



44

Note to County Clerk:

Record against the real property
Located in Montgomery County,
Texas described in Exhibit A.

After recording mail to:

West Fork Irrevocable Trust
3360 E. Russell, Suite A
Las Vegas, Nevada 89120

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
WEST FORK ESTATES - SECTION 3



AMENDED AND RESTATED
 DECLARATION OF COVENANTS, CONDITIONS AND
 RESTRICTIONS AND RESERVATION OF EASEMENTS
 FOR
 WEST FORK ESTATES - SECTION 3

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS AND RESERVATION OF EASEMENTS
FOR
WEST FORK ESTATES – SECTION 3**

RECITALS

A. This Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Reservations of Easements for West Fork Estates – Section 3 is made by West Fork Irrevocable Trust, hereinafter “Declarant”. Declarant having obtained Successor Declarant rights and interests by virtue of being the latest successor in interest from the Original Declarant, being West Fork Estates, Inc., in accordance with the provisions of the Original Declaration, as recorded in Montgomery County, Texas as file number 2004-039791, hereinafter “Original Declaration”. This Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Reservations of Easements for West Fork Estates – Section 3 affects all of Section 3 and any other sections or other phases as they may be annexed in the future.

B. Declarant, executing this Amended and Restated Declaration this on October 5, 2010, pursuant to Article XI of the Original Declaration, hereby amends, supersedes, and restates in its entirety said Original Declaration.

C. Declarant has established or shall establish “West Fork Estates Homeowners Association, Inc.” as the Association and the Association shall be vested with powers, as overseen by the Declarant, of owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions pertaining to the Property, promulgating Rules and Regulations through the Board and Architectural Control Committee, and collecting and disbursing the assessments and charges hereinafter created.

D. The Declarant intends that the Property shall be maintained, developed and conveyed pursuant to a general plan for the Property and subject to certain protective covenants, easements, equitable servitudes, liens and charges, all running with the Property as hereinafter set forth.

E. The Declarant hereby declares that all of the Property shall be maintained, held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Property, in furtherance of a general plan for protection, maintenance, subdivision, improvement, and sale of the Property or any portion thereof. The covenants, conditions, restrictions, rights, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Property and shall be binding upon all

persons having or acquiring any right, title, or interest in the Property, or any part thereof, their heirs, successors and assigns, shall inure to the benefit of every portion of the Property and any interest therein; and shall inure to the benefit of and be binding upon and may be enforced by Declarant, the Association, as hereinafter defined, each owner and their respective heirs, executors and administrators, and successors and assigns.

F. Notwithstanding the amendments, changes and modifications made herein to the Original Declaration, the Amended and Restated Declaration shall be in effect upon its recordation in the Office of the Montgomery County Clerk. Any individual, builder, investor, or other bonafide purchaser of a Lot or Dwelling Unit from the Original Declarant or successor thereof shall be bound by the provisions of this Amended and Restated Declaration.

G. These Recitals shall be deemed covenants as well as recitals.

ARTICLE I

DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified.

1.1 ACC. ACC shall mean the Architectural Control Committee created pursuant to Article VIII hereof.

1.2 ACC Rules and Regulations. ACC Rules and Regulations shall mean such rules and regulations as may be adopted and promulgated by the ACC pursuant to the provisions of this Declaration as such rules and regulations may be amended from time to time.

1.3 Annual Assessment. Annual Assessment shall mean the annual charge against each Owner and his Lot, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and proportions provided herein.

1.4 Articles. Articles shall mean the Articles of Incorporation of the Association filed in the office of the Secretary of State of the State of Texas; as such Articles may be amended from time to time.

1.5 Association. Association shall mean WEST FORK ESTATES HOMEOWNERS ASSOCIATION, INC., a corporation formed under the Nonprofit Corporation Law of the State of Texas, its successors and assigns.

1.6 Beneficiary. Beneficiary shall mean a mortgagee under a mortgage or a beneficiary under a trust, as the case may be, and the assignees of such mortgagee or beneficiary.

1.7 Board. Board shall mean the Board of Directors of the Association, elected pursuant to the Bylaws of the Association. Notwithstanding anything to the contrary in this Declaration or in the Bylaws, so long as Declarant owns a Lot within the Property or any future annexed property, Declarant may elect at its sole discretion to appoint the Board of Directors.

1.8 Budget. Budget shall mean a written itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration.

1.9 Bylaws. Bylaws shall mean the Bylaws of the Association, as adopted by the Board as such Bylaws may be amended by the Board from time to time.

1.10 Capitalization Assessment. Capitalization Assessment shall mean the charge against each initial Owner and his Lot representing a portion of the cost to capitalize and establish the Association's reserve fund which shall be paid by each Owner in the manner and proportions provided herein.

1.11 Corrective Assessments. Corrective Assessments shall mean a charge against a particular Owner and his Lot representing the costs to the Association for corrective action set forth in this Declaration.

1.12 Common Area. Common Area means that portion of property owned by the Association, shown on the Plat, as dedicated to the common use and enjoyment of the Owners and all improvements constructed thereon. Common Area shall also include the Landscape Park Strip areas in the Street.

1.13 Common Expenses. Common Expenses shall mean those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and improvement of the Common Area; costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all utilities, certain landscaping and Improvements on the Common Area, gardening, against the Property, or portions thereof; and the costs of any other items incurred by the Association for any reason whatsoever, in connection with the Property, for the benefit of all the Owners.

1.14 Declarant. Declarant shall mean West Fork Irrevocable Trust, its successors and any Person to which it shall have assigned any rights hereunder, except that a party acquiring all or substantially all of the right, title and interest of West Fork Irrevocable Trust, in the Property by foreclosure, judicial sale, bankruptcy proceedings, or by other similar involuntary transfer, shall automatically be deemed a

successor and assignee of West Fork Irrevocable Trust, as Declarant under this Declaration.

1.15 Declaration. Declaration shall mean this Amended and Restated Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for "WEST FORK ESTATES – SECTION 3" including any expansion thereof and amendments.

1.16 Deed of Trust. Deed of Trust shall mean a mortgage or a deed of trust as the case may be.

1.17 Development. Development shall mean WEST FORK ESTATES – SECTION 3 according to the Plat.

1.18 Dwelling Unit. Dwelling Unit shall mean a single family dwelling, without structural walls or roofs in common with other single family dwelling. Dwelling Unit includes fee title to the real property lying beneath the single family dwelling, within Lot boundary lines.

1.19 Fiscal Year. Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.20 Improvement. Improvement shall mean any structure or appurtenance thereto of every type and kind, including but not limited to Dwelling Units and other buildings, walkways, sprinkler pipes, swimming pools, athletic fields or areas, garages, roads, driveways, alleyways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, ponds, hedges, wind-breaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, sheds, hot tubs, saunas, casitas, green houses, sun rooms, Arizona rooms, out buildings, exterior air conditioning and water-softening fixtures or equipment.

1.21 Infrastructure Damage Deposit. Infrastructure Damage Deposit shall mean the deposit required by each Owner as security for any repair or replacement of any damaged or broken sidewalk, curb, gutter, Landscape Park Strip, Street, or any portion thereof.

1.22 Landscape Park Strip. Landscape Park Strip shall mean the median landscape area in the Street throughout the Property.

1.23 Landscaping. Landscaping shall mean any trees, shrubs, grass or other vegetative cover, whether native or domestic, decorative planters, borders, ornaments or other such items which alter the appearance of any Lot.

1.24 Lot. Lot shall mean a portion of the Property which is owned in fee simple interest by the Owner thereof. A Lot, at any given time, may or may not have a Dwelling Unit erected thereon. Lot numbers shall be designated on the Plat.

1.25 Lot Transfer Assessment. Lot Transfer Assessment shall mean the charge against each Owner and his Lot which shall be paid by each Owner to the Association in the manner provided herein upon any sale, modification, transfer, or change of Owner.

1.26 Manager. Manager shall mean the Person or entity appointed by the Board or Declarant, if any, hereunder as its agent and delegated certain duties, powers or functions of the Association as further provided in this Declaration and in the Bylaws.

1.27 Member, Membership. Member shall mean any Person holding a membership in the Association, as provided in this Declaration. Membership shall mean the property rights, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in this Declaration and the Articles, Bylaws and Rules and Regulations.

1.28 Mortgage, Mortgagee, Mortgagor. "Mortgage" shall mean any Recorded mortgage or deed of trust. The term "*Deed of Trust*" or "*Trust Deed*" when used herein shall be synonymous with the term "Mortgage." "Mortgagee" shall mean a person or entity to whom a Mortgage is made. The term "Beneficiary" shall be synonymous with the term "Mortgagee". "Mortgagor" shall mean a Person who mortgages his, her, or its Lot to another (*i.e., the maker of a Mortgage*). The term "Trustor" shall be synonymous with the term "Mortgagor."

1.29 Notice of Members Meeting. Notice of meetings of the Members required or provided for in this Declaration shall be in writing, shall satisfy the notice requirements set forth in the Bylaws, and may be delivered either personally or by first class or registered mail. Notice of Members Meetings shall be delivered at least ten (10) days but not more than thirty (30) days prior to the date of the meeting of the Members. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Texas law.

1.30 Owner. Owner shall mean the Person or Persons, including Declarant (except under Article VI), who is the Owner of record (in the office of the County Clerk of Montgomery County, Texas) of a fee simple or an undivided fee simple interest in a Lot, with or without a Dwelling Unit thereon. Notwithstanding any applicable theory relating to a Mortgage, the term Owner shall not mean or include a Mortgagee unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.31 Person. Person shall mean a natural individual or any entity with the legal right to hold title to real property.

1.32 Plans and Specifications. Plans and Specifications shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to, those indicating location, size, shape,

configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, topographical plan, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services and all other documentation or information relevant to such proposed Improvements to a Lot or to a Dwelling Unit already existing on a Lot.

1.33 Plat. Plat shall mean the "WEST FORK ESTATES - SECTION 3" Plat, including all phases thereof, which may be annexed from time to time according to the provisions of this Declaration, as executed and acknowledged by the Original Declarant, Declarant or Board, recorded in the records of the Montgomery County Clerk, as the same has been modified, amended, supplemented or expanded in conjunction with annexations to the Property.

1.34 Property. Property shall mean "WEST FORK ESTATES - SECTION 3" described in the Plat.

1.35 Record, Recorded, Filed or Recordation. Record, Recorded, Filed or Recordation shall mean, with respect to any document, the recordation of such document in the office of the County Clerk of Montgomery County, Texas.

1.36 Rules and Regulations. Rules and Regulations shall mean rules and regulations as may be adopted and promulgated by the Declarant, or by the Board, pursuant to the Bylaws and this Declaration, as the Declarant or the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to ensure the Property is maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties for the infractions thereof, as such rules and regulations may be amended from time to time.

1.37 Recreational Vehicles. Recreational Vehicles shall mean all watercraft, travel trailers, campers, camper shells, tent trailers, motorhomes, snowmobiles, dune buggies, all-terrain-vehicles and off-highway-vehicles (ATVs and OHVs, respectively), scooters, or devices similar to any of the foregoing.

1.38 Special Assessments. Special Assessments shall mean a charge against each Owner and his Lot, representing a portion of the costs to the Association of defraying any extraordinary expenses incurred or special projects approved as set forth in Article VI.

1.39 Streets. Streets shall mean public streets and thoroughfares in the Property.

1.40 Vehicle. Vehicle shall mean any and all equipment or device (mobile or immobile, operable or inoperable) of any type, designed to transport persons, objects or are designed to be transported on wheels, skids or tracks including, without limitation, dump trucks, cement mixer trucks, gas trucks, delivery trucks, buses, aircraft, trailers,

Recreational Vehicles, minivans, cars, SUV's, mopeds, pickup trucks, motorcycles, other devices or equipment similar to any of the foregoing, whether or not used for daily transportation.

ARTICLE IA

DESCRIPTION OF PROPERTY

The real property which is associated with the Development and which has been and shall hereafter continue to be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration consists of all the Property described in **Exhibit A** hereto; TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which effect the above-described land or any portion thereof, including without limitation, any Mortgage; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

ARTICLE II

OWNERS' PROPERTY RIGHTS

2.1 Form For Conveying. Any deed, lease, deed of trust, mortgage, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

"All of Lot ___ of Block ___ of WEST FORK ESTATES – SECTION 3, according to the official Plat thereof, subject to the Amended and Restated Declaration of Conditions, Covenants and Restrictions and Reservation of Easements, on file in the office of the Montgomery County Clerk."

Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

2.2 Transfer of Title to Common Area. Declarant represents that it shall convey to the Association title to all Common Area, and Declarant further agrees that it shall discharge all liens and encumbrances on said Common Area on or before the sale and close of escrow of the last Lot.

2.3 Limitations on Common Area Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, upon Notice of Members Meeting be assented to by two-thirds (2/3) of the vote of the Membership which Members present in person or by proxy are entitled to cast at a meeting duly called for the purpose. The quorum requirement for such meeting shall be as set forth in the Bylaws.

(b) The right of the Association, to be exercised by the Board, to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Area in accordance with the original design, finish or standard of construction of such Improvement;

(c) The right of the Association, to be exercised by the Board, to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area;

(d) The right of the Association, to be exercised by the Board, to reasonably restrict access to portions of the Common Area; and

(e) The easements reserved in 2.4, 2.6, and 2.8.

2.4 Easements for Public Service Use. In addition to the foregoing easements over the Common Area, there shall be and Declarant hereby reserves and covenants for itself and all future owners within the Property, easements for public services of the City of Conroe in which the Property are located, including but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties.

2.5 Waiver. No owner may exempt himself from personal liability for assessments duly levied by the Association or Board nor release the Lot or other property owned by him from the liens and charges hereof.

2.6 Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Area, there shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Property, easements for public and private utility purposes. The Lots shall also be subject to such public utility easements as shown on the Plat and as required by the City of Conroe.

2.7 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Board to obtain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of the Board, become a lien on the Common Area, or any part thereof, they may be paid by the Association as a Common Expense, and the Association may levy against the Lot as a Corrective Assessment any amounts paid by the Association to rectify the problem.

2.8 Easement for Encroachments. If any portion of a Dwelling Unit or other Improvement constructed by Declarant, or if any portion of a Dwelling Unit or other Improvement is reconstructed so as to substantially duplicate the Dwelling Unit or other Improvement originally constructed by Declarant, encroaches upon the Common Areas or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

ARTICLE III

WEST FORK ESTATES HOMEOWNERS ASSOCIATION

3.1 Organization of Association. Declarant or preceding Declarant, if any, has caused or shall cause the Association to be organized and the Articles filed with the State of Texas, Secretary of State.

3.2 Parties and Powers. The Association shall have such duties and powers set forth in the Articles, Bylaws, and this Declaration (and such other powers and duties as properly delegated or assigned through the Rules and Regulations), as such documents are amended from time to time.

3.3 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory and shall be appurtenant to the Owner's Lot. The Association shall consist solely of Members.

3.4 Transfer. Membership in the Association is nontransferable and shall not be separated from the Lot to which it pertains.

ARTICLE IV

VOTING RIGHTS

4.1 Vote Distribution. The Association shall have the following two classes of voting Membership which shall cumulatively be counted on any matter submitted for Member voting.

(a) Class A. Class A members shall be all the Owners. Class A members shall be entitled to one vote for each Lot which the interest required for Membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

(b) Class B. Class B member shall the Declarant. Class B member shall be entitled to ten (10) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) upon conveyance of all Lots subject to this Declaration to third party purchasers by; or
- (ii) December 31, 2020; or
- (iii) the surrender of Class B membership status by the express written action of the Declarant

4.2 Multiple Ownership. In the event there is more than one Owner of a particular Lot, the vote pertaining to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such objection is made, the vote involved shall not be counted for any purposes whatsoever, other than to determine whether a quorum exists.

ARTICLE V

JURISDICTION OF ASSOCIATION

The Association has been organized to provide for the operation, maintenance, preservation and architectural control of the Property and Improvements, to administer the Common Areas of the Association, and to reasonably regulate the Members of the Association. The Association shall have jurisdiction and authority over the Property and the Members of the Association to the full extent allowed by law and also as provided

for in this Declaration and in the Articles, Bylaws, and Rules and Regulations, as such documents may be modified from time to time.

ARTICLE VI

COVENANT FOR ASSESSMENTS

No Assessment as set forth in this Article shall apply to the Declarant.

6.1 Creation of Assessment Obligation. Each Owner of a Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2) Capitalization Assessments, (3) Lot Transfer Assessments, (4) Special Assessments, (5) Corrective Assessments, and (6) any other amount or assessment levied by the Board pursuant to this Declaration; all such assessments to be established and collected as provided in this Declaration. The Association shall not levy or collect any Annual Assessment, Capitalization Assessment, Lot Transfer Assessment, Special Assessment or Corrective Assessment that exceeds the amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorney's fees for the collection thereof, shall be charged on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment together with interest, costs and reasonable attorney's fees, if applicable, shall also be and remain the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments liability shall not pass to any new Owner ("Purchaser") as successor in title unless expressly assumed by such Purchaser. For the purpose of assessment, the term "Owner" shall exclude the Declarant. The determination of the reasonable cash needs for ordinary and necessary maintenance expenses shall be within the sole discretion of the Board and Declarant shall have no liability to the Association if subsequent Boards shall disagree with the determination of the Board which made such determination. In no event, however, shall any Declarant be required to provide a subsidy, if any, which exceeds the annual assessments. If the cash needs of the Association are greater than a subsidy, if any, will cover, the Board may undertake to approve a levy of a Special Assessment, as provided herein.

6.2 Purpose of Assessments. The Annual Assessments, Capitalization Assessments, Lot Transfer Assessments, and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit and welfare of the Owners and for the improvement and maintenance of the Common Area, including establishing and funding a reserve to cover major repair or replacement of Improvements within the Common Area and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles.

6.3 Annual Assessments. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided in the Bylaws. The Annual Assessment shall be payable and due within 30 days of notice. Notwithstanding the above, Owners may request payment plans subject to interest and hardship criteria established by the Board. The Annual Assessment shall be based upon the Budget prepared by the Board. The Common Expenses of the Association, and therefore the Annual Assessment, may increase because of, among other reasons, Improvements constructed in the sole discretion of Declarant. Nothing herein shall obligate Declarant to construct any Improvements.

6.4 Capitalization Assessments. Upon recording of a deed transferring ownership of a Lot, each Owner shall pay to the Association an initial Capitalization Assessment which shall be based upon the Budget prepared by the Board. The intent of this provision is that the payment of the Capitalization Assessment shall provide for an initial working capital fund for the Association. This provision is not meant to apply but once with regard to any given Lot. Payment of this amount shall be in addition to, not in lieu of, any other assessment due hereunder and shall not be considered an advance payment of any other assessment. In addition to the Capitalization Assessment an Infrastructure Damage Deposit shall be collected pursuant to 8.4.

6.5 Lot Transfer Assessments. Upon recording of a deed transferring ownership of a Lot, each new Owner shall pay to the Association a Lot Transfer Assessment which shall be based upon the Budget prepared by the Board in an amount necessary to reasonably compensate the Association for the expenses incurred as a result of the transfer. In addition to the Lot Transfer Assessment an Infrastructure Damage Deposit shall be collected pursuant to 8.4.

6.6 Special Assessments. In addition to the other assessments, a Special Assessment can be assessed to pay the costs of any one or more of the following:

(a) Approved by Board. Special Assessments for the following extraordinary expenses can be levied by the Board without Member approval:

(i) An extraordinary expense required by an order of a court; or

(ii) An extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible where a threat to personal safety on the Common Area is discovered. Prior to the imposition or collection of a Special Assessment pursuant to this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was necessary and was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of Assessment.

(b) Member Meetings Approval. Except as referenced in 6.6(a) any additional Special Assessments shall be approved by a two-thirds (2/3) vote of the Quorum in accordance with 6.11.

6.7 Uniform Rate of Assessment. Annual Assessments, Capitalization Assessments, Lot Transfer Assessments and Special Assessments imposed pursuant to 6.3, 6.4, 6.5 and 6.6 of this Declaration shall be assessed on a pro-rata basis in equal amounts regardless of Dwelling or Lot size against all Owners and their Lots.

6.8 Date of Commencement of Annual Assessments. The Board shall authorize and levy the amount of the Annual Assessment upon each Lot, as provided herein, by a majority vote of the Board. Annual Assessments shall commence on all Lots on the first day of the first calendar month following the first recording of a deed transferring ownership of a Lot in the Property. The first Annual Assessment shall be adjusted according to the number of months remaining in the Fiscal Year as set forth in the Bylaws. The Board shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of any change in the amount of any Annual Assessment shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

6.9 Corrective Assessments. In addition to the Annual Assessment, Capitalization Assessment, Lot Transfer Assessment, and any Special Assessments, the Association may levy Corrective Assessments against a particular Owner and his Lot to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, plus interest and other charges on such Corrective Assessments. The Board shall deliver a Notice of Noncompliance and Right to Hearing to the Owner upon whom it intends to levy a Corrective Assessment. Corrective Assessments shall be due and payable within forty-five (45) days following delivery of Notice of Board Adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum until paid in full. If unpaid, the Board may elect to lien Owner's Lot, as provided elsewhere in this Declaration.

6.10 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All portions of the property dedicated to and accepted by a local public authority; and
- (b) The Common Area owned by the Association in fee; and

- (c) All Lots owned by the Declarant, except as may be used in the calculation of a subsidy, if any, which may be required hereunder from time to time.

6.11 Special Assessment Quorum Requirements. Before any Special Assessment is levied, the Board shall deliver a Notice of Members Meeting. The quorum required for any action authorized by Section 6.6(b) shall be as follows: at the first meeting called the presence of Members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at any meeting another meeting may be called by the Board issuing a Notice of Members Meeting at which a quorum shall be one-half (1/2) of the quorum which was required at such preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following such preceding meeting at which a quorum was not present.

6.12 Additional Assessment. In addition to the Annual Assessments, Capitalization Assessments, Lot Transfer Assessments, Special Assessments and Corrective Assessments, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to the Common Areas from the activities of the City of Conroe in maintaining, repairing or replacing the City's utility lines and facilities thereon.

6.13 Preparation of Budget. The Board shall prepare a Budget to be presented to the Members at the annual meetings of the Members held as provided in the Bylaws.

6.14 Reserve Fund. The Board shall, on behalf of the Association, cause to be funded through Annual Assessments, Capital Assessments, Lot Transfer Assessments, or other periodic assessments, an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacement to the Common Areas.

ARTICLE VII

NONPAYMENT OF ASSESSMENTS; REMEDIES

7.1 Nonpayment of Assessments; Remedies. Any assessment installment payment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the Lot provided, however, that any such lien shall be subordinate to the lien or equivalent security interest of any Mortgage on the Lot Recorded prior to the date any such installment payment on assessments become due. If any installment payment on the assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum plus a late payment service charge of Twenty-Five Dollars (\$25.00) if the assessment is not paid within ten (10) days of when it is due, or such larger amount

as set by the Board. The Association may, in its discretion, bring an action either against the Owner or to foreclose the lien against the Lot. Any judgment obtained by the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, and each and every other expense incurred by the Association in enforcing its rights. If an installment payment is not timely made, the Board may declare the entire balance due on all Assessments in default and accelerate the balance of all Assessments and declare the entire amount of the balance of all Assessments immediately due and owing.

7.2 Tax Collection. It is recognized that under the Declaration, the Association shall own the Common Area and that it shall be obligated to pay property taxes. It is further recognized that each Owner of a Lot is a Member of the Association and as part of his assessment shall be required to pay the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Declaration, or otherwise, Montgomery County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Montgomery County is hereby directed to do so. In the event that the assessor shall separately assess Common Areas to the Association, the Board may impose, in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessment.

7.3 Lien. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by Recording a "Notice of Lien" setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, (d) the name of the Owner thereof and (e) setting forth that the Association intends to sell the Lot to satisfy the lien, pursuant to Texas law. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or duly authorized agent of the Association. The Notice of 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 Notice of Lien have been fully paid or satisfied, the Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board to cover the cost of preparing and recording the release of lien. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or any other manner provided by law, including without limitation, a deed of trust as set forth in this Declaration.

7.4 Trust Deed for Assessments. By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee in trust for the Association as Beneficiary, with power of sale, the Owner's Lot and all Improvements thereon for the purpose of securing payment of all assessments (including basis of collection) provided for in this Declaration. For purposes of this Section, as amended from time to time, the Trustee shall mean the attorney for the Association and the Association may provide notice and disclosure of the Trustee by Recording an "Appointment of Trustee" on the

records of the Montgomery County Clerk. Each Owner hereby also grants the Association and Trustee all powers and rights of non-judicial trust deed foreclosure.

7.5 Perfection of Lien and Priority. Upon the recording of Notice of Lien by the Manager or Board, such lien constitutes a lien on the Lot Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except:

- (a) tax and special assessment liens on the Lot in favor of any assessing lot or special improvement district; and
- (b) encumbrances on the interest of the Lot Owner:
 - (i) recorded prior to the date of the recording of Notice of Lien; and
 - (ii) that by law would be a lien prior to subsequently recorded encumbrances.

The Manager or Board may enforce the assessment lien by sale or foreclosure of the Owner's interest. The Manager or Board may bid at a sale or foreclosure and hold, lease, mortgage, or convey the Lot that is subject to the assessment lien.

7.6 Future Lease Payments. An Owner who is leasing his Lot, with or without a Dwelling Unit, shall not transfer the obligation to the tenant to pay any Assessment to the Association; rather, an Owner who is leasing his Lot shall make payment directly to the Association. If the Owner of a Lot who is leasing the Lot fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board, upon compliance with this Section, may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly or other periodic payment, until the amount due to the Association is paid. The Manager or Board shall give the Owner written notice of its intent to demand full payment from the tenant under this Section. The notice shall: (i) provide notice to the tenant that full payment of the remaining lease payments shall begin with the next monthly or other periodic payment unless the assessment is received within the time period provided in the Declaration, Bylaws, or Association Rules; (ii) state the amount of the assessment due, including any interest or late payment fee; (iii) state that any costs of collection, and other assessments that become due may be added to the total amount due; and (iv) provide the requirements and rights described in this Section. If the Owner fails to pay the assessment due by the date specified in the notice, the Manager or Board may deliver written notice to the tenant that demands future payments due to the Owner be paid to the Association pursuant to this Section. The Manager or Board shall mail a copy of the notice to the Owner. The notice provided to the tenant under this Section shall state: (i) that due to the Owner's failure to pay the assessment within the time period allowed, the Owner has been notified of the intent of the Board to collect all lease payments due to the Association; (ii) that until notification by the Association that the assessment due, including any interest, collection cost, or late payment fee, has been paid, the tenant

shall pay to the Association all future lease payments due to the Owner; and (iii) that payment by the tenant to the Association in compliance with this Section shall not constitute a default under the terms of the lease agreement. If a tenant makes payments in compliance with this Section, the Owner may not initiate an action against the tenant. All funds paid to the Association pursuant to this Section shall be: (i) separately accounted for, together with any cost of administration until paid in full. Any remaining balance shall be paid to the Owner within five (5) business days after payment in full to the Association. Within five (5) business days after payment in full of the assessment, including any interest or late payment fee, the Manager or Board shall notify the tenant in writing that future lease payments are no longer due to the Association and shall mail a copy of such notification to the Owner. Any Owner that leases a Lot shall include in the lease agreement provisions that obligate the tenant to make payments as set forth in this Section in the event the Owner fails to pay assessments as described in this Section.

7.7 Statement of Account. The Manager or Board shall issue a written statement indicating any unpaid assessment with respect to a Lot covered by the request, upon the written request of the Owner, and payment of a reasonable fee. The written statement shall be binding upon the (i) remaining Owners; (ii) Manager; and (iii) Board in favor of any person who relies in good faith on the written statement. Unless the Manager or Board complies with such request within ten (10) days, any unpaid assessment that became due prior to the date the request was made is subordinate to a lien held by the person requesting the statement.

7.8 Payment by Encumbrancer. An encumbrancer holding a lien on a Lot may pay any unpaid assessment due with respect to the Lot. Upon such payment, the encumbrancer has a lien on the Lot for the amounts paid.

7.9 Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as provided above.

7.10 Mortgage Protection. Notwithstanding all other provisions hereof, no lien created under this Article VII, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any Recorded first Deed of Trust (meaning any deed of trust with first priority over the other deeds of trust) upon a Lot made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Lot by judicial foreclosure or by other means of the powers set forth in such Deed of Trust or through a deed in lieu of foreclosure, such Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title.

7.11 Rent After Foreclosure. In the event the Association takes title to a Dwelling Unit through foreclosure, the Board may elect to allow the occupant to remain in the Dwelling Unit and the occupant shall be required to pay reasonable rental to the Association for the Dwelling Unit. Under circumstances of foreclosure by the Association, the Association shall not be obligated or required to rent the Lot or Dwelling Unit to the foreclosed Owner, nor shall the Association be obligated or required to sell the Lot or Dwelling Unit to said previous/foreclosed Owner. The Rule of Law shall govern.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE

8.1 Members of Committee. The ACC shall consist of three (3) members. The Board shall have the power to appoint and remove all of the members of the ACC, with or without cause. Persons appointed to the ACC by the Board need not be Members of the Association. If the ACC is not appointed, the Board itself shall perform the duties required of the ACC. Individual Board members may also serve as ACC members. The Board may also hire a third party entity that specializes in the functions of the architectural control committees and may charge any related fees directly to the Owner requesting approvals for proposed Improvements.

8.2 ACC General Powers. The ACC shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to this Article, in order to ensure that the proposed Plans and Specifications conform harmoniously to the exterior design and existing materials of the Improvements on the Property. This power shall include the power to issue ACC Rules and Regulations which, among other provisions, may set forth procedures for the submission of Plans and Specifications for approval, and state additional factors which it shall take into consideration in reviewing submissions.

8.3 Review of Plans and Specifications. The ACC shall consider and act upon any and all Plans and Specifications submitted for its approval under this Declaration and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the ACC. ACC shall supply necessary submittal forms for Owner's Improvement request. ACC shall respond to all submittals within forty-five (45) days. No exterior construction, alteration, removal, relocation, repainting, demolition, addition, modification, or redecoration, or reconstruction of a Dwelling Unit or Improvement, including landscaping, on the Property shall be commenced until the Plans and Specifications have been submitted to the ACC (together with such fees for review and inspection as may be reasonably required by the ACC) and approved in writing by the ACC.

The ACC shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated shall not be detrimental to the appearance of the surrounding area or the Property as a whole, that the appearance of any structure affected thereby shall be in harmony with the surrounding structures, and that the construction thereof shall not detract from the beauty, wholesomeness and attractiveness of the Lots and the Common Area or the enjoyment thereof by the Members, and that the upkeep and maintenance thereof shall not become a burden on the Association. All changes in the finish grade of any Lot shall be subject to the prior written approval of the ACC. No changes or deviations in or from the Plans and Specifications once approved by the ACC shall be made without the prior written approval of the ACC. Subsequent to receiving approval of the ACC and prior to the commencement of construction, each Owner shall be responsible for obtaining a building permit from the City of Conroe.

8.4 Infrastructure Damage Deposit. Each Owner shall be responsible to repair or replace any sidewalk, curb, gutter, Landscape Park Strip, or Street, including electrical, water, and other utilities, which are attached or adjacent to the Owner's Lot, or any portion thereof, or areas observed by the ACC to have been damaged by an Owner's construction activity that has been broken or damaged after the purchase date of the Lot, as noticed to the Owner by the ACC or Association. Owner shall escrow a deposit of one thousand dollars (\$1,000.00) per Lot with the Association at Closing on the purchase of the Lot or upon making a request for alteration, modification, or addition to the Lot including, but not limited to swimming pool, outbuildings, landscaping, etc. to insure the payment of such costs. This deposit shall be returned to Owner upon completion of the residence and Certificate of Occupancy or, if applicable, upon completion of later Improvements to the Lot, as noted in the previous sentence, whereupon any balance of deposit funds shall be refunded to Owner. Owner shall be required to repair, replace, or otherwise correct related matters according to the conditions of similar elements within other areas of the Property. Said repairs and/or replacements shall be to the sole satisfaction of the ACC. Costs expended by Association to repair damages shall be deducted from the deposit up to the full amount of the deposit. If such damages exceed the deposit amount, Owner shall pay all associated costs upon demand by the Association as a Corrective Assessment. The Association shall keep such deposits segregated and no interest shall be paid on deposited amounts. In the event Owner fails to pay any such additional amounts levied as a Corrective Assessment by the Association, the Association may undertake action to lien the Lot as provided herein. It is not the intent of the provisions of this Section that the Association release or refund any portion of the deposit until and when the ACC has verified that the work relating to any damages are completely repaired to the sole satisfaction of the ACC.

8.5 Meetings of the ACC. The ACC shall meet from time to time as necessary to perform its duties hereunder. The vote of a majority of the ACC shall be sufficient to enact resolutions or motions of the ACC. The attendance of a majority of the members at any meeting shall constitute a quorum.

8.6 No Waiver of Future Approvals. The approval by the ACC of any proposals or Plans and Specifications for any work done or proposed or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, Plans and Specifications or matters subsequently or additionally submitted for approval or consent.

8.7 Compensation of Members. The Members of the ACC shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

8.8 Limitations on Liability. Neither the ACC, the Board or Declarant, nor any Member thereof, acting in good faith shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (i) the approval or rejection of, or the failure to approve or reject, any Plans and Specifications, or variance requests (ii) the construction or performance of any work, whether or not pursuant to approved Plans and Specifications, (iii) the development or manner of development of any of the Property, or (iv) any engineering or other defect in approved Plans and Specifications.

8.9 Declarant Rights. The Declarant shall not be required to comply with the provisions of this Article in the construction of the Property or any Improvement.

ARTICLE IX

MAINTENANCE AND REPAIR OBLIGATION

9.1 Maintenance by Owner. An Owner shall not commit any act which shall detract from the appearance of the Dwelling Unit, landscaping, or any portion of a Lot. Each Owner shall be responsible for the repair and maintenance of their Lot and all Improvements thereon, including the Dwelling Unit thereon, together with all landscaping of the Lot. These responsibilities shall not belong to the Association in any degree. Owner shall timely and routinely attend to the matters of care and maintenance as set forth in this Declaration. In the event an Owner fails to make reasonable repairs within thirty (30) days after Notice of Noncompliance and Right to Hearing by the Association is delivered to the Owner, which notice shall describe the disrepair and the scope of needed repairs, the Association may elect, in its sole discretion, to make such repairs and may charge the cost of the repairs against the Lot as a Corrective Assessment.

9.2 Operation and Maintenance by Association. The Association, by its duly delegated representative, shall provide for such maintenance and operation of the Common Areas.

9.3 Shared Walls.

(a) General Rules of Law to Apply. Each wall which shall be built as a part of the original construction of the Dwelling Units upon the Property and placed on the dividing line between the Lots shall constitute a shared wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding shared walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a shared wall, including perimeter walls, shall be shared by the Owners who make use of the wall in proportion to such use, or the Owner of the wall even if there is no wall in common. In the event an Owner fails to make reasonable repairs within thirty (30) days after Notice of Noncompliance and Right to Hearing by the Association is delivered to the Owner, which notice shall describe the disrepair and the scope of needed repairs, the Association may elect, in its sole discretion, to make such repairs and may charge the cost of the repairs against the Lot as a Corrective Assessment.

(c) Destruction by Fire or Other Casualty. If a shared wall is destroyed or damaged by fire or other casualty, then, to the extent said destruction or damage is not covered by insurance and repaired out of the proceeds of the same, any Owner who has used the wall may restore it, and, if the other Owner's thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the shared wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements to the extent that said protection is not covered by insurance and paid for out of the proceeds of the same.

(e) Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a shared wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request to do so, the Board shall select an arbitrator for the refusing party.

9.4 Perimeter Walls. The Association shall not be obligated to provide or maintain any walls in the Property. Walls dividing a Lot and Common Area shall be maintained by the Owner of the Lot, not by the Association.

9.5 Mold. Whether or not you as an Owner experience mold growth, depends to a great extent on how you manage and maintain your Dwelling Unit. You are hereby given notice to take all reasonable means to detect and prevent growth and infestation of mold and other similar agents. The Declarant or Association shall not be responsible for any damages, and as Owner you waive any claim to damages, caused by mold, or by some other agent, that may be associated with customary construction practices in the area, to include but not be limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects or losses. Any implied warranties, including but not limited to an implied warranty of workmanlike construction, an implied warranty of habitability, an implied warranty of merchantability or an implied warranty of fitness for a particular purpose, are hereby waived and disclaimed by you as the Owner.

ARTICLE X

USE RESTRICTIONS

All real property within the Property shall be held, used and enjoyed subject to such limitations and restrictions set forth below. This list of restrictions may be modified by Rules and Regulations of the Board, without amendment to this Declaration, so long as such Rules and Regulations do not increase the Annual Assessment or cause for additional assessments as provided herein.

10.1 Single Family Residence. Subject to the provisions of Section 10.2, each Lot shall be used as a residence for a single family.

10.2 Business or Commercial Activity. A Homeowner may use an interior portion of a Dwelling Unit as a home office only if the home office business does not violate any federal, state, or local law, ordinance, or regulation, and has no exterior manifestation (including signage), and no characteristics that are deleterious to the residential nature of the neighborhood (such as increased vehicular traffic). The Declarant, its successors and assigns, may use any portion of the Property for a model home site, display and sales office in connection with the sale of Lots on the Property by Declarant, including any expansion areas annexed.

10.3 Signs; Commercial Activity. Except for one professional quality "For Sale" sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot. Except as allowed pursuant to 10.2, no commercial activities of any kind whatsoever shall be conducted in any building or on any portion of the Property. "For

Rent signs shall not be allowed at any time, in any manner, on any portion of the Property or on a Lot or in the window of a Dwelling Unit. These provisions are not meant to prevent an Owner from selling or renting his Dwelling Unit or Lot. An Owner may sell or rent the Owner's Dwelling Unit or Lot by making use of real estate agents, property management agents, newspapers, magazines and other related mediums, including word of mouth. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents as long as Declarant owns any Lot in the Property or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

10.4 Quiet Enjoyment. No noxious or offensive activity or noise shall be carried on upon any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance. Portable radios, exterior speakers, and other personal sound equipment are permissible so long as they do not create a nuisance or otherwise interfere with the quiet enjoyment of any portion of the Property. All exterior lights must be sheltered or housed in such a way that no light shall shine directly into any neighboring Lot. Owner shall be responsible for the conduct of all guests, including all contractors and subcontractors, while on the Property. Loud music, profanity and other behavior which is offensive or a nuisance shall not be tolerated.

10.5 Parking for Vehicles. Overnight parking of any vehicles in the Street is prohibited. Owners of Lots may seek a temporary waiver from this restriction for their guests; however, any such request for waiver must receive the prior approval of the Board. No equipment other than motor vehicles may be kept in driveways. Vehicles may not be parked on sidewalks, apron areas, landscaped area of front yards or side yards, except behind enclosed walls or gates. Sidewalks must be kept clear for pedestrian and bicycle traffic. No Vehicles or Recreational Vehicles, RV's, boats, equipment, motorcycles, ATV's, motorhomes, or other similar vehicles shall be parked or stored on a Streets, driveways, or rights of way within the Property for more than seventy-two (72) consecutive hours. However, any such vehicle(s) may be stored on site as long as it is stored in a garage or parking stall (pad) alongside the garage or behind the garage and behind enclosed walls or gates, as approved by the ACC. The Board may enforce this provision by giving notice to the Owner of the violation, or when the Owner is not readily available, by giving notice in the form of a written request placed on the vehicle in question. Vehicles in violation of this provision may be towed, at the owner's expense. Unless otherwise approved by the Board, no industrial vehicles and equipment shall be allowed in the Property, other than temporary work equipment required solely for the building of Improvements and Dwelling Units. No Vehicle or Recreational Vehicle deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining Property or from public or private thoroughfares. No repair or maintenance work shall be done on any of the foregoing or on any vehicle other than minor emergency repairs and unless such repairs are begun and completed within twenty-four (24) hours, except in enclosed garages or other structures. No vehicle shall

be permitted to remain in a visible state of disrepair or disassembly from other Lots or areas of the Property.

10.6 Animals. Pets are a privilege and not a right within the Property. Owners must ensure that all pets have any required licenses or tags as per City of Conroe ordinance. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no animal shall be allowed on the Property, except that dogs, cats, birds or other domestic household pets may be kept in accordance with City of Conroe ordinances. There shall be a limit of no more than two (2) domestic household pets. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property, and no kennels or breeding operation shall be allowed. No animal shall be allowed to run at large. Dogs and other animals are required to be on a leash or in an enclosed area at all times. Owner shall have the absolute duty and responsibility to clean up after such animals to the extent they have used any portion of a Lot of another Owner or any Common Area. All animals which are permitted hereunder shall be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Such enclosed area shall be constructed in accordance with Plans and Specifications approved by the ACC and shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other Lot.

10.7 Construction. Commencement of Construction, which shall be evidenced by providing a copy of the building permit for the Lot to the ACC, shall begin within twelve (12) months of the initial purchase of Lot from Declarant. Construction of Dwelling Units shall be diligently pursued to substantial completion which generally shall occur within twelve (12) months of Commencement of Construction, subject to extensions by the ACC in its sole discretion. All damage caused by construction activity (including construction related vehicles), shall be promptly repaired by the Owner or his contractor.

10.8 Temporary Buildings. No outbuilding, tent, shack, shed or other temporary building or Improvement of any kind (except portable outhouses and dumpsters with lids or covers during construction) shall be placed upon any portion of the Property either temporarily or permanently.

10.9 Unightly Articles. Service areas and storage areas shall be appropriately screened from view. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap, compost piles, refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view. No wind generators or solar collectors shall be installed, erected, or maintained on any Lot unless approved by the ACC and appropriately screened from view. Any exterior holiday lighting or decorations pertaining to the holiday celebrated or recognized must be taken down and removed from street or yard visibility within 12 days after the holiday date.

10.10 Clothes Line. No exterior clothes dryer, clothes pole, clothes line or similar equipment shall be erected, installed or maintained on any Lot, nor shall articles of clothing, bedding, etc, be hung outside.

10.11 Drilling. Except as permitted for earth-coupled heat pumps or similar devices as provided for below, no oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted on the Property, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on or below the surface of any Lot. Further, except as permitted for earth-coupled heat pumps or similar devices as provided for below, no derrick or other structure used in boring for water, oil, geothermal heat or natural gas shall be erected, maintained or permitted on the Property. The Board in its discretion may approve earth-coupled heat pumps or similar devices which may require the excavation or drilling of vertical or horizontal trenches or shafts below the surface of the improved area of a Lot.

10.12 Minimum Square Footage Required. For a single story dwelling, the finished area above the finish grade shall be no less than twenty-eight hundred (2,800) square feet, exclusive of open porches and garages. For a two (2) story dwelling, the finished area above the finish grade shall not be less than 3,200 square feet (both floors), exclusive of open porches and garages with a minimum of sixteen hundred (1,600) square feet on the main floor. All Dwelling Units homes must have a minimum 2 car garage attached to the home. No duplicate home plans with similar elevations shall be constructed next to or across the street from each other.

10.13 Types of Homes Prohibited. Four (4) level split entry (bi-level) homes shall not be permitted on this Property unless approved by the ACC. Homes are not to exceed two (2) stories in height from finish grade. No garage conversions shall be allowed. No RVs, modular homes, mobile homes, underground or basement homes, round homes, octagon homes, solar homes, prefabricated homes, rebuilt homes, concrete homes, or any other unusual style of Dwelling Units shall be allowed in the Property regardless of ACC approval of the same.

10.14 Exteriors of Homes. Brick, tumbled or used brick, stucco, rock, or any combination of the same as approved by the ACC, are allowed as exteriors for all buildings in the Property, including accessory buildings and garages. There must be at least two (2) of the above named materials used in the front and side elevations of the Dwelling Unit and other Improvements, with at least thirty percent (30%) of the front elevation to be of the lesser used material. ACC shall approve the percentage of second material required on side elevations. Wood, aluminum, masonite, concrete, or vinyl siding are not permitted, including chimneys. Any other exterior material may only be used only upon the express approval of the ACC. Home exteriors using stucco must be of high quality synthetic stucco. All roofs must be built using a tile, slate roof, or architectural grade laminated shingles with a minimum guaranteed life of 30 years. All materials, including stucco should be of an earth tone color. No pastels or white colors are allowed. Solar energy, electricity-generating devices, windmills, or other ground or

roof appurtenances are prohibited. Courtyards shall have the same finish requirements as the front exterior of the Dwelling Unit.

10.15 Setbacks. All setbacks (front, side, and rear) shall comply with City of Conroe ordinances, the Plat, and as approved by the ACC.

10.16 Landscaping. All street or front landscaping, as well as side yard landscaping reaching to the half-way point of the total depth of the home, including grass, trees and shrubs must be completed prior to the issuance of a Certificate of Occupancy by the City of Conroe. All street or front yards must be a minimum of sixty percent (60%) grass. All landscaping shall be compatible with other homes in the Property. Rear yard landscaping, if not completed prior to Certificate of Occupancy, shall be completed thereafter in a period of time not to exceed twelve (12) months. Shrub, tree planting and landscaping on corner lots shall be located so as not to obstruct the view and create a hazard for the movement of vehicles or pedestrians along the street.

10.17 City of Conroe Requirements. All structures built on any Lot must be constructed in accordance with all applicable zoning and building ordinances of the City of Conroe. There shall not be any occupancy of any of structure without a current valid Certificate of Occupancy.

10.18 Driveways & Garages. Driveways shall be constructed out of concrete or other hard materials approved by the ACC and must be "pictured framed" or "trail edged". Driveways consisting of cinders, sand, gravel, asphalt or dirt shall not be permitted on any Lot. Driveways shall be of a sufficient size that two (2) vehicles can park thereon side by side, and shall in all other respects conform to City of Conroe requirements. Driveways shall be limited solely to providing a connection between the Street and the garage area. There shall be no detached garages. Garage doors facing the street must be a minimum of eleven feet (11') from the most forward elevation of the home. The most forward elevation excludes front porches and there must be a minimum of three feet (3') inset in front of garage.

10.19 Mailboxes. Mailboxes shall be constructed of brick, tumbled or used brick, stucco, rock, or any combination of the same as approved by the ACC. House numbers and similar matter used must be harmonious with the overall character and aesthetics of the Property.

10.20 Swimming Pools. No above-ground swimming pools shall be permitted.

10.21 Window Treatments. No window in any Dwelling Unit or other Improvement may be covered with aluminum foil or other reflective material. Window coverings must be compatible with the design and color of the Dwelling Unit and the overall character and aesthetics of the Property.

10.22 Air Conditioners. No window, roof, or wall type air conditioner that is visible from any Street or any other Lot, Common Area, or golf course shall be used, placed, or maintained on or in any Dwelling Unit, garage, or other Improvement.

10.23 Hazardous Activities. No activities shall be conducted nor objects or substances stored or kept on the Property and no Improvements shall be constructed or allowed to remain on the Property which are or might be unsafe, illegal, or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property. No open fires shall be lighted or permitted except within safe and well-designed interior fireplaces or in contained barbecue units while attended. Backyard natural gas fire pits are allowed if professionally installed and approved by the ACC.

10.24 Maintenance. Each Owner shall keep all landscaping on such Owner's Lot whether improved or unimproved, cultivated, pruned, mowed, weeded, and free of trash and other unsightly material. All Improvements upon any Lot, including homes, fencing, alleyways, outbuildings, and all other Improvements constructed by the Owner(s) shall be at all times kept in good condition and repair and adequately painted or otherwise maintained at the sole expense of Owner.

10.25 Damage or Destruction of Improvements. In the event of damage to any Lot, Improvement, or Street the Owner shall have the shorter of the period permitted by applicable laws or sixty (60) days to begin repairing or demolishing the destroyed or damaged Improvement and repairs must be pursued diligently to completion. Owner may timely request a "hardship" extension of this restriction to be considered by the Board, however, any granting of an extension shall not be deemed a waiver of the right to enforce this restriction hereafter. In the event the Owner fails to maintain the appearance of the Dwelling Unit, Improvements, or Lot, the Association may make such repairs as may be necessary to maintain the overall appearance of the Property and all charges therefore shall be borne by the Owner as a Corrective Assessment.

10.26 Abandonment. A Lot may be considered abandoned if considered hazardous, it has been unoccupied for a period of more than thirty (30) days, and the Board or Manager has not had contact from the Owner within thirty (30) days after notice was sent by certified mail. A Lot may be considered abandoned if the Owner has allowed a hazardous condition to arise or persist for more than thirty (30) days after the Board or Manager has sent notice by certified mail. In the event an Owner fails to correct any hazardous condition, the Association may, at the Association's discretion, correct the hazardous condition and charge the costs of the correction to the Owner as a Corrective Assessment. Nothing in this Section shall create any affirmative duty by the Association to correct any hazardous condition. Declarant shall be exempt from this provision.

10.27 Walls & Fences. Walls and fences over seven feet (7') high shall not be allowed. Fencing along golf course is not mandatory, except where required by the City of Conroe. The design of any wall or fence shall be approved by the ACC and must be

completed prior to the issuance of a Certificate of Occupancy by the City of Conroe. To maintain consistency throughout the subdivision; color and quality of materials of all walls, fences, and gates must be approved by the ACC. No chain link or other wire fencing shall be allowed. The cost of any walls or fences that are necessary between Lots shall be split equally between the adjacent Lot Owners. Notwithstanding, the Owner that first commences with construction on a Lot shall initially pay all costs to install necessary walls or fences. The adjacent Owner shall reimburse the first Owner for one half (1/2) of that portion of wall or fence that is adjacent to the first Owner's Lot within thirty (30) days from the date a building permit is issued on the adjacent Lot.

10.28 Tree Removal. No trees shall be cut or removed except for an area with fifteen feet (15') from the proposed slab and five feet (5') from the proposed driveway to provide room for construction of Improvements or to remove dead or unsightly trees; provided, however, that the removal of any tree in excess of a two inch (2") caliber must be approved by the ACC.

10.29 Treatment Facilities - No Lot shall be used for the operation of a boarding or rooming house, a residence for transients, a "group home", "family home", "community home" "half-way house", day care center, rehabilitation center, treatment facility, or residence of unrelated individuals who are engaging in, undertaking, or participating in any group living, rehabilitation, treatment, therapy, or training with respect to previous or continuing criminal activities or convictions, alleged criminal activities, alcohol or drug dependency, physical or mental handicaps or illness, or other similar matters, unless otherwise allowed by the terms of any law specifically negating the provisions of restrictive covenants prohibiting same.

10.30 Further Subdivision; Lease Provisions. No Owner shall further partition or subdivide a Lot or the rooms in the Dwelling Unit, including any division of Lot into time-share estates, time-share uses, or creation of additional living quarters; provided, however, that this provision shall not be construed to limit the right of an Owner: (1) to rent or lease entire Lot to a single family by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Lot is not leased for transient or hotel purposes; (2) to sell Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or some other form of joint ownership. The terms of any such lease or rental agreement shall be made expressly subject to this Declaration and the Bylaws of the Association. Any failure by the lessee of such Lot to comply with the terms of this Declaration, the Bylaws of the Association or the Rules and Regulations shall constitute a default under the lease or rental agreement.

10.31 Drainage. There shall be no interference with or alteration of the established drainage pattern over any Lot on the Property, unless an adequate alternative provision is made for proper drainage and approved by the ACC. For the purposes hereof, "*established drainage pattern*" is defined as the drainage which exists at the time that such Lot is conveyed to a purchaser from Declarant, and shall include drainage from the Lots on the Property onto any Common Area. The removal of any

dirt from any Lot is expressly prohibited except as may be necessary in conjunction with the landscaping of or construction on such Lot.

10.32 Water Supply and Sewage Disposal Systems. No individual water supply or sewage disposal system shall be permitted on any Lot.

10.33 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants; and same shall be promptly removed by the Owner. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view. Trash receptacles must be removed from pick up areas within twenty four (24) hours of the day the trash is collected. The Board may pass additional Rules and Regulations governing trash receptacles. Lot shall be maintained in a clean and orderly manner at all times. The storage of materials should be in an inconspicuous location within the site and stored neatly and orderly. All construction debris shall be cleared at the end of each working day.

10.34 Exception for Declarant. Notwithstanding the restrictions contained in this Article X, Declarant shall have the right to use any Lot or Dwelling Unit owned or leased by it in furtherance of any reasonably necessary or appropriate construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate the sale of Lots and/or Dwelling Units owned by Declarant.

10.35 Antennas and Satellite Dishes.

- (a) No antennas are allowed on the Lot or Improvements.
- (b) Up to two (2) Satellite Dishes, not to exceed twenty-four (24) inches in diameter each, may be installed. Location and position of Satellite Dish (es) shall be approved by the ACC.

ARTICLE XI

DAMAGE AND CONDEMNATION

Damage to or destruction of all or any portion of the Common Area and condemnation of all or any portion of the Common Area shall be handled in the following manner:

- (a) Each Member shall be liable to the Association for any damage to the Common Area or Improvement thereon sustained by reason of the

negligence or willful misconduct of said Member or guest. All expenses of fixing the damage may be levied by the Association as a Corrective Assessment.

(b) If at any time the Common Area, or any part thereof, shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Lot Owners in these proceedings, negotiations, settlements or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring and replacing any Improvements on the remainder of the Common Area. Upon completion of such work and payment in full therefore, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Area shall be disposed of in such manner as the Board shall reasonably determine.

ARTICLE XII

INSURANCE

12.1 Casualty Insurance. The Association may secure liability and casualty insurance for the Common Area.

12.2 Directors & Officers Insurance. The Association shall at all times maintain adequate comprehensive general liability insurance and directors & officers liability insurance. The premiums for such insurance shall be a Common Expense of the Association.

12.3 Fidelity Insurance. A fidelity policy or policies shall be purchased to protect against dishonest acts on the part of the Board, officers, Manager, employees of the Association and all others (including volunteers) who handle or are responsible for handling funds of the Association. This fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than one hundred percent (100%) of the Association's estimated annual operating expenses including reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days prior written notice to all Mortgagees of Lots.

12.4 Lots and Dwelling Units Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Lot or Dwelling Unit on any Lot or any Improvement thereon erected by the Owner.

ARTICLE XIII

MORTGAGEE PROTECTION CLAUSE

Notwithstanding any other provision of this Declaration, the following provisions concerning the rights of first Mortgagees shall be in effect:

13.1 Preservation of Regulatory Structure and Insurance. Unless the holders of seventy-five percent (75%) of all first Mortgagees and seventy-five percent (75%) of the Lot Owners shall have given their prior written approval, the Association shall not be entitled:

(a) by act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the Architectural design of the exterior, appearance of Dwelling Units, the exterior maintenance of Dwelling Units under certain conditions provided in 9.1, or the upkeep of the Common Area;

(c) to fail to maintain fire and extended coverage on insurable portions of the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance values (based on current replacement costs); or

(d) to use hazard insurance proceeds for losses to the Common Area for other than repair, replacement or reconstruction improvements on the Common Area.

13.2 Preservation of Common Area; Change in Method of Assessment. Unless the Association shall receive the prior written approval of (1) at least seventy-five percent (75%) of all first mortgagees (based on one (1) vote for each Mortgagee) of the Lots and (2) the Owners of at least seventy-five percent (75%) of the Lots (not including the Lots owned by Declarant), the Association shall not be entitled:

(a) by act or omission to seek abandon, partition, subdivide, encumber, sell or transfer the Common Area, except to grant easements for utilities and similar or related purposes, as herein elsewhere reserved; or

(b) to change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a Lot or the owner thereof.

Neither above provision of Article XIII nor the insurance provisions contained in Article XII may be amended without the prior approval of all first Mortgagees.

13.3 Notice of Matters Affecting Security. The Board or Manager shall give written notice to any first Mortgagee, upon written request, of a Lot requesting such notice wherever:

(a) there occurs any substantial damage to or destruction of any Dwelling Unit or any part of the Common Area involving an amount in excess of, or reasonably estimated to be in excess of twenty-five thousand (\$25,000.00). Said notice shall be given within fifteen (15) days after the Association learns of such damage or destruction; or

(b) there is any condemnation proceedings or proposed acquisition of a Dwelling Unit or of any portion of the Common Area within fifteen (15) days after the Association learns of the same or the Association plans to abandon or terminate the planned unit development established by this Declaration.

13.4 Notice of Meetings. The Association shall give to any first Mortgagee of a Lot requesting the same, in writing, notice of all meetings of the Association, and such first Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

13.5 Annual Meeting. Annual meetings shall be held as determined by the Board. Changing of the date and time of said Annual Meeting shall not require the amendment of this Section.

13.6 Right to Examine Association Records. Any first Mortgagee, or Owner shall have the right to examine the books, records and financial statements of the Association.

13.7 Right to Pay Taxes and Charges. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area; and first Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

13.8 Rights Upon Foreclosure of Mortgage. Each holder of a Mortgage (or Deed of Trust) on a Lot and any purchaser from it who comes into possession of the Lot by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or pursuant to a power of sale or otherwise shall take the Lot free of, and shall not be liable for any claims for unpaid assessments and charges against the Lot which accrue prior to the time such holder comes into possession of the Lot.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Amendment. This Declaration may be amended, modified, extended, or revoked by the Membership, the Board, or by the Declarant as follows:

(a) The Membership may amend, modify, extend, or revoke, in whole or in part, this Declaration with a required affirmation of at least two-thirds (2/3) of all Membership votes represented in person, by proxy, or by ballot of those that are entitled to cast a vote at a meeting duly called for such purpose. The Board shall cause to be delivered to all Members a Notice of Members Meeting setting forth the purpose of the meeting and the substance of the amendment proposed. No amendment made by the membership, as long as Declarant owns a Lot, shall be effective unless the Declarant provides its prior express written consent to such amendment, which consent is within the Declarant's sole and absolute discretion.

(b) The Board has the right, after the Declarant no longer owns any Lot, to unilaterally amend this Declaration, if such amendment is necessary (i) to bring any provision into compliance with any applicable government statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (iii) to satisfy the requirement of any local, state, or federal government agency; or (iv) to correct any transcriber's error.

(c) Declarant, its assigns or successors, shall have and hereby reserves the right to unilaterally amend, modify, extend, or revoke this Declaration, in whole or in part, at any time, and for any purpose deemed necessary by the Declarant, until the Declarant no longer owns a Lot within the Property or any expansion area that may be annexed, with or without notice to the Class A Membership.

Any amendment authorized pursuant to this Section shall be accomplished through the Recordation of an instrument executed by the Association or Declarant. In such instrument an officer of the Association or member of the Board shall certify that the vote required by this Section for amendment has occurred, except for amendments unilaterally made by the Declarant.

Unless a later effective date is specified in the amendment, any amendment shall be immediately effective upon Recording.

14.2 Enforcement. This Declaration may be enforced by the Association, Declarant, Manager, and any Owner as follows:

(a) Breach of any of the provisions contained in the Declaration and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner, including Declarant so long as Declarant owns a Lot in the Development, and by the Association. The offending party is entitled to such notice and rights to a hearing as provided for in the Bylaws. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in any amount as the court may deem reasonable, in favor of any prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs. The Association may charge the costs of enforcement of this Declaration as a Corrective Assessment against the Lot owned by the nonconforming Owner.

(b) The results of every act or omission whereby any of the provisions contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association, and by the Declarant for so long as Declarant owns a Lot.

(c) The remedies herein provided for breach of the provisions contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the provisions contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

(e) Any breach or amendment of the provisions contained in this Declaration, the Articles or the Bylaws shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Lot or the Improvements thereon, provided that any subsequent Owner of such property shall be bound by such provisions of the Declaration, Articles and Bylaws, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

14.3 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

14.4 Manager. The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may

be an independent contractor or an agent or employee of the Association. Such Manager shall be responsible for managing the Property for the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of a management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

14.5 Management Agreement. Any agreement for professional management of the Development, or any other contract providing for services of the Declarant, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of termination fee on not more than ninety (90) but not less than thirty (30) days written notice.

14.6 Notice. Any notice, including without limitation notice of a violation of this Declaration, the Bylaws, or any Rules and Regulations of the Association, permitted or required to be delivered as provided herein shall be fair and reasonable if given in writing and may be delivered either personally or by first class or registered mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

14.7 Rules and Regulations. The Board shall have the authority to promulgate and adopt Rules and Regulations as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Property is maintained and used in a manner consistent with the interests of the Owner's, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties and fines for the infractions of any Rules and Regulations, this Declaration, or the Bylaws. Fines levied may be assessed as a Corrective Assessment against the Lot.

14.8 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

14.9 Term. Unless earlier terminated pursuant to 14.1 above, the covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, the Declarant for so long as the Declarant owns a Lot in the Development, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, for a term of fifty (50) years from the date this Declaration is Recorded, after which term shall be automatically extended for successive periods of ten (10) years unless a declaration of termination satisfying the requirements of an amendment to the Declaration as set forth in 14.1 is Recorded.

ARTICLE XV

ANNEXATION OF ADDITIONAL PROPERTY

15.1 Annexation by Declarant. Declarant reserves the right, at its sole discretion and without the consent of the Class A Membership, to expand the Property to include additional sections, phases or areas of property. In the event any additional property is annexed, the terms, covenants and conditions and reservation of easements contained in this Declaration shall run not only to, with, and from the Property described herein, but by this reference to the plat or plats, also to, with and from all adjoining additions thereto made pursuant to this Article. Declarant's Class B Membership status shall extend to all Lots in any expansion properties. If additional sections, phases, or properties are annexed by the Declarant pursuant to the terms of this Article, the Owners of Lots in said addition(s) shall be members of the Association and shall have the same rights to the use and enjoyment of the Property and facilities of the Association as any other Member.

IN WITNESS WHEREOF, Declarant executes this Amended and Restated Declaration on October 5, 2010.

DECLARANT:

WEST FORK IRREVOCABLE TRUST

Charles A. Mohler
By: West Fork Management, LLC as Trustee of the West Fork Irrevocable Trust
By: Charles A. Mohler as Manager of West Fork Management, LLC

STATE OF NEVADA)
COUNTY OF CLARK)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles A. Mohler, Manager of West Fork Management, LLC, which is the Trustee of West Fork Irrevocable Trust, signed to the foregoing instrument, and being authorized and empowered to do so, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily for the uses and purposes stated therein.

Given under my hand and official seal this the 5th day of October, 2010.

Mitchell P. Amos
Notary Public

AFFIX SEAL
My commission expires: 1-29-2012



Exhibit "A"

Legal Description

Block 1, Lots 1, 2, 3, 4, 5;

Block 2, Lots 1, 2, 4, 5;

Block 3, Lots 1, 2, 3, 4, 5;

Block 4, Lots 1, 2, 3, 4, 7, 8, 9, 10, 13;

Block 5, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13;

Block 6, Lots 1;

Block 7, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,
23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41,
42, 43, 44, 45, 46, 47, 48;

Block 8, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19.

All in West Fork, Section Three (3), a subdivision in Montgomery County, Texas according to the map thereof recorded in Cabinet V, Sheet 147 of the Map Records of Montgomery County, Texas.

FILED FOR RECORD

10/06/2010 10:26AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was filed in file number
sequence on the date and at the time stamped herein
by me and was duly RECORDED in the Official Public
Records of Montgomery County, Texas.

10/06/2010



County Clerk
Montgomery County, Texas