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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF PARK PLACE SUBDIVISION, SECTION II**

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF MONTGOMERY

This Declaration, made on the date hereinafter set forth by the Declarant, **RED OAK INTERESTS, INC.**

WITNESSETH:

WHEREAS, Declarant, is the owner of that certain property known as **PARK PLACE SUBDIVISION, SECTION II**, a subdivision according to the plat thereof defined below; and,

WHEREAS, it is the desire of Declarant to place certain restrictions, easements, covenants, conditions, stipulations and reservations (the "Restrictions") upon and against certain of the Declarant's property in order to establish a uniform plan for the development, improvement, and sale of the Subdivision, and to ensure the preservation of such uniform plan for the benefit of both the present and future owners of lots in the Subdivision;

NOW, THEREFORE, Declarant hereby adopts, establishes and imposes upon **PARK PLACE SUBDIVISION, SECTION II**, and declares the following reservations, easements, restrictions, covenants, and conditions, applicable thereto, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of said Subdivision, which Restrictions shall run with said Subdivision and title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1.01 "Association" shall mean the **PARK PLACE SUBDIVISION, SECTION II**, Property Owners Association of Park Place Subdivision, Inc., a Texas non-profit corporation, formed or to be formed, and its successors and assigns.

Section 1.02 "Board of Trustees" shall mean the Board of Trustees of the Association.

Section 1.03 "Builders" shall mean persons or entities that purchase Lots and build speculative or custom homes thereon for third party purchasers.

Section 1.04 "Committee" shall mean the Architectural Control Committee, its successors and assigns, as defined in Article IV below.

Section 1.05 "Common Area" all shall mean all real property (including the improvements thereto) within the Subdivision owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, streets, parks, open spaces, greenbelt areas and other facilities designated as such in the Plat or any amendments thereto.

Section 1.06 "Composite Building Site" shall mean two adjoining Lots (or portion thereof) owned by a single owner who shall designate the Lots as such for the purpose of building a single residence on such Lots, to be used and occupied as a single family residence pursuant to Sec. 3.02 below.

Section 1.07 "Contractor" shall mean the person or entity with whom an owner contracts to construct a residential dwelling on such Owner's Lot.

Section 1.08 "Declarant" shall mean **RED OAK INTERESTS, INC.**, its successors and assigns.

Section 1.09 "Lot" shall mean any plot of land identified as a lot or homesite on the Plat of the Subdivision. For purposes of this instrument, "Lot" shall not include any portion of any Reserve or Common Area which is identified as such on the Plat.

Section 1.10 "Member" shall mean each person or entity who holds a membership in the Association.

Section 1.11 "Owner" shall mean the record owner, whether one or more persons or entities, of 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 those having such interest merely as security for the performance of an obligation, or payment of a debt, (ii) Declarant (except as otherwise provided herein), and (iii) Builders.

Section 1.12 "Moonlighting" shall mean lighting mounted in trees along streets and cul-de-sacs as streetlights.

Section 1.13 "Plat" shall mean that plat bearing the date of _____, 1999, having been approved by the Commissioner's Court or Montgomery County, Texas, pertaining to 5.9318 acres in the John Bricker Survey, A-71, Montgomery County, Texas, and recorded in the Plat Records of Montgomery County, Texas, Cabinet _____, Sheet _____. The word "Plat" shall also mean any and all amendments or modifications of the original Plat that have been approved by the Commissioner's Court of Montgomery County, Texas.

Section 1.14 "Subdivision" shall mean **PARK PLACE SUBDIVISION, SECTION II**, as defined by the recorded Plat or any replat thereof.

ARTICLE II RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 2.01 Dedications. The Plat of the Subdivision dedicates for use as such, subject to the limitations as set forth therein, the Lots, streets, easements, reserves, and Common Area shown thereon. The Plat further establishes certain additional restrictions applicable to the Property. All dedications, restrictions and reservations created herein or shown on the Plat, replats, or amendments of the Plat of the Subdivision recorded or hereafter recorded, shall be incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, conveying the Subdivision or any part thereof whether specifically referred to therein or not.

Section 2.02 Easements. Declarant reserves for the use of the Declarant, the Owners, Builders, Contractors, and utility companies furnishing utility services for the Owners, the utility easements that are shown on the Plat or that have been or hereafter may be created by separate instruments (which shall be recorded in the Real Property Records of Montgomery 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 Declarant sees fit to install in, across, or under the Subdivision. All utility easements in the Subdivision may be used for the construction of drainage swales in order to provide for improved surface drainage of the Reserves, Common Area or Lots. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, cable television, or other utilities may be installed in the

Subdivision except as approved in writing by the Declarant. If any utility company furnishing a service covered by the general easement herein provided requests a specific easement by separate recordable document, Declarant, without the joinder of any other Owner, shall have the right to grant such easement in the Subdivision. Any utility company serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of its facilities. Neither Declarant nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, agent, employees, or servants, to fences, shrubbery, trees and lawns or any other property of the Owner on the property covered by said easements.

Section 2.03 Title Subject to Easements. Each conveyance by the Declarant of title to a Lot whether by contract, deed or other conveyance, shall be made subject to all easements affecting such title for roadways, drainage, water, gas, and sewer lines, storm sewers, electric lighting, electric power, telegraph or telephone services or other utility purposes, as set forth herein or on the Plat. No Owner of any Lot shall be deemed to own the pipes, wires, conduits or other service lines running through the owner's Lot in the utility easements, if those lines are utilized for or service to 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 the Owner's Lot

Section 2.04 Utility Easements.

(a) All surface, underground and aerial easements have been dedicated in the Plat or by separate recorded easement documents.

(b) No building shall be located over, under, upon or across any portion of any utility easements; however, the Owner of each Lot shall have the right to construct, keep and maintain concrete drives and similar improvements across the utility easement along the front of the Lot or along the side of corner Lots adjacent to street rights-of-way and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots.

(c) The Owner of each Lot also shall have the right to construct, keep and maintain driveways, walkways, steps and air conditioning units and equipment over, across or upon any utility easement along the side of such Lots (the "Side Lot Utility Easement"), (other than along any Utility Easement which is adjacent to a street right-of way) and shall be entitled, at all times, to cross, have access to, and use the improvements located thereon; however, any such improvements placed upon such Side Lot Utility Easement by an owner shall be constructed, maintained and used at Owner's risk and, as such, the owner of each Lot subject to said Side Lot Utility Easement shall be responsible for (i) any and all repairs to the walkways, steps and air conditioning units and equipment which cross or are located upon such Side Lot Utility Easements, and (ii) repairing any damage to said improvements caused by any public utility in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Side Lot Utility Easements.

(d) The Owner of each Lot shall indemnify and hold harmless Declarant and public utility companies having facilities located over, across or under utility easements from any loss, expense, suit or demand resulting from injuries to persons or damage to property in any way occurring, incident to, arising out of, or in connection with said Owner's installation, maintenance, repair or removal of any permitted improvements located within utility easements, including where such injury or damage is caused or alleged to be caused by the sole negligence of such public utility or its employees, officers, contractors, or agents.

(e) Entergy shall, its successors and assigns, in accordance with its established policies, at any time or times, construct the underground service cable and appurtenances from the point of its metering at the residence to the point of attachment at its transformers or energized secondary junction boxes under and across an easement provided for such construction. The Owner of each Lot shall pay to Entergy the cost of constructing such underground service cable and appurtenance.

(g) In addition to the utility easements shown on the recorded Plat, there is hereby dedicated a five foot (5') wide electrical service easement, extending from the surface of the ground downward and upward and said easement being two and one half (2 ½') feet on each side of underground or overhead electric service lines as now or hereafter constructed will extend along the route selected by Entergy from its distribution facilities to the electric meters located upon Lots and Reserves in the Subdivision. Entergy shall have the right to excavate said lot easement strip, and to remove objects, structures, growth or protrusions thereon.

Section 2.05 Road and Street Easements. The roads and streets in this Subdivision are public. The roads and streets in this Subdivision, as shown on the Plat, are further hereby dedicated as utility easements strictly for the purpose of constructing, operating, maintaining or repairing one or more systems of electrical lighting, electrical power, telegraph and telephone lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utilities that the Declarant sees fit to install (or permit to be installed) in, across, or under the Property.

ARTICLE III USE RESTRICTIONS

Section 3.01 Single Family Residential Construction. No building shall be erected, altered, or permitted to remain on any Lot other than one detached single family dwelling used for residential purposes only and not to exceed two (2) stories in height and a private garage (or other covered parking facility) and one bona fide servant's quarters. No servant's quarters or garage will exceed the main dwelling in height or number of stories. Except as hereinafter provided with respect to model homes, each residence shall have a fully enclosed garage for not less than two (2) cars, which garage is available for parking automobiles at all times without any modification being made to the interior of said garage. The garage portion of any model home may be used by Builders for sales purposes, storage purposes and other related purposes. When it is sold to an Owner, the garage area for each model home shall be converted to a fully enclosed garage with garage doors. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on said Lots, or any Lots being used for duplex houses, condominiums, townhouses, garage apartments, or apartment houses. No Lot shall be used for business, manufacturing, promotional, educational, religious, or professional purposes of any kind whatsoever. Except as otherwise provided in section 3.17, no portable or permanent buildings of any type or character shall be moved or placed upon any Lot. Buildings of every type and character, whether attached or detached from the main residential structure or garage constructed on the Lots, must be approved by the Architectural Control Committee prior to the commencement of the construction of such buildings, pursuant to Article IV below. The leasing of any residential dwelling is subject to the provisions of section 5.04.

Section 3.02 Composite Building Site. The Owner of a Composite Building Site may, with the prior written approval of the Committee, consolidate such Lots or portions into a Composite Building Site, with the privilege of placing or constructing improvements on such resulting site, in which case the side setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the Plat. Any such Composite Building Site must have a frontage at the building setback line of not less than the minimum frontage of all Lots in the same block. In addition, before any Lots can become a composite Building Site, the interior Side Lot Utility Easement lying between the Lots must be abandoned or released in accordance with applicable law. Upon such abandonment or release and upon the receipt of written approval of the Committee, such resulting Composite Building Site shall thereupon be regarded as one (1) "Lot", except for the purposes of the Maintenance Charge and the Owner's voting rights under Article V below.

Section 3.03 Minimum Square Footage Within Improvements. The living area of the main residential structure located on any Lot, exclusive of porches and parking facilities, shall be not less than 1,400 square feet for a one story dwelling and 1,700 square feet for a two story dwelling.

Section 3.04 Location of the Improvements Upon the Lot. No residential structure shall be located on any Lot nearer to the front, rear, side or side-street Lot building lines shown on the Plat or nearer to the property

lines than the minimum building setback lines shown in the table below, as modified by the notes described below the table. For purposes of this Declaration, air compressors, caves, steps, and unroofed terraces shall not be considered as part of a residential structure or other improvements. This covenant shall not be construed to permit any portion of a building foundation on a Lot to encroach upon an easement. The main residential structure on any Lot shall face the front of the Lot, except as described below or unless a deviation is approved in advance and in writing by the Committee. The front of a Lot is the side bordering a street with the deepest setback line.

TABLE OF BUILDING SETBACK REQUIREMENTS

Front Building Setback	Rear Building Setback	Side Building Setback	Corner Lot Side Building Setback
25 ft.	10 ft.	5 ft.	10 ft.

- (1) On corner Lots, the front of the Lot shall be defined as the principal side of the Lot.

Section 3.05 Residential Foundation Requirements. All building foundations shall consist of concrete slabs unless the Committee approves a different type of foundation when circumstances such as the topography of the Lot make impractical to use a concrete slab for all or any portion of the foundation of the building improvements constructed on the Lot. Minimum finished slab elevation for all structures shall be above the 100 year flood plane elevation or at such other level as may be established by the Committee or by applicable governmental authorities.

Section 3.06 Excavation and Tree Removal. The digging of dirt or the removal of any dirt from any Lot expressly prohibited except as may be necessary in conjunction with the landscaping of or construction of improvements on such Lot. Without prior written approval of the Committee, no trees larger than two inches (2") in diameter shall be cut or removed except to provide room for construction of improvements or to remove dead or unsightly trees.

Section 3.07 Removal of Trees, Trash, and Care of Lots During Construction of Residence.

(a) Each Owner must promptly and continuously remove and haul from the Lot all tree stumps, trees, limb branches, underbrush, and all other trash or rubbish cleared from or accumulated on the Owner's Lot during construction of a residence, or construction of other improvements and landscaping. No burning is allowed on any Lot and no materials or trash hauled from any Lot may be placed elsewhere in the Subdivision or on land owned by Declarant whether adjoining the Subdivision or not.

(b) Each Owner (and that owner's Builder or Contractor, as the case may be) shall, during construction of a residence, continuously keep the Owner's Lot in a reasonably clean and organized condition. Papers, rubbish, trash, scrap and unusable building materials must be kept picked up and hauled from the Owner's Lot. Other usable building materials are to be kept stacked and organized in a reasonable manner upon the Owner's Lot.

(c) No trash, materials, or excess dirt is allowed in the street or street right-of-way. All Owners, Builders, and Contractors shall keep streets, street rights-of-way, and drainage courses free from trash, materials, and excess dirt. Any such trash, materials, excess dirt or fill inadvertently spilling or getting into the street or street right-of-way shall be removed, without delay, not less frequently than daily.

(d) No Owner, Builder or Contractor may enter onto a Lot adjacent to the Owner's Lot upon which a home is being built for purposes of ingress and egress to such Lot during or after construction, unless such adjacent Lot is also owned by such Owner, and all such adjacent Lots shall be kept free of any trees, underbrush, trash, rubbish or any other building or waste material during or after construction or building improvements by the owner of an adjacent Lot.

Section 3.08 Drainage.

(a) No Owner may alter any part of the established patterns of drainage of water onto, over or across the Owner's Lot without first obtaining the specific, written consent of the Committee. This includes any action which may alter, divert, block or interfere with patterns of drainage that exist on the Owner's Lot as of the time the Declarant completes the overall grading of the Subdivision.

(b) Each Owner (including Builders and Contractors) must finish the grade of the Owner's Lot so as to establish good drainage from the rear of the Owner's Lot to the front street or from the building site to the front and rear of the Lot, using to the greatest extent possible, existing drainage ditches, swales, and lakes constructed by Declarant for drainage purposes. 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 advance written 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 first be submitted to and approved by the Committee prior to the construction thereof.

(c) In no case shall the street curb be broken or cut to facilitate drainage or drain pipes without first obtaining the Committee's approval for the design and construction of an approved curb cut.

Section 3.09 Masonry Requirements. Without the prior approval of the Committee, no residence shall have less than fifty percent (50%) masonry construction or its equivalent on its exterior wall area, except that detached garages may have siding of a type and design specifically approved by the Committee.

Section 3.10 Driveways, Walkways. Driveways shall be constructed entirely of concrete and that portion of the concrete driveway that lies on the lot shall be constructed a minimum width of nine feet (9') and the specifications therefore shall be subject to the prior approval of the Committee. That portion of the concrete driveway that lies between the front property line and the street shall be a minimum width of ten feet (10').

(a) Concrete rollup curbs shall not be saw cut or broken when constructing the concrete driveway. Concrete standard curbs ("standup curbs") must be saw cut and may not be broken when constructing the concrete driveway. An expansion joint shall be installed at each saw cut.

(b) Concrete curbs that are chipped, cracked or broken on the street front or street side of all lots must be repaired or replaced by the Builder or Owner of the residence on each Lot prior to the occupancy of the residence on said Lot. Chipped curbs may have patched repairs using an epoxy grout mixture. Where several curb chips appear in the same area, the entire section of the curb (i.e. driveway to driveway) must be overlaid with the epoxy grout mixture. Cracked or broken curbs shall be saw cut on both sides of the crack or break, the cracked or broken area removed, reformed and poured using five (5) sack concrete mix and reinforcing steel rebars and placing an expansion joint on each side of the curb cut.

(c) Each Owner shall at all times keep the driveway entrance (i.e. concrete driveway, driveway entrance lip, driveway curbs, and driveway curb ties) and the curbs along the street front or street side at the Owner's Lot in a good state of repair and attractive appearance. In the event of any default by the Owner or other occupant of a Lot in observing the above requirements, which default is continuing after thirty (30) days written notice thereof to the Owner or occupant, as applicable, the Declarant or the Association or their designated agents may, without liability to the Owner, Contractor or any occupants of the Lot in trespass or otherwise, enter upon (or authorize one or more of their agents or employees to enter upon) said Lot, make such repairs as deemed necessary by the Declarant or Association to secure compliance with this Paragraph, and may charge the Owner, Builder, or occupant of such Lot for the cost of such work and associated materials. Payment of such charges shall be paid by adding the charges to the Maintenance Charge (secured by a Vendor's Lien, as described in Article VI below) which shall be due and payable with the next regular monthly Maintenance Charge payment.

(d) No walkways or sidewalks shall be constructed across the front of any Lots, and no sidewalks shall be constructed along the street side of any corner Lots, except those constructed by the Declarant along Gladstell Street.

Section 3.11 Carports. No carports shall be erected or permitted on any Lot unless the carport is shown to be an integral part of the residence and the carport is constructed with the same design, color and materials as the residence.

Section 3.12 Walls, Fences, and Hedges.

(a) No wall, fence, planter or hedge in excess of two feet (2') high shall be erected, planted or maintained (i) nearer to the front property line than the front building set-back line, and (ii) on corner lots nearer to the side lot line than the building setback line parallel to said side street.

(b) Except as otherwise provided in this Section 3. 12, no wall, fence, planter, or hedge shall be more than six feet (6') high.

(c) A wood or other decorative fence (but no chain link) as approved by the Committee, may be constructed between the rear property line and ten feet (10') back from the front of the residence. All wood fences shall be constructed with first quality wood, pressure treated wood post and stringers, and shall be set in concrete.

(d) A wood or other decorative fence (but no chain link) can be no more than eight (8') feet high along the back line of all lots bordering the most westerly line of Section II

(e) A screening fence will be placed on the westerly line adjacent to the Gladstell Forest apartments. It will be the responsibility of the Property Owners association to maintain the screening fence in accordance with the City of Conroe standards.

Section 3.13 Visual Obstruction at the Intersection of Streets. No planting or object which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty five (25') feet from the intersection of the street property lines or extension thereof, shall be placed, planted or permitted to remain on any corner lots.

Section 3.14 Air Conditioning Requirements. No window or wall type air conditioning unit shall be used, erected, placed or maintained in or on any building in any part of the Subdivision. No air conditioner compressor may be located in front of a house or on the side of a house that faces a street.

Section 3.15 Disposal Unit Requirements. Each kitchen in each residential dwelling or servant's quarters situated on any Lot shall be equipped with a garbage disposal unit, which garbage disposal unit shall at all times be kept in a serviceable condition.

Section 3.16 Prohibition of Offensive Activities. Without expanding the permitted uses 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 may become an annoyance or a nuisance to the Subdivision. This restriction shall not apply to the customary business and sales activities of the Declarant or of any Builder in the Subdivision to sell lots, to build and to sell homes in the Subdivision and to use outdoor lighting to display the model homes. 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. The Board of Trustees shall be entitled to determine and to seek enforcement of these covenants with respect to what constitutes a nuisance or annoyance.

Activities expressly prohibited include, without limitation, (1) the performance of work on automobiles or other vehicles upon the Lot or in driveways or streets abutting Lots, (2) the use or discharge of firearms, firecrackers or other fireworks within the Subdivision, (3) the storage of flammable liquids in excess of five gallons, or (4) 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.

The use or discharge of any explosive device or weapon of any form, including any gun, pistol, shotgun or any kind of firearm, or any bow and arrow or similar device is strictly prohibited, whether by an Owner, or by the guest, invitee, licensee or tenant of any Owner.

Section 3.17 Prohibited Structures. No basement or structure of a temporary character, whether trailer, tent, shack, garage, barn or other out building shall be constructed, maintained, or used on any Lot at any time for any purpose; provided, however, the Declarant 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. The facilities reserved by the Declarant may include, but are not necessarily limited to, sales and construction offices, storage areas, model units, signs, and portable toilet facilities. Builders and Constructors may, with the prior written approval of the Committee, exercise the rights reserved by Declarant in this Section 3.17.

Section 3.18 Storage of Vehicle or Equipment.

(a) No motor vehicles or non-motorized vehicles (including without limitation, trucks and recreation vehicles), trailers, campers, motorcycles, off-road motor bikes, bicycles, golf carts, go-carts, machinery or equipment of any kind may be parked or stored for longer than ten (10) hours or on a permanent or regular or daily basis on any part of a Lot, driveway, private road or street, easement, right-of-way, or Common Area unless such vehicle or object is completely concealed from public view inside a garage or approved enclosure. Notwithstanding the ten (10) hour parking restriction, there shall be no overnight parking on any road or street. Passenger automobiles, passenger vans, and pickup-trucks that are in operating condition and not in a state of disrepair, that have current license plates and inspection stickers, and that are in daily use as motor vehicles on the streets and highways of the State of Texas, are exempt from the ten (10) hour parking restriction and the overnight parking shall not be continuous and shall not exceed forty-eight (48) hours in duration. No vehicle may be repaired on a street or repaired on a Lot unless such vehicle is concealed inside a garage or other approved enclosure during the repair thereof.

(b) Boats and boat trailers may be parked in the Owner's driveway for a period not longer than forty-eight (48) hours in duration (but in no event on a continuous or daily basis); however, boats and boat trailers may not be parked on the street. Boats and boat trailers must be completely concealed from public view inside a garage or an enclosure approved by the Committee if they are parked or stored on a Lot for more than forty-eight (48) hours.

(c) This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and in use for the construction, repair or maintenance of (i) residential dwellings or related improvements in the immediate vicinity thereof or (ii) utility improvements in the Subdivision.

Section 3.19 Mineral Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot, nor shall any wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any Lot. No derrick or other structures designed for exploration or production of oil, gas, or other minerals shall be erected, maintained or permitted upon any Lot. At no time shall the drilling, usage or operation of any water well be permitted on any Lot, except that the Committee may, in its discretion, allow water wells to be drilled for homes requiring water wells for solar heating and cooling purposes. The prohibition of water wells shall not in any manner be deemed to apply to the Reserves

designated on the Plat or to any land within the Subdivision owned by the Declarant or Association, whether adjacent hereto or not.

Section 3.20 Animal Husbandry. No animals, livestock, bees or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets may be kept provided that they are not kept, bred, or maintained for commercial purposes and do not become a nuisance or threat to other Owners. No Owner shall be entitled to keep more than two (2) of each type animal as household pets at any Lot. No Owner shall permit any dog, cat or other domestic pet under the owner's ownership or control to leave such Owner's Lot unless leashed and accompanied by a member of such owner's household.

Section 3.21 Lot Maintenance.

(a) Each Lot shall be kept at all times in a neat, attractive, healthful and sanitary condition, and the Owner or occupant of each Lot shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of materials or equipment, except for normal residential requirements or during construction of improvements thereon pursuant to approval by the Committee, 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 thereon. All yard equipment or storage piles shall be kept screened by a service yard or other similar facility as herein otherwise provided, so as to conceal them from view of neighboring Lots, streets or other property.

(b) In the event of any default by the owner or other occupant of any Lot in observing the above requirements or the requirements of Section 3.08, which default is continuing after ten (10) days written notice thereof to the owner or occupant, as applicable, the Declarant or the Association or their designated agents may, without liability to the Owner, Contractor, or any occupants of the Lot in trespass or otherwise, enter upon (or authorize one or more of their agents or employees to enter upon) said Lot, 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. Payment thereof shall be collected by adding the charges to the Maintenance Charge (secured by a Vendor's Lien, as described in Article VI) and shall be payable with the regular monthly Maintenance Charge payment.

Section 3.22 Signs, Advertisements, Billboards. No sign, advertisement, billboard, or advertising structure of any kind may be erected or maintained on any Lot in the Subdivision without the prior written approval of the Committee and any such approval which is granted may be withdrawn at any time, in which event, the parties granted such permission shall immediately remove such structures. Additionally, no street or directional signs may be installed within the Subdivision without the prior written approval of the Declarant and the Committee.

The Declarant or the Association (or any agent designated in writing by Declarant or the Association) shall have the right to remove and dispose of any such prohibited sign, advertisement, billboard or advertising structure which is placed on any Lot, and in doing so shall not be subject to any liability for trespass or any other tort in connection therewith or arising from such removal nor in any way be liable for any accounting or other claim by reason of the disposition thereof.

Section 3.23 Maximum Height of Antenna. No radio or television aerial wires, antenna, or satellite receiving dish shall be maintained on any portion of any Lot, with the exception of those satellite receiving dishes less than twenty four (24") inches in diameter that must be installed so as to be hidden from view from any street.

Section 3.24 Wind Generators. No wind generators shall be erected or maintained on any Lot if said wind generator is visible from any other Lot or public street.

Section 3.25 Solar Collectors. No solar collector shall be installed without the prior written approval of the Committee. Such installation shall be in harmony with the design of the residence. Solar collectors shall be installed in a location not visible from the public street in front of the residence.

Section 3.26 Swimming Pools. No swimming pool may be constructed on any Lot without the prior written approval of the Committee. Each application for Committee approval shall be accompanied by two 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. Swimming pool drains shall be piped into the storm sewer or gutter in front of the Lot. In no case shall any street curb be broken or cut to facilitate a pool drain without the prior written approval of the Committee.

Section 3.27 Drying of Clothes in Public View. The drying of clothes in public view is prohibited.

Section 3.28 Garage Doors- Garage Doors visible from any street shall be kept closed when the garage is not being used by the Owner or occupant.

Section 3.29 Control of Sewage Effluent. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw untreated or unsanitary sewage being carried in the streets or into any body of water. No septic tank or other means of sewage disposal will be permitted.

Section 3.30 Residences and Improvements Damaged by Fire or Other Casualty. Any buildings or other improvements within the Subdivision that are destroyed partially or totally by fire, storm, or any other casualty, shall be repaired or demolished within a reasonable period of time, and the Lot and improvements thereon, as applicable, restored to an orderly and attractive condition.

Section 3.31 Common Area. Common Areas shall be used only for streets, roads, paths, recreation, utility easement, drainage purposes, and Lot purposes reasonably connected therewith or related thereto, as determined and approved in advance by the Declarant or the Committee, as the case may be. No Common Area shall be used for residential, professional, commercial, educational or church purposes.

Section 3.32 Permitted Vehicles.

(a) The only motorized vehicles allowed on the roads and street easements in the Subdivision shall be motor vehicles currently licensed and inspected for use on public highways.

(b) The use of non-licensed motor vehicles including, but not limited to, automobiles, trucks, motorcycles, dirt bikes, off-road vehicles and go-carts is expressly prohibited in the Subdivision and on adjacent lands owned by Declarant.

(c) Vehicles, regardless of type, may only be operated by individuals holding a current driver's license valid in the State of Texas.

Section. 3.33 Landscaping.

(a) Before any landscaping shall be done in the yard of any newly constructed dwelling, the landscape layout and plans must be approved in writing by the Committee. Such landscape layout and plans shall include all landscaping to be planted in the front, side and rear yards of the Lot at the time the dwelling is being completed and before occupancy.

(b) Whenever the improvements being constructed on any Lot become ninety-five percent (95%) complete, the Owner of such Lot shall commence planting of grass, shrubbery and other landscaping work in the front, rear and side yards of such Lot. Such grass, shrubbery, and landscaping shall be maintained in a neat and attractive condition at all times.

(c) In considering each application for its approval, the Committee shall determine in its discretion whether the application provides for sufficient landscaping for the work or improvement to be constructed, and if the Committee concludes that more landscaping is needed, the Committee shall make its approval subject to such additional landscaping. The term "landscaping" includes, but is not limited to, drainage, grass, shrubs, and trees.

Section 3.34 Roofing. No external roofing material less than two hundred forty (240) pound composition shingles, or as approved by the Committee, shall be used on any residence or other improvement on any Lot without the prior written approval of the Committee. Three (3) tab shingles shall not be used in the Subdivision.

Section 3.35 Mailboxes. Mailboxes shall be constructed in a brick surrounding in the front of any residence, or as approved as by Declarant or Architectural Control Committee. Only mailboxes installed or approved by the United States Postal Service and approved by the Committee shall be installed.

Section 3.36 Landing, Storage and Parking of Aircraft. No helicopters, hovercraft, or other aircraft shall land or be stored or parked within the Subdivision.

Section 3.37 Moonlighting. Moonlighting shall be maintained by the Association out of the maintenance fund.

ARTICLE IV ARCHITECTURAL CONTROL COMMITTEE

Section 4.01 Basic Control.

(a) The express, written approval of the Architectural Control Committee (the "Committee") is required before any Owner, Builder, or Contractor may begin any of the following:

- (i) to construct any improvement of any nature, whether permanent or temporary;
- (ii) to alter, modify, remodel, relocate, or remove, in whole or in part and to any degree, the exterior design or appearance of any existing improvement, regardless of whether or not such improvement is visible from any street.

(b) The Committee shall not be obligated to consider any application unless and until the owner requesting such approval has first furnished the Committee specific and detailed drawings, plans and specifications giving the Committee sufficient information about the proposed improvement to enable it to make an informed decision. The Committee shall give or withhold approval of any proposed improvement based on these Restrictions, the Plat, the harmony of exterior design, color and appearance of the proposed improvement, taking into consideration the quality and color of the materials, the drainage, location, topography and finished grade elevation.

(c) Each application made to the Committee shall be accompanied by three sets of 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 initial address of the Committee shall be the address of the principal office of the Declarant, which is 1106 Brad Park, Conroe, Texas 77304.

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 Declarant; whose authority shall cease and terminate upon the election of the **PARK PLACE SECTION II ARCHITECTURAL CONTROL COMMITTEE** (the "Committee"), as provided below, except as to those applications, plans, specifications and plot plans which may have been previously submitted to the Declarant. As long as the Declarant owns Lots for sale in the Subdivision, the Declarant shall determine and select the membership of the Park Place Architectural Control Committee, which shall initially be composed of Christi Hargrove Lafferty, Jeffrey G. Hargrove, and Thomas L. Hargrove.

(b) Whenever the Declarant has sold all of the Lots in the Subdivision (the "Control Transfer Date") or upon any earlier date the Declarant may determine in its sole discretion to be appropriate, the Declarant shall cause an election to be conducted for a new Committee under the "Initial Elections" provisions in Article V, below.

(c) Upon the death, resignation, refusal or inability of any member of the initial Committee to serve, the Declarant shall fill the vacancy by appointment, and the person appointed shall complete the unexpired term of his predecessor.

(d) If the Board of Trustees should fail or refuse to take any action herein provided to be taken by the Board of Trustees with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Declarant), then the Declarant may validly perform such function.

(e) The members of the Committee shall be entitled to such reimbursement for reasonable expenses incurred as may, from time to time, be authorized or approved by the Association, and shall be entitled to retain architects, engineers and contractors on a fee basis to assist the Committee in reviewing plans and specifications and inspecting Lots and improvements. All such sums payable as compensation or reimbursement shall be payable only out of the Maintenance Fund, as hereinafter defined.

Section 4.03 Effect of Inaction. The Committee shall state in writing any approval or disapproval as to architectural control matters as set forth in the preceding provisions of this Declaration. In the event that the authority exercising the prerogative of approval or disapproval (whether the Declarant or the Committee) fails to approve or disapprove in writing any plans and specifications and plot plans received by it in compliance with the preceding provisions within thirty (30) days following submission, the owner shall give written notice of such failure to the Committee by Certified Mail. If the Committee fails for any reason to approve or disapprove such requested matter within thirty (30) days after receiving the owner's written statement of failure to act, then the plans and specifications and plot plan shall be deemed approved and the construction of any such building and other improvements may be commenced and proceeded within compliance with all such plans and specifications and plot plans and all of the other terms and provisions hereof. Notwithstanding the foregoing, no deemed approval shall authorize any construction which would violate any other provisions of these restrictive Covenants.

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 buildings or other improvements are erected in accordance with said plans and specifications and plot plan. No approval by the Committee of any proposed building or improvement shall operate to waive the enforceability of these Restrictions or estoppel or prevent the enforcement of these Restrictions by any party entitled to seek such enforcement if (i) any building or improvement is not constructed in accordance with the plans, specifications and plot plan approved by the Committee, or (ii) any building or improvement is constructed in accordance with the approved plans, specifications and plot plan, but

nevertheless, fails to comply with some other provision of these Restrictions. Further, no person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Exercise of any such prerogative by one or more members of the Committee in their capacity as such shall not constitute action by the Declarant after the election of such Committee members, notwithstanding that any such Committee member may be an officer, owner or director of Declarant.

Section 4.05 Minimum Construction Standards: Inspections. 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 such Committee shall not be bound thereby. In order to control the quality of construction and to ensure that all residential construction (including the construction of any residence and all other improvements on any Lot) is constructed in accordance with (a) the Plat, (b) this Declaration, (c) Montgomery County and other governmental regulations, (d) minimum acceptable construction standards as promulgated from time to time by the Committee, and (e) Committee regulations and requirements, the Committee may conduct certain building inspections and the owner, in the construction of all improvements, shall hereby be subject to such building inspections and building inspection policies and procedures as established from time to time by the Committee. A fee in an amount to be determined by the Committee shall be paid to the Committee prior to architectural approval, or at such other time as designated by the Committee, to defray the expense of such building inspections and re-inspections.

Section 4.06 Variances. The Committee 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 Committee, when circumstances such as topography, natural obstructions, Lot configuration, Lot size, hardship, aesthetic or environmental considerations may require a variance. Such variance must be made in writing and shall become effective when signed by the Declarant 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. The granting of any variance shall not operate to change or to waive any of the provisions of this Declaration for any purpose for any Lot other than the particular Lot and the particular provisions hereof covered by the variance. The granting of any variance shall not affect in any way the Owners' obligation to comply with all governmental laws and regulations affecting the property concerned and the Plat.

Section 4.07 Notices of Completion and Noncompliance. Each owner shall send a written notice of the completion ("Notice of Completion") of such Owner's construction or residential improvements to the Committee and to the Association within fifteen (15) days after completion of such Owner's construction. If, as a result of inspections or otherwise, the Committee finds that any residential construction has been done without obtaining the approval of the Committee or was not done in conformity with the approved plans and specifications and plot plan, the Committee shall notify the owner in writing of the noncompliance, which Notice ("Notice of Non-Compliance") shall be given, in any event, within sixty (60) days after the Committee receives a Notice of Completion. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. If for any reason other than Owner's negligent acts or omissions or willful misconduct, the Committee fails to notify the owner of any noncompliance within sixty (60) days after receipt by the Committee and the Association of the Notice of Completion, the improvements constructed by such Owner on the Lot shall be deemed in compliance, if such improvements were, in fact, completed as of the date of the Notice of Completion. If, however, the Committee issues a Notice of Noncompliance, the Owner shall commence to correct the noncompliance without delay. If the owner does not correct the noncompliance within forty-five (45) days after receipt of the Notice of Noncompliance, or commence, within ten (10) days after receipt of the Notice of Noncompliance, the correction of such noncompliance in the case of a noncompliance which cannot reasonably be expected to be corrected within forty-five (45) days (provided that such owner diligently continues the removal of such noncompliance) the Association may, as its option, record a Notice of Noncompliance against the Lot on which the noncompliance exists, or may otherwise correct such noncompliance, and the Owner shall be liable to reimburse the Association, upon demand, for all expenses incurred therewith, which reimbursement obligation shall be a charge on such Owner's Lot and shall be a

continuing lien (secured by the same Lien which secures the Maintenance Charge). The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or under this Declaration to cure such noncompliance.

Section 4.08 No Waiver or Estoppel. The Committee's approval or disapproval of any proposed improvement or proposed alteration for any Lot shall not operate to bind or to obligate the Committee to make the same determination with respect to the same or similar improvement or alteration on any other Lot.

Section 4.09 Disclaimer. No approval of plans and 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 designated structure or satisfy any requirements of law, including compliance with the provisions of Section 3.09.

Section 4.10 Non-Liability For Committee Action. No member of the Committee nor any member of the Board of Directors of the Declarant or any member of the Board of Trustees of the Association, shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an improvement or modification to an improvement on a lot be deemed approval of the improvement or modification of the improvement from the standpoint of health or safety, whether structural or otherwise, or whether the structure complies with or conforms to building codes or other governmental laws or regulations.

ARTICLE V

PARK PLACE SUBDIVISION, SECTION II, PROPERTY OWNERS ASSOCIATION OF PARK PLACE SUBDIVISION, INC.

Section 5.01 Membership. Every person or entity who is a record Owner of any Lot which is subject to the Maintenance Charge (or could be following the withdrawal of an exemption therefrom) and other assessments provided herein, including contract sellers, shall be a Member of **PROPERTY OWNERS ASSOCIATION OF PARK PLACE SUBDIVISION, INC.** (the "Association"), which shall be a nonprofit corporation, organized under the laws of the State of Texas. No Owner shall have more than one (1) membership for each Lot owned by such Member. Membership shall be appurtenant to and may not be separated from the ownership of the Lots. 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 (1) membership for each Lot. Membership in the Association shall not be available to persons who only hold a lien or security interest in a Lot or Lots, merely as security for the payment of a debt or for the performance of an obligation or those having only an interest in the mineral estate. Additionally, the initial Trustees of the Association (and said initial Trustees' successors) shall also be Members of the Association (as more particularly described in the Bylaws). No person shall be qualified to be a Trustee unless such person is an Owner of at least one (1) Lot and all Maintenance Charges assessed upon all Lots owned by that person have been paid. After the initial election of the Board of Trustees, as provided herein, the voting rights of the Members shall be set forth in the Association's Articles of Incorporation and its Bylaws.

Section 5.02 Declarant's Transfer of Control. At all times prior to the initial elections, as provided below, the Declarant shall appoint all members of the Board of Trustees of the Association. In addition, the Declarant may in its discretion appoint from Members of the Association an advisory committee to give advice and counsel to the Declarant and the Board of Trustees as to matters pertaining to the Subdivision. Upon the Control Transfer Date, all rights, interests, duties, activities, functions, and privileges reserved herein by the Declarant shall vest in the Association, except the right to operate a business in the Subdivision and any other right which the Declarant may specifically reserve in its statement announcing the Control Transfer Date.

Section 5.03 Initial Elections. Whenever the Declarant shall cause to be held an election of the Committee under Section 4.02 or an election of the Board of Trustees under Section 5.02, Declarant shall cause

a statement of such circumstances to be placed of record in the Real Property Records of Montgomery County, Texas, and such statement shall state the Control Transfer Date. For each election each owner shall have one (1) vote for each Lot owned, so that the Owner of a Composite Building Site shall have one (1) vote for each Lot comprising the Composite Building Site. Thereafter, the Owners by vote, as hereinafter provided, shall elect either an initial Committee consisting of at least three (3) members or a Board of Trustees of the Association consisting of at least three (3) members (the "Board of Trustees"). From and after the Control Transfer Date, each member of the Committee and of the Board of Trustees must be an Owner of a Lot in the Subdivision. If the Declarant calls for the election of both the Committee and the Board of Trustees, then such elections shall be held concurrently.

The Declarant shall arrange for the holding of such election within sixty (60) days following the filing of the Declarant's statement in the Real Property Records of Montgomery County, Texas, and shall give notice of the time and place of such election (which shall be in Montgomery County, Texas) not less than thirty (30) days prior to the holding thereof. Declarant shall have the right to discontinue the exercise of the duties, responsibilities, and rights of the existing Committee or Board of Trustees, and to arrange for the election of replacement Committee or Board of Trustees by the owners at any time prior to the Control Transfer Date by filing a statement to such effect in the Real Property Records of Montgomery County, Texas.

For either the initial election of the Board of Trustees, the votes of the owners shall be evidenced by written ballot furnished by the Declarant. The Board of Trustees shall thereafter keep and maintain said ballots as a permanent record of such elections for a period of not less than three (3) years after such election. The Board of Trustees and the Committee initially elected by the Owners, as aforesaid, shall each serve two year terms. Thereafter, the Board of Trustees shall determine the lengths of the various terms of its members and of the Committee.

The results of such initial elections shall promptly be determined on the basis of a plurality vote of those owners voting in such election. The results of any such election and of any removal or replacement of any member of the Committee or of the Board of Trustees may be evidenced by the recording of an appropriate instrument properly signed and acknowledged on behalf of the Declarant or by a majority of the Board of Trustees.

After the first such election has been held, the Board of Trustees thereafter shall arrange for all subsequent elections (in the manner and after notice as set forth in the Bylaws of the Association), on at least an annual basis, or whenever specially requested in writing to do so by at least thirty-five (35) or more Members. No member of the Board of Trustees may be removed except upon a majority vote (voting in favor of removing said Board of Trustees member) of those voting in an election called by the Board of Trustees for said purpose.

Upon the death, resignation, refusal or inability of any member of the Committee or of the Board of Trustees to serve, the remaining members of the Board of Trustees, by majority vote, shall fill the vacancy by appointment, and the person appointed shall complete the unexpired term of his predecessor.

If the Board of Trustees should fail or refuse to take any action herein provided to be taken by the Board of Trustees with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Declarant), then the Declarant may validly perform such function.

Section 5.04 Bylaws. The Association 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 Areas, provided that the same are not in conflict with the terms and provisions hereof.

Section 5.05 Rental Leasing. Owners must notify the Association if their Lots are leased. Owners must also provide the Association with the name of the tenant, copy of the lease and the current mailing address of the owner of the Lot. In no event, however, shall any leasing be allowed except pursuant to a written agreement or form approved by the Board of Trustees that affirmatively obligates all tenants and other residents of the Lot to abide by this Declaration, the Bylaws, and the Rules and Regulations of the Association.

ARTICLE VI MAINTENANCE FUND

Section 6.01 Maintenance Fund Obligation. By acceptance of a deed, each owner is deemed to covenant and to agree to pay to the Association a monthly Maintenance Charge (the "Maintenance Charge"), and any other assessments or charges hereby levied. The Maintenance Charge, and any other assessments or charges hereby levied, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lots and shall be a continuing lien upon the property against which each such Maintenance Charge and other charges and assessments are made.

Section 6.02 Basis of the Maintenance Charge.

(a) The Maintenance Charge referred to shall be used to create a fund to be known as the "Maintenance Fund", which shall be used as herein provided. Each such Maintenance Charge (except as otherwise hereinafter provided) shall be paid by the Owner of each Lot to the Association annually, in advance, on or before the first day of each calendar year, beginning on January 1, after the date of purchase of the Lot, or on such other basis (monthly, quarterly or semi-annually) as the Board of Trustees may designate in its sole discretion. The Owner of a Composite Building Site shall pay a separate Maintenance Charge for each Lot which comprises the Composite Building Site.

(b) Any Maintenance Charge not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the hereinafter described lien against the Owner's Lot. No Owner may waive or otherwise avoid liability for the Maintenance Charge by non-use of any Common Area, or any recreational facilities that may be available for use by owners of the Subdivision, or by the abandonment of the Owner's Lot.

(c) The exact amount of the Maintenance Charge applicable to each Lot for any year shall be determined initially by the Declarant until the Control Transfer Date, and thereafter by the Board of Trustees. Each determination shall be made during the month preceding the due date of the Maintenance Charge. All other matters relating to the Maintenance Charge and the collection, expenditure and administration of the Maintenance Fund shall be determined by the Board of Trustees, subject to the provisions hereof.

(d) The Maintenance Charge described in this Article VI, and other charges or assessments described in this Declaration shall not, without the consent of the Declarant, apply to the Lots owned by the Declarant. The Declarant, prior to the Control Transfer Date, reserves the right at all times, in its own judgment and discretion, to exempt any Lot ("Exempt Lot"), in the Subdivision from the Maintenance Charge, including, without limitation, Lots owned by Builders, and the exercise of such judgment and discretion when made in good faith shall be binding and conclusive on all persons and interests. If an Exempt Lot is sold to any party, the Maintenance Charge shall automatically be reinstated as to the Exempt Lot and can only be waived at a later date pursuant to the provisions of the preceding sentence. The Declarant, prior to the Control Transfer Date, and the Association, from and after the Control Transfer Date, shall have the further right at any time and from time to time, to adjust or alter said Maintenance Charge from month to month as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association in order for the Association to carry out its duties hereunder.

Section 6.03 Creation of Lien and Personal Obligation. In order to secure the payment of the Maintenance Charge and other charges and assessments hereby levied, a vendor's (purchase money) lien for the benefit of the Association shall be and is hereby reserved in the deed from the Declarant to the purchaser of each Lot or portion thereof, which lien shall be enforceable through appropriate judicial and non-judicial proceedings by the Association. As additional security for the payment of the Maintenance Charge and other charges and assessments hereby levied, each owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants the Association a contractual lien on such Lot, which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of section 51.002 of the Texas Property Code (and any successor statute); and each such Owner hereby expressly grants the Association a power of sale in connection therewith.

The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Real Property Records of Montgomery County, Texas. In the event that the Association has determined to foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the date on which said sale is scheduled, by posting such notice through the U.S. Postal Service, postage prepaid, certified, return receipt requested, properly addressed to such Owner at the last known address of such owner according to the records of the Association. If required by law, the Association or Trustee shall also cause a copy of the Notice of Trustee's Sale to be recorded in the Real Property Records of Montgomery County, Texas.

Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such owner. Following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of nonpayment by any owner of any Maintenance Charge or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon ten (10) days prior written notice thereof to such nonpaying owner, exercise all other rights and remedies available at law or in equity.

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

As provided above, the Association shall have the right to assign the lien described in Article VI to the other applicable entities collecting said other charges and assessments. The assignment of said liens shall be evidenced in writing and filed for record in the Real Property Records of Montgomery County, Texas. Upon the recordation of said assignment instruments, the assignee designated in said assignment instrument shall be entitled to exercise the same rights (to-wit: all of the Association's rights described in this Article VI) with respect to said entity's collection of the charge or assessment, which is payable directly to said entity, as the Association may exercise hereunder with respect to its collection of the Maintenance Charge.

The City of Conroe can exercise the same assessment powers, including the ability to secure a lien against the subdivision lots, as it pertains to the maintenance of the screening fence along the west boundary and adjacent to the Gladstell Forest Apartments.

Section 6.04 Notice of Lien. In addition to the right of the Association to enforce the Maintenance Charge or other charge or assessment levied hereunder, the Association may file a claim or lien against the Lot of the delinquent owner by recording in the Real Property Records, Montgomery County, Texas, of a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the Lot against which the lien is claimed, and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record in the Real Property Records of Montgomery County, Texas, a notice releasing the lien upon payment by the owner of a reasonable fee as fixed by the Board of Trustees to cover the preparation and recordation of such release of lien instrument.

Section 6.05 Liens Subordinate to Mortgages. The liens described in Section 6.03 hereof and the superior title herein reserved shall be deemed subordinate to a first lien or other liens of any bank, insurance company, savings and loan association, university, pension and profit sharing trusts or plans, or other bona fide, third party lender, including Declarant, which may have heretofore or may hereafter lend money in good faith for the purchase of any Lot or for construction of improvements on any Lot, and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Lot who obtains title to such Lot pursuant to the remedies provided in the deed of trust or mortgage or by judicial foreclosure shall take title to the Lot free and clear of any claims for unpaid Maintenance Charges or other charges or assessments against such Lot which accrued prior to the time such holder acquired title to such Lot. No such sale or transfer shall relieve such holder acquiring title to a Lot from liability for any Maintenance Charge or other charges or assessments thereafter becoming due or from the lien thereof. Any other sale or transfer of a Lot shall not affect the Association's lien for Maintenance Charges or other charges or assessments. The Association shall make a good faith effort to give each such mortgagee sixty (60) days advance written notice of the Association's proposed foreclosure of the lien described in Article VI hereof, which notice shall be sent to the nearest office of such mortgagee by United States mail, postage prepaid, registered or certified, return receipt requested, and shall contain a statement of delinquent Maintenance Charges or other charges or assessments upon which the proposed action is based. The Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of Article VI hereof.

Section 6.06 Purpose of the Maintenance Charge. The Maintenance Charge levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of the Subdivision. The Maintenance Charge shall be used (i) to purchase or obtain improvements or services in furtherance of these purposes and the performance of the Association's duties described in Article VIII, (ii) to reimburse the Declarant for its expenses in constructing and maintaining the entrance to the Subdivision, including the brick wall, sign, lights, landscaping, and any perimeter fence the Declarant may construct around the Subdivision, and (iii) to establish and maintain a reserve fund for maintenance of the Common Areas (including, without limitation, the entrance design, Subdivision Perimeter fences, and all entrance lighting, and moonlighting), and (iv) for any other purposes which, in the judgment of the Association, will tend to maintain the property values in the Subdivision, including, but not limited to, providing funds for the actual cost to the Association of all taxes, insurance, repairs, energy charges, replacement and maintenance of the Common Area as may from time to time be authorized by the Board of Trustees, and other facilities, services and activities as may from time to time be authorized by the Board of Trustees, including but not limited to, construction, maintenance and operation of an administration building or a maintenance building, salaries of personnel and fees paid to independent contractors, mowing of grass and weeds within the Subdivision, and maintaining and

carrying for the Common Areas (as more particularly described in Article VIII), rent or purchase of any equipment needed to perform the duties of the Association and maintenance or replacement of such equipment, the operation, maintenance, repair and replacement of parks, recreational grounds and equipment and improvements, payment of all legal and other expenses incurred in connection with the enforcement of this Declaration and Rules and Regulations, payment of all reasonable and necessary expenses in connection with the collection and administration of the Maintenance Charge and other charges and assessments required by this Declaration or that the Board of Trustees shall determine to be necessary to meet the primary purposes of the Association. Except for the Association's use of the Maintenance Charge to perform its duties described in this Declaration and in the Bylaws, the use of the Maintenance Charge for any other purposes is permissive and not mandatory. It is understood that the judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

Section 6.07 Exempt Property. The following property subject to this Declaration shall be exempt from the Maintenance Charge and all other charges and assessments created herein: (a) all properties dedicated to and accepted by a local public authority, (b) the Common Area, and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Texas. No land or improvements devoted to dwelling use shall be exempt from said Maintenance Charge, except as otherwise provided in Article VI.

ARTICLE VII DECLARANTS RIGHTS AND RESERVATIONS

Section 7.01 Period of Declarant's Rights and Reservations. Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Common Area from the date hereof, until the earlier to occur of (i) the Control Transfer Date or (ii) Declarant's written notice to the Association of Declarant's termination of the rights described in Article VII hereof. The rights and reservations hereinafter set forth shall automatically apply to each conveyance of a Lot by Declarant to an Owner whether or not specifically stated therein and in each deed or other instrument by which any property within the Common Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as a consent to any other or subsequent amendment.

Section 7.02 Right to Construct Additional Improvements in Common Area. Declarant 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 Area at any time and from time to time in accordance with this Declaration for the improvement 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. Declarant shall 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 7.03 Declarant's Rights to Use Common Area in Promotion and Marketing. Declarant shall have and hereby reserves the right to reasonable use of the Common Area and of services offered by the Association in connection with the production and marketing of land within the boundaries of the Subdivision. Without limiting the generality of the foregoing, Declarant may erect and maintain on any part of the Common Area such fences, signs, temporary building and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within the Subdivision.

Section 7.04 Declarant's Rights to Complete Development of the Subdivision. No provision of this Declaration shall be construed to prevent or limit Declarant's right (or require Declarant to obtain any approval) (i) to complete development of the real property within the boundaries of the Subdivision; (ii) to construct, alter, demolish or replace improvements on any real property owned by Declarant within the Subdivision; (iii) to maintain model homes, storage areas, offices for construction, initial sales, resales or leasing purposes or

similar facilities on any property owned by Declarant or owned by the Association within the Property; (iv) to post signs incidental to development, construction, promotion, marketing, sales or leasing of property within the Subdivision; (v) to excavate, cut, fill or grade any property owned by Declarant; or (vi) to require Declarant to seek or to obtain the approval of the Committee or of the Association for any activity or improvement to its own property. Nothing in Article VII of this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

Section 7.05 Declarant's Rights to Grant and Create Easements. Declarant 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 Declarant, (ii) the Common Area, and (iii) existing utility easements. Declarant also reserves the right, without first obtaining the consent of any other Owner or the Association, (i) to grant or create temporary or permanent easements for access over and across the streets and roads within the Subdivision to and from Gladstell and Kirk Roads for the benefit of owners of any other property, regardless of whether the beneficiary of such easements own property which is hereafter made subject to the jurisdiction of the Association, and (ii) to permit owners of property which is not made subject to the jurisdiction of the Association to use recreational facilities of the Association and other Common Area provided that said owners pay to the Association their proportionate share of the cost of operating and maintaining said recreational facilities and Common Area.

Section 7.06 Declarant's Rights to Convey Additional Common Area to the Association. Declarant shall hereby reserves the right to convey additional real property, and the improvements thereon, if any, to the Association as Common Area, at any time and from time to time in the Declarant's discretion, and in accordance with this Declaration, without the consent of any other Owner or the Association.

ARTICLE VIII DUTIES AND POWERS OF THE PROPERTY OWNERS ASSOCIATION

Section 8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Trustees or through persons to whom the Board of Trustees has delegated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth, and in general the powers to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the Common Areas. The Association shall have the authority to act as the agent and attorney-in-fact for all Members of the Association and to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration.

Section 8.02 Duty to Accept the Property and Facilities Transferred by Declarant. The Association shall accept title to any property, including any improvements thereon and personal property transferred to the Association by Declarant, and equipment related thereto, together with the responsibility to perform any and all administrative functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with the terms of this Declaration. Property interest transferred to the Association by Declarant may include fee simple title, easements, leasehold interest and licenses to use such property. Any property or interest in property transferred to the Association by Declarant shall be within the boundaries of the Subdivision. Except to the extent otherwise specifically approved by resolution of the Board of Trustees, any property or interest in property transferred to the Association by Declarant shall be transferred to the Association free and clear of all liens and mortgages (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, the terms of any declaration of covenants, conditions and restrictions annexing such property to the Common Area, and all other easements, covenants, conditions, restrictions and equitable servitudes, or other encumbrances which do not materially affect the use and enjoyment of such property by the Association

or by the owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board of Trustees, no property or interest in property transferred to the Association by the Declarant shall impose upon the Association any obligation to make monetary payments to Declarant or any affiliate of Declarant including, but not limited to, any purchase price, rent, charge or fee. The property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burdens of ownership of property, including the management, maintenance, replacement and operation thereof.

Section 8.03 Duty to Manage and Care for the Common Area. The Association shall manage, operate, care for, maintain and repair all Moonlighting and Reserve Areas and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Areas shall include, but not be limited to the following: establishment, operation and maintenance of a security system for the Subdivision, landscaping and maintenance, including the installation and maintenance of a sprinkler system.

Section 8.04 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Common Areas and shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

Section 8.05 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, casualty, fire and extended coverage insurance with respect to all insurable improvements and personal property owned by the Association including coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable improvements shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost.

Section 8.06 Disbursement of Proceeds. Proceeds of insurance policies shall be used to replace, repair or reconstruct damaged portions of any Common Area. Any proceeds remaining after defraying such costs of repairs, replacement or reconstruction of any Common Area shall be retained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.

Section 8.07 Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Trustees or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 8.07, means repairing or restoring the damaged or destroyed property to substantially the same condition in which it existed prior to the fire or other casualty.

Section 8.08 Repair, Replacement and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired, replaced or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Trustees shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from said special assessment exceed the cost of such repair, replacement or reconstruction, such excess shall be deposited for the benefit of the Association.

Section 8.09 Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, broad form comprehensive liability insurance covering public liability for bodily injury and property damage including, but not limited to, if the Association

owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles. Public liability insurance (for other than motor vehicle liability) shall, to the extent reasonably obtainable, have limits of not less than Five Million Dollars (\$5,000,000) combined single limit coverage.

Section 8.10 General Provisions Regarding Insurance. Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. In the event that the Association sustains a loss by reason of fire or other casualty which is covered by a fire and extended coverage insurance policy, and such fire or other casualty is caused in whole or in part by the acts or omissions of the Declarant, any Member or any officer, director, agent, employee, contractor or employee of the Declarant or Member, then the Association agrees that to the extent the Association is compensated for such loss by its aforesaid insurance proceeds, the Association shall have no right of recovery against the Declarant, any Member or any officer, director, agent, employee, contractor, or employee of the Declarant or Member; and no third party shall have any such right of recovery by way of assignment, subrogation or otherwise. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured. Insurance policies and insurance coverage shall be reviewed at least annually by the Board of Trustees to ascertain whether coverage under the policies is sufficient in the light of the current values of the Common Area and in light of the possible or potential liabilities of the Association. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Common Area and other property of Declarant.

Section 8.11 Other Insurance and Bonds. The Association shall obtain such other insurance as may be required by law, including worker's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

Section 8.12 Duty to Prepare Budgets. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all Common Areas.

Section 8.13 Duty to Levy and Collect the Maintenance Charge. The Association shall levy, collect and enforce the Maintenance Charge and other charges and assessments as elsewhere provided in this Declaration.

Section 8.14 Duty to Provide Annual Review. The Association shall provide for an annual, unaudited, independent review of the accounts of the Association. Copies of the review shall be made available to any Member who requests a copy of such review upon payment by such Member of the reasonable cost of copying such review.

Section 8.15 Duties with Respect to Architectural Approvals. The Association shall perform functions to assist the Committee as elsewhere provided in Article IV of this Declaration.

Section 8.16 Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on the Property and may demolish existing improvements.

Section 8.17 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal and enforce Rules and Regulations ("Rules and Regulations"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Areas and the use of any other property within the Common Area, including Lots. Any such Rules and Regulations shall be reasonably and uniformly applied (as to all Owners, if applicable, and to Owners of similarly restricted Lots) Such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Trustees. Notice of the adoption, amendment or repeal of any Rule and Regulation shall be given by posting any such Rule or Regulation in the

Association office for thirty (30) days after the date of adoption, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that such member's Related Users comply with such Rules and Regulations. In the event of a conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

Section 8.18 Power to Enforce Restrictions and Rules and Regulations. The Association (and any owner with respect only to the remedies described in (ii) or (iii) below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board of Trustees deems necessary or desirable to cause such compliance by each Member and each Related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations of the Association by any one or more of the following means: (i) by entering upon any property within the Subdivision after notice (unless a bona fide emergency exists in which event this right of entry may be exercised without notice (written or oral) to the owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the owner or any other person), without liability by the Association to the owner thereof, for the purposes of enforcement of this Declaration or Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations; (iii) by excluding, after notice, any Member or Related User from use of any recreational facilities within any Common Area during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or a Related User, unless the breach is a continuing breach in which case such exclusion shall continue for so long as such breach continues; (iv) by suspending, after notice, the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of a provision of this Declaration or such Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (v) by levying and collecting, after notice, an assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User, which assessment reimburses the Association for the costs incurred by the Association in connection with such breach; (vi) by levying and collecting, after notice, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or a Related User; and (vii) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members or Related Users, plus attorney's fees incurred by the Association with respect to exercising such remedy.

Before the Board may invoke the remedies provided above, it shall give registered notice of such alleged violation to Owner, and shall afford the Owner a reasonable opportunity to make a response. If, after affording the owner an opportunity to respond, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Declarant, or of any owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

Section 8.19 Power to Provide Public Functions. The Association shall have the power, but not obligation, to acquire, construct, operate, manage, maintain, repair and replace utilities, and additional public facilities, and to provide other Functions as more particularly described in this Declaration.

Section 8.20 Power to Provide Social Services for Member. The Association shall have the power, but not the obligation, to provide services to a Member or group of Members. Any service or services provided to a Member or group of Members shall be furnished pursuant to an agreement in writing which shall provide for payment to the Association by such Member or group of Members of the reasonably estimated costs and expenses of the Association of providing such services, including its proportionate share of the overhead expenses of the Association, and shall contain reasonable provisions assuring that the obligation to pay for such

services shall be binding upon any heirs, personal representatives, successors or assigns of the Member or group of Members and that the payment for such services shall be secured by a lien on the property of the Member or group of Members as provided for in Article VI.

Section 8.21 Power to Grant Easements. In addition to any blanket easements described in this Declaration, the Association shall have the power to grant access, utility, drainage, water facility and other similar easements in, on, over and under Lots provided that such easements do not unreasonably interfere with the rights of the Owner of such Lots.

Section 8.22 Power to Convey and Dedicate Property to Government Agencies. The Association shall have the power to grant, convey, dedicate or transfer any Common Area or facilities to any public or governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate, which power may be exercised (i) prior to the Control Transfer Date by the Board of Trustees, and (ii) from and after the Control Transfer Date by the Association, with the approval of not less than two-thirds (2/3) of the Members attending and voting at any scheduled meeting of the Members and with the prior written approval of the Board of Trustees. The Association may, subject to the limitations of the preceding sentence, convey property to a public or governmental agency or authority in lieu of such property being condemned by such public or governmental agency or authority.

Section 8.23 Power to Borrow Money and Mortgage Common Area. After the Control Transfer Date, the Association shall have the power to borrow money and to encumber the Common Area as security for such borrowing, subject to the limitations provided elsewhere in this Declaration and the Bylaws with respect to required approvals and consents to such action. With respect to any deed of trust encumbering the Common Area, the lender's rights thereunder shall be limited to a right, after taking possession of such Common Area following the lender's foreclosure of the deed of trust, to charge reasonable admission and other fees as a condition to the continued enjoyment by the Members and, if necessary, until the mortgage debt is satisfied, whereupon the exclusive possession of such Common Area shall be returned to the Association.

Section 8.24 Power to Employ Manager. The Association shall have the power to retain and pay for the services of a manager or managers to undertake the management of any of the Functions for which the Association has responsibility under this Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to any such manager. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board of Trustees shall remain ultimately responsible for the performance and exercise of such duties, powers and functions.

Section 8.25 Power to Engage Employees, Agents and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for legal, accounting, and other professional services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

Section 8.26 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Texas non-profit corporation formed under the Texas Non-Profit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration, the Articles of Incorporation or Bylaws. The Association may do any and all lawful things which may be authorized, required or permitted to be done under this Declaration, its Articles of Incorporation or Bylaws, and may perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration, its Articles of Incorporation or Bylaws.

ARTICLE IX GENERAL PROVISIONS

Section 9.01 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 the (10) years each, unless an instrument, signed by not less than two-thirds (2/3) of the then Owners (including the Declarant) of the Lots, has been recorded agreeing to amend or change, in whole or in part, this Declaration.

Section 9.02 Amendments. 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 Declarant) entitled to cast not less than two-thirds (2/3) of the votes of all of the Owners. Such amendment must be so approved by the Owners within three hundred sixty-five (365) days after the date the 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 Declarant) 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 Declarant) 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 Montgomery County, Texas, accompanied by a certificate, signed by a majority of the Board of Trustees, stating that the required number of Members (Owners, including the Declarant) executed the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of an 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. All votes shall be irrevocable, once signed by the owners. No amendment as it pertains to the screening fence adjacent to the Gladstell Forest Apartments will be made with out the express written consent of the City of Conroe.

Section 9.03 Amendments by the Declarant. The Declarant 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 in the Real Property Records of Montgomery County, Texas, for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, 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 and shall not impair or adversely affect the vested property or other rights of any owner or the Owner's mortgagee. Additionally, Declarant 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 in the Real Property Records of Montgomery County, Texas, 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 Declarant 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 in the Real Property Records of Montgomery County, Texas, for the purpose of prohibiting the use of any device or apparatus developed or available for residential use following the date of this Declaration if the use of such device or apparatus will adversely affect either the Association or the property values within the Subdivision. No amendment as it pertains to the screening fence adjacent to the Gladstell Forest Apartments will be made with out the express written consent of the City of Conroe.

Section 9.04 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 9.05 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 purpose) by two-thirds (2/3) of the Trustees, 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 purpose) 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 Declarant.

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 association 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 restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall operate to revoke, change or add to these 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 the merger or consolidation documents shall control.

Section 9.06 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

Section 9.07 Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the owners, the Declarant and the Association, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 9.08 Effect of Violations on Mortgagees. 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, and any such mortgage, lien, or deed of trust may, nevertheless, be enforced in accordance with its terms, subject to these provisions.

Section 9.09 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, if any, attached hereto.

Section 9.10 Declarant's Rights and Prerogatives. Prior to the Control Transfer Date, the Declarant may file a statement in the Real Property Records of Montgomery County, Texas which expressly provides for (i) the Declarant's discontinuance of the exercise of any right or prerogative provided for in this Declaration to be exercised by the Declarant, or (ii) the Declarant's assignment to any third party owning property in the Subdivision of one or more of Declarant's specific rights and prerogatives provided in this Declaration to be exercised by Declarant. The assignee designated by Declarant to exercise one or more of Declarant's rights or prerogatives shall be entitled to exercise such rights or prerogatives until the earlier to occur of the (i) Control Transfer Date, or (ii) the date that said assignee files a statement in the Real Property Records of Montgomery County, Texas, which statement expressly provides for said assignee's discontinuance of the exercise of said right or prerogative. From and after the date that the Declarant discontinues its exercise of any right or

prerogative hereunder or assigns its right to exercise one or more of its rights or prerogatives to an assignee, the Declarant shall not incur any liability to any Owner, the Association or any other party by reason of the Declarant's discontinuance or assignment of the exercise of said right or prerogative.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein,

has hereunto set its hand as of 8TH NOVEMBER, 1999.

**RED OAK INTERESTS, INC.,
A TEXAS CORPORATION**

By: [Signature] President

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF MONTGOMERY

This instrument was acknowledged before me on the 8 day of NOVEMBER, 1999, by JEFFREY G. HARGREAVE PRESIDENT OF RED OAK INTERESTS, INC., A TEXAS CORPORATION on behalf of said corporation. ✓

[Signature]
Notary Public State of Texas



Community Dev
City of Conroe
P.O. Box 3066
Conroe, TX 77315