

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
THE SHORES, AN ADDITION IN  
GALVESTON COUNTY, TEXAS**

This Declaration of Covenants, Conditions and Restrictions ("this Declaration") is made and executed on the date hereinafter set forth by BETTY JANE BENOIT KILGORE, ("Declarant").

WHEREAS, Declarant is the Owner of that certain land more fully described in **Exhibit A**, attached hereto and made a part hereof by this reference (the "Land"). The Land shall not include Lots 8, 9, and 10 described in **Exhibit "A"** ;

WHEREAS, Declarant has caused the Land to be subdivided and platted into an addition to known and to be known as **THE SHORES** (the "Addition"), in accordance with the Replat of Lots 1 through 18 (*excluding Lots, 8,9 and 10*) being a 4.249 acre tract of land out of the Jones Shaw Survey, Abstract 179 on Bolivar Peninsula in Galveston County, Texas, filed for record in the Map Records of Galveston County, Texas, (the "Plat");

WHEREAS, These Conditions and Restrictions shall not apply to Lots 8, 9, and 10 to the Addition;

WHEREAS, Declarant desires to create within the Addition a residential community with residential Lots for single family homes, private streets, and other common improvements for the benefit of the community;

WHEREAS, Declarant desires to provide for, among other matters, the preservation of the values and amenities in the community and for the maintenance of landscaping, private streets, and other common improvements, and, to this end, desires to subject the Land, with the exception of Lots 8, 9, and 10 together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Land and for every Owner of any part thereof;

WHEREAS, Declarants has deemed it desirable, for the efficient preservation of the values and amenities in the community, to create an Owners' Association to which will be delegated and assigned the powers of (i) maintaining and administering the Common Areas and facilities, (ii) administering and enforcing the covenants and restrictions contained herein and (iii) collecting and disbursing the assessments and charges hereinafter created;

WHEREAS, Declarant has caused or will cause a non-profit corporation to be incorporated under the laws of the State of Texas for the purpose of effecting the intents and objectives herein set forth; and

WHEREAS, the Land has been subdivided into numbered Lots according to the Plat and that all of the Lots, with the exception of Lots 8, 9, and 10 and all of the balance of the Land shall be held, sold and conveyed subject to the covenants, conditions, stipulations and restrictions hereinafter set forth,...

NOW THEREFORE, for the purposes of creating and carrying out a uniform plan for the improvement and sale of the Land and the Addition as a restricted subdivision, the following restrictions upon the use of the Land are hereby established and adopted, and shall henceforth be made a part by appropriate reference to this instrument, of each and every contract, deed and lease covering the numbered Lots set forth on the Plat and same shall be considered a part of each contract, deed and lease, as though fully incorporated therein.

And the restrictions hereinafter set forth, except as herein otherwise provided, shall be and are hereby imposed upon Land, and same shall constitute covenants running with the land and shall be binding on all parties having any right, title or interest in the Land or any part thereof, their heirs, successors legal and personal representatives, administrators, executors, and assigns and shall inure to the benefit of each Owner thereof.

#### **ARTICLE I** **DEFINITIONS**

Section 1.     **"Association"** shall mean and refer to **THE SHORES** Owners Association, a Texas nonprofit corporation, its successors and assigns.

Section 2.     **"Owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is part of the Addition, including contract sellers, but excluding (a) those holding title merely as security for the performance of an obligation, or (b) those holding title to, or an interest in, the mineral estate only, with no title to, or interest in, the surface estate.

Section 3.     **"Lots"** shall mean and refer to all of the platted lots shown and reflected upon the recorded Plat or plats of said Addition, and "Lot" shall mean and refer to any or each of the Lots in the Addition.

Section 4. **"Private Street"** means and refers to Pedregal Drive ("Pedregal"), as shown, reflected and designated as an eighteen (18') foot road with a sixty foot (60') wide easement "PRIVATE STREET" on the Plat, individually, and **"Private Streets"** refers to private streets collectively.

Section 5. **"Member"** shall mean and refer to each and every person or entity that holds membership in the Association, as provided herein.

Section 6. **"Declarant"** shall mean and refer to by BETTY JANE BENOIT KILGORE, individually, and her successors assigns. However, as used in this section, the term "assigns" shall not be construed to mean, refer to, or include any person or entity which shall acquire Declarant, or its successors, one (1) or more of the Lots in the Addition, whether improved or unimproved, for occupancy or resale, unless Declarant, or their successors, expressly assigns to such assignee all of its rights and privileges as "Declarant" under this Declaration.

Section 7. **"Common Area"** shall mean and refer to and include any real property (including all improvements now or hereafter placed or erected, construed, installed or located thereon) owned by or at any time hereafter acquired by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by Association on the execution of this Declaration shall constitute the following:

- (a) the Private Streets;
- (b) Any Addition entry or identification sign constructed or to be constructed at the entrance to the Land, even though such sign(s) may be constructed and located upon one (1) or more Lots in the Additions.

Section 8. **"Supplemental Declaration"** shall mean and refer to any supplemental or supplementary declaration of covenants, conditions and restrictions bringing additional property within the scheme of this Declaration and within the jurisdiction of the Association, as provided in Article II hereof.

Section 9. **"Mortgage", "Deed of Trust" or "Trust Deed"** shall mean and refer to a pledge of a security interest in or the creation of a lien upon a Lot (or Lots), together with any improvements thereon, to secure repayment of a loan made to the Owner(s) of such Lot or Lots (or made to another, but secured by such Lot or Lots).

Section 10. **"Mortgagee"** shall mean and refer to the beneficiary of, or secured party in, a Mortgage on a Lot or Lots.

Section 11. **"First floor"** shall mean and refer to the first enclosed living floor area above

the minimum first floor elevation required below in this Declaration.

Section 12. "Front lot line" shall mean and refer to the boundary line of the Lot adjacent to the Private Street.

Section 13. "Rear lot line" shall mean and refer to the boundary line(s) of the Lot opposite the front lot line.

**ARTICLE II**  
**PROPERTY SUBJECT TO DECLARATION: ADDITIONS THERETO**

Section 1. Property Subject to Declaration. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to the terms, covenants, conditions, restrictions, easements and reservations contained in this Declaration is the Addition, including the Lots (with the exception of Lots 8, 9, and 10 identified in **Exhibit "A"**), Common Area and any and all other parts thereof, and together with all rights and privileges appurtenant thereto.

Section 2. Additions of Property. No additional property may be brought within the scheme of this Declaration or within the jurisdiction of the Association without the consent and approval of the Association and the execution of a Supplemental Declaration as hereinafter provided.

Section 3. Additions of Property. The Association, upon a vote of the Board of Directors and approval of a majority of the Members, may bring within the scheme of this Declaration and within the jurisdiction of the Association any real property by executing and filing of record in the office of the County Clerk of Galveston County, Texas, a Supplemental Declaration describing such additional property and expressly subjecting such additional property to the scheme of this Declaration and to the jurisdiction of the Association, together with a plat of such additional property. Such Supplemental Declaration may contain complementary and supplementary provisions, conditions, covenants, restrictions and reservations, and may amend and modify the provisions, conditions, covenants, restrictions and reservations contained herein as they relate to or affect such additional property, but such Supplemental Declaration shall not in any manner revoke, modify or add to the covenants established by this Declaration as to the Land. After any additional property is brought within the scheme of this Declaration and within the jurisdiction of the Association pursuant to the provisions of this Section 3, the term "Addition", as used herein, shall be deemed to mean, refer to and include the Land, together with such additional real property as are brought within the scheme of this

Declaration and within the jurisdiction of the Association pursuant to this Section 3.

Section 4. Assignment of Rights Reserved to Declarant. Declarant (or its successors) shall have the express light to assign, by written instrument executed by Declarant (or its successors) and filed for record in the office of the County Clerk of Galveston County, Texas, all or any part or parts of its rights as Declarant under this Declaration.

### **ARTICLE III** **PROPERTY RIGHTS AND EASEMENTS**

Section 1 Owners' Easements. Each and every Owner shall have a right and easement of use and enjoyment in and to the Common Area, subject, however, to the provisions, limitations and restrictions contained in this Declaration or in the Bylaws of the Association and to any reasonable rules and regulations adopted by the Association, from time to time, relating to the use of the Common Area. Such right and easement shall be appurtenant to and pass with the title to every Lot, whether or not so stated in any deed or other instrument of conveyance or encumbrance affecting any Lot in the Addition.

Section 2. Utility Easements. Owners of Lots may grant public or private utility easements over, along, and across their respective Lots to serve such Lots or the Addition or any part or parts thereof. The Association may grant public or private utility easements over, along, and across the Common Areas to serve the Addition or any part or parts thereof.

Section 3. Blanket Easements. An easement over and upon every Lot in the Addition is hereby reserved by Declarant in favor of itself and the Association, and granted by Lot Owners on the Lots owned by them to the Declarant and the Association, and their respective representatives, agents, employees and contractors, to enter in and upon any Lot for the purpose of exercising any rights or performing any obligations herein granted to or imposed on the Declarant or the Association. Further, Declarant and each of the Lot Owners hereby grant the following blanket easements:

- (a) To all law enforcement, fire protection and emergency medical service agencies and personnel, an easement over the Common Areas for the performance of their official duties;
- (b) To all public authorities and public utility companies having sewer or utility lines or services in the Addition, an easement over the Common Area for the purpose of accessing, maintaining, repairing, replacing or

operating their respective lines (and appurtenances) constructed or installed in any utility easement in the Addition or within the easements for the Private Streets in the Addition, and

(c) To any public authority providing trash collection services to the Lots, or to any private trash collection company providing trash collection services to the Lots pursuant to a contract with the Association, or with the Owners of the Lots themselves, an easement for ingress and egress purposes over the Private Streets in the Addition.

Section 4. Delegation of Use. Subject to such limitations as may be imposed by this Declaration or by the Bylaws of the Association and such rules and regulations as may be from time to time established by the Association, each Owner may delegate his right of enjoyment in and to the Common Area to the members of this family, his guests, tenants, and invitees.

Section 5. Easements of Encroachment. There shall exist reciprocal appurtenant easements between each Lot and any portion or portions of the Common Area adjacent thereto for any encroachment due to the unwilful placement, settling or shifting of the improvements constructed, reconstructed or altered thereon; provided such construction, reconstruction or altered thereon; provided such construction, reconstruction or alteration is in accordance with the terms and covenants of this Declaration. Such easement of encroachment shall exist to a distance of not more than one (1) foot ,as measured from any point on the common boundary line between any Lot and any adjacent portion of the Common Area, along a line perpendicular to such boundary at such point Except where otherwise permitted in this Declaration, no easement for encroachment shall exist as to any encroachment due to the willful conduct of any owner.

Section 7. Other Easements. There is hereby reserved by Declarant in favor of itself and the Association easements on, along, and over Lots 1 and 17 of the Addition and being all of that part of the said Lots 1 and 17 lying southwest the ten (10') foot side street setback line along the side Lot line bordering Gulf Shores Drive as shown on the Plat and being parallel and ten (10') feet from the northeast line of Gulf Shores Drive and the projection of said parallel portion of said setback line to its intersection with the front Lot line of the said Lot 1 and the northeast line of Pedregal and lying southeast of a line from a point in the said setback line lying twenty (20) feet in a northwesterly direction from said point in the northwest line of Pedregal along the said setback line and its projection to Pedregal running perpendicular from said point in said setback line to its intersection with Gulf Shores Drive and on, along, and over Lot 17 of the Addition and being all of that

part of the said Lot 17 lying southwest the ten (10') foot side street setback line along the side Lot line bordering Gulf Shores Drive as shown on the Plat and being parallel and ten (10) feet from the northeast line of Gulf Shores Drive and the projection of said parallel portion of said setback line to its intersection with the front Lot line of the said Lot 17 and the northwest line of the Pedregal and lying southeast of a line from a point in the said setback line which lies twenty (20') feet in a northwesterly direction from said point in the northwest line of Pedregal along the said setback line and its projection to Pedregal running perpendicular from said point in said setback line to intersection with Gulf Shores Drive for the purpose of installing maintaining repairing, lighting and replacing an entry or identification sign or signs for the Addition. The Declarant, its representatives, agents, employees and contractors, and/or the Association, its representative, agents, employees and contractors, shall at any and all times have the free and unrestricted right to enter into and upon such easements for the purpose of installing, repairing, maintaining, lighting and/or replacing any such Addition sign.

**ARTICLE IV**  
**ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

Section 1.     Members. Every Owner of a Lot in the Addition shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2.     Classes of Members. The Association shall have two (2) classes of Members, as follows:

Class A.       Class "A" Members shall be all Owners, with the exception of Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in a given Lot, all of such persons shall be Members, and the vote for such Lot shall be exercised as they may determine among themselves; but in no event shall more than one (1) vote be cast with respect to any Lot owned by Class "A" Members,

Class B.       The Class "B" Member shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class "B" membership shall cease and be converted to Class "A" membership upon the happening of either of the following events, whichever shall first occur.

- (a)     When the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or

(b) January 1, 2028

Section 3. Voting by Class. Excepting those instances where voting (or agreement) by class is specifically required in this Declaration or in the Bylaws of the Association, voting shall be by the Members of the Association as a whole, and not by class.

## **ARTICLE V**

### **ASSOCIATION ASSESSMENTS**

Section 1. Lien and Personal Obligation of Assessments. Declarant and Lot Owners, for each Lot owned by them in the Addition, hereby covenants, and each Owner of a Lot in the Addition is hereby deemed to covenant by acceptance of a deed to such Lot (whether or not it shall be so expressed in such deed), to pay to the Association (a) regular annual assessments, (b) special assessments for capital improvements, and (c) additional Lot assessments. Such assessments shall be established and collected in the manner hereinafter provided. The regular annual assessments, special assessments for capital improvements, and additional Lot assessments, together with interest, costs and reasonable attorney's fees thereon, shall be a charge upon the land and a continuing lien on each Lot against which an assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees thereon, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title unless expressly assumed by them. Declarant and the Lot Owners hereby reserve and assign to the Association, without recourse, a vendor's lien on each Lot owned by them (including all improvements now or hereafter constructed, erected or developed thereon) to secure the payment of all assessments levied on such Lot pursuant to this Article V, together with interest, costs and reasonable attorney's fees thereon.

Section 2. Purpose of Regular Annual Assessments. The regular annual assessments levied by the association shall be used exclusively to promote the health, safety and welfare of the residents of the addition and for the performance of the Association's maintenance obligations hereunder. The regular annual assessments shall be used to pay, and the Association shall acquire and pay for out of the funds derived from the regular annual assessments, the following:

- (a) Costs of maintaining and repairing the Common Area and any and all improvements now or hereafter constructed, erected or installed thereon, including, without limitation, any sign, paving and other infrastructure in the Private Streets or any other Common Areas;

- (b) Costs of landscaping, mowing, edging and maintaining any Common Area;
- (c) Taxes and assessments levied by any taxing authorities on the Common Area (and any improvements thereon) and the premium cost of maintaining (i) fire and extended coverage insurance on any insurable improvements on the Common Area, together with any equipment, fixtures or other personal property of the Association, and (ii) if determined by its Board of Directors to be prudent or necessary for the protection of the Association and its Members, liability insurance in favor of the Association, including premises liability coverage on the Common Area, all with such limits and deductibles as the Board of Directors of the Association shall determine from time to time;
- (d) Cost of water, electricity, lighting and other utility services for the Common Area;
- (e) Any expenses which the Association is required to incur or pay pursuant to the terms of this Declaration (or any Supplemental Declaration) or the Association's Bylaws, or which shall be necessary or proper in the opinion of the Board of Directors of the Association, for (i) the administration of the affairs of the Association, (ii) the performance of the duties of the Association, or (iii) the enforcement of the provisions of this Declaration, the Association's Bylaws or any rules and regulations of the Association; and
- (f) Any other costs or expenses which is determined by a vote of the Association Members, from time to time, to be a common expense of the Association.

Section 3. Power to Fix Regular Annual Assessments. The power and authority to fix and levy the regular annual assessments shall rest exclusively with the Board of Directors of the Association, and when the same are determined and fixed by the Board of Directors, as herein provided, same shall be final, conclusive and binding upon each Owner, his heirs, legal representatives, executors, administrators, successors and assigns, including contract purchasers.

Section 4. Special Assessments for Capital Improvements. In addition to the regular annual assessments authorized and provided for above, the Association may fix and levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying the costs of construction, reconstruction, repair, or replacement of any capital improvement on the Common Area. Any such special assessment, before becoming

effective and a binding obligation of the Owners, must be approved by a two-thirds (2/3rds) vote of each class of Members who are voting either in person or by proxy, at a meeting duly called for that purpose.

Section 5. Notice and Quorum for Action Under Section 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 5 above shall be sent to all Members not less than twenty (20) days, nor more than seventy-five (75) days, in advance of such meeting. Such notice shall state that the purpose (or one of the purposes) of the meeting is to vote upon a special assessment, specifying the purpose of the proposed special assessments. At the first such meeting called, the presence of Members' either in person or by proxy, entitled to cast fifty percent (50%) or more of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum for the first meeting. No such second meeting shall be held more than sixty (60) days after the first called meeting.

Section 6. Uniform Rate of Assessment. Regular annual assessments and special assessments for capital improvements (but not the additional Lot assessments provided for later herein) must be fixed at a uniform rate for all Lots in the Addition.

Section 7. Collection of Regular Annual Assessments and Special Assessments. The regular annual assessment shall be collected by the Association on a monthly, quarter-annual, semi-annual, or annual basis, as determined by the Board of Directors from time to time. Special assessments for capital improvements shall be collected on such basis as shall be determined by the vote of the membership in approving the establishment and levy of such special assessments.

Section 8. Establishment and Notice of Regular Annual Assessment. At the organizational or any subsequent meeting of the initial Board of Directors of the Association, the regular annual assessment for the first calendar year shall be fixed and established by the Board of Directors, and written notice thereof (including the basis upon which such regular annual assessment is to be collected) shall be forthwith given to each Owner subject thereto. The first such regular annual assessment shall be adjusted according to the number of months remaining in the annual (calendar year) assessment period. Thereafter, not less than thirty (30) days prior to the commencement of each calendar-year assessment period, the Board of Directors of the Association shall fix and establish the regular annual assessment for the ensuing assessment year and shall give written notice thereof (including the basis upon which such regular annual assessment is to be collected)

to every Owner subject to such regular annual assessment. Upon a person or entity becoming the Owner of a Lot in the Addition (and upon notification of such fact given to the Board of Directors of the Association), it shall be the duty of the Board of Directors to notify such new Owner of the regular annual assessment charged upon his Lot (in the same manner as notice is given to those Owners owning Lots as of the commencement of any annual assessment period). The failure of the Board of Directors to give written notice to any Owner, as herein required, shall not in any manner exempt or relieve such Owner from his obligation to pay the regular annual assessment on his Lot, or exempt his Lot from the assessment lien provided for herein, but such Owner shall not be in default for failure to pay his regular annual assessment (on the due date or dates thereof) until notice of such regular annual assessment is given to such Owner in the manner herein provided. Each Owner (including Declarant) covenants and agrees to give written notice to the Board of Directors of the Association upon the sale or transfer by such Owner of his Lot, including the name and mailing address of the Lot purchaser(s) and the date upon which the sale or transfer was or will be effected.

Section 9. Limited Exemption from Regular Annual Assessments. Notwithstanding anything herein to the contrary, Declarant shall not be liable for or obligated to pay regular annual assessments on any Lot it owns until the earlier of (a) the expiration of one (1) year from the date of this Declaration, or (b) the expiration of thirty (30) days after a single family residence has been substantially completed thereon.

Section 10. Date of Commencement of Regular Annual Assessments. The regular annual assessments provided for above in this Article shall commence as to each Lot on the first (1st) day of the calendar month next following:

- (a) The conveyance of a Lot by Declarant to an Owner; or
- (b) With respect to a Lot owned by Declarant, the earlier of (i) the expiration of one (1) year from the date of this Declaration, or (ii) thirty (30) days following the substantial completion of a single-family residence on the Lot.

Section 11. Certification of Payment of Assessments. Within ten (10) days after the date a written request for subdivision information is received from an Owner, an Owner's agent, or a title insurance company or its agent acting on behalf of an Owner, the Association shall deliver to the Owner, the Owner's agent, or the title insurance company or its agent, (a) a current copy of the Declaration applying to the Addition, (b) a current copy of the Bylaws and rules of the Association, and (c) a resale certificate that complies with §207.003(b) of the Texas Property Code. A properly executed resale certificate shall be conclusive and binding upon the Association as of the date thereof. The Association may

establish and collect a reasonable charge to assemble, copy, and deliver the information required by §207.003 of the Texas Property Code. All references to the Texas Property Code contained in this Declaration is deemed to include any amendments thereto and any successor statute or statutes thereto.

Section 12. Effect of Nonpayment of Assessments, Remedies of Association.

(a) Any assessment (of whatever kind or character, whether a regular annual assessment, special assessment for capital improvements, or additional Lot assessment) not paid within ten (10) days of the due date thereof shall be delinquent. Any delinquent assessment shall bear interest from the due date thereof at the rate of eighteen percent (18%) per annum. All unpaid assessments, together with interest thereon as provided above, shall constitute a lien upon the Lot (together with all improvements thereon) against which the unpaid assessments were levied by the Association. To evidence such lien, the Association may, but is not required to, prepare and file for record in the office of the County Clerk of Galveston County, Texas, a written notice, signed by an officer of the Association, setting forth the amount of the unpaid assessments, the name of the Lot Owners, and a description of the Lot upon which such assessments are unpaid.

(b) The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien upon such Lot in the manner hereinafter provided. No Owner may exempt himself or otherwise escape liability for the assessments herein provided by abandoning his Lot or in any other manner. Suit to recover a money judgment against a defaulting Owner shall be maintainable without foreclosing or waiving the lien securing the assessments owing by such defaulting Owner.

(c) The assessment lien may be enforced by the Association by judicial proceedings or non-judicial proceedings (pursuant to the provisions of Section 14 below) to foreclose the lien on the defaulting Owner's Lot (including all improvements thereon) in like manner as a mortgage (with a power of sale) on real property upon the recording of a notice of lien, as provided in Subsection (a) above. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including (in the case of a non-judicial foreclosure) to five percent (5%) of the gross sales proceeds, the costs of preparing and filing the notice of lien, and all other expenses of foreclosure, including reasonable attorneys' fees and expenses.

The Association shall have the power to bid on the Lot at foreclosure sale (whether judicial or non-judicial) and to acquire and hold, lease, mortgage or convey the same.

Section 13. Nonjudicial Foreclosure of Lien. To secure and enforce the payment of all assessments provided for in this Declaration, together with all interest accrued or accruing thereon and attorney's fees and other costs reasonably incurred by the Association in collecting the same, and for the auxiliary and cumulative enforcement of said lien, and in consideration of the sum of ONE DOLLAR (\$1.00) to Declarant and the Lot Owners in hand paid by the Trustee hereinafter named, and for the further consideration of the uses, purposes and trusts hereinafter set forth, Declarant and the Lot Owners have granted, sold, and conveyed, and by these presents does grant, sell, and convey unto. BETTY JEAN BENOIT KILGORE, of Hardin County, Texas, whose mailing address 26 Greenhill Drive, Lumberton, Hardin County, Texas, 77657, and any substitute or successor trustee appointed hereunder, each of the Lots in the Addition, to have and to hold the said Lots unto the said Trustee, and to her substitutes or successors forever. Declarant and the Lot Owners do hereby bind themselves, their successors, legal and personal representatives, executors, administrators, heirs and assigns, to warrant and forever defend the Lots unto the said Trustee, his substitutes, successors and assigns forever, against the claim or claims of all persons claiming or to claim the same, or any part thereof, subject to any superior liens, for and upon the following trusts, terms, covenants, and agreements, to wit:

(a) This conveyance, however, is made in trust to secure the payment of all assessments provided for in Article V of this Declaration (whether now owed or hereafter ever accruing to the Association). Should Declarant, its successors and assigns, make full payment of the assessments hereby secured as the same shall become due and payable, then this conveyance shall become null and void and of no further force and effect.

(b) In the event, however, of default in the payment of any assessment hereby secured, in accordance with the terms of this Declaration, it shall thereupon, or at any time thereafter, be the duty of the Trustee or his successor or substitute, at the request of the Association (which request is hereby conclusively presumed), to enforce this trust against the Lot against which the assessment is due and owing in the manner provided in §51.002 of the Texas Property Code, as then amended, and, after giving notice and advertising the sale as provided in said §51.002 (but without any other action than is required by said §51.002 as then amended) and otherwise complying with that statute, the Trustee shall sell the Lot (including any

improvements thereon) at public sale as provided in said §51.002 and make due conveyance to the purchaser or purchasers thereof, with covenants of general warranty binding upon the then Owner of such Lot and such Owner's heirs, legal and personal representatives, executors, administrators and successors.

(c) Out of the money arising from such sale, the Trustee acting shall first pay all expenses of advertising said sale and making the conveyance (including a Trustee's fee of five percent (5%) of the gross sales proceeds), and then to the Association the full amount of assessments owing, together with interest thereon and reasonable attorneys' fees and expenses, rendering the balance of the sale price, if any, to the Owner of said Lot prior to such sale, his heirs or assigns, or to such other person as may be legally entitled thereto. The recitals in the conveyance to the purchaser or purchasers of such Lot shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner of such Lot prior to such sale, his heirs, executors, administrators, successors and assigns.

(d) It is agreed that in the event foreclosure should be commenced by the Trustee, or his substitute or successor, the Association, as beneficiary hereunder, may at any time before the sale of the Lot direct the abandonment of the sale and may then institute suit for the collection of the assessments, interest and collection costs then owing to the Association, and, at the election of the Association, for judicial foreclosure of the assessment lien. It is further agreed that if the Association should institute suit for collection and for judicial foreclosure of the assessment lien, the Association may, at any time prior to the entry of a final judgment in said suit, dismiss the same and require the Trustee, or his substitute or successor, to sell the Lot against which the assessment is then owing in accordance with the provisions of this Section 14.

(e) In case of the absence, resignation, death, inability, failure or refusal of the Trustee herein named or of any substitute trustee appointed hereunder to act, or in the event that the Association shall deem it desirable to remove without cause the Trustee or any substitute trustee and appoint another to execute this trust, then in any of such events, the Association shall have the right and is hereby authorized and empowered to appoint a successor and substitute without any formality other than an appointment and designation in writing, and this appointment shall vest in him, as substitute or successor

trustee, the estate and title in and to all said Lots, and he shall thereupon hold, possess, and execute all the rights, title, powers and duties herein conferred upon the Trustee named herein. The right to appoint a successor or substitute trustee shall exist as often and whenever from any of said causes any trustee, original or substitute, cannot or will not act, resigns, or has been removed without cause.

(f) The exercise or attempted exercise of the power of sale herein contained shall not exhaust the power of sale and shall not prevent any subsequent exercise thereof.

(g) The Association, as beneficiary hereunder, if it is the highest bidder, shall have the right to purchase at any sale of a Lot pursuant hereto and to have the amount for which such Lot is sold credited against the indebtedness then owing on such Lot to the Association.

(h) It is especially agreed that in the event of a foreclosure under the powers granted herein, the person in possession of the Lot sold shall thereupon become a tenant at will of the purchaser or purchasers at the foreclosure sale. Should such tenant then refuse to surrender possession of the Lot upon demand, the purchaser or purchasers shall be entitled to institute and maintain a statutory action for forcible detainer of said Lot in the justice of the peace court for the justice precinct in which the Lot is situated. The bringing of an action for forcible detainer shall not preclude the bringing of any other action for the possession of said Lot, and the bringing of one character of action shall not preclude the other and same may be exercised separately or simultaneously.

Section 14. Subordination of Assessment Lien to Mortgages. The assessment lien provided for in this Article V shall be and remain subordinate to the lien of any perfected First Mortgage. A "First Mortgage" is defined as (a) a Mortgage which has first and paramount priority under applicable law, (b) a Mortgage securing an "equity loan," pursuant to §50(a)(6) of Article XVI of the Texas Constitution, or (c) a Mortgage securing a "reverse mortgage" pursuant to §50(a)(7) of Article XVI of the Texas Constitution. A sale or transfer of a Lot shall not affect the assessment lien thereon. However, the sale of a Lot pursuant to the foreclosure of a First Mortgage or any proceeding in lieu thereof shall extinguish the assessment lien as to unpaid charges which accrued prior to such foreclosure sale or transfer in lieu thereof. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due and payable or from the lien thereof. The holder of any First Mortgage shall be entitled, upon written request made to the Association, to written notification from the Association of any default by such

holder's mortgagor (or grantor under a Deed of Trust or Trust Deed) in any obligation under this Declaration or the Bylaws of the Association which is not cured within sixty (60) days from the date upon which such default occurred. Any Mortgagee holding a First Mortgage on a Lot may pay any unpaid assessment payable with respect to such Lot, and upon such payment such Mortgagee shall have a lien on such Lot for the amounts paid to the Association of the same rank as the lien of its Mortgage.

Section 15. Additional Lot Assessments. Separately and apart from the regular annual assessments and special assessments provided for above in this Article, the Association's Board of Directors shall have the right to make a special assessment against any Lot Owner and his Lot for the costs incurred by the Association in:

- (a) Making any repairs or replacements, or in performing any maintenance (other than lawn mowing or other lawn maintenance), which an Owner, although otherwise obligated to make or perform under this Declaration, fails to make or perform within thirty (30) days after the Association has given such Owner written notice specifying the repairs or replacements to be made or maintenance to be performed by the Owner;
- (b) Performing any lawn mowing or lawn maintenance which an Owner, although otherwise obligated to perform under this Declaration, fails to perform within five (5) days after the Association has given such Owner written notice specifying the lawn mowing or other lawn maintenance to be performed by the Owner; or
- (c) Enforcing compliance by an Owner with any covenants, limitations, prohibitions, or restrictions contained in this Declaration or the Bylaws of the Association or any rules or regulations adopted by the Association, where any such non-compliance continues for more than ten (10) days after the Association has given such Owner written notice specifying such non-compliance; plus an administrative charge equal to the greater of (i) twenty-five percent (25%) of the costs incurred by the Association in performing the obligations of the non-performing Owner or in enforcing compliance by the non-complying Owner, or (ii) the sum of FIFTY DOLLARS (\$50.00).

Section 16. Levy and Collection of Additional Lot Assessments. Any additional Lot assessment pursuant to Section 15 above shall be fixed and levied by the Board of Directors of the Association, and written notice thereof shall be given to the Owner of the Lot against which assessment is made. Such notice shall specify the nature and amount of the additional Lot assessment and the date upon which the same shall be due and payable (which due date shall be not less than ten (10) days from the date of such notice).

Collection of any such additional Lot assessment shall be made in the same manner as the regular annual assessments provided for herein, and a lien therefor shall exist in favor of the Association upon the Lot (together with the improvements thereon) of the Owner against whom the assessment is made.

Section 17. Acceptance of Lot Subject to Lien. Each Owner, by acceptance of a deed to a Lot, (a) accepts such Lot subject to and encumbered with the assessment lien (with power of sale) set forth in this Article V, (b) grants and confirms to the Association a contractual lien upon his Lot (together with all improvements thereon) to secure all assessments then or thereafter made against such Lot, and (c) expressly vests in the Association or its agents the right and power to bring all actions against such defaulting Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for foreclosure and enforcement of such lien, including, without limitation, non-judicial foreclosure pursuant to the provisions of Section 14 above.

Section 18. Books and Records. Proper books and records shall be kept by the Association with respect to all assessments made by the Association, and each Owner shall at all reasonable times have access to such books and records. The books and records shall be kept in such a manner as to separately identify the assessments and payments thereof on each Lot in the Addition. No payment made on any individual assessment account shall be transferred or credited to another account without the express written consent of the party making such payment.

## ARTICLE VI OBLIGATION TO MAINTAIN AND REPAIR

Section 1. Owner's Obligation to Maintain and Repair. Each Owner, at his sole cost and expense, shall perform such maintenance and make such repairs and replacements to his residence and related infrastructure and all other buildings, structures, installations and improvements located upon his Lot, as shall be required to keep his residence and all such other buildings, structures, installations and improvements in substantially the same condition as at the completion of the original construction thereof, excepting only ordinary wear and tear. Additionally, except where an obligation for maintenance has been imposed by this Declaration on either of the Associations or (as provided in Section 3 of Article VI) has been assumed by the Association, each Owner, at his sole cost and expense shall (a) regularly mow and maintain his yard, including all landscaping thereon (whether planted by the Declarant, the Association, or the Owner), and keep his yard in a neat and attractive condition, and (b) maintain in good repair and condition any sidewalks adjacent to his Lot

and all driveways serving his Lot, even though such sidewalks and/or driveways may be located partly within the street easement(s) for the Private Street abutting his Lot. If any Owner fails to perform the maintenance or make the repairs required of such Owner hereunder, either the Association, after giving such Owner written notice specifying the required maintenance or repairs, may perform such maintenance or make such repairs if the Owner does not, within the applicable time periods after notice specified in Section 15 of Article V, perform the maintenance or make the repairs or replacements specified in such notice. The costs incurred by the Association in performing such maintenance or making such repairs or replacements (together with the administrative charge specified in Section 15 of Article V) shall, at the election of the Board of Directors of the Association which performed the maintenance or made the repairs or replacements, be the basis for levying an additional Lot assessment against such Owner and his Lot pursuant to the provisions of Section 15 of Article V.

Section 2. Owner's Obligations on Casualty Loss. If any residence or other structure on any Lot in the Addition is damaged or destroyed by fire or other casualty, it shall be the duty and obligation of the Owner thereof to promptly clear the Lot of debris and put it back in a neat and clean condition, but no Owner will have any obligation to rebuild.

Section 3. Maintenance by Association. It shall be the duty and obligation of the Association to:

- (a) Maintain and repair the Common Area and any and all improvements now or hereafter constructed, erected or installed thereon, including, without limitation, (i) the Private Street(s) and (ii) any entrance sign to the Addition;
- (b) Landscape, mow, edge and maintain the Common Area; ; and
- (c) Perform any other maintenance and/or repairs as shall be determined, from time to time, by the Association's Board of Directors.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

Section 1. General Authority of Architectural Control Committee. No building, fence or other structure (of whatever kind or description) shall be commenced, constructed, erected, placed or reconstructed on any Lot in the Addition or (where otherwise permitted by this Declaration) upon any part of the Common Area, nor shall any exterior addition to or change or alteration of any such structure or improvement, be made until the plans (including a plot plan and a floor plan of each floor of the dwelling, including the ground

floor) and specifications therefor, showing (a) the nature, shape, overall height and dimensions thereof; (b) the location of all improvements with respect to the perimeter lot lines and building setback lines of the Lot; (c) a complete foundation and piling detail, showing the size, length, spacing of all piling and the depth to which the piling will be buried; (d) the kind, nature, quality, color and proposed finish of exterior siding materials and roofing; and (d) finished grade, topography and elevation of the Lot and the elevation of the ground floor and first floor of the dwelling (which elevations shall be shown measured and shown from Mean Sea Level and the existing grade on the Lot); have been submitted to and approved by the Architectural Control Committee (herein called the "Committee") as to (f) the quality of materials; (g) the conformity of the planned improvements with the covenants contained in this Declaration; (h) the harmony of external design (including type, quality and color of roof, exterior materials and color scheme) of the planned improvements with other existing or planned structures in the Addition; and G) the location of the planned improvements in relation to the lot lines and setback lines. The Committee shall give or withhold approval (as is in the judgment of the Committee proper) of all matters set forth in this Section and in the "succeeding sections of this Article (where approval of the Committee is required). Any such approval or" disapproval shall be in writing and signed by a member of the Committee (or by its designated representative). If plans and specifications meeting the requirements set forth above in this Section (as to the contents thereof) are submitted to the Committee and are not approved or disapproved within thirty (30) days after the submission thereof, the approval of the plans and specifications by the Committee shall not be required. However, neither the approval by the Committee of the submitted plans and specifications, and the failure of the Committee to approve or disapprove the submitted plans and specifications within said thirty (30) day period, shall authorize an Owner to commence, construct, erect or reconstruct on any Lot (or on the Common Area adjacent thereto) any building, fence or other improvement which violates (or fails to meet) the minimum standards and requirements set forth in this Declaration. Further, the approval or lack of disapproval by the Committee of the submitted plans and specifications shall not be deemed to constitute any warranty or representation by the Committee (including, without limitation, any warranty as to fitness of design, adequacy of proposed design or Construction, or compliance with applicable governmental laws, rules or regulations). In the absence of an express authorization in this Declaration for the Committee to waive or vary any specific standard or requirement contained herein, the Committee shall have no power or authority to waive or vary such specific standard or requirement.

Section 2. Composition of Committee. The Committee shall be composed of three (3) members. The initial members of the Committee shall BETTY JEAN BENOIT KILGORE,

JEFF KILGORE and JOE FORKNER. The Declarant (or its successor) shall have the right, in its sole discretion, to increase the number of members of the Committee and to appoint such additional member(s) as may be required to fill the vacancy or vacancies resulting from the increase in the number of the members thereof, such action to be taken and effected by Declarant (or its successors) executing a written instrument reflecting such action and filing it for record in the office of the County Clerk of Galveston County, Texas. The Committee shall have the power to designate a representative (who may or may not be a member of the Committee) to act for the Committee; and upon the designation of such representative by the Committee, such representative shall have the power and authority to do any act or make any decision which the Committee itself could do or make under this Declaration. Neither the Committee nor its authorized representative shall have the right to demand, charge or receive any fee or other compensation as a condition to the examination of any Plans submitted hereunder or for granting approval (or disapproval) thereof.

Section 3. Vacancies and Filling of Vacancies. In the event of the death or resignation of any member of the Committee, the remaining member(s) of the Committee, even though less than a majority, may appoint a successor to the Committee by written instrument executed by the remaining member(s) of the Committee and filed for record in the office of the County Clerk of Galveston County, Texas. If all of members of the Committee die or resign, then the Declarant (or its successor) shall have the authority to appoint successor members of the Committee by written instrument executed by the Declarant (or its successor) and filed for record in the office of the County Clerk of Galveston County, Texas. However, if all members of the Committee die or resign, and the Declarant (or its successor) has not appointed successor members within ninety (90) days after the death or resignation of the last of the Committee members, then the Association, through its Board of Directors, shall exercise the authorities herein granted to the Committee.

Section 4. Term of Committee: Surrender of Authority. The members of the Committee herein appointed (or their designated successors) shall serve for a term of five (5) years from the date of this Declaration, and upon the expiration of such five (5) year term, all of the powers, authorities, duties and discretions herein conferred or imposed upon the Committee shall automatically vest in the Board of Directors of the Association. However, the Committee may, at any time prior to the end of such five (5) year term, surrender to the Board of Directors of the Association all of such powers, authorities, duties and discretions by a written instrument, signed and acknowledged by all of the then members of the Committee, and recorded in the office of the County Clerk of Galveston

County, Texas.

Section 5 Manner of Approval. Plan approval or disapproval by the Committee, or its designated representative, as required in this Declaration, shall be in writing and signed by at least one (1) member of the Committee or by its designated representative (if a representative has been appointed to act for the Committee). If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after Plans meeting the requirements of Section 1 of this Article VIII have been submitted to it, approval will not be required, and the covenants contained in said Section I above shall be deemed to have been fully satisfied. However, the approval or disapproval of Plans by the Committee, or the failure of the Committee to approve or disapprove the Plans within thirty (30) days after the submission thereof, shall in no way authorize any use or improvement of any Lot in violation of any of the other covenants contained in this Declaration, except where the Committee had express authority to grant a waiver or variance from such covenant. Approval of Plans (whether actual or deemed) shall not be valid or effective for more than one hundred eighty (180) days; and if, within one hundred eighty (180) days from Plan approval, the construction, reconstruction, addition, change or alteration for which Plan approval was obtained, has not commenced, then the Plans must be resubmitted and approved by the Committee before any such construction, reconstruction, addition, change or alteration may be commenced. There shall be no review of any action of the Committee, except by procedures for injunctive relief when such action is patently arbitrary and capricious; and under no circumstances shall the Committee, any member of the Committee, or the representative of the Committee be subject to any suit by anyone for damages for any actions, or failures to act, on the part of the Committee, any member of the Committee or the respective Committee;

Section 6. No Liability for Plan Approval Neither the Committee, nor any member or representative thereof, shall be liable to any person or entity under any theory or under any circumstances in connection with the Committee's approval (whether actual or deemed) of any Plans submitted to the Committee for approval, including, without limitation, any liability based upon the soundness of construction or adequacy of plans and specifications, mistake of judgment, negligence or nonfeasance. Neither the Committee, nor any member or representative thereof, shall have any liability to any person or entity by reason of the construction of buildings or the making of other improvements which shall depart from or be at variance with the approved Plans.

**ARTICLE VIII**  
**LOT USE RESTRICTIONS**

Section 1. Use. No Lot in the Addition shall be used for any purpose except for single family residential purposes. No Lot shall be used or occupied for any business, commercial trade, or professional purpose, either apart from, or in conjunction with the use thereof for residential purposes; provided, however, that nothing contained herein shall be deemed to prohibit renting of a Lot and improvements thereon on a short or long term basis. No building shall be designed for or erected, placed, occupied, altered, or permitted on any Lot or any portion of a Lot other than one (1) single family dwelling attached or detached garage or other outbuildings related to its single family residential use and approved by the Committee.

Section 2. Minimum Square Footage. No dwelling shall be permitted on any Lot in the Addition in which the living area under roof exclusive of garages, open porches, sun decks, and balconies above the minimum piling height shall be not less than one thousand (1,000) square feet. The minimum first floor elevation of a house must be at least twelve feet (12') above the surrounding grade and comply with all then existing requirements of the County (as such term is hereinafter defined) and all other governmental entities having jurisdiction as well as existing requirements to obtain flood, windstorm, and other hazard insurance coverages for which a dwelling is normally insured in Galveston County, Texas.

Section 3. Building Setback Lines. No building shall be located nearer to the front Lot line or to the side street line than the building setback lines shown on the Plat. The Front of each Lot and the front Lot line of each Lot shall be the Lot line bordering on the Private Drive. No building shall be located nearer to any side Lot line than five feet (5'), and no building shall be located nearer to any rear Lot line than ten feet (10'), except for detached garages and other outbuildings which are not a part of the dwelling and have been approved by the Committee. The term building as used herein shall include staircases, decks, balconies, porches, walkways, and air conditioning platforms and units, and any other structures which are physically attached to a dwelling. Any detached garage or Committee approved outbuilding may not be located so that drainage shall be allowed from the roof or any part of such detached garage or outbuilding capable of collecting precipitation onto any other property in the Addition other than the Lot on which such garage or outbuilding is located.

Section 4. Driveways and Culverts. All Lots shall be served by concrete driveways that cover that entire area used to access the under-house parking or any detached garage and shall open on the Private Drive on which the Lot fronts. All areas under homes and in garages used for parking shall be paved with concrete as approved by the Committee. Reinforced concrete culverts of a diameter sufficient to permit the free flow of water without backwater under normal conditions as approved by the Committee and meeting all governmental requirements shall be installed along the entire front Lot line of each Lot from side Lot line to side Lot line bordering the Private Drives and under the driveway serving such Lot. Drainage facilities providing equivalent drainage for the Lot and the Addition may be allowed if approved in writing by the Committee. No driveways shall be permitted to open onto Gulf Shores Drive without the written consent of the Committee.

Section 5. Landscaping. The front yard, side yard, and rear yard of the Lot must be planted with grass or other planting approved by the Committee before any dwelling constructed on a Lot is occupied. The Committee may adopt guidelines and minimum landscaping standards.

Section 6. Chimneys. If any metal chimney is used in a dwelling, it shall be encased in brick, stucco, siding, or other material approved by the Committee.

Section 7. Construction. When the construction of improvements has begun, construction of such improvements shall be diligently pursued to completion and no unfinished improvements shall be left on any Lot for an unreasonable period of time. No structure shall be used for human habitation (whether temporary or permanent) other than the dwelling structure, and it shall not be used or occupied for human habitation until the plumbing and exterior construction thereof have been completed.

Section 8. Obstruction of Common Area. There shall be no obstruction of the Common Area. No commercial activity of any kind shall be carried on or permitted on any part of the Common Area.

Section 9. Insurance. Nothing shall be done or kept in the Common Area which will increase the Association's rate for insurance coverage (including liability insurance coverage). No Owner shall do or permit to be done any act in or on the Common Area which will result in the cancellation of any insurance on the Common Area.

Section 10. Prohibited Acts. No Owner shall do, or permit to be done by any members of his family or his guests or tenants, any act, on any Lot or on the Common Area which shall be in violation of (a) any applicable ordinance, statute, rule or regulation of any municipal or other governmental authority, (b) the provisions of this Declaration, (c) the Bylaws of the Association, or (d) the rules and regulations duly adopted by the Board of Directors of the Association, or which shall be offensive or constitute a nuisance or annoyance to other Owners, or their families, guests or tenants, in the Addition. No bulk storage of any type of fuel (including, without limitation, gasoline, diesel, butane or propane) or any other volatile or explosive substance shall be permitted anywhere in the Addition.

Section 11. Sewage and Wastewater Facilities. Except as otherwise expressly provided below in this Section, all lavatories, toilets, sinks, tubs and showers (together with any and all other bathing or bathroom fixtures discharging sewage or "waste water") shall be installed indoors and shall be connected to a sewer system approved by Galveston County, Texas, or any successor thereto (the "County") or other governmental authority which may hereafter have jurisdiction over such sewer system. Auxiliary showers, fish-cleaning facilities and like installations not discharging sewage or water containing soap (or similar chemical or biological products) may be installed outdoors and are not required to be connected the sewer system. Upon the purchase of a Lot from Declarant and commencement of construction, each Owner shall be required to connect such Lot to a sewer system approved by the County. On the purchase of a Lot and commencement of construction of a dwelling, each Owner must pay the tap fee and other charges to Bolivar Peninsula Special Utility District or its successors or assigns ("BPSUD") to connect to the water system that BPSUD provides to the Addition.

Section 12. Parking or Storage of Boats and Vehicles. No boats, trailers (including, without limitation, boat trailers), travel trailers, campers, motor homes, cars, trucks or other vehicles shall be parked or left unattended on the lots, streets or roads (or in their rights-of-way) in or adjoining the Addition. Boats, trailers, travel trailers, campers, motor homes and inoperative vehicles shall be parked or stored solely within the dwelling structure, or garage on a lot and must not be visible from the lots, streets, roads, or from the rights-of-way in or adjoining the Addition. Personal (as opposed to commercial) automobiles and trucks and recreational vehicles of an Owner, his family, guests or tenants, may be parked on the driveways of such Owner's Lot, but only for periods not to exceed ten (10) consecutive days. No commercial trucks, vans or other commercial vehicles shall be parked on any Lot for any period of time exceeding twelve (12) consecutive hours or twenty-four (24) hours in any single week (a "week" being defined

herein as a period of any seven (7) consecutive days).

Section 13. Fences. All fences shall be constructed of commercial or residential grade chain link fencing, and no fence shall be constructed or used or salvaged materials (except, however, used railroad ties may be used as posts). No fence shall exceed six feet (6') in height. All fences shall be maintained in a good, neat and attractive condition. No fences, hedges, or mass plantings shall be located nearer to the Private Drives than the front set back lines shown on the Plat. Use of any fencing material other than commercial or residential grade chain link fencing shall require the express written approval of the Committee.

Section 14. Temporary Structures. No portable building,, mobile homes, travel trailer, trailer home, manufactured building, or similar structure of a temporary or portable nature shall be permitted on any Lot; except, however, a portable building, manufactured building or similar structure may be used as a field or construction office or as a storage facility during the development of the Addition and construction of Addition improvements or the construction of a dwelling, but same shall be removed immediately upon completion of such development or construction. No garage, accessory building, portable building, manufactured, building or any other structure of a temporary or portable nature (including, without limitation, motor homes, house trailers, mobile homes, trailers or tents) shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 15. New Construction Only. No used dwelling or other structure shall be moved onto any Lot in the Addition (or onto the Common Area adjacent to any Lot), it being required that all permanent improvements shall be solely of new construction.

Section 16. Signs. No sign, advertisements or billboards of any kind shall be placed or displayed to public view on any Lot in the Addition, except one (1) sign of not more than eight (8) square feet advertising a property for sale or rent or by a builder to advertise the property during the construction period or a sign naming the dwelling if approved by the Committee.

Section 17. Oil and Mining Operations. To the extent that it is within the control of an Owner to deny or permit drilling, quarrying, mining, refining or similar operations upon or from his Lot, no Owner shall engage in or permit any gas or oil drilling, gas or oil development operations, oil refining or storage quarrying or mining operations, or like activities of any kind upon his Lot, nor shall any wells (other than water wells), tanks,

tunnels, mineral excavations, or shafts be permitted upon any Lot in the Addition.

Section 18. Antennas. No antenna or other device for sending or receiving television, radio or telephone signals shall be erected, constructed or installed on or in connection with any dwelling in the Addition in such a manner as to extend more than, ten feet (10') above the peak of the roof of any dwelling.

Section 19. Livestock, Poultry and Household Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot in the Addition, except that dogs, cats and other household pets, not to exceed three (3) in number for any dwelling, may be kept provided (a) they are not kept, bred or maintained for any commercial or breeding purposes, (b) they do not become a nuisance, and (c) they are not allowed to roam or wander unattended in the Addition.

Section 20. Garbage and Refuse Disposal. No Lot or any part to the Common Area shall be used or maintained as a dumping ground for rubbish, trash, refuse or other waste materials. Trash, garbage and other waste shall be kept in sanitary closed containers pending collection thereof; and garbage cans and other receptacles. No Lot shall be used for the open storage of any materials whatsoever except for materials used or to be used in the construction of improvements upon any Lot, and then only for so long as such construction progresses. Upon completion of the improvements, any remaining materials, together with all rubble, rubbish, trash and debris shall be promptly, removed from such Lot. No burning of garbage, trash or rubbish shall be permitted anywhere in the Addition.

Section 21. Elevation and Compliance with Laws, Etc. Any dwelling and all other structures constructed on any Lot in the Addition or, where permitted, on the adjacent Common Area, shall be constructed in full compliance with all applicable local, State and Federal laws, rules and regulations (including, without limitation, minimum elevation requirements), as well as in full and strict compliance with the provisions and restrictions of this Declaration. Further, no dwelling shall contain more than two (2) enclosed floors of living area (exclusive of any enclosed area on the ground floor) unless specifically permitted in writing by the Committee.

Section 22. Piling and Exterior Materials. Each dwelling shall be constructed with sufficient pilings (both as to number and spacing) to adequately support the dwelling. The pilings shall meet the minimum requirements of the County or any other governmental authority with jurisdiction thereof, including as to height, diameter or width, and depth of

installation in the ground. All pilings shall be made of wood or concrete or other material approved by the Committee and meeting all County or other governmental requirements. All buildings constructed or erected on a Lot shall have the same finished exterior (including siding and roof); and any enclosed area on the ground floor, of any dwelling shall have the same finished exterior as the upper enclosed floor(s) of such dwelling. The exterior walls of all buildings constructed or erected on a Lot shall be of any of the following: (a) residential grade or better fiber and cement planks such as Hardie siding or the like; (b) wood siding to include 4' x 8' sheets or board/ bats; composite wood fiber and resin siding such as Smart Board or the like; or (d) any other residential grade or better exterior building material approved by the Committee. All exterior siding material shall be painted with at least two (2) coats of good grade exterior paint or stain, unless the color is incorporated in the material and is designed to not require paint. All roofing shall be of architectural grade shingles or other material approved by the Committee.

Section 23. Lot Drainage. Each Lot shall be maintained so as to preserve the drainage of the Lot and adjacent, street, or roadway areas. The erection or construction of any structure or improvement, or the filling in or excavation of any area of the Lot, which will prevent or impair the drainage of the Lot or cause water to stand on the Lot, or on adjacent Lots, or on the street or roadway adjacent to the Lot, is prohibited.

Section 24. Rights of Declarant and Builders. Declarant, either itself or through its contractors, may be undertaking or continuing the work of constructing streets, utility installations, and other improvements required for the completion of the Addition, even after this Declaration is executed. The completion of the Addition and the construction of residential dwelling improvements and recreational vehicle related improvements on the Lots in the Addition are essential to the establishment of the Addition as an ongoing, attractive and desirable residential community. In order that such work may be completed, and the Addition established as a fully occupied residential community as soon as practical and possible, nothing contained in this Declaration shall be understood or construed to:

- (a) Prevent Declarant or its employees, agents, representatives or contractors doing on any part or parts of the Common Area or on any of the Lots in the Addition whatever it deems necessary or advisable in connection with the completion of the work on the Addition;
- (b) Prevent Declarant or any builder, or their respective employees, agents, representatives, contractors or subcontractors from constructing, placing and maintaining on any part or parts of the Addition owned or

controlled by Declarant or such builder such structures (including, without limitation, temporary construction offices and storage facilities) as shall be reasonably necessary or advisable in connection with the completion of the work on the Addition, the establishment of the Addition as a completed residential community, and the disposition of Lots (whether improved or unimproved) by sale, lease or otherwise;

(c) Prevent Declarant or a builder from using or occupying a residence as sales, leasing office or a "model" home during land sales period; or

(d) Prevent Declarant or a builder from installing and maintaining "for sale" signs upon any Lot or Lots owned or controlled by Declarant or such builder as may be necessary or advisable in connection with the sale of unimproved Lots or the sale of improved Lots in the Addition.

Section 25. Governmental Laws, Rules, Etc. Controlling. The applicable ordinances, laws, rules, and regulations of all local, State and Federal governments and governmental authorities having jurisdiction over the Addition and/or the construction, reconstruction or maintenance of improvements in the Addition are incorporated into and made a part of the use restrictions contained in this Article. In the event of any conflict between the laws, ordinances, rules or regulations of any such government or governmental agency (collectively the "governmental laws") and any term or provision of this Declaration, the provisions of such restriction or limitation contained in this Declaration shall be more restrictive than any comparable restriction imposed by governmental laws, then the provision of this Declaration shall control.

## **ARTICLE IX**

### **LOT SPLITS OR CONSOLIDATIONS**

Section 1. Splitting or Consolidating Platted Lots. It shall be permissible to combine or consolidate one (1) platted Lot with all or a portion of an adjacent platted Lot so as to create a single tract, which, pursuant to the definitions herein contained, shall then constitute a "Lot". Furthermore, it shall be permissible to combine or consolidate portions of two (2) adjacent platted Lots into a single tract, which, pursuant to the definitions herein contained, shall then constitute a "Lot", and the Lot line between such Lots shall no longer be side Lot line subject to the side setback set out in Article VIII. Two (2) combined Lots shall continue to be assessed as two (2) Lots for payment of all assessments to the Association, and the Owner shall be entitled to one vote for each Lot. Other than as expressly permitted by the preceding sentences of this Section, the splitting

of any platted Lot shall not be permitted.

**ARTICLE X**  
**ENFORCEMENT OF COVENANTS**

Section 1. Enforcement. In the event of any violation or breach, or attempted violation or breach, of any of the terms or provisions of this Declaration, Declarant, either the Association or any Owner shall be authorized to enforce the terms, covenants and restrictions hereof by any proceedings at law or in equity against the person(s), entity(ies) or Owner(s) violating or breaching, or attempting to violate or breach, the same, including actions for prohibitive or mandatory injunctive relief; and it shall not be a prerequisite to the granting of any such injunctive relief that there be any showing that irreparable damage or harm will result if such injunctive relief is not granted. Additionally, any person or entity entitled to enforce the terms, covenants or restrictions of this Declaration may recover such damages, both actual and punitive, as such party may show that he or it is entitled by reason of any such violation or breach. In any action for enforcement of the terms, covenants or restrictions hereof, whether for injunctive relief or damages, if the party prosecuting such action is successful, he or it shall be entitled to recover, in addition to any damages awarded, reasonable attorney's fees and all costs of court.

Section 2. Forbearance Not a Waiver. The forbearance of enforcement of any restriction herein contained for any violation or proposed or attempted violation of any restriction herein contained shall not constitute a waiver of the right of Declarant, the Associations or any Owner to thereafter enforce such restriction as to any subsequent violation or proposed or attempted violation.

Section 3. Time for Enforcement. Any action for enforcement of the restrictions or other covenants contained herein shall be commenced within one (1) year after such violation, or attempted violation, began or first occurred, and not thereafter.

**ARTICLE XI**  
**TERM AND AMENDMENT OF COVENANTS**

Section 1. Term of Covenants. The covenants and restrictions contained in this Declaration shall be binding for a period of twenty (20) years from the date of this Declaration. Upon the expiration of such twenty (20) year period, such covenants and restrictions shall be automatically extended for successive periods often (10) years each.

DECLARANT:

By: *Betty Kilgore*  
BETTY JEAN BENOIT KILGORE, individually

STATE OF TEXAS

§  
§  
§

COUNTY OF JEFFERSON

This document was acknowledged before me on 11/07 2022 by BETTY JANE BENOIT KILGORE.



*Jill Ruthan Piazza*  
(signature of notarial officer)

(Seal, if any, of notary)

Jill Ruthan Piazza  
(printed name)

My commission expires: 12/06/2026

**Exhibit "A"**



## FILED AND RECORDED

Instrument Number: 2022069126

Recording Fee: 150.00

Number Of Pages: 33

Filing and Recording Date: 11/07/2022 1:38PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in black ink that reads "Dwight D. Sullivan". The signature is written in a cursive style and is positioned above a horizontal line.

Dwight D. Sullivan, County Clerk  
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

**DO NOT DESTROY** - *Warning, this document is part of the Official Public Record.*