

OFF Spl

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
TEXANA PLANTATION, SECTION FOUR (4)

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR TEXANA PLANTATION, SECTION FOUR (4)

TABLE OF CONTENTS

I.	DEFINITIONS . . . . .	1
	Section 1. "Area of Common Responsibility . . . . .	1
	Section 2. "Articles of Incorporation" . . . . .	2
	Section 3. "Assessments" . . . . .	2
	Section 4. "Association" . . . . .	2
	Section 5. "Association Expenses" . . . . .	2
	Section 6. "Board of Directors" . . . . .	2
	Section 7. "Builder" . . . . .	2
	Section 8. "Builder Guidelines" . . . . .	2
	Section 9. "By-Laws" . . . . .	2
	Section 10. "Common Area" . . . . .	2
	Section 11. "Declarant" . . . . .	3
	Section 12. "Declaration" . . . . .	3
	Section 13. "Exempt Property" . . . . .	3
	Section 14. "Landscaping Guildlines" . . . . .	3
	Section 15. "Lot" . . . . .	3
	Section 16. "Member" . . . . .	4
	Section 17. "Mortgage" . . . . .	4
	Section 18. "Mortgagee" . . . . .	4
	Section 19. "Occupant" . . . . .	4
	Section 20. "Owner" . . . . .	4
	Section 21. "Person" . . . . .	4
	Section 22. "Properties" . . . . .	4
	Section 23. "Single Family Residence" . . . . .	4
	Section 24. "Street" . . . . .	4
	Section 25. "Supplemental Declaration" . . . . .	4
	Section 26. "Texana Plantation ARC" . . . . .	4
	Section 27. "Water Supply Contract" . . . . .	5
II.	TEXANA PLANTATION HOMEOWNERS ASSOCIATION, INC. . . . .	5
	Section 1. Organization . . . . .	5
	Section 2. Membership . . . . .	5
	Section 3. Voting . . . . .	5
III.	COVENANT FOR MAINTENANCE ASSESSMENTS . . . . .	6
	Section 1. Purpose of Assessments . . . . .	6
	Section 2. Types of Assessments . . . . .	8
	Section 3. Creation of the Lien and Personal Obligation for Assessments . . . . .	9
	Section 4. Computation . . . . .	10
	Section 5. Lien for Assessments . . . . .	10

Section 6.	Subordination of the Lien to Mortgages . . .	11
Section 7.	Effect of Nonpayment of Assessments; Remedies of the Association . . . . .	11
Section 8.	Exempt Property . . . . .	12
IV.	RIGHTS IN THE COMMON AREA AND EASEMENTS . . . . .	13
Section 1.	Owner's Right of Enjoyment . . . . .	13
Section 2.	Delegation of Use . . . . .	13
Section 3.	Easements-General . . . . .	14
Section 4.	Easements for Utilities and Public Services	14
Section 5.	Easements for Association . . . . .	15
Section 6.	Rights of Declarant During Construction and Sale Period . . . . .	15
Section 7.	Telecommunication Services . . . . .	15
Section 8.	Water Service . . . . .	16
Section 9.	Security and Other Services . . . . .	17
Section 10.	No Partition . . . . .	18
V.	INSURANCE AND CASUALTY LOSSES . . . . .	18
Section 1.	Insurance . . . . .	18
Section 2.	Damage and Destruction . . . . .	19
VI.	ARCHITECTURAL STANDARDS AND ARCHITECTURAL REVIEW COMMITTEE . . . . .	19
Section 1.	Purpose . . . . .	19
Section 2.	Texana Plantation Architectural Review Committee . . . . .	19
Section 3.	Architectural Approval . . . . .	20
Section 4.	Landscaping Approval . . . . .	21
Section 5.	Approval Not a Gurantee or Variance . . . . .	21
Section 6.	Right to Inspect . . . . .	22
Section 7.	No Waiver of Future Approvals . . . . .	22
Section 8.	Variances . . . . .	22
Section 9.	Compliance with Guidelines . . . . .	23
Section 10.	Meetings of the Architectural Review Committee . . . . .	23
VII.	USE RESTRICTIONS . . . . .	23
Section 1.	Nuisance . . . . .	23
Section 2.	Mineral Production . . . . .	23
Section 3.	Owner's Maintenance . . . . .	23
VIII.	ARCHITECTURAL RESTRICTIONS . . . . .	24
Section 1.	Single Family Residences . . . . .	24
Section 2.	Living Area Requirements and Setbacks . . . . .	25
Section 3.	Type of Construction . . . . .	25

Section 4.	Garages and Driveways . . . . .	26
Section 5.	Sanitary Sewer Systems . . . . .	26
Section 6.	Antennae and Satellite Dishes . . . . .	26
Section 7.	Animals and Livestock . . . . .	27
Section 8.	Renting or Leasing . . . . .	27
Section 9.	Disposal of Trash . . . . .	28
Section 10.	Clotheslines, Garbage Cans, Woodpiles, etc. . . . .	28
Section 11.	Weapons and Fireworks . . . . .	28
Section 12.	Temporary Buildings . . . . .	28
Section 13.	Traffic Sight Areas . . . . .	28
Section 14.	Private Utility Lines . . . . .	28
Section 15.	Rooftop Elements . . . . .	29
Section 16.	Decorations . . . . .	29
Section 17.	Playground Equipment . . . . .	29
Section 18.	Signs . . . . .	29
Section 19.	Fences . . . . .	29
Section 20.	Landscaping . . . . .	30
IX.	ANNEXATION OF ADDITIONAL PROPERTY . . . . .	30
Section 1.	Unilateral Annexation by Declarant . . . . .	30
Section 2.	Other Annexations . . . . .	31
Section 3.	Rights of Owners of Annexed Area . . . . .	31
X.	MORTGAGEE PROVISIONS . . . . .	31
Section 1.	Notices of Action . . . . .	31
Section 2.	No Priority . . . . .	31
Section 3.	Notice to Association . . . . .	31
XI.	GENERAL PROVISIONS . . . . .	31
Section 1.	Term . . . . .	31
Section 2.	Severability . . . . .	31
Section 3.	Gender and Grammar . . . . .	31
Section 4.	Titles . . . . .	33
Section 5.	Amendment . . . . .	33
Section 6.	Merger and Consolidation . . . . .	33
Section 7.	Enforcement . . . . .	33
Section 8.	Right of Entry . . . . .	34
Section 9.	Notice of Sale or Transfer . . . . .	34

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR TEXANA PLANTATION, SECTION FOUR (4)

THIS DECLARATION (this "Declaration"), made as of the date hereinafter set forth by Texana Plantation, Ltd., a Texas limited partnership (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the tract of real property in the Randall Jones League, Abstract No. 42 in Fort Bend County, Texas that has been platted and subdivided as Texana Plantation, Section Four (4) according to the plat thereof recorded under Slide Nos. 1838/A and 1838/B in the Map Records of Fort Bend County, Texas (the "Subdivision"); and

WHEREAS, Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvements for the benefit of all owners of property within the above described subdivision and Declarant desires to provide a flexible and reasonable procedure for the overall development of such property and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such property.

NOW, THEREFORE, Declarant hereby declares that the property within Texana Plantation, Section Four (4) is hereby subjected to the provisions of this Declaration and such property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all persons having any right, title, or interest in all or any portion of such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I  
DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

SECTION 1. "Area of Common Responsibility" shall mean the Common Area, together with those other areas, if any, which become the responsibility of the Association. Rights-of-ways and easements within or adjacent to the Properties may be part of the Area of Common Responsibility.

SECTION 2. "Articles of Incorporation" means the Articles of Incorporation of the Texana Plantation Homeowners Association, Inc. and any amendments thereto, as filed with the Secretary of State of the State of Texas.

SECTION 3. "Assessments" shall mean the annual assessments levied by the Association for purposes of obtaining funds to pay Association Expenses as provided herein, special assessments, and/or any other amounts or sums due by any Owner to the Association pursuant to the provisions of this Declaration or a Supplemental Declaration.

SECTION 4. "Association" shall mean and refer to Texana Plantation Homeowners Association, Inc., a non-profit, non-stock, membership corporation incorporated under the laws of the State of Texas, its successors and assigns.

SECTION 5. "Association Expenses" shall mean and include the actual and estimated expenses of operating the Association, including, without limitation, the expenses incurred by the Association in performing certain obligations under the Water Supply Contract (as hereinafter defined), all as may be found to be necessary and appropriate by the Board of Directors of the Association pursuant to this Declaration and the Association's By-Laws and Articles of Incorporation.

SECTION 6. "Board of Directors" or "Board" shall mean the governing body of the Association.

SECTION 7. "Builder" shall mean and refer to any Person undertaking the construction of a Single Family Residence on a Lot for the purpose of selling same.

SECTION 8. "Builder Guidelines" shall mean and refer to certain detailed standards and requirements for the construction of improvements which are adopted from time to time by the Texana Plantation Architectural Review Committee and which must be complied with by an Owner in order to obtain approval of the plans and specifications for proposed improvements on a Lot in the Subdivision as required by this Declaration. Copies of the Builder Guidelines and any amendments thereto shall be provided by the Association to Owners, their architects, engineers and designers upon request for a reasonable charge established by the Board from time to time.

SECTION 9. "By-Laws" shall mean the By-Laws of the Association, as amended from time to time.

SECTION 10. "Common Area" shall mean and refer to any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common

use and enjoyment of the Owners and Occupants, as well as to the contract rights and obligations of the Association under the Water Supply Contract held for the benefit of the Members.

SECTION 11. "Declarant" shall mean and refer to Texana Plantation, Ltd., a Texas limited partnership, and its successors and assigns, provided such assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the property subject to this Declaration or property annexed to the jurisdiction of the Association, and provided further, in the instrument of conveyance to such assign or by a separate written instrument placed of record in the real property records of Fort Bend County, Texas, such assign is designated as the "Declarant" hereunder by the "Declarant" hereunder at such time. Upon such designation of a successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

SECTION 12. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Texana Plantation, Section Four (4), as it may hereafter be amended.

SECTION 13. "Exempt Property" shall have the meaning set forth in Section 8 of Article III hereof.

SECTION 14. "Landscaping Guidelines" shall mean and refer to written landscape design, installation and maintenance criteria for the Lots which are adopted by the Texana Plantation Architectural Review Committee.

SECTION 15. "Lot" shall mean any of the numbered lots shown on a plat of a portion of the Properties, excluding reserve tracts, but including lots created by the platting of a reserve tract or the subdivision and replatting of a Lot; provided, however, no Lot created by the replatting of a Lot may contain less than one-half ( $\frac{1}{2}$ ) acre unless otherwise approved by the Board of Directors. The term "Lots" shall mean and refer to each Lot and all of them. The Owner of one or more adjacent Lots (or portions thereof) shall have the right to consolidate such Lots or portions of such Lots into one Single Family Residence building site, with the privilege of placing or constructing improvements on such site, in which case side setback lines shall be measured from the resulting side property lines of such building site rather than from the lot lines shown on the recorded plat; provided, however, any such Single Family Residence building site must contain a minimum of one-half ( $\frac{1}{2}$ ) acre. Upon a replatting of such Single Family Residence building site as a single Lot, such replatted Lot shall thereafter be considered as a single Lot for purposes of Assessments levied by the Association pursuant to this Declaration. In the event such

Single Family Residence building site is not replatted as a single Lot, Assessments by the Association shall continue based on the number of Lots shown on the original plat.

SECTION 16. "Member" shall refer to every Person entitled to membership in the Association, as provided herein.

SECTION 17. "Mortgage" shall mean and refer to a deed of trust, mortgage or other similar security instrument granting, creating, or conveying a lien or security interest upon a Lot.

SECTION 18. "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

SECTION 19. "Occupant" shall mean any person occupying all or any portion of the Properties for any period of time, regardless of whether such person is a tenant of the Owner of such property.

SECTION 20. "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to a Lot within the Properties, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation or those owning an easement right, a mineral interest, or a royalty interest.

SECTION 21. "Person" shall mean any natural person, corporation, joint venture, partnership, association, trust or other legal entity.

SECTION 22. "Properties" shall mean and refer to (i) the real property within Texana Plantation, Section One (1), Texana Plantation, Section Two (2), and Texana Plantation, Section Four (4) and (ii) such additions thereto of other real property as may be brought within the jurisdiction of the Association in accordance with this Declaration.

SECTION 23. "Single Family Residence" shall mean and refer to a detached single family residence.

SECTION 24. "Street" shall mean and refer to any street, boulevard, road, alley, lane, avenue, or thoroughfare within the Properties, whether private or public.

SECTION 25. "Supplemental Declaration" shall refer to a separate declaration of covenants, conditions and restrictions which is imposed on property within the jurisdiction of the Association which may be enforced by the Association.

SECTION 26. "Texana Plantation Architectural Review Committee" or "Texana Plantation ARC" refers to the committee created by Section 2 of Article VI hereof.



SECTION 27. "Water Supply Contract" refers to that certain Interim Water and Emergency Water Supply Contract dated December 17, 1996 between Peyton Martin, Trustee and Pecan Grove Municipal Utility District, the rights of Peyton Martin, Trustee thereunder having been assigned to the Declarant. The Association shall approve and execute such contract as contemplated thereby.

ARTICLE II  
TEFXANA PLANTATION HOMEOWNERS ASSOCIATION, INC.

SECTION 1. ORGANIZATION. The Association has been organized and formed as a non-profit corporation under the laws of the State of Texas. The principal purposes of the Association are the collection, expenditure, and management of the maintenance funds, enforcement of the restrictions contained herein and in Supplemental Declarations, providing for the maintenance and preservation of the Area of Common Responsibility and the facilities of the Association, and architectural control of the Lots.

SECTION 2. MEMBERSHIP. Every Owner of a Lot within the Properties, including the Declarant, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of the property which is subject to assessment by the Association. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership in the Association may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of a Lot owned by a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Board, subject to the provisions of this Declaration and the By-Laws.

SECTION 3. VOTING. The Association shall initially have two classes of voting membership:

- (a) CLASS A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot of which they are the Owner.
- (b) CLASS B. Class B members shall be the Declarant who shall be entitled to one (1) vote for each Lot of which it is the Owner.

In the event the Owner of a Lot is one or more persons or entities, the vote for such Lot shall be exercised as those members among themselves determine but in no event shall more than one vote be

cast with respect to each Lot in which such members own undivided interests. The vote for such Lot shall be suspended in the event more than one member seeks to exercise it. The voting rights of a Lot owned by a corporation, a partnership or other entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Class B membership shall cease and be converted to Class A membership on the date on which the Declarant has sold and conveyed all Lots owned by it in the Properties. However, in the event that additional property owned by the Declarant is thereafter annexed into the jurisdiction of the Association, the Class B membership of the Declarant shall be reinstated and shall apply to all Lots owned by Declarant in the newly annexed portion of the Properties as well as to all Lots owned by Declarant in all other areas of the Properties. Such reinstatement is subject to further cessation (and subsequent reinstatement at the time of subsequent annexations to the Properties).

### ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. PURPOSE OF ASSESSMENTS. The Assessments provided for in this Declaration shall be used by the Association to maintain and keep in good repair the Area of Common Responsibility and for the general purposes of promoting the common benefit of the Owners and Occupants in the Properties. The judgment of the Board of Directors of the Association in determining the functions to be performed by the Association, in determining the amount of annual assessments, and in the expenditure of funds shall be final and conclusive so long as its judgment is exercised in good faith. The funds obtained by the Association may be used to finance all or any of the following:

- i. Operation, mowing, maintenance, repair, and improvement of the Area of Common Responsibility;
- ii. Payment of taxes and premiums for insurance coverage in connection with the Common Area and for directors and officers liability insurance;
- iii. Paying the cost of labor, equipment (including expense of leasing any equipment), material, and any associated management or supervisory services and fees;
- iv. Paying the cost and fees of a manager or firm retained to carry out the duties of the Association or to manage the affairs and property of the Association;

- v. Maintaining or replacing any landscaping in the Area of Common Responsibility;
- vi. Purchasing and constructing or installing any improvements to the Area of Common Responsibility;
- vii. Removing debris from the Area of Common Responsibility;
- viii. Contracting for the installation and maintenance of street lights in the Properties;
- ix. Inspecting and maintaining the individual sanitary sewer treatment systems to be installed by the Owners of Lots within the Properties;
- x. Maintaining, repairing, replacing and/or reconstructing private Streets within the jurisdiction of the Association;
- xi. Assumption and payment of the obligations of Peyton Martin, Trustee under the Water Supply Contract, including the obligation to mow and maintain the easement areas within which a water supply line is extended from the District's facilities to the Properties until the Water Supply Contract is assigned to and accepted by a water district which encompasses the Properties and such water district has sold its first issue of bonds, all as provided in the Water Supply Contract;
- xii. Collecting and disposing of trash, garbage, rubbish and other similar materials if the Board decides to provide such service to the Properties;
- xiii. Payment of legal fees and expenses incurred to collect Assessments and enforce this Declaration;
- xiv. Employing policemen or watchmen and/or a security service;
- xv. Contracting for insect and pest control such as mosquito fogging;
- xvi. Carrying out the duties of the Board of Directors of the Association;

- xvii. Creation and funding of such reserve funds as the Board of Directors of the Association deems necessary; and
- xviii. Carrying out such purposes of the Association as generally benefit the Members of the Association.

SECTION 2. TYPES OF ASSESSMENTS. Each Owner by acceptance of a deed to any Lot in the Properties, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association annual assessments or charges and special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

(a) Annual Assessments. Annual assessments shall be levied by the Board on the Lots to enable it to pay the Association Expenses. The initial annual assessment shall commence on January 1, 1998 or such later date as the Board determines. If such assessment commences on a date other than January 1, such assessment shall be adjusted according to the number of months remaining in the calendar year. Thereafter, annual assessments shall be levied for each calendar year in advance.

(b) Maximum Annual Assessment. The Association's maximum annual assessment for 1998 was \$1,000.00 per Lot. The maximum annual assessment may be increased by the Board of Directors each year, at its sole discretion, by an amount equal to a fifteen percent (15%) increase over the maximum assessment for the previous year without a vote of the Members of the Association. The maximum annual assessment per Lot may be increased above fifteen percent (15%) by a vote of two-thirds (2/3rds) of each class of Members who are voting in person or by proxy, at a meeting of the Members duly called for such purpose.

(c) Special Assessments. In addition to the annual assessments authorized herein, the Board may levy one or more special assessments in any year for the purpose of defraying, in whole or in part, the cost of any acquisition or purchase, construction, reconstruction, or repair or replacement of a capital improvement located within the Area of Common Responsibility, including fixtures and personal property related thereto, or the cost of other capital improvements determined by the Board to benefit the Owners and Occupants or for the purpose of enabling the Association to perform the obligations assumed by it under the Water Supply Contract. Any special assessment by the Board must have the assent of two-thirds (2/3rds) of the votes of the Members of the Association who are voting in person or by proxy at a meeting called for such purpose and the Declarant as long as it owns any portion of the Properties; provided, however, a special assessment to obtain funds to enable the Association to perform the

obligations assumed by it under the Water Supply Contract shall not require such approval of the Members and the Declarant.

If a special assessment is levied, it shall be paid as determined by the Board. The Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed. Written notice of any meeting called for the purpose of approving a special assessment, if required hereby, shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meetings. No subsequent meeting shall be held more than 60 days following the preceding meeting.

(d) Rate of Assessments. Both annual and special assessments on all Lots shall be fixed at uniform rates and all Lots shall commence to bear their assessment simultaneously; provided, however, the annual assessment on Lots which do not have a completed residence which has been initially occupied shall be assessed at the rate of twenty-five percent (25%) of the assessment on all other Lots. The rate of assessment for an individual Lot, within a calendar year, shall change upon the initial occupancy of the residence on such Lot, and the applicable assessment for such Lot shall be prorated accordingly for such year.

SECTION 3. CREATION OF LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. All Assessments, together with interest commencing on the due date at a rate of interest to be set from time to time by the Board of Directors not in excess of the maximum lawful rate, costs (specifically including, but not limited to, any flat charges or percentage fees charged by any collection agencies used by the Association in collecting Assessments), and reasonable attorney's fees and court costs actually incurred, shall be a charge on the land and shall be secured by a continuing lien upon the Lot against which each Assessment is made. Each such Assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the Assessment fell due. Each such Owner shall be personally liable for his or her portion of each Assessment coming due while he or she is the Owner of the Lot, and each Assessment thereafter coming due unless and until such Owner notifies the Association of the sale or conveyance of the Lot against which the Assessment is made as hereinafter provided in this Section 3.

In order to extinguish any Person's personal liability with regard to Assessments coming due following the sale or conveyance

of the Lot owned by such Person, such Person shall be obligated to notify the Association of such Person's sale or conveyance of the Lot against which Assessments may be levied. In that regard, each Person who at any time owned any Lot in the Properties against which Assessments may be levied shall no longer be liable or responsible for payment of Assessments coming due after the date upon which such Person furnishes to the Association a copy of the executed instrument of conveyance by which fee title to the Lot previously owned by such Person was conveyed or transferred to another Person, and the mailing address of the Person to whom such land was conveyed or transferred. Upon receipt of such information, the Association shall cause the name and address of the new Owner to be substituted for that of the prior Owner on the records of the Association, and the prior Owner shall no longer be liable or responsible for Assessments subsequently coming due. Each Person owning a Lot against which Assessments may be made shall have the obligation to notify the Association of any change in its address, and notice of any such change shall become effective five (5) days after written notice thereof has been provided to the Association. With regard to mailing notices of Assessments payable by any Person to the Association, the Association shall be deemed to have satisfied any obligation that it might have to provide written notices or bills if the same are mailed or delivered to the Owner at the address of such Owner as reflected on the records of the Association, and no such Owner or other Person liable for the payment of any Assessment shall escape such liability or be entitled to any deferral or abatement of interest or any late charges or collection costs with regard to delinquent Assessments on the basis of such Person's failure to receive notice thereof if the Association did mail or deliver such notice to the most recent address of the Person according to the records of the Association.

SECTION 4. COMPUTATION. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during each calendar year or such other fiscal year as the Board may adopt which shall be used to determine the annual assessment amount. In the event that the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

SECTION 5. LIEN FOR ASSESSMENTS. All sums assessed against any Lot subject to this Declaration pursuant to this Declaration, together with interest, collection and other costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on the property owned by each Owner in favor of the Association. All Persons acquiring liens or encumbrances on any Lot subject to this Declaration after this Declaration shall have been recorded in the real property records of Fort Bend County, Texas shall be deemed to consent that such liens or

encumbrances shall be inferior to future liens for Assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

SECTION 6. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien securing the Assessments provided for herein shall be subordinate to (i) liens of ad valorem taxes and (ii) the lien of any Mortgage which has been recorded in the real property records of Fort Bend County, Texas. Sale or transfer of any Lot subject to this Declaration shall not affect the lien hereby created. However, the sale or transfer of any Lot pursuant to foreclosure of a Mortgage or any conveyance in lieu thereof, shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

SECTION 7. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any Assessments which are not paid in full by the date specified by the Board shall be delinquent. Any delinquent Assessment shall commence to bear interest on the due date at such interest rate as the Board may from time to time determine not in excess of the maximum lawful rate of interest. If the Assessment is not paid when due, the lien herein retained and created against the affected property shall secure the Assessment due, interest thereon from the date due and payable, all costs of collection, court costs, reasonable attorney's fees actually incurred, and any other amount provided or permitted by law. In the event that the Assessment remains unpaid after ninety (90) days, the Association may, as the Board shall determine, institute suit for collection against the Owner personally obligated to pay the Assessment or foreclose the lien created and reserved hereby against the Lot of such Owner.

The Association's lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring a Lot, an Owner grants to the Association a power of sale in connection with the Association lien. By written resolution, the Board of Directors of the Association may appoint, from time to time, an officer, agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision(s), amendment(s), or modifications thereof in effect at the time of the exercise of such power of sale. The Association has the right to foreclose its lien judicially or by nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner to the Association. An Owner may not petition a court to set aside a sale solely because the purchase price at the foreclosure sale was insufficient to fully satisfy the

Owner's debt. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the Lot sold at foreclosure. The Owner shall have no right of redemption after or resulting from a foreclosure sale of the Association's lien. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association. Foreclosure of a tax lien attaching against a Lot shall not discharge the Association's lien under this paragraph for amounts becoming due to the Association after the date of foreclosure of the tax lien.

No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein by non-use of Common Area or abandonment of the Lot owned by such Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to interest, and then to delinquent Assessments.

SECTION 8. EXEMPT PROPERTY. The following property shall be exempt from annual assessments and special assessments:

(a) all property owned by any governmental authority or public utility;

(b) all property owned by a non-profit organization and restricted for use or used as a private school or church; provided, however, the availability of such exemption is contingent upon prior approval by the Board; and

(c) Common Area and property designated on the Declarant's land plan for conveyance to the Association or a governmental authority at a future date.

The Person owning Exempt Property as defined herein shall have no right to be a Member of the Association with regard to its



ownership of the Exempt Property, nor shall such Person be entitled to any votes attributable to its ownership of the Exempt Property.

ARTICLE IV  
RIGHTS IN THE COMMON AREA

SECTION 1. OWNER'S RIGHT OF ENJOYMENT. Subject to the further provisions of this Section, every Member shall have a right of enjoyment in the Common Area, and such right shall be appurtenant to and shall pass with the title to the portion of the Properties owned by such Member. Such rights shall be subject to the following:

(a) The Association shall have the right to charge reasonable admission and other fees for the use of any facility situated upon the Common Area.

(b) The Association shall have the right to borrow money and to mortgage, pledge, deed in trust, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.

(c) The Association shall have the right to take such steps as are reasonably necessary to protect the Common Area against foreclosure of any such mortgage.

(d) The Association shall have the right to suspend the voting rights and enjoyment rights of any Member for any period during which any assessment or other amount owed by such Member to the Association remains unpaid in excess of thirty (30) days.

(e) The Association shall have the right to establish reasonable rules and regulations governing the Members' use and enjoyment of the Common Area, and to suspend the enjoyment rights of any Member for any period not to exceed sixty (60) days for any infraction of such rules and regulations.

(f) The Association shall have the right to dedicate, sell or convey all or any part of the Common Area and the right to grant or dedicate easements over the Common Area to public or private utility companies;

(g) The Association shall have the right to enter into agreements pursuant to which individuals who are not Members of the Association are granted the right to use the Common Area and the facilities located thereupon.

SECTION 2. DELEGATION OF USE. Each Member shall have the right to extend his right of enjoyment to the Common Area to the members of his family and to such guests or other persons as may be permitted by the rules adopted by the Board governing use of the Common Area. An Owner shall be deemed to have made a delegation of

all such rights to the Occupants of any leased Single Family Residence.

SECTION 3. EASEMENTS-GENERAL. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the plats of the Properties and/or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

SECTION 4. EASEMENTS FOR UTILITIES AND PUBLIC SERVICES.

(a) There is hereby granted to the Association, to Fort Bend County, and to any other public authority or agency, utility district (including, without limitation Fort Bend County Water Control & Improvement District No. 3), or public or private utility company, a perpetual easement upon, over, under, and across (i) the Common Area, and (ii) those portions of the Lots as are reasonably necessary, for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems, electrical, gas, telephone, water, and sanitary sewer lines, street lights, street signs and traffic signs; provided, however, that such easements shall not unreasonably affect the developability, marketability or value of any Lot. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Properties encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to excavate or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

(b) There is also hereby granted to Fort Bend County and to such other governmental authority or agency as shall from time to time have jurisdiction over the Properties (or any portion thereof) with respect to law enforcement and fire protection, the perpetual, non-exclusive right and easement upon, over and across the Subdivision for purposes of performing such duties and activities related to law enforcement and fire protection in the Properties as shall be required or appropriate from time to time by such governmental authorities under applicable law.

SECTION 5. EASEMENTS FOR ASSOCIATION. There is hereby granted a general right and easement to the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties as may be reasonably necessary. The rights hereby granted include the right to enter upon the Lots for the purpose of inspecting and maintaining the sanitary sewer treatment systems in the Properties if the Association's Board of Directors elects to provide such services within the Properties.

SECTION 6. RIGHTS OF DECLARANT DURING CONSTRUCTION AND SALE PERIOD. Notwithstanding any provisions contained in this Declaration, until the Declarant has developed and sold all of its land within the Properties, it shall be expressly permissible for Declarant and any Owner approved by Declarant, including Builders, to maintain and carry on, upon such portion of the Properties as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such Owner's development, construction, and sales activities related to their properties, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to carry on sales and promotional activities in the Properties; the right to place signs in the Common Area and in road rights-of-way within the Properties; and the right to construct and operate business offices, construction trailers, model residences, information and sales offices.

SECTION 7. TELECOMMUNICATION SERVICES. The Association may provide, either directly or by contracting with other parties, various telecommunications services to the Properties. The Board of Directors of the Association shall have the sole discretion to determine whether or not such telecommunication services are provided, the amounts to be charged, and the method of paying for such services.

(a) Types of Telecommunication Services. The types of telecommunication services that may be provided by or through the Association shall include, but not limited to, the following: (i) local and long-distance telephone service; (ii) voice mail service; (iii) cable television service; (iv) private television channels for education and community purposes; (v) video monitoring of Streets, Common Area, and other public areas; (vi) central home systems for fire and burglary detection; (vii) electronic utility meter reading systems; (viii) electronic mail systems; and (ix) such other similar telecommunication services as the Board of Directors determines to be necessary or beneficial for the safety, welfare or enjoyment of the Members.

(b) Common Area Facilities. The telecommunication equipment, wiring and other facilities that are necessary to provide the telecommunication services may be owned by the Association or the Association may contract with other parties to provide such facilities on behalf of the Association. The cost and expense of constructing, installing, operating, maintaining, repairing and replacing such facilities shall be paid by the Association, and may be included as part of the annual assessment and special assessments to the Members.

(c) Residence Facilities. If the Association determines to provide telecommunication services, it may require that each Single Family Residence constructed in the Properties include wiring and a "black box" or other necessary facilities to provide access to the Single Family Residence for the telecommunication services described above. The "black box" will provide a connecting terminal for the wiring that extends to each outlet or point of access in the Single Family Residence for the telecommunication services. The Association shall have the right to designate the type of "black box" to be installed and the manner in which such "black box" shall be operated, maintained and repaired, and may, from time to time, designate appropriate replacements or improvements to the "black box". The Association may contract with other parties to provide the foregoing services relating to the "black box". The Association may require each Owner to pay all costs and expenses required to purchase, install, maintain, repair, replace or improve the "black box" for the Owner's Single Family Residence, which shall be paid by each Owner in the same manner as a Special Assessment. The "black box" shall remain as a permanent fixture to the Single Family Residence and may not be removed from the Single Family Residence without the written permission of the Association, and shall remain as part of the Single Family Residence when it is sold to another party. The Association and the parties with whom it contracts to provide services relating to the "black box" shall have an easement and right of entry over and across each Lot for the purpose of installing, maintaining, repairing, replacing and making improvements to the "black box".

(d) Optional Services. The installation of a "black box" in a Single Family Residence does not obligate the Owner to accept or pay for any of the telecommunication services that may be provided by, or available through, the Association (except to the extent the Board of Directors determines to provide a service to all Members paid with General Assessments). Each Owner shall have the right to (i) accept and pay for any such services provided by or through the Association, (ii) contract with another party to provide such services, or (iii) decline such services, in whole or in part.

SECTION 8. WATER SERVICE. The Association has agreed to and accepted the Water Supply Contract in order to provide water service to the Lots. Pursuant to its terms, the Water Supply Contract may be assigned by the Declarant, as the assignee of