(g) Vacancies; Replacement of Directors. Any vacancy occurring in positions as director may be filled by a majority vote of the remaining Board members. If the remaining Board members do not constitute a quorum, a special meeting of the Association may be called by any officer or by any Member to elect new members to the Board.

(h) Compensation. Directors will not receive compensation for their services unless approved by the Members. This will not prevent a Class B Member or an affiliate of a Class B Member from being compensated for management or other services.

Section 5.16 Relationship to Articles and Bylaws. The Articles and Bylaws will govern all matters of the Association not set forth in this Declaration. The terms of this Declaration will prevail over any conflicting provisions in the Articles and Bylaws.

## ARTICLE VI

### OPERATION OF ASSOCIATION AND BOARD

Most day-to-day decisions about the maintenance of the Common Property and enforcement of the Declaration are the responsibility of the Board, acting on the Members' behalf. For those decisions requiring Members' approval, the Annual Meeting provides a public opportunity for discussion.

#### Section 6.01 Annual Meeting.

(a) When called. The Annual Meeting will be called every year for the election to the Board of the class of directors whose term then expires and for other business requiring approval of the Members. The meeting date shall be as set forth in Articles and the Bylaws.

(b) Quorum. Voting at an Annual Meeting requires the presence of (i) Members (in person or by proxy) representing 30% of the voting interests of the entire membership, and (ii) Developer or its representative so long as Developer owns at least one Lot.

(c) Notice. Notice of the Annual Meeting may be given by (i) mailing a notice to each Member at the last address furnished to the Association, (ii) delivering notices to a Member's dwelling on a Lot, but only if the Member regularly lives in the dwelling, or (iii) posting conspicuous notices for the meeting in the Common Property. Notice should be given at least 30 days before the Annual Meeting.

Section 6.02            Board Meetings.

(a) Board's Responsibility. Except as specifically provided in this Article or elsewhere in this Declaration, the Board has been delegated the power, and has the authority to act on behalf of the Association in all matters.

(b) Quorum. Voting at a Board meeting requires the presence in person or by telephone conference call of at least 50% of the directors. Except as prohibited by law, action required to be taken by vote of the Board may be taken in the absence of a meeting by obtaining the written approval of a majority of the Board.

(c) Notices. Notices of all meetings of the Board shall be posted in a conspicuous place in the Common Property at least 48 hours in advance of the date of the meeting, absent emergency. If the Board desires to levy an Assessment at a meeting, the notice must include a statement describing the Assessment being considered. All meetings must be open to the Members, except for meetings permitted by law to be closed.

Section 6.03            Record Keeping. The Board shall keep, or cause to be kept, a record of all meetings, both of the Board and of the Association as required by the laws of Texas. For each action taken, the record must state the vote and a description of the action approved, and, if applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. The record must be available for inspection by any Member, except for records of closed meetings of the Board. Officers may be elected by the Board by secret ballot.

Section 6.04            Management Certificates. The Association shall file Management Certificates as required by Chapter 209 of the Texas Property Code and otherwise comply with applicable laws and regulations governing homeowners' associations in the state of Texas.

**ARTICLE VII**

**ASSOCIATION BUDGET**

The Board is responsible for the fiscal management of the Association.

Section 7.01            Fiscal Year. The fiscal year of the Association will begin January 1 of each year and end on December 31 of that year. The Board must prepare an annual budget.



Section 7.02            Budget. A copy of the budget must be provided to each Member or a notice must be given to the Members that a copy of the budget is available upon request and without charge. The annual budget will estimate total expenses to be incurred by the Association in carrying out its responsibilities. The budget must include:

- (a) The cost of wages, materials, insurance premiums, services, supplies, and other expenses for the rendering of all services required or permitted under this Declaration;
- (b) Reasonable amounts, as determined by the Board, for working capital for the Association and for reserves;
- (c) Fees for professional management of the Association (which may include Developer), legal counsel, and accounting;
- (d) Taxes, if the Common Property is taxed separately from the Lots;
- (e) An estimate of revenues from the General Assessment.

Section 7.03            Reserves. The Association shall accumulate and maintain adequate reserves for working capital, contingencies, and replacements, to be included in the annual budget and collected as part of the annual General Assessment. This shall not occur until the termination of Developer's guarantee described in Section 8.02 of this document. Extraordinary expenses not originally included in the annual budget will be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose. If there is an excess of reserves at the end of a fiscal year, such excess may be used to reduce the General Assessments for the following year.

Section 7.04            Preparation and Approval of Annual Budget.

- (a) Initial Budget. Developer will prepare the first annual budget.
- (b) Subsequent Years. Budgets other than the initial budget will be prepared at the direction of the Board at least one month before the end of the fiscal year. The budget and the General Assessment must be adopted by a majority of the Board.

Section 7.05            Effect of Failure to Prepare or Adopt Budget. The Board's failure or delay in preparing or adopting the annual budget for any fiscal year will not waive or release a Member's obligation to pay a General Assessment, whenever the amount of such General Assessment is finally determined. In the absence of an annual budget, each Member shall continue to pay the General Assessment at the rate established for the previous fiscal period until notified otherwise.

Section 7.06            Financial Reporting. The Board shall prepare an annual financial

report for the Association if and as required by Texas law within 60 days of the close of the fiscal year and provide each Member with a Resale Certificate if, as and when required by Texas law.

Section 7.07            Capital Improvements. The Board shall determine whether capital improvements should be paid from General Assessments or by Special Assessments. If the cost of all capital improvements to be paid within a single calendar year totals more than 25% of the Association's annual budget, the capital improvements must be approved by majority vote of the Members. Any repair, maintenance or replacement of existing improvements will not be considered a capital improvement.

Section 7.08            Reserves shall be kept separate from other Association funds. All other sums collected by the Board with respect to Assessments and charges of all types may be commingled in a single fund.

Section 7.09            Amendment of Budget. The Board may amend the budget during any fiscal year and increase the amount of the General Assessment for such year if it appears that there will be insufficient income to meet the obligations of the Association.

## ARTICLE VIII

### COVENANTS TO PAY ASSESSMENTS

The cost of fulfilling the Association's financial obligations is divided equitably among the Members by means of Assessments. To ensure that the Association has a reliable source of funds and to protect those Members who contribute their equitable share, Assessments are mandatory and are secured both by a lien on the Lots and are and shall be the Member's personal obligation.

Section 8.01    Obligation for Assessments. Developer covenants for each Lot, and, by acceptance of a deed or other transfer instrument, whether or not expressed in such deed or instrument, each Owner of any Lot is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a)    General Assessments for expenses included in the budget,
- (b)    Special Assessments for the purposes provided in this Declaration, and
- (c)    Individual Lot Assessments for any charges particular to that Lot.

All Assessments are due and payable to the Association at its address in Calhoun County, Texas. In addition to the above Assessments, the Builder or each Owner shall be required to pay an initial capital contribution of \$100.00 per lot at the time when Owner closes on the purchase of a Lot. This initial capital contribution is not in lieu of the regular monthly Assessments.

Section 8.02            Guarantee of Class B Member. The Class B Member agrees that it

will be obligated to pay any operating expenses of the Association in excess of the revenue derived from the Assessments, including any increases made during a fiscal year, until the end of the first fiscal year of the Association. This obligation is called the "Budget Guarantee." The Class B Member may elect, but shall not be required, to renew the Budget Guarantee on an annual basis. In return for the Budget Guarantee, the Class B Member and its affiliates will not be liable for any Assessments on any Lots they own. A Lot exempt from Assessments pursuant to this Paragraph is referred to as an "Exempt Lot."

Section 8.03                    Equitable Division of Assessments. The General Assessments and Special Assessments shall be assessed among all Lots as follows:

- (a) Exempt Lots will not be subject to General Assessment or Special Assessments.
- (b) The General Assessment and Special Assessment will be payable equally among lots, whether vacant or improved. Each Lot will be subject to a sum equal to the respective General Assessment or Special Assessment divided by the number of all Lots, excluding Exempt Lots.

Section 8.04                    General Assessments.

- (a) Establishment by Board. The Board will set the date or dates the General Assessments will be due, and it may provide for payment in monthly, quarterly, semiannual, or annual installments.
- (b) Proration. Upon Sale of Exempt Lot or Loss of Exemption. Upon conveyance of an Exempt Lot, or upon an Exempt Lot becoming subject to Assessments on account of the Class B Member not extending the Budget Guarantee, the General Assessment will become due for such Lot(s); provided however, that the General Assessment will be prorated on a monthly or daily basis, whichever the Board elects, and only the portion of the General Assessment attributable to the remainder of the fiscal year will be due. The portion of the General Assessment attributable to the portion of the fiscal year in which the affected Lot was an Exempt Lot will not be assessed. If payment of the General Assessment is by installment, only the applicable portion of the current installment will be due.
- (c) Late Fee and Interest. The Board may impose a reasonable late fee. The initial late fee for an installment shall be Twenty-five Dollars (\$25.00). Additionally, interest will accrue at the rate of 18% per annum on delinquent payments of Assessments.

Section 8.05                    Special Assessments. In addition to the General Assessments, the Board may levy, in any fiscal year, a Special Assessment applicable as follows:

- (a) Capital Improvements. Any capital improvement that has been approved

in accordance with this Declaration.

(b) **Emergency Special Assessment.** By a 2/3 vote, the Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Declaration requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget, or unanticipated increases in the amounts budgeted).

(c) **Exemption.** Exempt Lots will not be subject to Special Assessments, nor will an Exempt Lot be subject to payment of any Special Assessment or any portion thereof declared or assessed while such Lot was an Exempt Lot even if payments for such Special Assessments are made in installments becoming due subsequent to the time such Lot no longer is considered an Exempt Lot. [For example if a Special Assessment is declared on January 1 while Lot 7 is an Exempt Lot, but the payment of the Special Assessment is not required until March of the same year, then even if Lot 7 is not an Exempt Lot as of February of such year, Lot 7 still will be considered exempt from such Special Assessment.]

Section 8.06 Individual Lot Assessments. The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot or any other charges designated in this Declaration as an Individual Lot Assessment. An Individual Lot Assessment may be levied on account of non-compliance with this Declaration, any legal expenses (at trial or on appeal) and costs incurred by the Association in enforcing this Declaration or in enforcing any other portion of this Declaration the Association is authorized to enforce.

Section 8.07 Effect of Nonpayment of Assessment; Remedies.

(a) **Personal Obligation.** All Assessments, together with any late fees, interests, and costs of collection when delinquent, including reasonable attorneys' fees (at trial or on appeal) whether or not a lawsuit is brought (collectively, the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Lot at the time the Assessment Charge was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) **Creation of Lien.** The Assessment Charge also shall be a continuing lien on the Lot against which the Assessment Charge is made, which lien is effective upon recording a claim of lien, but relating back to and having a priority as of the date of this Declaration. This lien in favor of the Association will secure the Assessment Charge that is then due and any that may accrue subsequent to the recording of the claim of lien and before entry of final judgment of foreclosure. The lien in favor of the Assessment Charge is subject to the subordination provisions of this Paragraph.

(c) **Lawsuit for Payment; Foreclosure of Lien.** The Association may bring an



action at law against the Owner personally obligated to pay the Assessment Charge, and may foreclose the lien, each as permitted by Texas law. To the extent permitted by Texas law, the Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage, and convey the Lot.

(d) Subordination of the Lien to Mortgages. The lien of the Assessment Charge shall not be inferior to any lien of any Lienholder. Sale or transfer of any Lot pursuant to foreclosure of such a mortgage, including a deed in lieu of foreclosure, shall not extinguish the lien as to payments that became due before or after the sale or transfer.

(e) Other Remedies. The Association may assess fines and suspend the voting rights and right to use of the Common Property by an Owner for any period during which any Assessment against the Owner's Lot remains unpaid, but only as permitted by law.

(f) Waiver of Jury Trial. THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS DECLARATION OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY RELATING TO THE SUBJECT MATTER OF THIS DECLARATION AND THE SALE OF ANY LOT FROM DEVELOPER, OR ITS SUCCESSORS AND ASSIGNS, TO AN OWNER THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS DECLARATION.

(g) Texas Law Controls. To the extent the enforcement and remedies set forth in this Article VIII conflict with the provisions of Chapter 209 of the Texas Property Code, said provisions shall control.

Section 8.08 Certificate of Payment. The treasurer of the Association or the manager of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board or by the manager, if authorized by the Board, stating whether any Assessments are owed by that Owner. The Board may establish a reasonable fee for such certificate. Such certificate will be conclusive evidence of payment of an Assessment through the date of the certificate.

## ARTICLE IX

### DEVELOPERS RIGHTS AND RESERVATIONS

Section 9.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and

the Common Property from the Date hereof, until the earlier to occur of (i) the Control Transfer Date or (ii) Developer's written notice to the Association of Developer's termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of a Lot by Developer to an Owner whether or not specifically stated therein and in each deed or other instrument by which any property within the Common Property is conveyed by Developer. The rights, reservations and easements hereafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Developer's consent to any one such amendment shall not be construed as a consent to any other or subsequent amendment.

Section 9.02            Right to Construct Additional Improvements in Common Property. Developer shall have and hereby reserves the right (without the consent of any other Owner), but shall not be obligated, to construct additional improvements within the Common Property at any time and from time to time in accordance with this Declaration for the improvements and enhancement thereof and for the benefit of the Association and Owners, so long as such construction does not directly result in the increase of such Maintenance Charge. Developer shall, upon the Control Transfer Date, convey or transfer such improvements to the Association and the Association shall be obligated to accept title to, care for and maintain the same as elsewhere provided in this Declaration.

Section 9.03            Developer's Rights to Use Common Property in Promotion and Marketing of the Property and Annexable Property. Developer shall have and hereby reserves the right to reasonable use of the Common Property and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property and Annexable Property. Without limiting the generality of the foregoing, Developer may erect and maintain on any part of the Common Property such signs, temporary buildings and other structures as Developer may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Property and Annexable Property; may use vehicles and equipment within the Common Property for promotional purposes; and may permit prospective purchasers of property within the boundaries of the Property and Annexable Property, who are not Owners or Members of the Association, to use the Common Property at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of the Property and Annexable Property. Further, the Developer may establish Rules and Regulations for the use of the Common Property in the Subdivision.

Section 9.04            Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any other Owner or the Association, to grant or create temporary or permanent easements, for access, utilities, pipeline easements, cable television systems, communication and security systems, drainage, water and other purposes incident to development, sale, operation and maintenance of the Subdivision, located in, on, under, over and across (i) the Lots or other property owned by Developer, (ii) the Common Property, and (iii) existing utility easements. Developer also reserves the right, without the consent of any other Owner or the Association, to (i) grant or create temporary or permanent easements for access over and across the streets and roads within the Subdivision to

and from Highway 1090 (Alcoa Drive) for the benefit of owners of property, regardless of whether the beneficiary of such easements own property which is hereafter made subject to the jurisdiction of the Association to use the recreational facilities of the Association and other Common Property, provided that said Owners pay to the Association their proportionate share of the cost of operating and maintaining said recreational facilities and Common Property.

Section 9.05                    Developers Rights to Convey Additional Common Property to the Association. Developer shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and improvements thereon, if any, to the Association as Common Property at any time and from time to time in accordance with this Declaration, without the consent of any Owner or the Association.

Section 9.06                    Annexation of Additional Property.

(a)    Initial Property. The property initially subject to this Declaration consists of the property shown on the Plat.

(b)    Additional Property. Unless waived by recorded instrument, Developer will have the right, but not the obligation, from time to time in its sole discretion and without consent of the Owners or any other party, to annex any residential property and common property to Redfish Retreat, if such property is adjacent to or abuts any property shown on the Plat. In determining whether the property to be annexed is adjacent to or abuts the property shown on the Plat, Developer may disregard any roads that are situated between the property shown on the Plat and the property to be annexed. The Owners of Lots in such annexed property, as well as all other Owners subject to the jurisdiction of the Association, shall be entitled to use and benefit of all Common Property that are or may become subject to the jurisdiction of the Association, provided that such annexed property is impressed with and subject to at least the Maintenance Charge imposed hereby.

(c)    Procedure. The party effecting the annexation shall record a Supplemental Declaration in the Public Records. The Supplemental Declaration shall be executed by either Developer, its assigns, or the president of the Association. The Supplemental Declaration shall contain the legal description of the property being annexed. The Supplemental Declaration may contain special provisions applicable to the property being annexed. These special provisions may limit the applicability of specific covenants, restrictions, and easements contained in this Declaration to the annexed property or may impose additional or different covenants, conditions, or restrictions to reflect the different character of the property being annexed. The party making the Supplemental Declaration will have sole discretion to determine the special provisions to be contained in the Supplemental Declaration; however, no special provisions may be included that exempt the owners of the property being annexed from equitably sharing in common expenses and Assessments. Upon recording the Supplemental Declaration, the annexed property will become part of Redfish Retreat.



## ARTICLE X

### GENERAL PROVISIONS

Section 10.01 Term. The provisions hereof shall run with all property in the Subdivision and shall be binding upon all Owners and all persons claiming under them for a period of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by not less than two-thirds (2/3) of the then Owners (including the Developer) of the Lots has been recorded agreeing to cancel, amend or change, in whole or in part, this Declaration.

Section 10.02 Amendments. The provisions of this Section 10.02 are made expressly subject to the provisions of Section 9.06. This Declaration may be amended or changed, in whole or in part, at any time by the written agreement or signed ballot of Owners (including the Developer) entitled to cast not less than two-thirds (2/3) of the votes of all of the Owners. If the Declaration is amended by a written instrument signed by those Owners entitled to cast no less than two-thirds (2/3) of all of the votes of the Owners of the Association, such amendment must be approved by said Owners within three hundred sixty-five (365) days of the date of first Owner executes such amendment. The date an Owner's signature is acknowledged shall constitute prima facie evidence of the date of execution of said amendment by such Owner. Those Members (Owners, including the Developer) entitled to cast not less than two-thirds (2/3) of all of the votes of the Members of the Association may also vote to amend this Declaration, in person, or by proxy, at a meeting of the Members (Owners, including the Developer) duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the Bylaws to the contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the Members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Real Property Records of Calhoun County, Texas, accompanied by a certificate, signed by a majority of the Board of Directors, stating that the required number of Members (owners, including the Developer) executed the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of the written ballots pertaining to such amendment shall be retained by the Association for a period of not less than three (3) years after the date of filing of the amendment or termination.

Section 10.03 Amendments by the Developer. Notwithstanding any provision of this Declaration to the contrary, the Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration. Additionally, Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and



filed for record for the purpose of permitting the Owners to enjoy the benefits from technological advances, such as security, communications or energy-related devices or equipment which did not exist or were not in common use in residential Subdivisions at the time this Declaration was adopted. Likewise, the Developer shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of prohibiting the use of any device or apparatus developed and/or available for residential use following the date of this Declaration if the use of such device or apparatus will adversely affect the Association or will affect the property values within the Subdivision.

Section 10.04            Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 10.05            Mergers and Consolidations. The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that (i) prior to the Control Transfer Date any such merger or consolidation shall be approved (in writing or at a meeting duly called for such purposes) by two-thirds (2/3) of the Directors and (ii) from and after the Control Transfer Date any such merger or consolidation shall have the consent (in writing or at a meeting duly called for such purposes) of those Members entitled to cast not less than two-thirds (2/3) of the votes of all of the Members of the Association and the Developer.

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

Section 10.06            Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 10.07            Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and the Association, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 10.08 Effect of Violations on Mortgages. No violation of the provisions herein contained, or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgagee under any such mortgage, the holder of any such lien or beneficiary of any such deed of trust; any such mortgage, lien or deed of trust may, nevertheless,

Section 10.09 Terminology. All personal pronouns used in this Declaration and all exhibits attached hereto, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear. All references in this Declaration to Exhibits shall refer to the Exhibits attached hereto.

Section 10.10 Effect on Annexable Property. The provisions of this Declaration do not impose any restrictions whatsoever or otherwise encumber the Annexable Property, unless and until portions of the Annexable Property are made subject to the jurisdiction of the Association by a separate instrument executed solely by the Developer or its successors and assigns and any lien holders, which instrument is recorded in the Real Property Records of Calhoun County, Texas.

Section 10.11 Developer's Rights and Prerogatives. Prior to the Control Transfer Date, the Developer may file one or more statements in the Real Property Records of Calhoun County, Texas, which expressly provide for the Developer's (i) discontinuance of the exercise of any right or prerogative provided for in this Declaration to be exercised by the Developer or (ii) assignment to any third party owning property in the Subdivision or Annexable Property, of one or more of Developer's specific rights and prerogatives provided in this Declaration to be exercised by the Developer. The assignee designated by the Developer to exercise one or more of the Developer's rights or prerogatives hereunder shall be entitled to exercise such right or prerogative until the earlier to occur of the (i) Control Transfer Date or (ii) date that said assignee files a statement in the Real Property Records of Calhoun County, Texas, which expressly provides for said assignee's discontinuance of the exercise of said right or prerogative. From and after the date that the Developer discontinues its exercise of any right or prerogative hereunder and/or assigns its right to exercise one or more of its rights or prerogatives to an assignee, the Developer shall not incur any liability to any Owner, the Association or any other party by reason of the Developer's discontinuance or assignment of the exercise of said right(s) or prerogative(s). Upon the Developer's Assignment of its rights as of the Transfer Control Date to the Association, the Association shall be entitled to exercise all the rights and prerogatives of the Developer.

Section 10.12 Electric Utility Service. Prior to beginning any construction on a Lot, each Owner or Builder, at his expense, shall be required to install electric service lines from the transformer or source of feed to the meter location on each Lot. Further, each Owner or Builder may expect to pay a charge for connection to such electric utility service, and the Owner or Builder is obligated to contact AEP Texas (American Electric Power) to determine such

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

Section 10.13 No Waiver. Failure by the Association or Developer to enforce the Governing Documents shall not constitute a waiver.

Section 10.14 Corrections. The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.

IN WITNESS WHEREOF, Developer has caused this Declaration of Covenants, Conditions, and Restrictions for Redfish Retreat to be executed this the 5<sup>th</sup> day of ~~October~~, 2008.  
November

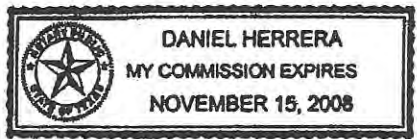
**DEVELOPER:**

**GRAND TEXAS LAND, LLC**

By: *Jesse Valeriano*  
Jesse Valeriano, Member

STATE OF TEXAS           §  
  §  
COUNTY OF CALHOUN   §

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of Nov., 2008 by Jesse Valeriano, Member of Grand Texas Land, L.L.C, a Texas limited liability company, on behalf of and as the act and deed of said entity.



*Daniel Herrera*  
Notary Public, State of Texas  
My Commission Expires (if not legible on seal): \_\_\_\_\_

Return to:  
Jesse Valeriano  
P.O. Box 24511  
Houston, TX 77229

11/5/2000 3:36 PM

This Document has been received by this Office for Recording into the Official Public Records. We do hereby swear that we do not discriminate due to Race, Creed, Color, Sex or National Origin.

Filed for Record in:  
Calhoun County  
Honorable Anita Fricke  
County Clerk

  
Deputy

Instr.: 114382  
Stamps: 48 Page(s)