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SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
SETTLERS VILLAGE, SECTION THREE,  
A SUBDIVISION IN HARRIS COUNTY, TEXAS

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STATE OF TEXAS §  
COUNTY OF HARRIS §

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THIS SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SETTLERS VILLAGE, SECTION THREE, A SUBDIVISION IN HARRIS COUNTY, TEXAS, is made on the date hereinafter set forth by ASHTON HOUSTON RESIDENTIAL L.L.C., a Texas limited liability company ("Declarant").

WITNESSETH:

Whereas, Robert B. Brunson, H. Spencer Stone, and Vivian Jo Stone ("Brunson and the Stones") executed that certain Declaration of Covenants, Conditions, and Restrictions ("Section One Declaration") dated September 12, 1977, recorded in the office of the County Clerk of Harris County, Texas under Clerk's File No. F304985, to place certain restrictions, covenants, conditions, stipulations, and reservations on Settlers Village, Section One, a subdivision in Harris County, Texas, set forth on the map or plat thereof recorded in Volume 253, Page 69, of the Map Records of Harris County, Texas (said Settlers Village, Section One and all addition(s) thereto are referred to herein collectively as the "Subdivision"); and

Whereas, as contemplated by the Section One Declaration, and pursuant to the applicable provisions thereof, Brunson and the Stones caused the Settlers Village Community Improvement Association, a Texas non-profit organization (the "Association") to be formed, the purposes of which are to provide for maintenance, preservation, and architectural control of the residential lots and common areas located within the Subdivision and any additions thereto which may be subsequently brought within the jurisdiction of the Association; and

Whereas, Declarant is the owner of certain real property (the "Property") which is being developed as a section of the Subdivision, the Property being more particularly described as follows:

All of Settlers Village, Section Three, a subdivision in Harris County, Texas, according to the map or plat thereof recorded in Volume 326, Page 98 of the Map Records of Harris County, Texas.

Whereas, Declarant and the Association desire to annex the Property within the boundaries of the Association and subject to the authority and jurisdiction of the Association; and

Whereas, Article VII, Section 3(b) of the Section One Declaration provides that future sections may be annexed to the Subdivision and made subject to the jurisdiction of the Association provided that:

- a. The Board of Directors of the Association approves of the annexation of the Property to the Subdivision;
- b. The Federal Housing Association ("FHA") and/or the Veterans Administration approves of the annexation of the Property to the Subdivision;

This document is being refiled for the purpose of correcting certain errors made at the time of initial recordation to Article X, Section 3 and Article X, Section 8 hereof.

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- c. In addition to an Annexation Agreement, a Supplemental Declaration of Covenants, Conditions and Restrictions is recorded with respect to the Property, which imposes an annual maintenance charge assessment on the Property, on a uniform per Lot basis, substantially equivalent to the maintenance charge and assessment imposed by the Section One Declaration, and which contains such complimentary additions and/or modifications of the covenants and restrictions contained in the Section One Declaration as may be applicable to the Property; and

Whereas, each of the aforementioned requirements of Article VII, Section 3(b) of the Section One Declaration has been or will be complied with in connection with the annexation of the Property to the Subdivision.

NOW, THEREFORE, for and in consideration of \$10.00 and other good and valuable consideration and the mutual covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. The Property is hereby annexed to the Subdivision, to be under the authority and jurisdiction of the Association, as contemplated and provided for herein.

2. The Property shall be held, transferred, sold, conveyed, used, and occupied in accordance with and subject to those certain covenants, conditions, restrictions, easements, charges, and liens set forth in this Supplemental Declaration of Covenants, Conditions and Restrictions for Settlers Village, Section Three (this "Declaration"), as it may be hereafter amended, which shall run with the land and be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof.

3. The Association joins in the execution of this instrument to evidence its consent to the annexation of the Property to the Subdivision and its agreement to include the Property under its authority and jurisdiction.

4. The U. S. Department of Housing and Urban Development has executed an Annexation Agreement dated as of April 1, 1997, such Annexation Agreement being recorded in the Real Property Records of Harris County, Texas, for the purpose of evidencing its approval (on behalf of the FHA) to the annexation of the Property to the Subdivision, to be under the authority and jurisdiction of the Association.

## ARTICLE I.

### DEFINITIONS

Section 1. "Association" shall mean and refer to SETTLERS VILLAGE COMMUNITY IMPROVEMENT ASSOCIATION, its successors and assigns, provided for in Article VIII hereof.

Section 2. "Properties" shall mean and refer to SETTLERS VILLAGE, SECTION THREE.

Section 3. "Subdivision" shall mean and refer to the Properties and any additional properties which may hereafter be brought within the scheme of this Declaration pursuant to the provisions set forth herein and hereafter brought within the jurisdiction of the Association.

Section 4. "Lot" and/or "Lots" shall mean and refer to the Lots shown upon the Subdivision Plat. "Reserve" shall mean and refer to Reserve A as shown on the Subdivision Plat.

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Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or any portion of the Reserve which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and those having only an interest in the mineral estate.

Section 6. "Subdivision Plat" or "Plat" shall mean and refer to the map or plat of Settlers Village, Section Three, recorded in Volume 326, Page 98, of the Map Records of Harris County, Texas, and any recorded replat thereof.

Section 7. "Architectural Control Committee" or "ACC" shall mean and refer to Settlers Village Architectural Control Committee provided for in Article IV hereof.

Section 8. "Declarant" shall mean and refer to Ashton Houston Residential L.L.C., a Texas limited liability company, its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 9. "Improvements" shall mean all structures and any appurtenances thereto of every type or kind, which are visible on a Lot, including, but not limited to: a Dwelling Unit, buildings, outbuildings, swimming pools, spas, hot tubs, patio covers, awnings, painting of any exterior surfaces of any visible structure, additions, sidewalks, walkways, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening, walls, retaining walls, stairs, decks, fixtures, windbreaks, basketball goals, flagpoles, or any other type of pole, signs, exterior tanks, exterior air conditioning fixtures and equipment, water softener fixtures, exterior lighting, recreational equipment or facilities, radio, conventional or cable or television antenna or dish, microwave television antenna, and landscaping that is placed on and/or visible from any Lot.

Section 10. "Builder" shall mean each Owner who (a) purchases a Lot directly from Declarant; (b) is in the construction business; and (c) has a contractual obligation to build a Dwelling Unit on the Lot owned by such Owner.

Section 11. "Dwelling Unit" shall mean a residential building designed for, and limited and restricted to, occupancy by a single family on a Lot, not including an accessory building or garage. A mobile home is not a Dwelling Unit.

Section 12. "Board" shall mean the Board of Trustees of the Association.

Section 13. "Common Area" shall mean all real property and improvements within the Properties, if any, owned or leased by the Association and formally dedicated for the common use of the Owners. As of the date of this Declaration, there is no Common Area.

Section 14. "Community Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing throughout the Properties, which may be more specifically determined by the Board or ACC.

## ARTICLE II

### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 1. The Subdivision Plat dedicates for use as such, subject to the limitations set forth therein, the streets and easements shown thereon, and such Subdivision Plat further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum set back lines, and all dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof, whether specifically referred to therein or not.

Section 2. Declarant reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing a system or systems of electrical lighting, electric power, telegraph and telephone line or lines, gas, sewers, or any other utility Declarant sees fit to install in, across and/or under the Properties.

Section 3. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing the improvements, but such changes and additions must be approved by the Federal Housing Administration and Veterans Administration.

Section 4. Neither Declarant nor any utility company using the easements herein referred to, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, shrubbery, trees or flowers or other property of the Owner situated on the land covered by said easements.

Section 5. It is expressly agreed and understood that the title conveyed by Declarant to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to (a) any easement affecting same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph, telephone or other utility purposes and shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances thereto, constructed by or under Declarant or any easement owner, or their agents through, along or upon the premises affected thereby, or any part thereof, to serve said land or any other portion of the Properties, and (b) the right of Declarant, their heirs and assigns, to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party (and such right is hereby expressly reserved).

### ARTICLE III

#### BUILDING AND USE RESTRICTIONS

Section 1. Building Setback. No building shall be located on any Lot between the building setback lines shown on the Subdivision Plat and the street. No dwelling shall be located on any Lot nearer than ten (10) feet from any existing residential building structure situated on any other Lot which is contiguous to such Lot. No detached nonzero Lot line dwelling shall be located nearer to any interior Lot line (other than the rear Lot line) than the minimum setback relative thereto which the Architectural Control Committee shall specify in writing concurrently with its approval of plans and specifications for such building in accordance with the terms of Article IV hereof (and the Architectural Control Committee is hereby specifically granted the authority to specify and prescribe such minimum set backs relating to such Lot Lines. Notwithstanding any other provision to the contrary, no such detached nonzero Lot line dwelling shall be located (and the Architectural Control Committee shall have no authority to permit buildings to be located) nearer to any interior Lot line (other than the rear Lot line) than three (3) feet. No building, nor any part thereof, shall be located on any Lot nearer than ten (10) feet to the rear Lot line or within any easement (even if wider than ten (10) feet) along such rear Lot line. For the purposes of this Section, eaves, steps and open porches shall not be considered as a part of the building; provided, however, that the foregoing shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot or to extend beyond the building set back line. For the purposes of this Declaration, the front Lot line of each Lot shall coincide with and be the Lot line having the shortest dimension abutting a street. Unless otherwise approved in writing by the Architectural Control Committee, each main residence building will face the front of the Lot and will be provided with driveway access from the front of the Lot; provided that such access may be from the front or side of all corner Lots unless the Architectural Control Committee in its discretion, requires that access to a corner Lot be from the front of such corner Lot. For purposes hereof, there term "corner Lot" shall mean and refer to any Lot which abuts more than one street.

Section 2. Maintenance of Lots. The Owners or occupants of all Lots shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon.

Section 3. Composite Building Site. Subject to the approval of the Architectural Control Committee, any Owner of one or more adjoining Lots or portions thereof may consolidate or redivide such Lots or portions into one or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case the front footage at the building setback lines shall be measured from the resulting side property lines rather than from the Lot lines as indicated on the recorded plats. Any such resulting building site must have a frontage at the building setback line of not less than thirty-five (35) feet.

Section 4. Minimum Lot Area. No Lot shall be resubdivided, nor shall any building be erected or placed on any such resubdivided Lot, unless each Lot resulting from such resubdivided Lot shall have an area of not less than 5,500 square feet; provided, however, that nothing contained herein shall be construed to prohibit the resubdivision of any Lot or Lots within the Properties if such resubdivision results in each resubdivided Lot containing not less than the minimum Lot area aforesaid.

Section 5. Harmonious Use of Reserve A. Reserve A shall be used and utilized for purposes harmonious with the residential character of the remainder of the Properties; and such uses may include any residential structure, facilities for the sale of foods, beverages, clothing, services and other items for personal use, professional offices or clinics, apartments and other forms of multi-family use development, automobile service stations or facilities of a similar nature.

Section 6. Exempt Property. Notwithstanding any provision herein to the contrary, the Reserve shall not be subject to or burdened by the building and use restrictions set forth in this Article III, except to the extent the same are made specifically applicable to the Reserve, and it is specifically provided that the provisions of Section 8 of Article VI are intended to apply and affect the Reserve.

#### ARTICLE IV

#### ARCHITECTURAL APPROVAL

Section 1. Architectural Control Committee. As used in this Declaration the term "Architectural Control Committee" or "ACC" shall mean a committee of three (3) members, all of whom shall be appointed by Declarant, except as otherwise set forth herein. Declarant shall have the continuing right to appoint all three (3) members until the earlier of (a) the date the last Lot owned by Declarant is sold (except in connection with a conveyance to another party that is a successor to Declarant); or (b) such date as Declarant elects to discontinue such right of appointment by written notice to the Board. Thereafter, the Board shall have the right to appoint all members of the Architectural Control Committee. Members of the Architectural Control Committee may, but need not be, Members of the Association. Members of the Architectural Control Committee appointed by Declarant may be removed at any time and shall serve until resignation or removal by Declarant. The initial members of the Architectural Control Committee shall be appointed by the Board.

Members of the Architectural Control Committee appointed by the Board may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

Section 2. Approval of Improvements Required. The approval of a majority of the members of the Architectural Control Committee shall be required for the construction of the initial Dwelling Unit on a Lot ("New Construction"). The approval of a majority of the Board (or the approval of any subcommittee appointed by the Board for such purpose) shall be required for any other Improvement to Property on any of the Property before commencement of construction of such Improvement to Property. For purposes of this Article IV and Article V, the Board and the Architectural Control Committee are each sometimes referred to as the "Approval Entity". No approval is required for an Improvement to Property made by Declarant.

Section 3. Address of Approval Entity. The address of the Architectural Control Committee and the address of the Board shall both be at the principal office of the Association.

Section 4. Submission of Plans. Before commencement of work to accomplish any proposed Improvement to Property, the Owner proposing to make such Improvement to Property (the "Applicant") shall submit to the proper Approval Entity at its respective office copies of such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications, and samples of materials and colors as the Approval Entity reasonably shall request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property, as may be more particularly described from time-to-time in any minimum construction standards and/or architectural guidelines adopted by the Architectural Control Committee (in the case of New Construction) or the Board (in the case of all Improvements other than New Construction) (the "Architectural Guidelines"). The Approval Entity may require submission of additional plans, specifications, or other information before approving or disapproving the proposed Improvement to Property. Until receipt by the Approval Entity of all required materials in connection with the proposed Improvement to Property, the Approval Entity may postpone review of any materials submitted for approval.

Section 5. Criteria for Approval. The proper Approval Entity shall approve any proposed Improvement to Property only if it determines in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Properties as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Properties, including, without limitation, quality and color of materials and location with respect to topography and finished grade elevation; that the Improvement to Property will comply with the provisions of this Declaration and any applicable plat, ordinance, governmental rule, or regulation; that the Improvements to Property will not detract from the beauty, wholesomeness, and attractiveness of the Property or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association. Each Approval Entity is specifically granted the authority to disapprove proposed Improvements because of the unique characteristics or configuration of the Lot on which the proposed Improvement would otherwise be constructed, even though the same or a similar type of Improvement might or would be approved for construction on another Lot. The Approval Entity may condition its approval of any proposed Improvement to Property upon the making of such changes thereto as the Approval Entity may deem appropriate.

Section 6. Architectural Guidelines. Each Approval Entity from time to time may supplement or amend the Architectural Guidelines. The Architectural Guidelines serve as a guideline only and an Approval Entity may impose other requirements in connection with its review of any proposed Improvements. If the Architectural Guidelines impose requirements that are more stringent than the provisions of this Declaration, the provisions of the Architectural Guidelines shall control.

Section 7. Decision of Approval Entity. The decision of the Approval Entity shall be made within thirty (30) days after receipt by the proper Approval Entity of all materials required by the Approval Entity. The decision shall be in writing and, if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Approval Entity promptly shall be transmitted to the Applicant at the address furnished by the Applicant to the Approval Entity. The Owner, however, is responsible under all circumstances to conform to the provisions of these restrictions in their entirety.

Section 8. Failure of Approval Entity to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved by the appropriate Approval Entity, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Approval Entity, within thirty (30) days after the date of receipt by the appropriate Approval Entity of all required materials; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines. The Approval Entity shall at all times retain the right to object to any Improvement to Property that violates any provision of this Declaration or the Architectural Guidelines.

Section 9. Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement to Property in the materials submitted to the Approval Entity. Failure to complete the proposed Improvement to Property within nine (9) months after the date of approval or such other period of time as shall have been designated in writing by the Approval Entity (unless an extension has been granted by the Approval Entity in writing) or to complete the Improvement to Property in strict conformity with the description and materials furnished to the Approval Entity, shall operate automatically to revoke the approval by the Approval Entity of the proposed Improvement to Property. No Improvement to Property shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the Dwelling Unit, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior.

Section 10. Inspection of Work. The Approval Entity or its duly authorized representative shall have the right, not the obligation, to inspect any Improvement to Property before or after completion, provided that the right of inspection shall terminate once the Improvement to Property becomes occupied.

Section 11. Notice of Noncompliance. If, as a result of inspections or otherwise, the Approval Entity finds that any Improvement to Property has been constructed or undertaken without obtaining the approval of the Approval Entity or has been completed other than in strict conformity with the description and materials furnished by the Owner to the Approval Entity or has not been completed within the required time period after the date of approval by the Approval Entity, the Approval Entity shall notify the Owner in writing of the noncompliance ("Notice of Noncompliance"). The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance within the period of time set forth therein.

Section 12. Correction of Noncompliance. If the Approval Entity finds that a noncompliance continues to exist after such time within which the Owner was to remedy the noncompliance as set forth in the Notice of Noncompliance, the Association may, at its option but with no obligation to do so, (a) record a Notice of Noncompliance against the Lot on which the noncompliance exists in the Office of the County Clerk of Harris County, Texas; (b) remove the noncomplying Improvement to Property; and/or (c) otherwise remedy the noncompliance (including, if applicable, completion of the Improvement in question), and, if the Board elects to take any action with respect to such violation, the Owner shall reimburse the Association upon demand for all expenses incurred therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board may levy a reimbursement assessment for such costs and



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expenses against the Owner of the Lot in question. The permissive (but not mandatory) right of the Association to remedy or remove any noncompliance (it being understood that no Owner may require the Association to take such action) shall be in addition to all other rights and remedies that the Association may have at law, in equity, under this Declaration, or otherwise.

Section 13. No Implied Waiver or Estoppel. No action or failure to act by an Approval Entity shall constitute a waiver or estoppel with respect to future action by the Approval Entity with respect to any Improvement to Property. Specifically, the approval by the Approval Entity of any Improvement to Property shall not be deemed a waiver of any right or an estoppel against withholding approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement to Property by such person or otherwise.

Section 14. Power to Grant Variances. Each Approval Entity may authorize variances from compliance with any of the provisions of Article V of this Declaration (except for the provisions relating to single family residential construction and use), including restrictions upon placement of structures, the time for completion of construction of any Improvement to Property, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other relevant considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Approval Entity. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance affect the jurisdiction of the Approval Entity other than with respect to the subject matter of the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Lot concerned.

Section 15. Compensation of Architectural Control Committee. The members of the Architectural Control Committee shall be entitled to reimbursement by the Association for reasonable expenses incurred by them in the performance of their duties hereunder as the Board from time to time may authorize or approve.

Section 16. Non-liability for Approval Entity Action. None of the members of the Architectural Control Committee, the Association, any member of the Board of Directors, or Declarant shall be liable for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of any Approval Entity except to the extent caused by the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Approval Entity shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of, the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes, or other governmental laws or regulations. Furthermore, none of the members of the Architectural Control Committee, any member of the Board, or Declarant shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association, or for a tort of another of such individuals, whether such other individuals were acting on behalf of the Association, the Architectural Control Committee, the Board, or otherwise. Finally, neither Declarant, the Association, the Board, the Architectural Control Committee, or their officers, agents, members, or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, Improvements, or portion thereof, or for failure to repair or maintain the same.

Section 17. Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Approval Entity may temporarily suspend certain provisions of this Declaration as to the Lot upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that during the course of any such construction, nothing shall be done that will result in a violation of any of the provisions of this Declaration upon completion



of construction or that will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Properties.

ARTICLE V

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ARCHITECTURAL RESTRICTIONS

Section 1. Type of Residence. Only one **detached nonzero** single family residence containing not more than two stories and an accessory outbuilding shall be built or permitted on each Lot. All residences shall have an attached or detached enclosed garage capable of housing a minimum of two (2) full-size automobiles. Carports on Lots are prohibited. All structures shall be of new construction built in accordance with plans and specifications approved by the Approval Entity pursuant to the Declaration, and no structure shall be moved from another location onto any Lot. All residences and approved accessory outbuildings must be kept in good repair and must be painted when necessary to preserve their attractiveness. For purposes hereof, a porte cochere shall not be considered a carport and may be permitted.

Section 2. Type of Construction. Unless otherwise approved by the Approval Entity, the total exterior wall area, excluding detached garages (but not attached garages), gables, windows, and door openings, must be a minimum of fifty-one (51%) percent masonry or brick veneer. Every garage and accessory building shall correspond in style and architecture with the dwelling to which it is appurtenant. No structure of any kind or character which incorporates frame construction on the exterior shall be erected on any Lot unless such structure receives at least two coats of paint at the time of construction or the exterior is of redwood or cedar material. An approved accessory structure may not exceed an overall height of eight feet (8') at the center roof line and must be positioned on the Lot behind the primary dwelling so as not to be visible from the fronting street (or side street in the event of a corner Lot).

Section 3. Temporary Buildings. Unless otherwise approved by the Board in writing, temporary buildings or structures shall not be permitted on any Lot. Declarant may permit temporary toilet facilities, sales and construction offices, and storage areas to be used by Builders in connection with the construction and sale of residences. Builders in the Properties may use garages as sales offices for the time during which such Builders are marketing homes exclusively located within the Properties. At the time of the sale of a residence by a Builder, any garage appurtenant to such residence used for sales purposes must be converted to a garage capable of housing a minimum of two (2) full-size automobiles.

Section 4. Signs. No signs, billboards, posters or advertising devices of any kind shall be permitted on any Lot without the prior written consent of the Board, other than: (a) one sign of not more than six (6) square feet advertising the particular Lot on which the sign is situated for sale or rent, or (b) one sign of not more than six (6) square feet to identify the particular Lot during the period of actual construction of a single family residential structure thereon. The right is reserved by Declarant to construct and maintain, or to allow Builders within the Properties to construct and maintain, signs, billboards and advertising devices as is customary in connection with the sale of newly constructed residential dwellings. In addition, the Declarant and the Association shall have the right to erect identifying signs at each entrance to the Properties.

Section 5. Traffic Sight Areas. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two and six feet above any street shall be permitted to remain on any corner Lot within fifteen (15) feet of the point formed by the intersection of the building set back lines of such Lot.

Section 6. Antennae and Satellite Dishes. Notwithstanding anything contained in this Declaration to the contrary, the below provisions shall apply to all antennae, satellite dishes and related masts in the Subdivision.

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a. Antenna or Satellite Dish in Excess of One Meter (39 inches). No antenna or satellite dish which exceeds one meter (39 inches) in diameter is permitted on any Lot, unless approved in writing of the Board pursuant to the Board's normal architectural review procedure. In such regard, the Board shall make its decision within thirty (30) days from receipt of a completed application to the Board on a form approved by the Board and containing such information as may be required by the Board. Notwithstanding the foregoing, no antennae or satellite dishes which exceeds six (6') feet in diameter are permitted on any Lot.

b. Antenna or Satellite Dish of One Meter (39 inches) or Less, and Other Antennas and Related Masts. An antenna or satellite dish of one meter (39 inches) or less, and other antennas and related masts which comply with all the below set forth minimum conditions, do not need to go through the normal Board review process required for an antenna or satellite dish discussed in subsection a above. However, the Association must nevertheless receive written notification at its then current address from the Owner of the applicable Lot, on or before the installation of any antenna, satellite dish and related mast provided for in this subsection b. Such notification must include the type and color of antenna, satellite dish, and any related mast to be installed, and the method, manner, and site of installation. The site must be shown in a plot plan.

If the Owner of a Lot proposes to install an antenna, satellite dish and any related mast from pursuant to this subsection b in any manner whatsoever which does not strictly comply with the below set forth minimum conditions, such Owner must submit an application to the Board and obtain the written approval of the Board prior to commencing such installation. In connection with the Board's decision, the Board shall consider such factors as it deems appropriate, in its reasonable discretion. The application to the Board must be made on a form approved by the Board and contain such information as may be required by the Board, including a statement which specifically describes the manner in which it is proposed that such antenna, satellite dish and related mast will vary from such minimum conditions. The Board shall endeavor to make its decision regarding the proposed antenna, satellite dish and any related mast on an expedited basis within seven (7) days after receipt by the Board of the completed application and all information required therein. The granting of a variance from such minimum conditions shall in no way affect the Owner's obligation to comply with all governmental laws and regulations and other regulations affecting the Lot concerned.

c. Minimum Conditions. In addition to the foregoing requirements, no antenna, satellite dish, or any related mast shall be erected, constructed, placed, or permitted to remain on any Lot unless such installation strictly complies with the following minimum conditions:

1. The antenna, satellite dish and any mast must be located to the rear one-half (1/2) of the Lot and must serve only improvements on the particular Lot in which it is located.

2. To the extent feasible, the antenna, satellite dish and any mast, including its base and anchoring structure, shall not extend above the roofline of the house located on the Lot and shall not be visible from the frontage street or any adjoining street.

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3. To the extent feasible, no antenna, satellite dish or mast shall be constructed or placed or permitted to remain on any utility easement or other easement or right-of-way located on any Lot.

4. The antenna, satellite dish and any mast must be securely mounted to a base, so as to be able to withstand the effects of high winds or other extraordinary weather conditions; however, no guy wires or similar mounting apparatus will be allowed.

5. No advertising slogans, logos, banners, signs or any other printing or illustration whatsoever shall be permitted upon or be attached to the antenna, satellite dish or mast.

6. No satellite dish or antenna shall ever be used for the transmission of any signal whatsoever and said antenna or satellite dish shall be for the purpose of receiving only normal signals through airwaves for television viewing purposes only.

7. No antenna or satellite dish shall be permitted to cause any distortion or interference whatsoever with respect to any other electronic device in the Subdivision.

8. The antenna, satellite dish and any mast shall be one solid color only, either white or black or shades of either brown, gray or tan.

9. Each Lot shall be permitted to have no more than one antenna or satellite dish and any related mast, as applicable, for each category of the following categories of video programming providers, to-wit: direct broadcast satellites, multi-channel multi-point distribution (wireless cable) providers, and television broadcast stations; however, only one (1) of the above technologies shall be external to the Dwelling Unit.

Section 7. Mailboxes. Mailboxes, house numbers and similar matter used in the Properties must be harmonious with the overall character and aesthetics of the Subdivision. Mailboxes, if cluster, will be maintained by the Association and/or as required by the U.S. Postal service and/or if individual mailboxes are provided, it shall be the responsibility of each Owner to maintain their respective mailbox in good condition at all times.

Section 8. Disposal Units. Each kitchen in each residence shall be equipped with a garbage disposal unit in a serviceable condition.

Section 9. Air Conditioners. No window or wall type air conditioners shall be permitted in any residence, but the Board at its discretion, may permit window or wall type air conditioners to be installed if such unit or units will not be visible from any street or from any other Lot; if approved, no unit shall be installed more than forty-eight inches (48") above grade.

Section 10. Walls, Fences and Hedges. No hedge in excess of three feet (3') in height shall be erected or maintained nearer to the front Lot line than the building set-back line. The backyard (being the entire area of each lot behind the rear of each house) of each Lot must be enclosed with a fence. All fences must be constructed of ornamental metal, wood or masonry and no chain link fences shall be placed on any Lot except to enclose a swimming pool if such chain link fence is not visible from a street. No fence shall exceed eight (8) feet in height, and all fences along side and rear Lot lines shall be not less than six (6) feet in height. No fence or wall shall be erected on any Lot nearer to any Street than the building setback lines as shown on the

Subdivision Plat. The Board has the right to deviate its approval for the style, height and materials to be used based on the location within the Subdivision. In any event, the prior written approval of the applicable Approval Entity is required before any fence is constructed, restored or repaired. It is the intent of Declarant to maintain visual continuity of fence lines along entryways, main thoroughfares and/or for those fence lines which are visible or adjacent to Common Area properties. As such, all fences constructed along these areas shall be uniform in design, height, materials and finish and each Owner shall be responsible for compliance with the architectural requirements and the cost to repair or replace the fence. Any and all fence lines between properties shall be considered a shared common element between Lot Owners for the purpose of maintenance and/or repairs. Any portion of a fence facing a street or public right of way shall be installed with the finished side of the fence facing such street or public right of way. The maintenance and repair of all fences shall be the responsibility of each Owner.

Section 11. Dwelling Unit Size. For all Lots, the floor area of any one (1) story Dwelling Unit, exclusive of porches and garages, shall contain not less than one thousand one hundred (1,100) square feet and the floor area of any two (2) story Dwelling Unit, exclusive of porches and garages, shall contain not less than one thousand seven hundred (1,700) square feet, with a minimum of eight hundred (800) square feet on the ground floor.

Section 12. Height and Character of Dwelling Unit. No Dwelling Unit shall be erected, altered, or permitted to remain on any Lot other than one Dwelling Unit used for single family residential purposes only, not to exceed two (2) stories in height, and a fully enclosed garage, and other bona fide servants' quarters; provided, however, that the servants quarters' structure may not exceed the main dwelling unit in height. Provided further that it shall be permissible to have third-level living space in the Dwelling Unit completely under a sloped roof with dormers or gables, or additional levels beneath ground level in the Dwelling Unit, garage, or servants' quarters, so long as the maximum height of the buildings does not exceed forty-five (45) feet.

Section 13. Location of Dwelling Unit. Except as may be authorized in writing by the Approval Entity, no Dwelling Unit or Improvement shall be located nearer to the front Lot line nor nearer to any side or rear Lot line than as permitted by the recorded plat of the Subdivision in accordance with Article III, Section 1 hereof. Detached garages may be located three (3) feet from the side property line provided they are positioned on the Lot a minimum of sixty-five (65') or greater from the front property line.

Section 14. Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn, or other outbuilding shall be maintained or used on any Lot at any time as a residence, or for any other purpose, either temporarily or permanently; provided, however, that Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as in its sole discretion may seem necessary or convenient while selling Lots, selling or constructing residences, or constructing other Improvements within the Properties. The right to use temporary structures in connection with the construction of Improvements may be assigned from time to time, in whole or in part, by Declarant to Builders. All approved temporary structures designed for the sole purpose of storage building shall be properly maintained at all times and positioned on the Lot so as to not be visible from the fronting street and/or side street in the event of a corner Lot. Additionally, storage buildings or temporary structures shall be limited to a height of eight feet (8') at the center line of said roof. Materials and color must be the same or similar in design and color as the primary dwelling. These structures are limited to one (1) per Lot.

Section 15. Drainage. No Owner of a Lot shall be permitted to construct Improvements on such Lot or grade such Lot or permit such Lot to remain in or be placed in such condition that rain water falling on such Lot drains to any other Lot or any common area.

Section 16. Carports/Garages. No carports shall be constructed on any Lot. With the prior written consent of the Approval Entity, a port-o-cache may be approved; however this will be required in addition to garage. All garages shall be first approved by the Approval Entity and shall be: (a) fully operable; (b) capable of housing at least two (2) automobiles; and, (c) enclosed

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by garage doors which must be kept in the closed position when the garage is not being used by the Owner or occupant. The garage portion of any model home may be used by Builders for sales purposes, storage purposes, and other related purposes. Upon (or before) the sale of any such model home to the first purchaser thereof, the garage portion of the model home shall be converted to a fully enclosed garage capable of housing not less than two or more than four, automobiles, with garage doors by the Builder. If the garage portion of the model home is not converted to a fully enclosed garage with garage doors by the Builder upon the sale of such model home, it shall be the obligation of the first purchaser of the model home and each subsequent Owner of the Lot (if not done by the first purchaser) to convert the garage portion of the model home to a fully enclosed garage with garage doors.

Section 17. Driveways. Unless the Approval Entity agrees otherwise, each Lot shall have driveway access to the fronting street on which the Dwelling Unit constructed thereon faces. Subject to the foregoing limitations, the Owner of each Lot shall construct and maintain at his expense a driveway from his garage to an abutting street.

Section 18. Roofs. Unless otherwise approved in writing by the Approval Entity, the roof of all buildings on a Lot shall be covered with fiberglass composition shingles earthtone in color or wood, if preferred, with a life of twenty (20) years or better, and shall, at a minimum, meet the minimum specifications as defined by the Federal Housing Authority. The color of any composition shingles shall, like all other specifications to Improvements, be subject to written approval by the Approval Entity prior to installation. Any other type of roofing material may be used only if approved in writing prior to installation.

Section 19. Sidewalks. Before the construction of any residence is complete, the Builder shall construct in all adjacent street rights-of-way, a concrete sidewalk four feet (4') in width, parallel to the street curb and two feet (2') from the Lot line in accordance with local standards and ordinances. The sidewalk shall extend the full width of the Lot. On corner Lots, the sidewalk shall extend the full width and depth of the Lot and up to the street curb at the other, and finished with the complement of required curb ramps. The maintenance of all sidewalks is the responsibility of the Owner.

Section 20. Grass, Shrubbery and Landscaping. Prior to the initial sale thereof, the front of each Lot with a residence thereon shall be solidly sodded with grass, and all areas visible from any street shall be landscaped with shrubbery of types and quantities approved by the Approval Entity. All grass and shrubbery shall be maintained by the Owner of the Lot. Each Lot shall have a minimum of one (1) tree in the front portion of the Lot with the size of the trunk of the tree to be a minimum of two (2) inches caliper or greater.

Section 21. Flagpoles. No flagpole shall be permanently erected on any Lot. A temporary flagpole approved by the Approval Entity may be erected on a Lot with a model home until such time that the Lot on which the model home is situated is sold. A flag pole not to exceed five (5') feet in length may be mounted to the front wall of a residence for the benefit of the personal display of a holiday or national flag. Flags which are displayed must be maintained in good condition at all times.

Section 22. Private Utility Lines. All electrical, telephone and other utility lines and facilities which are located on a Lot and which are not owned and maintained by a governmental entity or a public utility company shall be installed in underground conduits or other underground facilities unless otherwise approved in writing by the Approval Entity and shall be maintained at all times by the Owner of the Lot upon which same is located.

Section 23. Exterior Lighting. All exterior lighting must first be approved by the Approval Entity.

Section 24. Sound Devices. No horns, whistles, bells, or other sound devices, except for security systems used exclusively to protect the Dwelling Unit, shall be placed or used on any Lot or Improvements. This paragraph shall not preclude the use of outdoor speakers for hi-fis,

stereos, or radios if the sound level is maintained at a reasonably low level with respect to adjoining Lots.

Section 25. Window Treatment. No window in any Dwelling Unit or other Improvement that is visible from any other Lot or a street may be covered with any aluminum foil or other reflective material. All window coverings which are visible from the street and/or from other Lots must be compatible with the overall appearance of the Subdivision and the must be neutral in color, either white or off-white. The Approval Entity shall have the sole authority to determine whether particular window coverings are in harmony with the design and color of the Dwelling Unit and compatible with the Architectural Guidelines.

Section 26. Pools, Spas and Decks. Subject to prior architectural review and Approval Entity approval, a pool, spa, or deck may be installed; however, no surrounding deck may be greater than eighteen inches (18") above the natural grade for the benefit of access or use of these improvements. No above ground or in ground pool, spa and/or deck surrounding these improvements may be installed within five (5') feet of the side Lot boundaries and/or encroach over any building lines or be positioned within any utility easement.

Section 27. Tents, Mobile Homes and Temporary Structures. Except as may be permitted by the Declarant or the ACC during initial construction within the Properties, no tent, shack, mobile home, motor home or any other vehicle or structure of a temporary nature shall be placed upon a Lot or any part of the Properties. The foregoing prohibition shall not apply to restrict the construction or installation of a single utility or similar outbuilding to be permanently located on a Lot, provided it receives the prior approval of the Approval Entity as appropriate, in accordance with this Declaration. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board.

Section 28. Drainage and Septic Systems. Catch basins and drainage areas are for the purposes of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or change the channel for drainage flow after location and installation of drainage swale, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks and drain fields, other than those installed by or with the consent of Declarant are prohibited within the Properties. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, stream, pond or lake within the Properties.

Section 29. Sight Distance at Intersections. All Lots located at street intersections shall be landscaped so as to permit safe sight across the street corners. The Owner shall be responsible for maintaining all sight lines at both intersections and along street right of ways and/or sidewalks in the event trees are planted along such pathway. Plant material within the intersection of any street are recommended to be maintained at a height not to exceed twenty-four inches (24"). No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 30. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation or permanent flagpoles shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, fountains, flags and temporary flagpoles, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless behind the front building line. Decorative sculptures, etc. may be permitted if located within a plant bed area provided that such sculpture or statue does not exceed twenty-four (24") inches in height and provided it has first been approved by the Approval Entity.

Section 31. Playground. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Lot without prior written approval of the Board. These items shall be positioned on the Lot so as not to be visible from any street. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used

at the risk of the user, and the Association shall not be held liable to any person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 32. Enforcement of Exterior Dwelling or Lot Maintenance. In the event of the violation of any covenant herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and/or maintenance after such notice, Declarant or the Association shall have the right (but not the obligation), through its agents or employees, to enter upon such Lot and to secure compliance with this Declaration and restore such Lot to a neat, attractive, healthful and sanitary condition. Declarant or the Association may render a statement of charge to the Owner of such Lot for the cost of such work. The Owner agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt. In the event of the failure to pay for such work, the amount of such statement may be added to the annual maintenance charge provided for herein and shall be secured by a lien on the Lot in the same manner as annual assessments. Declarant, the Association, or their agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the maintenance and other work authorized herein.

## ARTICLE VI

### USE RESTRICTIONS

Section 1. Residential Use. Each and every Lot is hereby restricted to residential dwellings for single family residential use only. No business, professional, commercial, or manufacturing use shall be made of any of said Lots, even though such business, professional, commercial, or manufacturing use be subordinate or incident to use of the premises as a residence. No structure other than one single family residence and its outbuildings shall be constructed, placed on, or permitted to remain on any Lot in the Properties. As used herein, the term "residential use" shall be construed to prohibit the use of any Lot for duplex houses, apartment houses, or mobile homes. Use of a model home for sales office shall not be considered a violation of these restrictions.

Section 2. Animals and Livestock. No animals, livestock, poultry or swine of any kind shall be raised, bred, or kept on any Lot. Consistent with its use as a residence, a maximum of two (2) dogs, cats, or other household pets (exclusive of aquarium fish, parakeets, or other caged pets) may be kept on a Lot, provided that they are not kept, bred, or maintained for any business purposes.

Section 3. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to residents of the Properties. Nuisance from the perspective of the Association shall be an incident involving more than two (2) Owners. Any dispute generated between two (2) Owners shall be deemed by the Association as a private property matter and shall be the responsibility the respective parties to remedy.

Section 4. Storage and Repair of Vehicles. Without limitation of description, no boat, boat trailer, boat rigging, motor home, trailer, mobile home, truck larger than is capable of being parked and stored within the garage located on the property permitting the garage door to completely close, bus, inoperable automobile, or any style camper shall be parked or kept in the street in front of or side of any Lot or on any Lot unless such vehicle is stored within a garage or otherwise screened from public view; provided, however, boats, boat trailers, boat riggings, motor homes, trailers, and campers may be temporarily parked in the street in front of or side of any Lot or on any Lot (for the benefit of loading and unloading, as is normal for use) for a period not to exceed seventy-two hours. No Owner of any Lot or any visitor or guest of any Owner shall be permitted to perform work on automobiles or other vehicles in driveways or streets other than work of a temporary nature. For the purposes of the foregoing the term "temporary" shall mean that the vehicle shall not remain in driveways or streets in excess of seventy-two (72) hours.



Section 5. Permitted Hours for Construction Activity. Except in an emergency or when other unusual circumstances exist, as determined by the Board, outside construction work or noisy interior construction work shall be permitted only between the hours of 7:00 A.M. and 9:00 P.M. Monday through Saturday; on Sunday, work shall be permitted only between 9:00 A.M. and 5:00 P.M.

Section 6. Disposal of Trash. No trash, rubbish, garbage, manure, debris, or offensive material of any kind shall be kept or allowed to remain on any Lot, nor shall any Lot be used or maintained as a dumping or storage ground for such materials. All such matter shall be placed in sanitary refuse containers constructed of metal, plastic or masonry materials with tight fitting sanitary covers or lids and placed in an area adequately screened by planting or fencing. Equipment used for the temporary storage and/or disposal of such material prior to removal shall be kept in a clean and sanitary condition and shall comply with all current laws and regulations and those which may be promulgated in the future by any federal, state, county, municipal or other governmental body with regard to environmental quality and waste disposal. In a manner consistent with good housekeeping, the owner of each Lot shall remove such prohibited matter from his Lot at regular intervals at his expense.

Section 7. Storage of Building Materials. Unless otherwise approved by the Board, no Lot shall be used for the storage of any materials whatsoever, except that material used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced. During initial construction or remodeling of the residences by Builders in the Properties, building materials may be placed or stored outside the boundary of the lot lines. Building materials may remain on Lots for a reasonable time, so long as the construction progresses without undue delay after which time these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot. Under no circumstances shall building materials be placed or stored on streets.

Section 8. Mineral Production. No oil drilling, oil development operations, refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be permitted upon any Lot.

Section 9. Occupants Bound. All provisions of the Declaration, bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owner shall also apply to all occupants, guests and invitees of any Lot. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, bylaws and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, bylaws and rules and regulations adopted pursuant thereto.

Section 10. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any structure, thing or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Lot.

Section 11. Damage or Destruction of Improvements. Owners are bound and obligated through the purchase of a Lot to maintain the Lot and all Improvements thereon in a neat and habitable manner. In the event of damage to any Improvement, 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 portion, and, once timely commenced, such repairs or demolition must be pursued diligently to completion. If, however, damage to the Improvements is not covered by insurance, or if the Owner's claim is not approved by the Owner's insurance company, or if the Owner decides not to restore the Improvements at such time, then the Owner may apply for a "hardship" extension to the operation of this restriction to be submitted to the Board within sixty (60) days from the date of such destruction or damage. The Board shall rule on the Owner's application for a "hardship" extension within thirty (30) days from the date of submission. In no event shall the granting of a "hardship" extension in a particular case be deemed a waiver of the right to enforce this restriction thereafter. If a hardship extension is granted, the Owner thereafter immediately shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Board, so as to present a pleasing and attractive appearance.

Section 12. Owner's Maintenance Responsibilities.

a. Generally. Each Owner shall maintain his or her Lot and all structures, parking areas and other improvements on the Lot in a neat, orderly condition and paint such improvements when necessary to maintain their attractiveness. Owners of Lots which are adjacent to any portion of the Common Area on which walls, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the boundary. Owners of Lots adjacent to any roadway within the Properties shall maintain driveways serving their respective Lots, whether or not lying within the Lot boundaries, and shall maintain landscaping on that portion of the Common Area, if any, or right-of-way between the Lot boundary and the back-of-curb of the adjacent street.

b. Standard of Maintenance by Owner. All maintenance required by this Article VI, Section 12 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or pursuant to any Supplemental Declaration affecting such Lot.

c. Enforcement of Owner's Responsibilities. In addition to any other enforcement rights available to the Association, in the event of violation of any covenant or restriction herein by any Owner or occupant of any Lot and the continuance of such violation after ten (10) days' written notice thereof, or in the event the Owner or occupant has not proceeded with due diligence to complete appropriate repairs and maintenance after such notice, the Association shall have the right (but not the obligation), through its agents or employees, to repair, maintain and restore the Lot and/or the exterior of the residence, not limited to include gutters, siding, broken windows, fencing, etc., and any other existing Improvements located thereon, to the extent necessary to prevent rat infestation, diminish fire hazards, protect property values and accomplish necessary repairs, maintenance and/or restoration. The Association may render a statement of charge to the Owner or occupant of such Lot for the cost of such work. The Owner and occupant agree by the purchase and occupation of the Lot to pay such statement immediately upon receipt. The cost of such work, plus interest thereon at the maximum rate permitted under the laws of the State of Texas, shall become a part of a Assessment payable by said Owner and payment thereof shall be secured by the lien created pursuant to this Declaration. The Association, its agents and employees shall not be liable, and are hereby expressly relieved from any liability, for trespass or other tort in connection with the performance of the exterior maintenance and other work authorized herein.

## ARTICLE VII

RIGHTS TO COMMON AREAS

Section 1. Use of Common Area. Each Owner shall have a nonexclusive right to use, access and enjoy the Common Area which is appurtenant to the title to the Lot, subject to the following:

- a. This Declaration, as it may be amended from time to time;
- b. Any restrictions or limitations contained in any deed conveying such Common Area to the Association;
- c. The right of the Board to limit the number of guests who may use the Common Area, and to adopt other rules and regulations regulating the use and enjoyment of the Common Area;
- d. The right of the Board to suspend the right of an Owner to use any recreational facilities within the Common Area (i) for any period during which any Assessment or portion thereof owed by such Owner remains delinquent, and (ii) for a period not to exceed thirty (30) days for a single violation, or for a longer period in the case of any continuing violation, of the Declaration, bylaws, or rules and regulations of the Association;
- e. The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to the approval of at least sixty-seven percent (67%) of the then Owners of the Lots in Settlers Village, Section Three;
- f. The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees (which fees shall be separate from Assessments) for the use of any recreational facility situated upon the Common Area;
- g. The right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of user fees established by the Board;
- h. The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval of at least sixty-seven percent (67%) of the then Owners of Lots in Settlers Village, Section Three;
- i. The right of the Association to grant easements pursuant to this Declaration; and
- j. The right of the Association to enter into and execute contracts with any party for the purpose of providing maintenance or other materials or services consistent with the purposes of the Association and this Declaration.

Section 2. Delegation. Any Owner may delegate his or her right of use and enjoyment of Common Area to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Lot must provide written notice to the Association conveying such privileges of use to Common Areas and the specific right to vote on their behalf.

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ARTICLE VIII

EASEMENTS

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Section 1. Easements. Easements for the installation and maintenance of utilities are reserved as shown and provided for on the Subdivision Plat or as dedicated by separate instruments. Neither Declarant nor any utility company or authorized political subdivision using the easements referred to herein shall be liable for any damages done by them or their assigns, agents, employees or servants, to fences, shrubbery, trees, flowers, improvements or other property of the Owner situated on the land covered by such easements as a result of construction, maintenance or repair work conducted by such parties or their assigns, agents, employees or servants.

Section 2. Underground Electrical Distribution System. An underground electric distribution system (the "System") will be installed in that part of the Properties, which according to the Plat, contain Lots (the "Underground Residential Subdivision"). The System embraces all of the Lots which are platted in the Subdivision. This System shall consist of overhead primary feeder circuits constructed on wood or steel poles, single or three phase, as well as underground primary and secondary circuits, pad mounted or other types of transformers, junction boxes, and such other appurtenances as shall be necessary to make underground service available to the Lots. The Owner of each Lot containing a Dwelling Unit, shall, at his or its own cost, furnish, install, own and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, such point of attachment to be made available by the electric company at a point designated by such company at the Property line of each Lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter. Declarant has either by designation on the Subdivision Plat or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowner's to permit installation, repair and maintenance of each homeowner's owned, and installed service wires. In addition, the Owner of each Lot containing a Dwelling Unit, at his or its own cost, furnish, install, own and maintain a meter loop (in accordance with the then current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for the Dwelling Unit involved. For so long as underground service is maintained in the Underground Residential Subdivision, the electric service to each Dwelling Unit therein shall be underground, uniform in character and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

The electric company has installed the underground electric distribution system in the Underground Residential Subdivision at no cost to Declarant (except for certain conduits, where applicable, and except as hereinafter provided) upon Declarant's representation that the Underground Residential Subdivision is being developed for residential Dwelling Units, which are designed to be permanently located where originally constructed (such category of Dwelling Units expressly to exclude mobile homes) which are built for sale or rent. Should the plans of the Declarant or the Owners in the Underground Residential Subdivision be changed so as to permit the erection therein of one or more mobile homes, shall not be obligated to provide electric service to any such mobile home unless (a) Declarant has paid to the electric company an amount representing the excess in cost, for the entire Underground Residential Subdivision, of the System over the cost of equivalent overhead facilities to serve such Subdivision or (b) the Owner of each affected Lot, or the applicant for service to any mobile home, shall pay to the electric company the sum of (1) \$1.75 per front Lot foot, it having been agreed that such amount reasonably represents the excess in cost of the System to serve such Lot or Dwelling Unit over the cost of equivalent overhead facilities to serve such Lot or Dwelling Unit, plus (2) the cost of rearranging, and adding any electric facilities servicing such Lot, which arrangement and/or addition is determined by the electric company to be necessary.

The provisions of the two preceding paragraphs also apply to any future residential development in Reserve shown on the plat of Settlers Village Subdivision, Section Three, as such plat exists at the execution of the agreement for underground electric service between the electric company and Developer or thereafter. Specifically, but not by way of limitation, if a lot owner in a former Reserve undertakes some action which would have invoked the above per front lot foot payment if such action had been undertaken in the Underground Residential Subdivision, such owner or applicant for service shall pay the electric company \$1.75 per front lot foot, unless Developer has paid the electric company as above described. The provisions of the two preceding paragraphs do not apply to any future nonresidential development in such Reserve(s).

Easements for the underground service may be crossed by driveways and walkways provided that the Builder or Owner makes prior arrangements with the utility company furnishing electric service and provides and installs the necessary electric conduit of approved type and size under such driveways or walkways prior to construction thereof. Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios, or other paving, and neither Builder nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, or improvements (other than crossing driveways or walkways provided the conduit has been installed as outlined above) of the owner and located on the land covered by said easements.

Section 3. Cable Television. Declarant reserves the right to hereafter enter into a franchise or similar type agreement with one or more cable television companies and Declarant shall have the right and power in such agreement or agreements to grant to such cable television company or companies the uninterrupted right to install and maintain communications cable and related ancillary equipment and appurtenances within the utility easements and rights-of-way dedicated by the Subdivision Plat or by separate instruments pertaining to the Properties.

## ARTICLE IX

### THE SETTLERS VILLAGE COMMUNITY IMPROVEMENT ASSOCIATION

Section 1. Membership. Every Owner of a Lot in the Subdivision which is subject to a maintenance charge assessment by the Association, including contract sellers, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of the Lots which are subject to assessment by the Association. Ownership of such Lots shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A members shall be all those Owners as defined in Section 1 of this Article VIII, with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in the Subdivision in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B: The Class B membership shall be the Declarant defined in this Declaration. The Class B membership shall be entitled to three (3) votes for each Lot in the Subdivision in which it meets the requirements for membership by Section 1 above; provided, however, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

a. When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

b. On December 31, 2008.

Except as may be specifically provided to the contrary in this Declaration, the Class A and Class B members shall have no rights as such to vote as a class, and both classes shall vote together upon all matters as one group.

Section 3. Non-Profit Corporation. The Association may be organized as a non-profit corporation. All duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

Section 4. Bylaws. The Association may make whatever rules or bylaws it may choose to govern the organization, provided that same are not in conflict with the terms and provisions hereof.

Section 5. Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during normal business hours.

## ARTICLE X

### COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot is, and the Reserve are, hereby subjected to an annual maintenance charge, and the Declarant, for each Lot or portion of the Reserve owned by them within the Properties, hereby covenants, and each Owner of any Lot or any portion of the Reserve, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual maintenance charge assessments, such assessments to be established and collected as hereinafter provided and shall constitute the proceeds of a fund (hereinafter called the "maintenance fund") to be used for the purposes hereinafter provided. The annual maintenance charge assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Subdivision, and the Association shall use the proceeds of said maintenance fund for the use and benefit of all residents of the Subdivision, provided, however, that each future section of Settlers Village Subdivision (and any other property or properties included in the Subdivision), to be entitled to the benefit of this maintenance fund, must be impressed with and subjected to an annual maintenance charge and assessment on a uniform, per Lot basis, substantially equivalent to the maintenance charge and assessment imposed hereby, and further made subject to the jurisdiction of the Association in the manner provided in Article X hereof. The uses and benefits to be provided by said Association shall include, by way of example but without limitation, at its sole option, any and all of the following: maintaining parkways, rights-of-way, easements and esplanades; furnishing and maintaining landscaping, lighting and beautification of the Properties; payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employing policemen and watchmen; and doing such other things and taking such other actions as are necessary or desirable in the opinion of the Association to keep the Properties and the

Subdivision neat and in good order or which is considered of general benefit to the Owners or occupants of the Lots in the Subdivision, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

GRV. YR  
Initials of Declarant

Section 3. Maximum Annual Assessment. Until January 1, 1998, the maximum annual assessment shall be Two Hundred Thirty-Three and No/100 Dollars (\$233.00) per Lot, per annum, ~~and \$0.015 mills per square foot (and a proportionate amount for each portion of a square foot) per annum for each portion of Reserve A.~~

SB. Pies.  
Initials of Association

a. From and after January 1, 1998, the maximum annual assessment may be increased each year (beginning with the year 1998), without a vote of the membership, by an amount not in excess of five percent (5%) of the maximum annual assessment for the previous year.

b. From and after January 1, 1998, the maximum annual assessment may be increased for any year (beginning with the year 1998) by an amount in excess of five percent (5%) of the maximum annual assessment for the previous year, only by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Notice and Quorum for Any Action Authorized Under Article IX, Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Article IX, Section 3 above shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Rate of Assessments. The Board, in its discretion, may fix, by resolution specifying such amount, the annual assessment at any amount not in excess of the maximum then permitted under the terms of Article IX, Section 3 above, and such annual assessment for the Lots and the Reserve, when fixed, shall be assessed and paid at the following uniform rates:

a. The rate for all Lots and for all portions of the Reserve, other than those Lots and the Reserve owned by Declarant, shall be fifty percent (50%) of the annual assessment fixed by the Board until the first day of the month following completion and occupancy of a permanent residential structure on such Lot; thereafter, such rate shall be one hundred percent (100%) of the applicable annual assessment as to such Lot or to all that portion of such Reserve owned by the Owner on whose property such permanent structure has been erected;

b. The development of the Subdivision is anticipated to occur in three (3) phases. Upon the electricity in each phase being "turned on" or "hot", the Board, in its sole discretion, can begin assessing the Lots and the Reserve in that particular phase of the Subdivision. The Declarant shall send written notice to the Board at its then current address that the electricity in a particular phase has been "turned on" or "hot" on or before three (3) days after such occurrence. The rate for the Lots and the Reserve owned by Declarant in such phase shall be separately determined by the Board, but in no event shall such rate be less than fifty percent (50%), nor more than one hundred percent (100%) of the applicable annual assessment.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots and the Reserve on the date fixed by the Board to be the date of commencement, and the annual assessment period shall be the



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calendar year. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. Thereafter, the Board shall fix the amount of the annual assessment against each Lot and the Reserve at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates (which may be monthly, quarterly, semiannually or annually) shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien created hereby against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein, as it applies to any Lot, shall be second, subordinate and inferior to all liens, present and future, given, granted and created by or at the instance or request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot. No sale or transfer of a Lot shall relieve the Owner of such Lot from liability for any assessments theretofore having become due or such Lot from the lien thereof. <sup>\*\*</sup>A selling Owner of a Lot shall not be relieved of personal liability for any Assessments accruing on such Lot prior to the date of sale or transfer. <sup>\*\*</sup>; however, the sale or transfer of any Lot pursuant to the foreclosure of such a purchase money and/or improvement lien, or any proceeding in lieu thereof shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer. However, a

transfer of any Lot pursuant to the foreclosure of such a purchase money and/or improvement lien, or any proceeding in lieu thereof shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer. However, a

SB. Pres.  
Initials of Association

Geo. VP.  
Initials of Declarant

GENERAL PROVISIONS

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of the Association and all Owners, their respective legal representatives, heirs, successors and assigns for an initial term commencing on the effective date hereof and ending December 31, 2037. During such initial term, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then Owners of not less than two-thirds (2/3) of all Lots in Settlers Village, Section Three, and properly recorded in the appropriate records of Harris County, Texas. Upon the expiration of such initial term, said covenants and restrictions (if not previously terminated and as changed, if changed) and the enforcement rights relative thereto shall be automatically extended for successive period of ten (10) years. During such ten (10) year extension periods, the covenants and restrictions of this Declaration may be changed or terminated only by an instrument signed by the then Owners of not less than two-thirds (2/3) of all the Lots in Settlers Village, Section Three, and properly recorded in the appropriate records of Harris County, Texas. Upon any violation or attempt to violate any of the covenants herein, it shall be lawful for the Association or any other Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from doing so or to recover damages or other dues for such violations.

Section 2. Severability. Invalidation of anyone of these covenants by judgment or other court order shall in no manner affect any of the other provisions, which shall remain in full force and effect.

Section 3. Additions to Existing Property. Additional lands may become subject to the scheme of this Declaration in the following manner:

- a. Annexation with Approval of Members. Additional real property located near or adjacent to the Properties, may be annexed with the affirmative vote or written consent of two-thirds (2/3) of all Members. Such annexation shall be

accomplished by filing a Supplemental Declaration describing the property to be annexed in the Official Public Records of Real Property of Harris County, Texas.

b. Annexation by the Board Without Approval of Members. Notwithstanding anything contained in Subsection a above, such additional real property may be annexed hereto from time to time by the Board, without the consent of the Owners, upon submission to and approval by the Federal Housing Administration or the Veterans Administration. Such annexation shall be accomplished by filing a Supplemental Declaration describing the property to be annexed in the Official Public Records of Real Property of Harris County, Texas.

c. Annexation by Declarant or an Affiliated Entity. Notwithstanding anything contained in Subsection a or b above, such additional real property may be annexed hereto from time to time by Declarant or an affiliated entity, with the consent of the Board and upon the submission to and approval by the Federal Housing Administration or the Veterans Administration. Such annexation shall be accomplished by filing a Supplemental Declaration describing the property to be annexed in the Official Public Records of Real Property of Harris County, Texas.

d. Mergers. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may be transferred to another surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association shall administer the covenants and restrictions established by this Declaration and all Supplemental Declarations, together with the covenants and restrictions applicable to the properties of the other associations as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration.

Section 4. FHA/VA Approval. So long as there shall be a Class B Membership in the Association, and in addition to the actions requiring approval in Section 3 of this Article X, the following actions will require the prior approval of the Federal Housing Administration or the Veteran's Administration: annexation of additional properties, merger or consolidation of the Association with another association, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 5. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 6. Cumulative Effect; Conflict. The covenants, conditions, restrictions, and provisions of this Declaration shall be cumulative with any others pertaining to the Properties (the "Additional Covenants") and the Association may, but shall not be required to, enforce the Additional Covenants; provided, however, in the event of conflict between or among (a) the covenants, conditions, and restrictions of this Declaration; and (b) the terms of the Additional Covenants, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, the Additional Covenant shall be subject and subordinate to those of this Declaration. The foregoing priorities shall apply, but not be limited to, the lien for Assessments created in favor of the Association.

Section 7. Compliance. It shall be the responsibility of each Owner or occupant of a Dwelling Unit to obtain copies of and become familiar with the terms of the Declaration, Articles of Incorporation of the Association, Bylaws of the Association, rules and regulations, and architectural standards. Every Owner of any lot shall comply with all lawful provisions of this Declaration, the By-Laws of the Association, and rules and regulations of the Association. Failure

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to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Owner or Owners. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the By-Laws of the Association.

515-02-0132

Section 8. Security. The Association may, but shall not be obligated to, maintain or support, certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS, AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ARCHITECTURAL CONTROL COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY DECLARANT OR THE ARCHITECTURAL CONTROL COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED, EACH OWNER AND OCCUPANT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD, AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING UNIT AND EACH TENANT, GUEST, AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD, AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 9. Severability. In the event of the invalidity or partial invalidity or partial unenforceability of any provision in this Declaration, the remainder of the Declaration shall remain in full force and effect.

Section 10. Number and Gender. Pronouns, whenever used herein, and of whatever gender, shall include natural persons and corporations, entities and associations of every kind and character, and the singular shall include the plural, and vice versa, whenever and as often as may be appropriate.

Section 11. Delay in Enforcement. No delay in enforcing the provisions of this Declaration with respect to any breach or violation thereof shall impair, damage or waive the right of any party entitled to enforce the same to obtain relief against or recover for the continuation or repetition of such breach or violation or any similar breach or violation thereof at any later time.

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Section 12. Enforceability. This Declaration shall run with the Properties and shall beginning upon and inure to the benefit of and be enforceable by the Association and each Owner of a Lot in the Properties, or any portion thereof, and their respective heirs, legal representatives, successors and assigns. In the event any action to enforce this Declaration is initiated against an Owner or occupant of a Lot by the Association, the Association or other Owner, as the case may be, shall be entitled to recover reasonable attorneys' fees from the Owner or occupant of a Lot who violated this Declaration.

Section 13. Remedies. In the event any person shall violate or attempt to violate any of the provisions of the Declaration, the Association, each Owner of a Lot within the Properties, or any portion thereof, may institute and prosecute any proceedings at law or in equity to abate, preempt or enjoin any such violation or attempted violation.

Section 14. Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulations, pertaining to the ownership, occupation, or use of any Lot hereby is attached to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 15. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association or its agents or employees in connection with any portion of the Properties, or any Improvement thereon, its or their physical condition, compliance with applicable laws, fitness for intended use, or in connection with the sale, operation, maintenance, cost of maintenance, taxes, or regulation thereof, unless and except as specifically shall be set forth in writing.

Section 16. Captions for Convenience. The titles, headings, captions, articles and section numbers used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration. Unless the context otherwise requires, references herein to Articles and Sections are to articles and sections of this Declaration.

Section 17. No Condominium. This Declaration does not and is not intended to create a condominium within the meaning of the Texas Condominium Act, Tex. Prop. Code Ann. §§81.001-81.210 (Vernon 1983).

Section 18. Governing Law. This Declaration shall be construed and governed under the laws of the State of Texas.

Section 19. Multiple Counterparts. This Declaration may be executed in one or more counterparts which taken together shall constitute one instrument without the necessity of each party executing the same counterpart.

EXECUTED effective as of the 9 day of July, 1997.

ASHTON HOUSTON RESIDENTIAL L.L.C.

By: [Signature]  
Name: [Signature]  
Title: A.S.O.

SETTLERS VILLAGE COMMUNITY IMPROVEMENT ASSOCIATION

By: [Signature] - President  
Steve Breard, President

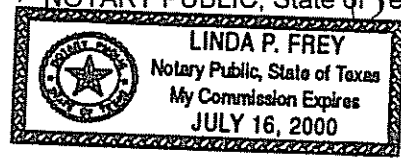
513-97-3926

STATE OF TEXAS  
COUNTY OF HARRIS

515-02-0134

9th This instrument was acknowledged before me, the undersigned Notary Public, on this the day of July, 1997, by Richard C. Shaver, A.S.O., of Ashton Houston Residential L.L.C., a Texas limited liability company, on behalf of said company.

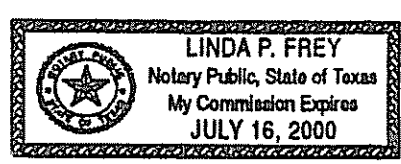
*Linda P. Frey*  
NOTARY PUBLIC, State of Texas



STATE OF TEXAS  
COUNTY OF HARRIS

9th This instrument was acknowledged before me, the undersigned Notary Public, on this the day of July, 1997, by Steve Breard, President, of Settlers Village Community Improvement Association, a Texas nonprofit association, on behalf of said association

*Linda P. Frey*  
NOTARY PUBLIC, State of Texas



AFTER RECORDING, RETURN TO:

Robert T. Alexander  
P. O. Box 4547  
Houston, Texas 77210-4547

513-97-3927

515-02-0135

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS }  
COUNTY OF HARRIS }  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas as:

SEP 30 1997



*Beverly B. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY TEXAS

*Beverly B. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY TEXAS

97 SEP 30 PM 4: 14

FILED

FILED  
97 JUL 21 PM 3: 57  
*Beverly B. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY TEXAS

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW THE STATE OF TEXAS }  
COUNTY OF HARRIS }  
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris County, Texas as:

JUL 21 1997

*Beverly B. Kaufman*  
COUNTY CLERK  
HARRIS COUNTY TEXAS

